March 9, 2022
Vol. XLIV
Issue 10

DEPARTMENT OF STATE
Division of Administrative Rules

NEW YORK STATE REGISTER

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

For notices published in this issue:
– the 60-day period expires on May 8, 2022
– the 45-day period expires on April 23, 2022
– the 30-day period expires on April 8, 2022

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GOVERNOR

ROBERT J. RODRIGUEZ
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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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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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

NOTICE OF ADOPTION

Tobacco Use in Adult Services

I.D. No. ASA-42-21-00012-A
Filing No. 112
Filing Date: 2022-02-22
Effective Date: 2022-03-01

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

Action taken: Amendment of Part 856 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 19.07(e), 19.09(b), 19.21(b), (d), 32.01, 32.07(b); Public Health Law, section 1399-O

Subject: Tobacco Use in Adult Services.

Purpose: The purpose of the rule is to allow for OASAS programs to become ''tobacco-limited'' rather than ''tobacco free'' if they choose to.

Text of final rule: *TOBACCO USE IN ADULT SERVICES* [TOBACCO-FREE SERVICES]

Section 856.1 Background and intent

(a) To reduce addiction, illness and death caused by tobacco products.

(b) To provide a healthy *and supportive* environment for staff, patients, volunteers and visitors to entities organized and operating pursuant to the provisions of this Title and certified and/or funded by the *Office of Addiction Services and Supports* [Office of Alcoholism and Substance Abuse Services] (“the Office”) as a provider of prevention, treatment or recovery services for *substance use disorders and problem gambling* [alcoholism, substance abuse, chemical dependence and/or gambling].

(c) To establish *tobacco-limited services for patients in a tobacco-limited environment and tobacco-free services in a tobacco-free environment* [tobacco-free services in a tobacco-free environment].

(d) To establish evidence-based practices for the identification and treatment of tobacco use disorder during program admission.

Section 856.2 Legal base

(a) Section 19.07(e) of the Mental Hygiene Law authorizes the Commissioner of the *Office of Addiction Services and Supports* [Office of Alcoholism and Substance Abuse Services] (“the Commissioner”) to adopt standards including necessary rules and regulations pertaining to *substance use disorder* [chemical dependence] services.

(b) Section 19.09(b) of the Mental Hygiene Law authorizes the Commissioner to adopt regulations necessary and proper to implement any matter under *their* [his or her] jurisdiction.

(c) Section 19.21(b) of the Mental Hygiene Law requires the Commissioner to establish and enforce certification, inspection, licensing and treatment standards for *substance use disorder treatment* [alcoholism, substance abuse, and chemical dependence] facilities.

(d) Section 19.21(d) of the Mental Hygiene Law requires the Commissioner to promulgate regulations which establish criteria to assess *substance use disorder* [alcoholism, substance abuse, and chemical dependence] treatment effectiveness and to establish a procedure for reviewing and evaluating the performance of providers of services in a consistent and objective manner.

(e) Section 32.01 of the Mental Hygiene Law authorizes the Commissioner to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by Article 32 of the Mental Hygiene Law.

(f) Section 32.07(a) of the Mental Hygiene Law authorizes the Commissioner to adopt regulations to effectuate the provisions and purposes of Article 32 of the Mental Hygiene Law.

(g) Section 1399-O of the Public Health Law regulates smoking and vaping in certain public areas.

Section 856.3 Applicability

(a) *The tobacco-limited services provisions of* [T]*t*his Part *apply* [applies] to any *program organized and operating pursuant to the provisions of this Title and certified, funded, or otherwise authorized by the Office as a provider of prevention, treatment, or recovery addiction services for adults. The tobacco-limited services provisions of this part shall not apply to prevention, treatment, or recovery services for children, youth, and/or young adults, which must remain tobacco-free.* [entity (“the service”) organized and operating pursuant to the provisions of this Title and certified and/or funded by the Office of Alcoholism and Substance Abuse Services (“the Office”) as a provider of prevention, treatment or recovery services for chemical dependence and/or gambling].

(b) Nothing in this Part shall be construed to limit the authority of a program organized and operating pursuant to the provisions of this Title and certified, funded, or otherwise authorized by the Office as a provider of prevention, treatment, or recovery substance use disorder services for adults to remain or to choose to be a tobacco-free program or service.

Section 856.4 Definitions

(a) Tobacco-limited means prohibiting the use of all tobacco products and nicotine delivery systems in facilities and in vehicles owned or operated by the program subject to this Part, while allowing for limited use of certain tobacco products by patients in designated areas on facility grounds at designated times, in accordance with guidance issued by the Office.[Tobacco-free means prohibiting the use of all tobacco products in facilities, on grounds and in vehicles owned or operated by the service subject to this Part].

(b) Tobacco free means prohibiting the use of all tobacco products in facilities and in vehicles owned or operated by the program, consistent with this Part, as well as on facility grounds.

(c) [(b)] Facility means *certain parts of the program that are utilized by patients, staff, volunteers, or visitors. This shall include the programs' buildings which are under the direct control of the facility and vehicles that are owned and operated by the program* [any part of the service that

is utilized by patients, staff, volunteers or visitors. This shall include the service buildings and grounds which are under the direct control of the facility and vehicles that are owned and operated by the facility].

(d) Facility grounds means any part of the program that is outdoors, is utilized by patients, staff, volunteers, or visitors and is under direct control of the program.

(e) [(c)] Tobacco products include but are not limited to cigarettes, cigars, pipe tobacco, *roll-your-own tobacco, and smokeless tobacco.*

(f) Nicotine delivery systems means any electronic or modified mechanical devices that deliver aerosolized nicotine, flavorings, and/or other chemicals by inhalation of a non-combustible liquid or gel, and any refills, cartridges, and/or any other component of such devices.

(g) [(d)] Patient means any recipient of services in a facility certified*, funded, or otherwise authorized* [or funded] by the Office.

Section 856.5 Policy and procedures

(a) The [governing authority of the] *program* [service] that chooses to become a tobacco-limited program [service]*, remain a tobacco-free program, or return to being a tobacco-free program,* shall determine and establish written policies, procedures and methods governing the provision of a *tobacco-limited or tobacco free environment.* [tobacco-free environment]. These policies, procedures and methods should at a minimum include the following:

(1) Defines the *parts of the facility and vehicles where tobacco use is not permitted* [facility, vehicles and grounds which are tobacco-free];

(2) For tobacco-limited programs, defines designated areas on facility grounds where limited use of certain tobacco products by patients is permitted in accordance with guidance issued by the Office and Public Health Law Section 1399-O;

(a) Use of nicotine delivery systems by patients shall not be permitted;

(b) Use of tobacco products and/or nicotine delivery devices by family members and other visitors shall not be permitted;

(4) For tobacco-limited programs, limits tobacco products that family members and other visitors can bring to patients admitted to the program to closed and sealed packages of cigarettes. [(2) Prohibits patients, family members, and other visitors from bringing tobacco products and paraphernalia to the service];

(5) [(3)] Requires all patients, staff, volunteers and visitors be informed of the *tobacco- limited or tobacco free* [tobacco-free] policy including posted notices and the provision of copies of the policy;

[(4) Prohibits staff from using tobacco products while at work, during work hours;]

(6) Establishes a *policy prohibiting staff and volunteers from using tobacco products or nicotine delivery systems when they are on the site of the program, from purchasing tobacco products or nicotine delivery systems for, or giving tobacco products or nicotine delivery systems to patients, and from using tobacco products or nicotine delivery systems with patients* [tobacco-free policy for staff while they are on the site of the service];

(6) *Describes employee assistance programs and other programs that will be made available to staff who want to stop using tobacco products, nicotine delivery systems, or other nicotine-containing products;* [Establishes treatment modalities for patients who use tobacco];

(7) Establishes evidence-based harm reduction and cessation treatment modalities for patients who use tobacco products or nicotine delivery systems, in accordance with guidance from the Office;

(8) For tobacco-limited programs, establishes a policy prohibiting patients from using tobacco products during program hours except for the limited use of certain tobacco products in designated areas of the facility grounds at designated times, in accordance with guidance issued by the Office;

(9) Describes required annual training for staff, including clinical, non-clinical, administrative and volunteers about tobacco products, nicotine dependence, and tobacco use disorder that is sufficient for the program to operate a holistic approach to tobacco use disorder that is evidenced in progress notes, policies and procedures, perception of care, and outcomes [(7) Describes training on tobacco use and nicotine dependence available to staff including clinical, non-clinical, administrative and volunteers];

(10) [(8)] Describes tobacco and nicotine prevention and education programs made available by the service to patients, staff, volunteers and others;

(11) Establishes procedures, including a policy to address patients who continue to use or return to use of tobacco products or nicotine delivery systems. This policy shall be incorporated into the policy and procedures as required by all programs for adults certified, funded or otherwise authorized by this Title and every effort shall be made to provide appropriate treatment services to all persons in need of substance use disorder treatment services. Additionally, each facility shall address staff who continue to use or return to use of tobacco products consistent with the requirements of 856.5(a)(5) of this Title and the employment procedure of that facility. [(9) Establishes procedures, including a policy to address patients who relapse on tobacco products. This policy shall incorporate the policy and procedures contained in 816.5(g), 817.4(o), 818.4(o), 819.4(o), 820.7(a), 821.4(v), 822.4(u), 828.14(b), (c) and (d), and every effort shall be made to provide appropriate treatment services to all persons in need of alcohol and drug addiction services. Additionally, each facility shall address staff relapse consistent with the employment procedure of that facility.]

(12) For tobacco-free services, established tobacco free policies consistent with this Part and guidance issued by the Office.

Section 856.6 Severability

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or applications, and to this end the provisions of this Part are declared to be severable.

[Section 856.7 Effective Date

This regulation will be effective July 24, 2008.]

Final rule as compared with last published rule: Nonsubstantial changes were made in sections 856.1, 856.2, 856.3, 856.4, 856.5, 856.6 and 856.7.

Text of rule and any required statements and analyses may be obtained from: Kelly E. Grace, Office of Addiction Services and Supports, 1450 Western Ave., Albany NY 12203, (518) 366-7958, email: Kelly.Grace@oasas.ny.gov

Revised Regulatory Impact Statement

1. Statutory Authority:

§ 841.2 Legal base

(a) Section 19.07(e) of the Mental Hygiene Law authorizes the Commissioner of the Office of Addiction Services and Supports ("the Commissioner") to adopt standards including necessary rules and regulations pertaining to substance use disorder services.

(b) Section 19.09(b) of the Mental Hygiene Law authorizes the Commissioner to adopt regulations necessary and proper to implement any matter under their jurisdiction.

(c) Section 19.21(b) of the Mental Hygiene Law requires the Commissioner to establish and enforce certification, inspection, licensing and treatment standards for substance use disorder treatment facilities.

(d) Section 19.21(d) of the Mental Hygiene Law requires the Commissioner to promulgate regulations which establish criteria to assess substance use disorder treatment effectiveness and to establish a procedure for reviewing and evaluating the performance of providers of services in a consistent and objective manner.

(e) Section 32.01 of the Mental Hygiene Law authorizes the Commissioner to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by Article 32 of the Mental Hygiene Law.

(f) Section 32.07(a) of the Mental Hygiene Law authorizes the Commissioner to adopt regulations to effectuate the provisions and purposes of Article 32 of the Mental Hygiene Law.

(g) Section 1399-O of the Public Health Law regulates smoking and vaping in certain public areas.

2. Legislative Objectives: The legislature has authorized OASAS to establish regulations governing programs organized and operating pursuant to Title 14 and certified, funded, or otherwise authorized by the Office as a provider of prevention, treatment, or recovery substance use disorder services. The objective of the present changed to Part 856 is to allow programs to become "tobacco limited" (rather than tobacco free) and therefore allowing for a more patient-centered approach that respects their choice to continue using tobacco products, while working towards cessation through shared decision making.

3. Needs and Benefits: Currently, Part 856 is written as "Tobacco-Free Services" and does not allow for the limited use of tobacco products by those entering treatment. OASAS has recognized that tobacco-free environment may lead prospective patients to not seek out treatment and therefore has been identified as a major barrier to treatment. The amendments to Part 856 simply change tobacco-free services to tobacco-limited services, allowing for very limited use of tobacco products in designated areas in programs organized and operating pursuant to Title 14 and certified, funded, or otherwise authorized by OASAS as a provider of prevention, treatment, or recovery substance use disorder services. OASAS included additional edits to clarify that programs can still choose to remain tobacco-free, which will also be outlined in Guidance from the office as well.

4. Costs: No additional administrative costs to the agency and/or providers are anticipated.

5. Paperwork: There is no additional paperwork beyond what is already required.

6. Local Government Mandates: There are no new local government mandates.

7. Duplications: This proposed rule does not duplicate, overlap, or conflict with any State or federal statute or rule.

8. Alternatives: The alternative is to leave the regulation as it currently reads, not allowing any use of tobacco products, and therefore continuing to be a major barrier to seeking services.

9. Federal Standards: This regulation does not conflict with federal standards.

10. Compliance Schedule: This rulemaking will have an effective date of March 1, 2022 to coincide with Guidance released by the Office.

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 the amended regulation does not impose any new requirements on providers. The amendments to Part 856 simply change tobacco-free services to tobacco-limited services, allowing for very limited use of tobacco products in designated areas in programs organized and operating pursuant to Title 14 and certified, funded, or otherwise authorized by OASAS as a provider of prevention, treatment, or recovery substance use disorder services. OASAS also delineates the difference between "tobacco-limited" and "tobacco free", making it clear that programs can choose to remain tobacco free.

Revised Rural Area Flexibility Analysis

OASAS has determined that the 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 the changes do not impose any new requirements. The amendments to Part 856 simply change tobacco-free services to tobacco-limited services, allowing for very limited use of tobacco products in designated areas in programs organized and operating pursuant to Title 14 and certified, funded, or otherwise authorized by OASAS as a provider of prevention, treatment, or recovery substance use disorder services. OASAS also delineated the difference between "tobacco-limited" and "tobacco-free" while making it clear that programs can choose to remain tobacco free.

Revised Job Impact Statement

No change in the number of jobs and employment opportunities is anticipated as a result of the proposed amendments to Part 856. The amendments to Part 856 simply change tobacco-free services to tobacco-limited services, allowing for very limited use of tobacco products in designated areas in programs organized and operating pursuant to Title 14 and certified, funded, or otherwise authorized by OASAS as a provider of prevention, treatment, or recovery substance use disorder services.

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2027, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

One commenter submitted four recommendations in response to the proposed amendment to part 856 by OASAS. These recommendations included:

(1) Modification of the definition of "nicotine delivery devices" to allow for use of FDA-approved medications to treat tobacco use disorder;

(2) Allowing the use of e-cigarettes that have received marketing orders from the FDA;

(3) Adding minimum requirements for policies related to designated smoking areas in order to reduce impact of secondhand smoke; and

(4) To include procedures that specifically support evidence-based tobacco use disorder treatment for all participants who smoke, regardless of their individual interest in quitting.

In response to (1) OASAS partially agrees and will include this clarification in guidance to allow for use of a nicotine inhaler. However, there are concerns about allowing certain FDA approved products or devices for tobacco use disorder and therefore will not revise the definition of "nicotine delivery devices" to include all FDA-approved medications treating tobacco use disorder.

In response to (2) OASAS specifically drafted the regulation so as not to put programs in the position of holding and monitoring e-cigarettes and e-liquids/gets/etc. because patients likely will bring e-cigarettes or other nicotine delivery systems that are not FDA-approved, putting programs in the position of informing patients they cannot use their specific device and then having to taking the device from them for the duration of the admission. OASAS does not believe programs should be placed in a position where they must hold devices, gels, cartridges, etc., of unknown origin or content. Prohibiting nicotine devices other than nicotine inhalers prevents this problem from occurring. In addition, Guidance for tobacco-limited programs will require tapering the reported number of cigarettes a patient is smoking at the time of admission with the goal of discontinuing cigarette use during treatment. It would be difficult to apply a specific tapering model to e-cigarettes and thus the intention is to keep the regulation as is and not allow for the use of e-cigarettes. Lastly, patients who are using e-cigarettes only will be offered FDA-approved medications for the treatment of tobacco use disorder as a replacement for e-cigarettes.

In response to (3) OASAS agrees—Guidance will require designated areas to be at least 100 feet from the building(s).

Last, in response to (4) OASAS agrees, and this will be elaborated on in guidance as well.

Office of Cannabis Management

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Part 113 - Medical Cannabis

I.D. No. OCM-10-22-00017-P

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

Proposed Action: Repeal of Part 1004 of Title 10 NYCRR; addition of Part 113 to Title 9 NYCRR.

Statutory authority: Cannabis Law, sections 13 and 43

Subject: Part 113 - Medical Cannabis.

Purpose: The proposed rule established the framework for the medical cannabis program in New York State.

Substance of proposed rule (Full text is posted at the following State website: https://cannabis.ny.gov/cannabis-control-board-meetings): Part 1004 of 10 NYCRR is repealed and a new Part 113 of Chapter II, of Subtitle B of Title 9 (Executive) of the Official Compilation of Codes, Rules and Regulations of the State of New York is added, regulating medical cannabis in New York State to be effective upon publication of a Notice of Adoption in the New York State Register.

§ 113.1 Definitions. Section 113.1 defines terms used in Part 113, including but not limited to "certified patient", "condition", "medical cannabis product" and "registered organization".

§ 113.2. Practitioner Eligibility. A process is established under the Office of Cannabis Management for practitioner requirements to be eligible to certify patients for medical cannabis.

§ 113.3 Practitioner issuance of certification. A process is established under the Office of Cannabis Management for eligible practitioners to issue a certification to patients with any of the conditions listed in this section, or any other condition certified by the practitioner, that are likely to receive therapeutic or palliative benefit from the treatment of medical cannabis to be able to receive medical cannabis products from a registered organization.

§ 113.4 Application for registration as a certified patient. Provides the criteria by which a person may obtain a registration as a certified patient and a registry identification card.

§ 113.5 Designated caregiver registration. Individual Caregivers, facilities, and research license holders designated to handle medical cannabis products on behalf of certified patients are required.

to register with the Office of Cannabis Management according to the procedures detailed in this section. Individual caregivers are also required to obtain an identification card.

§ 113.6 Application for initial registration as a registered organization. Establishes the application process under the Office of Cannabis Management for registered organizations interested in producing and selling medical cannabis products. Provides that no person or entity shall produce, grow or sell medical cannabis without such registration.

§ 113.7 Consideration of registered organization applications. Requires potential registered organizations to submit an application fee of $10,000, accompanied by a check for an additional $200,000, the latter of which will be refunded to applicants not selected as registered organizations. Requires that the applicant allow for reasonable access to its facilities for inspection by the office. Provides that registrations shall be valid for two years, except that initial registrations may be extended up to eleven months by the Office of Cannabis Management.

§ 113.8 Application for renewal of registered organization registrations. Establishes the process under the Office of Cannabis Management by which registered organizations renew their registration. Requires a renewal fee of $10,000, accompanied by a check for an additional $200,000,

the latter of which will be refunded to applicants not granted a renewal. Provides an opportunity to submit additional information or to demand a hearing for applicants not granted a renewal.

§ 113.9 Registrations non-transferable. Prohibits the transfer or assignment of registrations issued under this Part.

§ 113.10 Failure to operate. Provides that a registration shall be surrendered to the Office of Cannabis Management if a registered organization fails to begin operations to the satisfaction of the Office of Cannabis Management within six months of the issuance of a registration.

§ 113.11 Registered organizations; general requirements. Lists requirements for registered organizations, including making its books and facilities available for monitoring by the Office of Cannabis Management; quality assurance testing of medical cannabis products; implementing policies and procedures to investigate complaints and adverse events; as well as closure procedures.

§ 113.12 Manufacturing requirements for approved medical cannabis products. Contains manufacturing requirements for medical cannabis products. Provides that no synthetic cannabis additives shall be used in the production of any medical cannabis product.

§ 113.13 Requirements for dispensing facilities. Details the requirements for the operation of dispensing facilities as well as the required patient specific label required to be affixed to each medical cannabis product dispensed. Provides that no medical cannabis product shall be consumed on the premises of such facilities.

§ 113.14 Security requirements for manufacturing and dispensing facilities. Details the minimum-security requirements for registered organization manufacturing and dispensing facilities.

§ 113.15 Laboratory Testing requirements for medical cannabis products. Details the minimum laboratory testing requirements for medical cannabis products.

§ 113.16 Pricing. Requires registered organizations to submit prices for medical cannabis products to the Office of Cannabis Management.

§ 113.17 Medical cannabis marketing and advertising. Restricts the marketing and advertising of medical cannabis.

§ 113.18 Reporting dispensed medical cannabis products. Details reporting requirements for dispensed medical cannabis products.

§ 113.19 Prohibition on the use of medical cannabis products in certain places. Restricts the use of medical cannabis products in certain places.

§ 113.20 Reporting requirements for practitioners, patients and designated caregivers. Details reporting requirements for practitioners, patients and designated caregivers if certain information contained on their patient certification changes or if they lose their registry identification card.

§ 113.21 Proper disposal of medical cannabis products by patients or designated caregivers. Details the required disposal procedures for medical cannabis products.

§ 113.22 General prohibitions. Contains general prohibitions, including, but not limited to, restrictions on opening medical cannabis products packaged by a registered organization, counseling on the use, administration and risks of medical cannabis products without training, or possession of medical cannabis products without a registry identification card.

§ 113.23 Practitioner prohibitions. Lists prohibitions on practitioners, including, but not limited to, directly or indirectly accepting, soliciting, or receiving any item of value from a registered organization, offering a discount or any other item of value to a certified patient, issuing certifications for themselves, or receiving or providing samples containing cannabis.

§ 113.24 Designated caregiver prohibitions and protections. Lists prohibitions on designated caregivers, including, but not limited to, prohibitions on serving more than 5 certified patients at any given time, receiving payment for home cultivation activities from certified patients in accordance with the law and restrictions of arrest, prosecution, penalty or denial of rights in any way due to their actions or conduct in association with this Part.

§ 113.25 Registered Organizations; Disposal of Medical Cannabis. Details the requirements for disposing medical cannabis, including but not limited to, disposing only medical cannabis that is rendered unrecoverable, disposing any medical cannabis that is outdated, damaged, deteriorated,

contaminated or otherwise deemed not appropriate, and that records of disposal be retained for at least 5 years.

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

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

Statutory Authority:

Section 13 of the Cannabis Law provides, in part, that the Cannabis Control Board (Board) shall propose such rules and regulations as the Board may deem necessary or proper to fully effectuate the provisions of the Cannabis Law. These proposed rules and regulations shall include, but not be limited to, cultivation, manufacturing, processing, transportation, distribution, testing, delivery and sale of medical cannabis, including the registration of organizations authorized to dispense medical cannabis.

Section 43 of the Cannabis Law provides that the Board shall promulgate regulations to implement Article 3 of the Cannabis Law, including, but not limited to, the certification of patients, lawful medical use, registration of organizations and designated caregiver facilities, reports, evaluation and research programs, home cultivation and protections for medical use of cannabis as well as the enforcement of these provisions.

Legislative Objectives:

To regulate, controll and tax medical cannabis, while making medical cannabis products accessible and available to certified patients, and protecting the public.

Needs and Benefits:

The Cannabis Law officially transfers the legal responsibility of the oversight of medical cannabis from the Department of Health to the Office of Cannabis Management and comprehensively regulates the manufacture, sale and use of medical cannabis by striking a balance between making medical cannabis available to individuals in need of a treatment and protecting the public against risks to its health and safety. The proposed regulations accomplish this objective by establishing standards for practitioners who are certifying patients, registration requirements for certified patients, designated caregivers, designated caregiver facilities, and research license holders, application requirements for initial and renewal registration as a registered organization, requirements for manufacturing and dispensing facilities of registered organizations, laboratory testing requirements, security requirements for manufacturing and dispensing facilities, pricing, medical cannabis marketing and advertising by registered organizations, reporting of dispensed medical cannabis, prohibition of using medical cannabis products in certain places, and proper disposal of medical cannabis.

The proposed rule establishes the framework necessary to govern medical cannabis and medical cannabis products for practitioners, patients, caregivers, registered organizations, dispensing facilities, laboratory testing, pricing, marketing and advertising, prohibitive uses and reporting requirements.

The proposed rule provides the structure for patient access to medical cannabis products in a manner that protects public health and safety. The needs listed below will be addressed by the proposed rule.

- Practitioner requirements, as well as patient requirements, for certification are established. These requirements will benefit practitioners and their patients who may be helped from the use of medical cannabis for their condition.
- Certified patient, designated caregiver, designated caregiver facility, and research license holder registration requirements are defined, including additional requirements for those patients under the age of eighteen or incapable of consent. These requirements will benefit patients by providing them the ability to purchase medical cannabis, and to provide a mechanism for facilities and researchers to assist patients as caregivers.
- The proposed rule includes requirements for applications for initial and renewal registration as a registered organization. Additionally, public interest in granting registrations is addressed, and includes but not is not limited to consideration for minority owned business, woman owned business enterprises, disabled veteran-owned business, and communities disproportionately impacted as defined in section 87 of the Cannabis Law. These requirements will create diversity in the medical cannabis market, as well as benefit patients with considerations for geographical access to dispensing facilities.
- Manufacturing, laboratory testing and dispensing requirements are critical to protect public health and safety. The proposed rule includes each of the requirements that a registered organization must comply with, including but not limited to extraction methods, standards for excipients, packaging and labeling, storage requirements, standards for concentration and contaminants, pharmacist oversight in dispensing facilities, and dispensing label requirements.
- To help protect public safety and safeguard against diversion, security standards that address storage, video surveillance, alarm systems, as well as transport of medical cannabis by the registered organization are addressed.
- Prohibition on the use of medical cannabis in certain places, as well as other general practitioner, patient and caregiver prohibitions are included. The proposed rule also establishes the process for marketing and advertising, pricing, reporting, and destruction of medical cannabis. These requirements will benefit the public by helping to prevent advertising geared toward youth, prevent false advertising regarding the efficacy of medical cannabis products, and allow for consumption of medical cannabis products in a manner that aligns with the Clean Indoor Air Act.

Costs:

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

There will be costs associated with the proposed regulation to the regulated entity related to the application for registration as a registered organization. In order to apply for registration, an applicant must submit a $10,000 non-refundable application fee along with an additional $200,000 refundable registration fee. The $10,000 non-refundable application fee will cover the cost to the office in reviewing the application. The additional $200,000 registration fee will be refunded to those applicants not selected as registered organizations. For those applicants selected as registered organizations, the $200,000 registration fee will serve as the registration fee for the registered organization's manufacturing and dispensing facilities for a period of two-years. To renew, the registered organization must submit a non-refundable $10,000 renewal application fee along with an additional $200,000 refundable renewal registration fee.

The proposed regulations set forth manufacturing and dispensing requirements for the registered organizations. There will be costs associated with the manufacture, laboratory testing, packaging, labeling and distribution of the medical cannabis products to dispensing facilities. Costs will also be associated with the reporting requirements of the registered organization, security of the facilities, and labor.

The proposed regulations set forth laboratory testing requirements for the final product, which will impose a cost to the registered organization. Registered organizations will need to contract with laboratories permitted by the Office of Cannabis Management for testing. Independent laboratories permitted to perform testing on medical cannabis products will be required to pay an annual fee which includes a $500 fee and an additional sum based on their annual test volume as described in 10 NYCRR 55-3.7.

There will be a cost to certified patients or their designated caregivers for the medical cannabis products that they purchase.

Costs to State and Local Governments:

The proposed rule does not require the state or local government to perform any additional tasks and therefore the Office of Cannabis Management does not anticipate a cost associated to the medical cannabis program.

Costs to the Office of Cannabis Management:

The Office of Cannabis Management anticipates an increased administrative cost to support the ongoing monitoring and compliance for the medical cannabis program. The administrative costs will be covered by the application and registration fees received from registered organization applications and registration, as well as by the budget appropriations for the Office of Cannabis Management. Staff will be required to manage the applications for registered organizations submitted, as well as compliance associated with manufacturing, dispensing, security, laboratory testing, practitioner education, certified patient and designated caregiver certification and registry identification card processes. The process for practitioner certification of patients and office issuance of registry identification cards, that is in operation today, will be leveraged and automated to the fullest extent possible.

There will be costs for laboratory services provided by the New York State Department of Health Wadsworth Center for any testing required to investigate compliance matters or serious adverse events.

Local Government Mandates:

The proposed rule does not impose any new programs, services, duties or responsibilities on local government.

Paperwork:

The paperwork associated with processing applications for entities who wish to become registered organizations in New York State will include business plans, standard operating procedures, and identification of real property, amongst other requirements. It is anticipated that processing applications will be ongoing as registered organizations apply and renew. Additionally, registered organizations seeking prior written approval of the office for changes to their operation or ownership structure will need to submit documents needed for the office to review and consider the request for approval or denial.

The process to certify patients and provide registry identification cards will require minimal paperwork as the process will be automated to the fullest extent possible.

Paperwork will be associated with the maintenance of records for the registered organization's standard operating procedures, transportation manifests, visitor logs, as well as other records required of the registered organization. Registered organizations are also required to submit dispensing data to the prescription monitoring program registry, which is an electronic submission.

Practitioners will be required to maintain a copy of the patient's certification in the patient's medical record. The copy of the patient's certification may be maintained by the practitioner electronically.

Certified patients and their designated caregivers will be required to carry their registry identification card at all times when in possession of approved medical cannabis products, except when the certified patient or designated caregiver is 21 years of age or older and has in their possession up to three ounces of cannabis or twenty-four grams of concentrated cannabis.

Duplication:

Since Title 10 Part 1004 will be repealed with the adoption of this proposed rule, the proposed rule does not duplicate any existing State or federal requirements that are applicable to a medical cannabis program.

Alternatives:

There are no alternatives to the adoption of the proposed regulations to be considered during the regulatory process since the proposed regulations are required by Section 13 and 43 of the Cannabis Law.

The proposed regulations include some alternatives to the regulations set forth in Title 10 Part 1004. The alternatives included in the proposed regulations help ease administrative costs to the office, as well as minimize operating costs for registered organizations in a manner that will continue to protect public health and safety. The alternatives include, but are not limited to the following:

- Streamlining registered organization application requirements;
- Modifying the packaging and labeling requirements to address the opportunity for recycling programs and incorporate language prohibiting packaging that markets to youth;
- Changing the video surveillance requirement for registered organization facilities from continuous recording 24 hours a day to allow for motion-activated recording after business hours; and
- Allowing flexibility for the pharmacist to provide remote supervision in a dispensing facility;

Federal Standards:

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

Compliance Schedule:

The proposed regulations will take effect upon publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

Effect of Rule:

This proposed rule will allow registered organizations, as described in Article 3 of the Cannabis Law, to manufacture, distribute and sell approved medical cannabis products in New York State. Each registered organization may have up to four dispensing sites, wholly owned and operated by the registered organization. Registered organizations may have an additional four dispensing sites, with the first two additional sites located in underserved or unserved geographic locations, as determined by the Cannabis Control Board. Registered organizations currently registered under 10 NYCRR Part 1004 include multi-state operators that are not considered small businesses as defined by Cannabis Law. Accordingly, there are no expected costs to existing small business establishments or government entities in New York State.

Compliance Requirements:

There are no new compliance requirements imposed on existing small business or local government establishments as a result of these amendments.

Professional Services:

No new professional services will be required of existing small business entities and local governments.

Compliance Costs:

Since there are no small business entities which currently provide for the manufacture, distribution and dispensing of medical cannabis, the proposed regulations do not impose an economic impact on any existing small business entity. Entities who wish to become licensed as a registered organization will incur costs associated with the application fee and registration fee, as well as building and operation of facilities to manufacture, distribute and dispense the approved medical cannabis product. Laboratory testing of the final product, which will also incur a cost to the registered organization, will be required. The manufacture of the plant into approved dosage forms and product testing are required to minimize the risk of adverse events to patients from mislabeled products or products containing contaminants.

Economic and Technological Feasibility:

This proposal is economically and technologically feasible. Statute requires the registered organization to pay a 7% excise tax to the Commissioner of Tax and Finance. This tax will provide for a return of 22.5% to the counties in New York State where medical cannabis is manufactured, 22.5% to the counties in New York State in which the medical cannabis is dispensed, 5% to the Division of Criminal Justice Services and 5% to the Office for Addiction Services and Supports.

Minimizing Adverse Impact:

These regulations will allow for the manufacture, distribution and sale of medical cannabis to patients certified by an eligible practitioner for their condition. To minimize the potential for patient adverse effects associated with the use of medical cannabis, the regulations include require-

ments for the brands and forms of cannabis that registered organizations may manufacture. In addition, the regulations require laboratory testing of the final manufactured product by a laboratory permitted by the Office of Cannabis Management and located in New York State. These requirements do not create an adverse impact to small business and local governments.

Small Business and Local Government Participation:

The proposed rule was developed in response to feedback from multiple organizations, legacy registered organizations established under 10 NYCRR part 1004, state agencies, advocates and patients who have provided feedback and suggestions for programmatic improvements to the medical cannabis program since its implementation. There will be a 60-day public comment period with the regulations that will allow for additional comments to be considered.

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

Outside of major cities and metropolitan population centers, the majority of counties in New York State contain rural areas. Entities who wish to become a registered organization may have up to four dispensaries, geographically dispersed. The selection of registered organizations will take into account geographic distribution to ensure the needs of patients in rural areas are met. The ability for a patient to designate a caregiver, as well as delivery from registered organizations, was included in the regulations to increase accessibility to patients in rural areas.

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

There are no new reporting, recordkeeping or other compliance requirements imposed on public or private entities in rural areas as a result of the regulations. No new professional services will be required of these entities in rural areas. Compliance requirements will be limited to the entities who become registered as a registered organization, to practitioners who certify patients, and to those patients who are certified and register with the program.

Costs:

There are no compliance costs to existing establishments in rural areas since no new compliance activities are imposed upon them. Compliance costs will be limited to the entities who become registered as a registered organization, and are the same as those located outside of rural areas.

Minimizing Adverse Impact:

The proposed rule will apply to practitioners who wish to complete the educational requirement in order to issue certifications to patients for medical cannabis. Practitioners in rural areas of the state may complete one of the courses offered, which include online courses, to make the course easily accessible to all practitioners who wish to issue certifications to patients for medical cannabis. Designated caregivers are authorized to obtain medical cannabis products from dispensing facilities to increase accessibility to patients in rural areas. These requirements do not create an adverse impact on public or private entities in rural areas.

Rural Area Participation:

The proposed rule was developed in response to feedback from multiple organizations, state agencies, advocates and patients who have provided feedback and suggestions for programmatic improvements to the medical cannabis program since its implementation. There will be a 60-day public comment period with the regulations that will allow for additional comments to be considered.

Job Impact Statement

A Job Impact Statement is not included because the Office has concluded that the proposed rule will not have a substantial adverse effect on jobs and employment opportunities. The proposed rule will allow for the opposite effect on jobs as new jobs will be created to support the activities of registered organizations.

Office of Children and Family Services

NOTICE OF ADOPTION

Adopt Provisions and Standards to Operationalize Compliance with the Federal Family First Prevention Services Act

I.D. No. CFS-36-21-00010-A

Filing No. 115

Filing Date: 2022-02-22

Effective Date: 2022-03-09

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

Action taken: Amendment of sections 427.2, 428.3, 441.2, 441.4, 441.21, 441.24, 441.26, 442.17, 442.21, 447.10, 447.21, 448.3, 448.9, 449.1, 449.2, 449.3, 449.4, 449.7, 449.8, 628.3; repeal of section 442.25; addition of Parts 439, 440, sections 442.25, 442.26, 447.11, 448.11 and 448.12 to Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(d), 20, 34, 409-h, 462(1)(a); L. 2021, ch. 56, part L

Subject: Adopt provisions and standards to operationalize compliance with the Federal Family First Prevention Services Act.

Purpose: Adopt provisions and standards to operationalize compliance with the Federal Family First Prevention Services Act.

Substance of final rule: The proposed amendment of 18 NYCRR 427.2 changes the definition of "foster care" and "residential program" to clarify the new congregate foster care program types are eligible for federal reimbursement. These new program types are qualified residential treatment programs (QRTPs) and three QRTP exceptions: supervised settings; specialized programs to serve prenatal, postpartum, or parenting youth; and programs for youth who have been or are at-risk of sex trafficking. Proposed amendments to this section also change definitions that refer to youth in foster care who are parents and their child(ren), and includes conforming changes related thereto.

The proposed amendment of 18 NYCRR 428.3 adds requirements regarding documentation in the uniform case record of specific information regarding assessments and court findings when placement of a child into a QRTP is contemplated or made on or after September 29, 2021, as are required by state and federal law.

The proposed addition of a new Part 439 to 18 NYCRR establishes the requisite health, safety, and programmatic standards for the issuance of an operating certificate and continued operation of a program as a QRTP. These proposed provisions also add definitions for terms to be used in the Part, and adopt various provisions conforming to, or required by state and/or federal law regarding: the qualified individual; required assessments; special provisions for children who remain in QRTPs for an extended time; after care and discharge planning. These amendments also authorize the Office of Children and Family Services (the Office) to issue waivers of regulatory provisions in this new Part and the detail the standards required to request, approve and extend a waiver.

The proposed addition of a new Part 440 to 18 NYCRR establishes the health, safety and programmatic standards for the issuance of an operating certificate, and continued operation of programs for youth who have been or are at-risk of sex trafficking. These amendments authorize the Office to issue waivers of regulatory provisions in this new Part and the detail the standards required for request, approval, and extension of a waiver.

The proposed amendment of 18 NYCRR 441.2 adds various new definition of terms are used throughout the regulatory package.

The proposed amendment of 18 NYCRR 441.4 clarifies the policies and manuals required to be maintained by voluntary foster care agencies and which are subject to approval by the Office under Article 3 of Volume B of 18 NYCRR.

The proposed amendment of 18 NYCRR 441.21 specifies the case work contact requirements that must be met when a youth in foster care is a parent and is caring for their child while in foster care.

The proposed amendment of 18 NYCRR 441.24 amends the nondiscrimination requirements for foster care to be inclusive of family members that may be served the agency.

The proposed addition of a new 18 NYCRR 441.26 authorizes the Office to issue waivers of regulatory provisions contained in Article 3 of Volume B of 18 NYCRR, and includes the standards for request, approval, and extension of a waiver.

The proposed amendment to 18 NYCRR 442.17 changes the name of "mother and baby facilities" to the gender-neutral term "parenting facilities" (that also encompasses fathers). This proposed amendment makes conforming changes to terms and clarify requirements regarding health and safety for such programs.

The proposed amendment to 18 NYCRR 442.21 requires that institutional programs licensed by the Office under Part 442 that are serving youth in foster care that are a parent and caring for their child(ren) who are placed with them in the institution, have access to a pediatrician and that the required nursing staff that is trained in CPR also be trained in infant CPR.

The proposed amendment to 18 NYCRR 442.25 repeals the existing provisions that authorize the Office to issue an exception to specified regulatory provisions and replaces such provisions with language that allows the Office to grant, deny or extend a waiver of a regulatory provision contained in 18 NYCRRR Part 442.

The proposed addition of a new section 18 NYCRR 442.26 provides health, safety and programmatic standards for the issuance of an operating certificate and continued operation of a program as a specialized program to serve prenatal, postpartum or parenting youth in facilities that are licensed as an institution by the Office in accordance with Part 442.

The proposed amendment to 18 NYCRR 447.2 makes changes regarding the health, safety and programmatic requirements for agency boarding homes licensed by the Office under 18 NYCRR Part 447 regarding when the agency boarding is providing residential care to youth in foster care that is a parent and caring for their child(ren) who are placed with them in the agency boarding home.

The proposed addition of a new section 18 NYCRR 447.10 provides health, safety and programmatic standards for the issuance of an operating certificate and continued operation of a program as a specialized program to serve prenatal, postpartum or parenting youth in facilities that are licensed as an agency board home by the Office in accordance with Part 447.

The proposed addition of a new section 18 NYCRR 447.11 allows the Office to grant, deny or extend a waiver of a regulatory provision contained in 18 NYCRRR Part 447 pertaining to agency boarding homes.

The proposed amendment to 18 NYCRR 448.3 makes changes regarding the health, safety and programmatic requirements for agency boarding homes licensed by the Office under 18 NYCRR Part 448 regarding when a group home is caring for youth in foster care that is a parent and caring for their child(ren) who are placed with them in the residing within in the group home.

The proposed amendments to 18 NYCRR 448.9 extends regulatory requirements for additional safety precautions that group homes must take with children with special needs cared for in the group home to also apply to a child of a youth in foster care child who is being cared for in the group home.

The proposed addition of a new section 18 NYCRR 448.11 provides health, safety and programmatic standards for the issuance of an operating certificate and continued operation of a program as a for specialized programs to serve prenatal, postpartum or parenting youth in facilities that are licensed as a group home by the Office in accordance with Part 448.

The proposed addition of a new section 18 NYCRR 447.12 allow the Office to grant, deny or extend a waiver of a regulatory provision contained in 18 NYCRR Part 447 pertaining to group homes.

The proposed amendment to the name of 18 NYCRR Part 449 expands the coverage of the Part from supervised independent living programs (SILPs) to cover the supervised setting programs that are a QRTP exception and that which include, among other things, SILPs.

The proposed amendments to 18 NYCRR 449.1 amend definitions for supervised settings to include new terms and to clarify that individuals over the age of 18 may be served in a supervised setting program.

The proposed amendments to 18 NYCRR 449.2 clarify the application process and conditions for approval by the office for a program to operate as a supervised setting.

The proposed amendments to 18 NYCRR 449.3 clarify the conditions for operation of a supervised setting program.

The proposed amendments to 18 NYCRR 449.4 clarify the requirements of this section apply to supervised settings and not just SILPs. Additionally, these amendments provide the staffing and health and safety requirements for supervised settings.

The proposed amendments to 18 NYCRR 449.6 clarify the record keeping requirements for supervised settings.

The proposed amendment to 18 NYCRR 449.7 allows the Office to grant, deny or extend a waiver of a regulatory provision contained in 18 NYCRRR Part 449 pertaining to supervised settings.

The proposed amendment to 18 NYCRR 449.8 applies the existing provisions for discontinuance of a SILP by the Office to supervised settings.

The proposed amendment to 18 NYCRR 628.3 authorizes but does not mandate reimbursement to a program for youth who have been or are at risk of sex trafficking that has been approved by the Office pursuant to 18 NYCRR Part 440 for youth who have run away from such program and who have been absent between 7-14 days.

Final rule as compared with last published rule: Nonsubstantial changes were made in sections 439.5, 440.4, 440.6, 442.26, 449.3 and 449.4.

Text of rule and any required statements and analyses may be obtained from: Frank J. Nuara, Associate Attorney, Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (518) 474-9778, email: regcomments@ocfs.ny.gov

Revised Regulatory Impact Statement

1. Statutory Authority:

The Federal Family First Prevention Services Act (FFPSA) enacted as part of the Bipartisan Budget Act of 2018 (P.L. 115-123) requires states to adopt a myriad of provisions regarding foster care services. Among other things, FFPSA enacted provisions requiring new types of congregate foster care programs to be operated by voluntary authorized agencies. Specifically, qualified residential treatment programs (QRTPs); and QRTP exceptions, which include supervised settings; specialized programs to serve prenatal, postpartum, or parenting youth; and programs for youth who have been or are at risk of sex-trafficking. Moreover, FFPSA, set forth certain requirements that must be met by states, regarding when placement of a child in foster care is made into a QRTP, including requirements for casework documentation, certain reviews that must be conducted if foster children in certain age groups remain placed in QRTPs for specified extended periods of time (long stayer reviews) and after care services that must be provided.

Part L of Chapter 56 of the Laws of 2021 codified the state statutory requirements necessary for FFPSA compliance. Paragraph (d) of section 17 of such Chapter authorizes the Office of Children and Family Services (the Office) to adopt regulations necessary for FFPSA implementation on an emergency basis.

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

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

Section 371(22) of the SSL, as codified by Part L of Chapter 56 of the Laws of 2021, provides that a new category of QRTP exception known as "supervised settings" shall operate in accordance with regulations adopted by the Office.

Section 409-h of the SSL, as codified by Part L of Chapter 56 of the Laws of 2021 set forth requirements for assessments by a qualified individual when placement of a child into a QRTP is contemplated or made of or after September 29, 2021, including requirements for the assessments and involvement in the assessments by a family and permanency team.

Section 462(1)(a) of the SSL requires OCFS to adopt regulations concerning standards of care, treatment and safety applicable to all facilities exercising care or custody of children.

2. Legislative Objectives:

Chapter 436 of the Laws of 1997 created the Office to take on the functions, powers, duties and obligations in the SSL concerning foster care, adoption services, adoption assistance, child protective services, preventive services for children and families, services for pregnant adolescents, day services, and other services and programs identified in Article 6 of the SSL regarding the care and protection of children and under the structure and authority of Article 2 of the SSL.

The objective of Part L of Chapter 56 of the Laws of 2021 was for New York State to come into compliance with FFPSA and for children in foster care to be served in the least restrictive setting that may appropriately meet their needs.

This proposed rule would comply with Federal statute, allowing localities to retain IV-E funding.

The provisions cited above clearly provide the Office with the authority to create this regulation and to do so on an emergency basis.

3. Needs and Benefits:

This rule would adopt provisions and standards necessary to operationalize compliance with FFPSA and the corresponding state legislation related thereto (Part L of Chapter 56 of the Laws of 2021.

These regulations, among other things, would adopt robust requirements regarding the health, safety, and programmatic standards for prospective QRTP and QRTP exception programs to obtain and maintain operating certificates from the Office as are necessary to provide these types of residential services to children. These regulations would also put in place measure, consistent with State and Federal law, to reduce placement of children in foster care into higher levels of care when it is determined that the needs of the child can appropriately be met in a less-restrictive setting.

Adoption of these regulations are necessary for New York to continue to receive Federal Title IV-E reimbursement. Such Federal funding stream presently provides reimbursement for various eligible child welfare related expenditures.

4. Costs:

Failure to adopt these regulations may result in a loss of the ability for New York to receive any Federal Title IV-E reimbursement. This funding stream provides approximately $600 million annually in Federal reimbursement to New York State and local governments (counties and New York City).

5. Local Government Mandates:

These regulations adopt various Federal mandates that local departments of social services (LDSS) must meet in order for New York State and local governments to continue to receive Federal Title IV-E reimbursement (approximately $600 million annually). In accordance with State and Federal law, these regulations would adopt mandates for LDSS regarding when placement of a child into a QRTP is contemplated or made on or after September 29, 2021, including requirements regarding: conducting an assessment in accordance with SSL section 409-h; the role of the family and permanency team; case record documentation; long stayer reviews; and after care and discharge planning.

6. Paperwork:

The proposed regulations would require the LDSS to document certain information in the case contact notes related to the formation and involvement of the family and permanency team, for all children placed in a QRTP. Moreover, the proposed regulations require the LDSSs document specified information for "long stayer reviews" where children in foster care remain in QRTPs for extended periods of time.

Among other things, these regulations would establish the requisite health, safety, and programmatic standards for the issuance of an operating certificate or approval for initial and continued operation of a program as a QRTP or QRTP exception including paperwork requirements that voluntary authorized agencies must meet.

7. Duplication:

The proposed regulations would comply with but are not duplicative other State or Federal requirements.

8. Alternatives:

No alternative approaches to implementing the changes to regulation were considered as the requirements are mandated by Federal and State law.

9. Federal Standards:

The proposed regulations would adopt various Federal requirement in FFPSA and are not in conflict with current Federal standards.

10. Compliance Schedule:

Compliance with the proposed regulations would begin immediately upon final adoption.

Revised Regulatory Flexibility Analysis

1. Effect of Rule:

The proposed regulations will affect local departments of social services and the approximately 83 voluntary authorized agencies in New York State.

2. Compliance Requirements:

The Federal Family First Prevention Services Act (FFPSA) enacted as part of the Bipartisan Budget Act of 2018 (P.L. 115-123) requires states to adopt a myriad of provisions regarding foster care services. Among other things, FFPSA enacted provisions requiring new types of congregate foster care programs to be operated by voluntary authorized agencies. Specifically, qualified residential treatment programs (QRTPs); and QRTP exceptions, which include supervised settings; specialized programs to serve prenatal, postpartum, or parenting youth; and programs for youth who have been or are at risk of sex-trafficking. Moreover, FFPSA, set forth certain requirements that must be met by states, regarding when placement of a child in foster care is made into a QRTP, including requirements for casework documentation, certain reviews that must be conducted if foster children in certain age groups remain placed in QRTPs for specified extended periods of time (long stayer reviews) and after care services that must be provided.

These regulations adopt various Federal mandates that local departments of social services (LDSS) and voluntary authorized agencies must meet in order for New York State and local governments to continue to receive Federal Title IV-E reimbursement (approximately $600 million annually).

Specifically, the proposed regulations would require the LDSS to document certain information in the case contact notes related to the formation and involvement of the family and permanency team, for all children placed in a QRTP. Moreover, the proposed regulations require the LDSSs document specified information for long stayer reviews where children in foster care remain in QRTPs for extended periods of time.

Among other things, these regulations would establish the requisite health, safety, and programmatic standards for the issuance of an operating certificate or approval for initial and continued operation of a program as a QRTP or QRTP exception including paperwork requirements that voluntary authorized agencies must meet.

3. Professional Services:

These regulations would establish minimum nursing services that must be available in QRTPs as required by Federal law. These regulations would also adopt provisions for a qualified individual conducting an assessment regarding whether a QRTP placement is appropriate be licensed clinician as is required by state statute.

4. Compliance Costs:

Failure to adopt these regulations may result in a loss of the ability for New York to receive any Federal Title IV-E reimbursement. This funding stream provides approximately $600 million annually in Federal reimbursement to New York State and local governments (counties and New York City).

5. Economic and Technological Feasibility:

No economic or technological barriers have been identified that would prohibit implementation of these regulations as written.

6. Minimizing Adverse Impact:

These regulations would adopt Federal and State mandated provisions. To minimize adverse impact, provisions allowing programs to request and receive a waiver from regulatory requirements in appropriate circumstances, are being proposed.

7. Small Business and Local Government Participation:

The Office has engaged in a process of receiving extensive and robust feedback on FFPSA implemented. This includes a Statewide Implementation Team (SIT) that involves representation from various voluntary authorized agencies including some that may be considered small businesses. The Office has also put forth a series of webinars and presentations geared for these entities for all areas of the state.

8. For Rules that Either Establish or Modify a Violation or Penalty:

The proposed regulations would not establish or modify an existing violation or penalty.

Revised Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The proposed regulations will affect 44 local departments of social services and the approximately 35 voluntary authorized agencies in rural areas of New York State.

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

The Federal Family First Prevention Services Act (FFPSA) enacted as part of the Bipartisan Budget Act of 2018 (P.L. 115-123) requires states to adopt a myriad of provisions regarding foster care services on or before September 29, 2021. Among other things, FFPSA enacted provisions requiring new types of congregate foster care programs to be operated by voluntary authorized agencies. Specifically, qualified residential treatment programs (QRTPs); and QRTP exceptions, which include supervised settings; specialized programs to serve prenatal, postpartum, or parenting youth; and programs for youth who have been or are at risk of sex-trafficking. Moreover, FFPSA, set forth certain requirements that must be met by states, regarding when placement of a child in foster care is made into a QRTP, including requirements for casework documentation, certain reviews that must be conducted if foster children in certain age groups remain placed in QRTPs for specified extended periods of time (long stayer reviews) and after care services that must be provided.

These regulations adopt various Federal mandates that local departments of social services (LDSS) and voluntary authorized agencies must meet in order for New York State and local governments to continue to receive Federal Title IV-E reimbursement (approximately $600 million annually).

Specifically, the proposed regulations would require the LDSS to document certain information in the case contact notes related to the formation and involvement of the family and permanency team, for all children placed in a QRTP. Moreover, the proposed regulations require the LDSSs document specified information for long stayer reviews where children in foster care remain in QRTPs for extended periods of time.

Among other things, these regulations would establish the requisite health, safety, and programmatic standards for the issuance of an operating certificate or approval for initial and continued operation of a program as a QRTP or QRTP exception including paperwork requirements that voluntary authorized agencies must meet.

3. Costs:

Failure to adopt these regulations may result in a loss of the ability for New York to receive any Federal Title IV-E reimbursement. This funding stream provides approximately $600 million annually in Federal reimbursement to New York State and local governments (counties and New York City).

4. Minimizing adverse impact:

These regulations would adopt Federal and State mandated provisions. To minimize adverse impact, provisions allowing programs to request and receive a waiver from regulatory requirements in appropriate circumstances, are being proposed.

5. Rural area participation:

The Office has engaged in a process of receiving extensive and robust feedback on FFPSA implemented. This includes a Statewide Implementation Team (SIT) that involves representation from various LDSSs and voluntary authorized agencies in rural areas. The Office has also put forth a series of webinars and presentations geared for these entities for all areas of the state, including rural areas.

Revised Job Impact Statement

The proposed amendments to regulation will not have a negative impact on jobs or employment opportunities in either public or private child welfare agencies. A full job impact statement has not been prepared for the proposed regulations as there should be no resulting loss of jobs.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

This assessment responds to comments received by the New York State Office of Children and Family Services (OCFS) on proposed regulations

to adopt provisions and standards necessary to operationalize compliance with the Federal Family First Prevention Services Act (FFPSA) and the enacted state legislation related thereto (Part L of Chapter 56 of the Laws of 2021). These changes include amendments to sections 427.2, 428.3, 441.2, 441.4, 441.21, 441.24, 442.17, 442.21, 442.25, 447.2, 448.3, 448.9, 449, 449.1, 449.2, 449.3, 449.4, 449.6, 449.7, 449.8, and 628.3 of 18 NYCRR as well as additions of parts 439 and 440, and additions of sections 441.26, 442.26, 447.10, 447.11, 448.11, 448.12. These changes were published in the State Register on September 8, 2021 and posted on the OCFS website for public comment. Public comment period closed on December 7, 2021.

To fully implement FFPSA, changes to the structure of residential congregate care for children in foster care was necessary. Thus, these provisions include new types of congregate care foster care programs to be known as qualified residential treatment programs (QRTPs); and QRTP exceptions, which include supervised settings; specialized programs to serve prenatal, postpartum, or parenting youth; and programs for youth who have been or are at risk of sex-trafficking. These regulations, among other things, provide the health, safety, and programmatic standards for prospective QRTP and QRTP exception programs to obtain and maintain operating certificates from OCFS as are necessary to provide these types of residential services to children.

OCFS received four comments during the public comment period. Comments were received from: the New York City Administration for Children's Services, the Legal Aid Society, Lawyers for Children, and Home Space corporation. Comments were reviewed and considered by OCFS and addressed in this assessment.

This assessment will provide an overview of the comments and OCFS responses. In this assessment, OCFS has grouped comments and responses into categories under the following topic areas: Admission and Discharges, Aftercare, Governance of Parenting Youth and Child of Parenting Youth Units, Health Care and Health Education program requirements, Long Stayer - Review Process and Special Provisions, Qualified Residential Treatment Programs, Supervised Settings, Uniform Case Record Requirements, Waiver Request Process.

One commenter stated that the language on Admission and Discharges was confusing as drafted and asked for clarification, particularly around admission of youth who are not cis-gendered and discharge of youth who have left the program without consent. OCFS appreciates the flag that this section was not clear. There will be no substantive change to the proposed regulations; however, OCFS will edit the text of the proposed regulations to make the language clearer.

One commenter stated that the provisions on Aftercare needed more detail to explain the expectations and requirements of aftercare services. OCFS will provide more detail on the requirements of aftercare services in future policy and guidance documents. The work of aftercare is crucial to keeping children from experiencing a return to foster care. However, this body of work is evolving and thus details must remain in policy to allow proper flexibility to best respond to those evolving needs. OCFS will not change the proposed regulations in response to these comments.

Two commenters provided feedback on the provisions on Governance of Parenting Youth and Child of Parenting Youth Units. These commenters were concerned that the regulations were too restrictive as drafted regarding who can care for the child of a parenting youth when the child is on an upper floor of a dwelling and regarding casework contacts for parenting youth. The regulatory intent is to prevent a child of a parenting youth from being left unattended or with inadequate supervision on upper floors of dwellings and for appropriate casework contacts to be made. This is necessary for safety and well-being of the child and particularly necessary for safety of the child during any emergency, such as a fire, and to continue to assess on going service needs for parenting youth and their children. There will be no substantive change to the proposed regulations. However, OCFS will edit the text of the proposed regulations to make the language clearer.

Additionally, one commenter made a myriad of suggestions for additional flexibility and clarification of the proposed regulations, including additional flexibility in how many children can be cared for in an agency-operated boarding home or a group home when the children are related. However, OCFS appreciates the request for flexibility and comments regarding the importance of placing sibling groups in foster care together. This request was duly considered. Notably, OCFS drafted these regulations with specific provisions to allow for waivers from individual requirements to be granted by OCFS in a manner that would account for health and safety. OCFS will not change the proposed regulations in response to these comments.

One commenter requested revisions to the Health Care and Health Education program requirements to allow referrals for health services by a program or agency rather than requiring the direct provision of services. A commenter also asked OCFS to clarify that a parenting youth may choose the pediatrician for the child of a parenting youth. The existing proposed regulatory language neither prohibits a referral for health services when that referral is necessary and appropriate for proper care or treatment, nor does it preclude a parenting youth to choose a specific pediatrician for their child(ren). Rather, the provisions articulate the minimum medical services that must be provided or made available by an approved OCFS program. OCFS will not change the proposed regulations in response to these comments.

Two commenters provided feedback on the Long Stayer Review Process. One commenter requested additional reviews and more detail on the timing of the work of programs and agencies regarding Long Stayer Reviews. After consideration of the request, OCFS has determined that no such amendments are necessary to the regulations. There are sufficient protections built into law and regulation to prevent a child from languishing in a congregate residential setting. OCFS reminds the commentor that the Long Stayer Review process is not the only procedures for review of a child's placement. Notably, children also have protections through the work of permanency planning teams, permanency hearings involving a family court, and other regular casework practice provisions. Additionally, one commenter requested the responsibility for initiating the Long Stayer Review Process be transferred to the program caring for the child rather than the local department of social services (LDSS) who has custody of the child. This request was duly considered. OCFS agrees that the LDSS should be working closely with the program where the child is residing. However, the responsibility for initiating the procedure is properly under the LDSS. OCFS will not change the proposed regulations in response to these comments.

Three commenters provided feedback on the Long Stayer Special Provisions. The comments were varied, including editing suggestions to eliminate redundancies. Multiple comments also requested additional details be provided to clarify how evaluations will be conducted, timelines for submission of information, when work must commence to find a new placement resource, and how to calculate the placement length for a child in foster care. Most of these issues have already been addressed through policy and guidance issuances. Please see 21-OCFS-ADM 32 and 21-OCFS-ADM 23. There will be no substantive change to the proposed regulations. However, OCFS will edit the text of the proposed regulations to make the language clearer.

Two commenters provided feedback on the Qualified Residential Treatment Program (QRTP) provisions. One commenter expressed concern about the engagement with child in treatment and service planning when the child has an intellectual or developmental disability. The concern is noted, but the requirement should not be problematic for a child with disabilities of any kind. The QRTP that is providing care and services to the child is selected because of the ability to provide the most appropriate care and services for that child. Thus, the engagement with the child in such planning work should be age and capacity appropriate. Additionally, the presence of a disability should not exclude a child from participating in planning for their needs. One commenter requested that OCFS closely monitor the programs and agencies for compliance with the QRTP program requirements. OCFS has a regular presence in all residential congregate programs that we license and QRTPs are no exception. OCFS is offering technical assistance as needed for such programs. OCFS will not change the proposed regulations in response to these comments.

Four commenters provided feedback on the Supervised Settings proposed regulations. Comments included requests for modification to eliminate readiness assessments in certain instances, modification to allow greater use of video or virtual-based caseworker communications, and reduction in number of caseworker contacts. OCFS agrees that the supervised settings programs are intended to allow older, capable youth the same opportunities for supported independence that their non-foster care involved peers would have. Many of the changes made to the regulations were balancing the young adult need for independence with the OCFS and LDSS responsibility to care for youth in foster care. OCFS believes that the regulations strike the right balance between those two competing interests. Additionally, one commenter requested that OCFS eliminate the requirement that agencies solicit and retain details about applicants own lived experience in foster care. The concern raised is that applicants should be allowed to keep that information confidential if they wish. OCFS acknowledges that the lived experiences with the foster care system can be information people want to keep private. There will be no substantive change to the proposed regulations. However, OCFS will edit the text of the proposed regulations to make the language clearer.

Three commenters provided feedback on the Uniform Case Record Requirements from the proposed regulations. Requests included issues unrelated to the regulations such as requests for supportive changes in the relevant computer systems and associated forms. One commenter asked for greater clarity in directions as to where, or in what format, certain Uniform Case Record Requirements will be recorded. Such level of detail is inappropriate for inclusion in the regulation. However, such guidance will be provided through other means such as the CONNECTIONS bulletins and other relevant practice guidance. Two commenters requested

inclusion of the exact Federal language regarding the record contents required for youth placed in QRTPs. The Federal law is already in effect, and the requirements have been communicated to the LDSSs and voluntary authorized agencies through multiple policy issuances. Similarly, one commenter requested adding the Federal language on how family members are integrated into the treatment process as part of the required uniform case record requirements. These regulations do not need to mimic the Federal language, and the entirety of what is included in the Federal law are addressed herein, even if not utilizing the exact same verbiage. Moreover, New York's Federal title IV-E state plan, based on the enacted statute, guidance documents and proposed regulations as drafted, have been approved by the Federal government as federally compliant. OCFS will not change the proposed regulations in response to these comments.

One commenter requested the development of a formal procedure, and its inclusion in the regulations, of a notice requirement for the Waiver Request Process under the proposed regulations. Specifically, the concern is that LDSSs will not be notified when a voluntary authorized agency requests a waiver. OCFS agrees that there is a need for a formal procedure and notification when waivers are requested. Such procedures are not appropriate for inclusion in the regulations and will be developed as part of a policy issuance and other guidance. OCFS will not change the proposed regulations in response to these comments.

Department of Civil Service

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-10-22-00001-P

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

Proposed Action: Amendment of Appendix 1 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Mental Hygiene under the subheading "Office for People with Developmental Disabilities," by adding thereto the positions of Chief Diversity Officer and Deputy Counsel (2).

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

Data, views or arguments may be submitted to: Eugene Sarfoh, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: public.comments@cs.ny.gov

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-10-22-00002-P

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

Proposed Action: Amendment of Appendix 1 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "State Board of Elections," by increasing the number of positions of Investigative Auditor from 38 to 42.

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

Data, views or arguments may be submitted to: Eugene Sarfoh, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: public.comments@cs.ny.gov

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-10-22-00003-P

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

Proposed Action: Amendment of Appendix 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To delete a position from the non-competitive class.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Corrections and Community Supervision, by deleting the position of øDeputy Superintendent for Reception and Classification 1 (1).

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

Data, views or arguments may be submitted to: Eugene Sarfoh, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: public.comments@cs.ny.gov

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

Regulatory Impact Statement
A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Regulatory Flexibility Analysis
A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Rural Area Flexibility Analysis
A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Job Impact Statement
A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-10-22-00004-P

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

Proposed Action: Amendment of Appendix 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "Office of Cannabis Management," by deleting therefrom the positions of Program Analyst 1 (Cannabis) (1), Program Analyst 2 (Cannabis) (1) and Program Analyst 3 (Cannabis) (1) and by adding thereto the positions of Program Analyst 1 (Cannabis), Program Analyst 2 (Cannabis) and Program Analyst 3 (Cannabis).

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

Data, views or arguments may be submitted to: Eugene Sarfoh, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: public.comments@cs.ny.gov

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

Regulatory Impact Statement
A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Regulatory Flexibility Analysis
A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Rural Area Flexibility Analysis
A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Job Impact Statement
A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-10-22-00005-P

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

Proposed Action: Amendment of Appendix 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Family Assistance under the subheading "Office of Children and Family Services," by adding thereto the position of Equal Opportunity Specialist 4 (1).

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

Data, views or arguments may be submitted to: Eugene Sarfoh, Counsel, Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: public.comments@cs.ny.gov

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

Regulatory Impact Statement
A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Regulatory Flexibility Analysis
A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Rural Area Flexibility Analysis
A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Job Impact Statement
A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-10-22-00006-P

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

Proposed Action: Amendment of Appendix 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amends Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Labor, by adding thereto the positions of Chief Information Security Officer (1) and Immigrant Workers Specialist 3 (1).

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

Data, views or arguments may be submitted to: Eugene Sarfoh, Counsel, Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: public.comments@cs.ny.gov

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-10-22-00007-P

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

Proposed Action: Amendment of Appendix 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Education Department under the subheading "New York State Higher Education Services Corporation," by adding thereto the positions of Data Analyst 2 (1) and Data Analyst 3 (1).

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

Data, views or arguments may be submitted to: Eugene Sarfoh, Counsel, Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: public.comments@cs.ny.gov

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-10-22-00008-P

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

Proposed Action: Amendment of Appendix 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the exempt class, in the Westchester County under the subheading "Office of the District Attorney," by adding thereto the position of øDirector of Program Development II (Data Analysis – DA) (1).

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

Data, views or arguments may be submitted to: Eugene Sarfoh, Counsel, Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: public.comments@cs.ny.gov

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

Department of Economic Development

NOTICE OF ADOPTION

Music and Theatrical Tax Credit Program

I.D. No. EDV-44-21-00001-A

Filing No. 107

Filing Date: 2022-02-16

Effective Date: 2022-03-09

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

Action taken: Addition of section 240.11 to Title 5 NYCRR.

Statutory authority: L. 2014, ch. 59, part HH

Subject: Music and Theatrical Tax Credit program.

Purpose: To update regulations to include a third party verification process for applications.

Text or summary was published in the November 3, 2021 issue of the Register, I.D. No. EDV-44-21-00001-P.

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

Text of rule and any required statements and analyses may be obtained from: Jillian Diaz Cringle, Department of Economic Development, 625 Broadway, Albany NY 12245, (518) 292-5110, email: jillian.cringle@esd.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Department of Environmental Conservation

EMERGENCY RULE MAKING

Sanitary Condition of Shellfish Lands

I.D. No. ENV-49-21-00008-E

Filing No. 109

Filing Date: 2022-02-17

Effective Date: 2022-02-17

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

Action taken: Amendment of Part 41 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0303, 13-0307 and 13-0319

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

Specific reasons underlying the finding of necessity: The promulgation of this regulation on an emergency basis is necessary to protect public health and general welfare. Shellfish are filter feeders that consume plankton, other minute organisms, and particulate matter found in the water column. Shellfish are capable of accumulating pathogenic bacteria, viruses, and toxic substances within their bodies. Consequently, shellfish harvested from areas that do not meet the bacteriological standards for certification pose an increased risk of illness to shellfish consumers. Closures of shellfish lands that do not meet water quality standards are essential for the preservation of public health.

Several shellfish growing areas require reclassification as year-round uncertified and/or seasonally uncertified. Recent evaluations of current water quality data indicate that the bacteriological standards for certified shellfish lands are not being met in the affected areas, and an increased risk of illness exists for shellfish distributors, restaurants, and consumers. Offsetting the proposed closures is the opening of 6,150- acres of state underwater lands where water quality bacteriological standards are being met. The opening of these areas may help to mitigate any negative financial impacts to harvesters who are not able to continue shellfishing in areas that are closed by this rule.

Technical changes are also needed to clarify descriptions for enforcement purposes, remove unnecessary ordinal indicators in the description of closure dates, correct typographical errors, reduce complexity, and improve readability of the regulations.

If the Department of Environmental Conservation does not adopt this rule making on an emergency basis, areas that do not meet bacteriological standards will remain open for harvest, and the consumption of potentially harmful shellfish is foreseeable.

Subject: Sanitary Condition of Shellfish Lands.

Purpose: To reclassify underwater shellfish lands to protect public health.

Substance of emergency rule (Full text is posted at the following State website: https://www.dec.ny.gov/regulations/104195.html): The Department proposes to amend 6 NYCRR Part 41 to reclassify as certified (open to shellfish harvest) either year-round or seasonally the following shellfish lands:

South Oyster Bay- 49-acres of Tobay Heading in South Oyster Bay will be upgraded from uncertified year-round to seasonally uncertified during May 1 – October 31.

Long Island Sound- 6,150-acres of Long Island Sound east of Prospect Point and south of the Nassau-Westchester County Line will be upgraded from uncertified year-round to certified year-round.

Cold Spring Harbor- 3-acres of Cold Spring Harbor will be upgraded from uncertified year-round to seasonally uncertified during May 1 – October 31.

Great South Bay- 3-acres of Great South Bay adjacent to Oak Island will be upgraded from seasonally uncertified to certified year-round.

Great South Bay- 24-acres of Great South Bay in the vicinity of Cherry Grove on Fire Island will be upgraded from seasonally uncertified to certified year-round.

Shinnecock Bay (Phillips Creek)- Less than 1-acre of Phillips Creek will be upgraded from uncertified year-round to seasonally uncertified during May 1 – October 31.

Shinnecock Bay (Daves Creek)- Less than 1-acre of Daves Creek will be upgraded from uncertified year-round to certified year-round.

Shinnecock Bay (Smith Creek)- Less than 1-acre of Smith Creek will be upgraded from uncertified year-round to certified year-round.

Shinnecock Bay (Old Fort Pond)- Less than 1-acre of Old Fort Pond will be upgraded from seasonally uncertified to certified year-round.

Sag Harbor- Less than 1-acre of Sag Harbor Cove will be upgraded from seasonally uncertified during May 15 – October 31 to certified year-round.

The New York State Department of Environmental Conservation (Department) proposes to amend 6 NYCRR Part 41 to reclassify as uncertified (closed to shellfish harvest) either year-round or seasonally the following shellfish lands:

Hudson River- 3,135-acres of the marine and coastal district (south of the Governor Mario M. Cuomo Bridge) waters of the Hudson River in Rockland County will be designated as uncertified.

South Oyster Bay- 43-acres of Guggenheim Pond and its tributaries in South Oyster Bay will be downgraded from certified year-round to uncertified year-round.

Hempstead Harbor- 134-acres of Hempstead Harbor adjacent to Prospect Point will be downgraded from certified year-round to uncertified year-round.

Cold Spring Harbor- The year-round uncertified area of Cold Spring Harbor will be expanded in size by 2-acres to a total of 236-acres.

Cold Spring Harbor- The seasonally uncertified area in Cold Spring Harbor will be expanded in size by 52-acres to a total of 142-acres and the seasonal closure dates will be extended from May 1 – October 15 to May 1 – October 31.

Great South Bay- The seasonally uncertified area of Great South Bay adjacent to Oak Island will be expanded in size by 1-acre to a total of 153-acres.

Patchogue Bay- 34-acres of tributaries, creeks, canals, and marina basins in Great South Bay and Patchogue Bay will be downgraded from certified year-round and seasonally uncertified to uncertified year-round.

Shinnecock Bay- 5-acres of Shinnecock Bay in the Quogue Canal will be downgraded from certified year-round to seasonally uncertified during April 1 – December 14.

Shinnecock Bay- Less than 1-acre of Stone Creek will be downgraded from certified year-round to uncertified year-round.

Shinnecock Bay- 31-acres of Shinnecock Bay near the mouth of Stone Creek and Phillip Creek will be downgraded from certified year-round to seasonally uncertified during May 1 – October 31.

Shinnecock Bay- 1-acre of Tiana Bay, near the Colonial Shores Cottages, will be downgraded from certified year-round to seasonally uncertified during May 1 – October 31.

Shinnecock Bay- Less than 1-acre of Shinnecock Bay near Smith Creek will be downgraded from certified year-round to uncertified year-round.

Shinnecock Bay- Less than 1-acre of Old Fort Pond will be downgraded from certified year-round to seasonally uncertified during May 1 – October 31.

Sag Harbor- Less than 1-acre of Sag Harbor near the breakwater will be downgraded from certified year-round to uncertified year-round.

Sag Harbor- The seasonally uncertified area in Sag Harbor Cove near Sag Harbor Villas will be expanded by less than 1-acre to a total of 36-acres and the seasonal closure dates will be extended from May 15 – October 31 to May 1 – October 31.

Sag Harbor- The seasonally uncertified areas in Redwood Boat Basin and Ship Ashore Marina will be expanded by 1.5-acres to a total of 4-acres and the seasonal closure dates will be extended from May 15 – October 31 to May 1 – October 31.

Sag Harbor- 26-acres near the outlet of Ligonee Brook in Sag Harbor, also known as The Little Narrows, will be downgraded from certified year-round to seasonally uncertified during May 1 – October 31.

Sag Harbor- Less than 1-acre of Paynes Creek will be downgraded from certified year-round to uncertified year-round.

Flanders Bay- 37-acres of Flanders Bay near Goose Creek will be downgraded from certified year-round to seasonally uncertified during May 1 – October 31.

Montauk Lake- 4-acres of Little Reed Pond will be downgraded from certified year-round to uncertified year-round.

Montauk Lake- The seasonally uncertified area near the Montauk Lake Club and Marina will be expanded in size by 8-acres to a total of 14-acres and the seasonal closure dates will be extended from May 15 – October 15 to May 1 – October 31.

Great Peconic Bay- 46-acres within Deep Hole Creek will be downgraded from seasonally uncertified May 1 – November 30 to uncertified year-round.

Orient Harbor- 22-acres within the Little Bay portion of Orient Harbor will be downgraded from certified year-round to seasonally uncertified during May 1 – October 31.

Port Jefferson Harbor- The seasonally uncertified area of Conscience Bay and the Narrows within Port Jefferson Harbor will be expanded in size by 30-acres to a total of 229-acres.

Smithtown Bay- The seasonally uncertified area of Smithtown Bay near the entrance to Stony Brook Harbor will be expanded in size by 143-acres to a total of 337-acres.

Stony Brook Harbor- The seasonal closure dates of the Town of Smithtown Marina and the Smithtown Bay Yacht Club boat basin will be extended from May 15 – October 31 to May 1 – October 31.

Stony Brook Harbor- 149-acres of Stony Brook Harbor will be downgraded from certified year-round to seasonally uncertified during June 1 – October 31.

Smithtown Bay- The year-round uncertified area of Smithtown Bay near the mouth of Crab Meadow Creek will be expanded in size by 57-acres to a total of 142-acres.

The Department also proposes technical changes to amend 6 NYCRR Part 41 to clarify descriptions for enforcement purposes, remove unnecessary ordinal indicators in the description of closure dates, correct typographical errors, reduce complexity, and improve readability of the regulations.

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. ENV-49-21-00008-EP, Issue of December 8, 2021. The emergency rule will expire April 17, 2022.

Text of rule and any required statements and analyses may be obtained from: Zachary Schuller, Department of Environmental Conservation, 123 Kings Park Blvd. (Nissequogue River State Park), Kings Park, NY 11754, (631) 380-3314, email: zachary.schuller@dec.ny.gov

Additional matter required by statute: The Department has determined that the Notice of Emergency Adoption is a Type II action and no further review is required pursuant to Article 8 of the ECL, the State Environmental Quality Review Act.

Regulatory Impact Statement

1. Statutory authority:

Environmental Conservation Law (ECL) § 11-0303 grants the New York State Department of Environmental Conservation (Department) authority to regulate the fish and wildlife of New York State. ECL § 13-0307 requires the Department to periodically conduct examinations of all shellfish lands within the marine district to ascertain the sanitary condition of these areas. The Department uses this data to determine which shellfish lands are in such sanitary condition that shellfish may be taken for food. Such lands are designated as certified shellfish lands. All other shellfish lands are designated as uncertified. ECL § 13-0319 grants the Department the authority to promulgate regulations concerning the harvest of shellfish.

2. Legislative objectives:

The purposes of the above cited legislations are: (1) to ensure that shellfish lands are appropriately classified, and (2) to protect public health by preventing the harvest and consumption of shellfish from lands that do not meet minimum standards for certification. Prior to proposing this rule, Department staff examined shellfish lands and determined which shellfish lands met the sanitary criteria for a certified shellfish land. The criteria for certification of shellfish lands is based on standards designed to ensure harvested shellfish will not be dangerous if consumed by humans.

3. Needs and benefits:

This rule making is necessary to preserve the public health and the general welfare, and it is further necessary to comply with ECL § 13-0307. The proposed amendments reflect the findings of surveys conducted by Department staff for shellfish growing areas (SGAs) in the marine district. These surveys are the result of the regular collection and bacteriological examination of water samples to monitor the sanitary condition of SGAs.

Shellfish are filter feeders that consume plankton, other minute organisms, and particulate matter found in the water column. Shellfish are capable of accumulating pathogenic bacteria, viruses, and toxic substances within their bodies. Consequently, shellfish harvested from areas that do not meet the bacteriological standards for certification have an increased potential to cause illness in shellfish consumers. Closures of shellfish lands that do not meet water quality standards are essential for the preservation of public health.

Several shellfish growing areas require reclassification as year-round uncertified and/or seasonally uncertified. Recent evaluations of current water quality data indicate that the bacteriological standards for certified shellfish lands are not being met in the affected areas, and an increased risk of illness exists for shellfish distributors, restaurants, and consumers. Offsetting the proposed closures is the opening of 6,150 acres of state underwater lands where water quality meets bacteriological standards are being met. The opening of these areas may help to mitigate any negative financial impacts to harvesters who are not able to continue shellfishing in areas that are closed by this rule. These regulations also protect the shellfish industry. Commercial shellfish harvesters and seafood wholesalers, retailers, and restaurants are adversely affected by public reaction to instances of shellfish related illness. By prohibiting the harvest of shellfish from lands that fail to meet the sanitary criteria, these regulations can ensure that only wholesome shellfish are allowed to be sold to the shellfish consumer.

Additionally, these regulations include changes to the shellfish growing area descriptions that will update, clarify, and correct them to match the current physical appearance and names of local landmarks cited in the descriptions. These changes will aid harvesters and law enforcement officials in determining which areas are uncertified for the harvest of shellfish.

4. Costs:

There will be no costs to state or local governments. There is no cost to the Department. Administration and enforcement of the proposed amendment would be covered by existing programs.

No direct costs will be incurred by regulated commercial shellfish harvesters in the form of initial capital investment or initial non-capital expenses, in order to comply with these proposed regulations. The Department cannot provide an estimate of potential lost income to shellfish harvesters when areas are classified as uncertified, due to a number of variables that are associated with commercial shellfish harvesting; nor can the potential benefits be estimated when areas are reopened.

In 2020, there were 1,446 licensed shellfish diggers in New York State. The actual number of those individuals who harvest shellfish commercially fulltime is not known. Recreational harvesters who wish to harvest more than the daily recreational limit of 100 hard clams, with no intent to sell their catch, can only do so by purchasing a New York State digger's permit. The number of individuals who hold shellfish digger's permits for that type of recreational harvest is unknown. The Department's records do not differentiate between fulltime and parttime commercial or recreational shellfish harvesters.

The number of harvesters working in a particular area cannot be estimated for the reasons stated above. In addition, the number of harvesters in a particular area is dependent upon the season, the amount of shellfish resource in the area, the price of shellfish and other economic factors, unrelated to the Department's proposed regulatory action. When a particular area is classified as uncertified, harvesters can shift their efforts to other certified areas.

Estimates of the existing shellfish resource in a particular embayment are not known. Recent shellfish population assessments have not been conducted by the Department. Without this information, the Department cannot determine the effect a closure or reopening would have on the existing shellfish resource. However, the Department's actions to classify areas as certified or uncertified are not dependent on the shellfish resources in a particular area. Classifications are based solely on the results of water quality analyses, the need to protect public health, and statutory requirements.

5. Local government mandates:

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

6. Paperwork:

None.

7. Duplication:

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

8. Alternatives:

There are no acceptable alternatives. ECL § 13-0307 mandates that when the Department has determined that a shellfish land meets the sanitary criteria for certified shellfish lands, the Department must designate the land as certified and open to shellfish harvesting. All other shellfish lands must be designated as uncertified and closed to shellfish harvesting. These actions are necessary to protect public health. Furthermore, failure to comply with the National Shellfish Sanitation Program (NSSP) guidelines could result in a ban on New York State shellfish in interstate commerce and would cause undue hardship to the commercial harvesting industry.

9. Federal standards:

There are no federal standards regarding the certification of shellfish

lands. New York and other shellfish producing and shipping states participate in the NSSP which provides guidelines intended to promote uniformity in shellfish sanitation standards among members. The NSSP is a cooperative program consisting of the federal government, states, and the shellfish industry. Participation in the NSSP is voluntary, but participating states agree to follow NSSP water quality standards. Each state adopts its own regulations to implement a shellfish sanitation program consistent with the NSSP. The U.S. Food and Drug Administration (FDA) evaluates state programs and standards relative to NSSP guidelines. Substantial nonconformity with NSSP guidelines can result in sanctions being taken by the FDA, including removal of the state's shellfish shippers from the Interstate Certified Shellfish Shippers List. This effectively bars a state's shellfish products from interstate commerce.

10. Compliance schedule:

Compliance with any new regulations designating areas as certified or uncertified does not require additional capital expense, paperwork, record keeping or any action by the regulated parties. Immediate compliance with any regulation designating shellfish lands as uncertified is necessary to protect public health. Shellfish harvesters are notified of changes in the classification of shellfish lands by mail either prior to, or concurrent with, the adoption of new regulations.

Regulatory Flexibility Analysis

1. Effect of rule:

In 2020, there were 1,446 licensed shellfish diggers in New York State. The numbers of permits issued for areas in the State for 2020 are as follows: Town of Babylon, 39; Town of Brookhaven, 250; Town of East Hampton, 216; Town of Hempstead, 100; Town of Huntington, 112; Town of Islip, 108; Town of North Hempstead, 6; Town of Oyster Bay, 80; Town of Riverhead, 64; Town of Shelter Island, 37; Town of Smithtown, 31; Town of Southampton, 160; Town of Southold, 199; New York City, 34; and Other, 10.

The Department of Environmental Conservation (Department) periodically conducts examinations of all shellfish lands within the marine district to ascertain the sanitary condition of these areas. As a result of these examinations, the Department designates lands as certified or uncertified for the harvest of shellfish. Any change in the designation of shellfish lands may effect shellfish diggers. Each time shellfish lands, or portions of shellfish lands, are designated as uncertified, there may be some loss of income for shellfish diggers who are harvesting shellfish from the lands to be closed. This loss may be determined by the acreage to be closed, the type of closure (whether year-round or seasonal), the species of shellfish present in the area, the area's productivity, and the market value of the shellfish resource in the particular area.

When uncertified shellfish lands are found to meet the Department's sanitary criteria and are designated by the Department as certified, there is a benefit to shellfish diggers. More shellfish lands are made available for the harvest of shellfish, and there is a potential for an increase in income for shellfish diggers. The effect of the re-opening of a harvesting area is determined by the shellfish species present, the area's productivity, and the market value of the shellfish resource in the area.

The proposed rule includes changes to the shellfish growing area descriptions that update, clarify, and correct them to match the current physical appearance and names of local landmarks cited in the descriptions, correct typographical errors, reduce complexity and improve readability of the regulations. These changes will aid harvesters and law enforcement officials in determining which areas are uncertified for the harvest of shellfish.

Local governments on Long Island exercise management authority and share law enforcement responsibility for shellfish with the State and the counties of Nassau and Suffolk. These include the towns of Hempstead, North Hempstead, and Oyster Bay in Nassau County, and the towns of Babylon, Islip, Brookhaven, Southampton, East Hampton, Southold, Shelter Island, Riverhead, Smithtown, and Huntington in Suffolk County. Changes in the classification of shellfish lands impose no additional requirements on local governments above the level of management and enforcement that they currently perform; therefore, the Department expects that there will be no effect on local governments.

2. Compliance requirements:

The proposed regulation would not require reporting or recordkeeping requirements for small businesses or local governments.

3. Professional services:

Small businesses and local governments would not require any professional services to comply with the proposed regulation.

4. Compliance costs:

The proposed rule would not require capital costs be incurred by small businesses of local governments.

5. Economic and technological feasibility:

There are no reporting, recordkeeping, or affirmative actions that small businesses or local governments must undertake to comply with the proposed rule. Similarly, small businesses and local governments would not have to retain any professional services or incur any capital costs to comply with the proposed rule. As a result, it should be economically and technically feasible for small businesses and local governments to comply with this regulation.

6. Minimizing adverse impact:

No adverse impacts on local governments are anticipated from the proposed rule. The designation of shellfish lands as uncertified may have an adverse impact on commercial shellfish diggers. All diggers in the towns affected by proposed closures will be notified by mail of the designation of shellfish lands as uncertified prior to, or concurrent with the date the closures go into effect. Shellfish lands which fail to meet the sanitary criteria during specific months of the year would be designated as uncertified only during those months. To minimize any adverse effects of proposed closures, towns may request that uncertified shellfish lands be considered for conditionally certified designation or for a shellfish transplant project. Shellfish diggers will also be able to shift harvesting efforts to nearby certified shellfish lands or the proposed 6,150-acres opening of state lands in Western Long Island Sound.

7. Small business and local government participation:

Impending shellfish closures are discussed at regularly scheduled Shellfish Advisory Committee meetings. This committee, organized by the Department, is comprised of representatives of local baymen's associations, shellfish shippers, and local town officials. Through their representatives, shellfish harvesters and shippers can express their opinions and give recommendations to the Department concerning shellfish land classification. Local governments, state legislators, and baymen's organizations are notified by mail and given the opportunity to comment on any proposed rulemaking.

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

None.

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

The rule will be reviewed in three years.

Rural Area Flexibility Analysis

The Department of Environmental Conservation (Department) has determined that this rule will not impose an adverse impact on rural areas. This rulemaking only affects the marine and coastal district of the State; there are no rural areas within the marine and coastal district. The shellfish fishery is entirely located within the marine and coastal district and is not located adjacent to any rural areas of the State. The proposed rule will not impose any reporting, record keeping, or other compliance requirements on public or private entities in rural areas. Since no rural areas will be affected by the proposed amendments of 6 NYCRR Part 41, the Department has determined that a Rural Area Flexibility Analysis is not required.

Job Impact Statement

1. Nature of impact:

The proposed rule has the potential for both positive and negative impacts on jobs related to shellfish harvesting. Typically, amendments that reclassify areas as certified increase job opportunities, while amendments to reclassify areas as uncertified limit harvesting opportunities. The Department of Environmental Conservation (Department) does not have specific information regarding the locations in which individual diggers harvest shellfish and is therefore unable to assess the specific job impacts of the proposed rule on individual shellfish diggers. The extent of any impact would be determined by the acreage closed, the type of closure (year-round or seasonal), the area's productivity, and the market value of the shellfish.

In general, any negative impacts are small because the Department's actions to designate areas as uncertified typically only affect a small portion of the shellfish lands in the state. Negative impacts are also diminished in many instances by shellfish harvesters redirecting effort to adjacent certified areas.

In contrast, designating an area as certified can have positive impacts on harvesting opportunities. New certified areas can result in financial benefits for commercial fisherman and increased opportunities for recreational shellfish harvesters. Increasing the amount of certified shellfish harvesting areas can provide a financial benefit due to the increased availability of shellfish resources.

2. Categories and numbers affected:

The proposed rule would impact licensed commercial shellfish diggers. Most harvesters are self-employed, but there are some who work for companies with privately controlled shellfish lands or who harvest surf clams or ocean quahogs in the Atlantic Ocean.

In 2020, there were 1,446 licensed shellfish diggers in New York State. The numbers of permits issued for areas in the State for 2020 are as follows: Town of Babylon, 39; Town of Brookhaven, 250; Town of East Hampton, 216; Town of Hempstead, 100; Town of Huntington, 112; Town of Islip, 108; Town of North Hempstead, 6; Town of Oyster Bay, 80; Town

of Riverhead, 64; Town of Shelter Island, 37; Town of Smithtown, 31; Town of Southampton, 160; Town of Southold, 199; New York City, 35; and Other, 10. The Department's records do not differentiate between fulltime and parttime commercial or recreational shellfish harvesters.

3. Regions of adverse impact:

Any impact from the proposed rule would be limited to areas within or adjacent to Nassau and Suffolk Counties.

4. Minimizing adverse impact:

Shellfish lands are designated as uncertified to protect public health as required by the ECL. Some impact from the proposed rule stemming from closing areas which do not meet the criteria for certification are unavoidable.

To minimize the impact of closures of shellfish lands, the Department evaluates areas to determine whether they can be opened seasonally during periods of improved water quality. The Department also operates conditional harvesting programs at the request of, and in cooperation with, local governments. Conditional harvesting programs allow harvest in uncertified areas under prescribed conditions, determined by studies, when bacteriological water quality is acceptable. Additionally, the Department operates shellfish transplant harvesting programs which allow removal of shellfish from closed areas for bacterial cleansing in certified areas. Conditional harvesting and shellfish transplant programs increase harvesting opportunities by making shellfish resources in a closed area available under controlled conditions.

5. Self-employment opportunities:

A large majority of shellfish harvesters in New York State are self-employed. Rulemakings to change the classification of shellfish lands can have an impact on self-employment opportunities. The impact is dependent on the size and productivity of the affected area and the availability of adjacent lands for shellfish harvesting.

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

The rule will be reviewed in three years.

Department of Health

EMERGENCY RULE MAKING

Investigation of Communicable Disease; Isolation and Quarantine

I.D. No. HLT-50-21-00002-E
Filing No. 114
Filing Date: 2022-02-22
Effective Date: 2022-02-22

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; and 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 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 general hospital and can be fatal, with a disproportionate risk of severe illness for older adults and/or those who have serious underlying medical health conditions.

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. Thereafter, the situation 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.

New York State first identified cases on March 1, 2020 and thereafter became the national epicenter of the outbreak.

Nearly two years after the first cases were identified in the United States, the Centers for Disease Control and Prevention (CDC) and the Department have identified a concerning national trend of increasing circulation of the SARS-CoV-2 Omicron variant. The substantial majority of sequenced positive cases in New York State over the past 30 days were of the Omicron variant. Additionally, the rate of breakthrough infections among the vaccinated population has increased significantly since the Omicron variant became dominant.

Based on the foregoing, the Department has determined that these regulations, while applicable to several diseases, are necessary to promulgate on an emergency basis to control the spread of COVID-19 in New York State. Accordingly, current circumstances necessitate immediate action, and pursuant to the State Administrative Procedure Act Section 206(6), a delay in the issuance of these emergency regulations would be contrary to public interest.

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 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. HLT-50-21-00002-P, Issue of December 15, 2021. The emergency rule will expire April 22, 2022.

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 PPHPC, 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 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 general hospital and can be fatal, with a disproportionate risk of severe illness for older adults and/or those who have serious underlying medical health conditions.

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. Thereafter, the situation 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.

Now, two years after the first cases were identified in the United States, Centers for Disease Control and Prevention (CDC) has identified a concerning national trend of increasing circulation of the SARS-CoV-2 Omicron variant. Since late November 2021, cases have risen more than 40-fold, and over 98 percent of the sequenced recent positives in New York State were the Omicron variant.

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.

- While the Department works collaboratively with local health departments on a variety of public health issues, including disease control, this regulation clarifies the authority for the Commissioner to lead disease investigation activities under certain circumstances (i.e., where there is potential for statewide impact, multiple jurisdictions impacted, or impact on one or more New York State jurisdictions and another state or states), while working collaboratively with impacted local health departments. In all other situations, local health departments retain the primary authority and responsibility to control communicable disease within their respective jurisdictions, with the Department providing assistance as needed.

(i) 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 imposes 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:

These emergency regulations will become effective upon filing with the Department of State and will expire, unless renewed, 90 days from the date of filing. As the COVID-19 pandemic is consistently and rapidly changing, it is not possible to determine the expected duration of need at this point in time. The Department will continuously evaluate the expected duration of these emergency regulations throughout the aforementioned

90-day effective period in making determinations on the need for continuing this regulation on an emergency basis or issuing a notice of proposed rulemaking for permanent adoption. This notice does not constitute a notice of proposed or revised rule making for permanent adoption.

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 imposes 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

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 44 counties have a population of less than 200,000 based upon 2020 United States Census data:

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

Face Coverings for COVID-19 Prevention

I.D. No. HLT-50-21-00003-E

Filing No. 113

Filing Date: 2022-02-22

Effective Date: 2022-02-22

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

Action taken: Amendment of section 2.60 and repeal of Subpart 66-3 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 201, 206 and 225

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

Specific reasons underlying the finding of necessity: The 2019 Coronavi-

rus (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 general hospital and can be fatal, with a disproportionate risk of severe illness for older adults and/or those who have serious underlying medical health conditions.

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. Thereafter, the situation 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.

Now, two years after the first cases were identified in the United States, the Centers for Disease Control and Prevention (CDC) and the Department have identified a concerning national trend of increasing circulation of the SARS-CoV-2 Omicron variant. Cases in New York are currently over 10-fold their levels in late June 2021, and the substantial majority of the sequenced positives in New York State over the past 30 days were of the Omicron variant. Additionally, the rate of breakthrough infections among the vaccinated population has increased significantly since the Omicron variant became dominant.

To that end, these regulations provide that masking may be required under certain circumstances, as determined by the Commissioner based on COVID-19 incidence and prevalence, as well as any other public health and/or clinical risk factors related to COVID-19 disease spread. Based on the foregoing, the Department has determined that these emergency regulations are necessary to control the spread of COVID-19, necessitating immediate action. Accordingly, pursuant to the State Administrative Procedure Act Section 202(6), a delay in the issuance of these emergency regulations would be contrary to public interest.

Subject: Face Coverings for COVID-19 Prevention.

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

Text of emergency rule: Pursuant to the authority vested in the Public Health and Health Planning Council and the Commissioner of Health by Sections 201, 206, and 225 of the Public Health Law, Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended by repealing Subpart 66-3 and repealing and replacing Section 2.60, to be effective upon filing with the Secretary of State, to read as follows:

Subpart 66-3 is hereby repealed.

Section 2.60 is repealed and replaced to read as follows:

2.60. Face Coverings for COVID-19 Prevention

(a) As determined by the Commissioner based on COVID-19 incidence and prevalence, as well as any other public health and/or clinical risk factors related to COVID-19 disease spread, any person who is over age two and able to medically tolerate a face-covering may be required to cover their nose and mouth with a mask or face-covering when: (1) in a public place and unable to maintain, or when not maintaining, social distance; or (2) in certain settings as determined by the Commissioner, which may include schools, public transit, homeless shelters, correctional facilities, nursing homes, and health care settings, and which may distinguish between individuals who are vaccinated against COVID-19 and those that are not vaccinated. The Commissioner shall issue findings regarding the necessity of face-covering requirements at the time such requirements are announced.

(b) Businesses must provide, at their expense, face-coverings for their employees required to wear a mask or face-covering pursuant to subdivision (a) of this section.

(c) large-scale indoor event venues with more than five thousand attendees shall require patrons to wear face coverings consistent with subdivision (a) of this section; may require all patrons to wear a face covering irrespective of vaccination status; 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.

(d) No business owner shall deny employment or 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.

(e) For purposes of this section face-coverings shall include, but are not limited to, cloth masks, surgical masks, and N-95 respirators that are worn to completely cover a person's nose and mouth.

(f) Penalities and enforcement.

(i) A violation of any provision of this Section is subject to all civil and criminal penalties as provided for by law. Individuals or entities that violate this Section are subject to a maximum fine of $1,000 for each violation. For purposes of civil penalties, each day that an entity operates in a manner inconsistent with the Section shall constitute a separate violation under this Section.

(ii) All local health officers shall take such steps as may be necessary to enforce the provisions of this Section accordance with the Public Health Law and this Title.

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. HLT-50-21-00003-P, Issue of December 15, 2021. The emergency rule will expire April 22, 2022.

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 adding a new Section 2.60 is sections 201, 206, and 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 PHHPC, with the approval of the Commissioner, to amend the State Sanitary Code to address public health issues related to communicable disease.

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 general hospital and can be fatal, with a disproportionate risk of severe illness for older adults, those who have serious underlying medical health conditions and those who are unvaccinated.

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. Thereafter, the situation 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.

Now, two years after the first cases were identified in the United States, the Centers for Disease Control and Prevention (CDC) and the Department have identified a concerning national trend of increasing circulation of the SARS-CoV-2 Omicron variant. Cases in New York are currently over 10-fold their levels in late June 2021, and the substantial majority of the sequenced positives in New York State over the past 30 days were of the Omicron variant. Additionally, the rate of breakthrough infections among the vaccinated population has increased significantly since the Omicron variant became dominant.

These regulations provide that masking may be required under certain circumstances, as determined by the Commissioner based on COVID-19 incidence and prevalence, as well as any other public health and/or clinical risk factors related to COVID-19 disease spread.

Costs:

Costs to Regulated Parties:

As part of ongoing efforts to address the COVID-19 pandemic, regulated parties have been a partner in implementing measures to limit the spread and/or mitigate the impact of COVID-19 within the state since March of 2020. Accordingly, this regulation does not impose 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, however such costs are anticipated to be minimal as these provisions continue existing enforcement requirements.

Paperwork:

This regulation imposes no additional paperwork.

Local Government Mandates:

As part of ongoing efforts to address the COVID-19 pandemic, local governments have been partners in implementing and enforcing measures to limit the spread and/or mitigate the impact of COVID-19 within their jurisdictions since March of 2020. Further, local governments have separate authority and responsibilities to control disease within their jurisdictions pursuant to PHL sec. 2100 and Part 2 of the State Sanitary Code.

Duplication:

There is no duplication of federal law.

Alternatives:

The alternative would be to not promulgate these emergency regulations. However, this alternative was rejected, as the Department believes this regulation will facilitate the Department's ability to respond to the evolving nature of this serious and ongoing communicable disease outbreak.

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 and will expire, unless renewed, 60 days from the date of filing. As the COVID-19 pandemic is consistently and rapidly changing, it is not possible to determine the expected duration of need at this point in time. The Department will continuously evaluate the expected duration of these emergency regulations throughout the aforementioned 60-day effective period in making determinations on the need for continuing this regulation on an emergency basis or issuing a notice of proposed ruling-making for permanent adoption. This notice does not constitute a notice of proposed or revised rule making for permanent adoption.

Regulatory Flexibility Analysis

Effect of Rule:

As part of ongoing efforts to address the COVID-19 pandemic, businesses and local government have been a partner in implementing measures to limit the spread and/or mitigate the impact of COVID-19 within the state since March of 2020. Accordingly, this regulation will not have a significant impact on or cost to small business and local government.

Compliance Requirements:

These regulations update previously filed emergency regulations to provide that masking may be required under certain circumstances, as determined by the Commissioner based on COVID-19 incidence and prevalence, as well as any other public health and/or clinical risk factors related to COVID-19 disease spread.

Professional Services:

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

Costs:

As part of ongoing efforts to address the COVID-19 pandemic, regulated parties have been a partner in implementing measures to limit the spread and/or mitigate the impact of COVID-19 within the state since March of 2020. Accordingly, this regulation will not have a significant impact.

Economic and Technological Feasibility:

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

Minimizing Adverse Impact:

As part of ongoing efforts to address the COVID-19 pandemic, regulated parties have been a partner in implementing measures to limit the spread and/or mitigate the impact of COVID-19 within the state since March of 2020. Accordingly, 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 44 counties have an estimated population of less than 200,000 based upon the 2019 United States Census county populations projections:

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 2019 United States Census population projections:

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 provide that masking may be required under certain circumstances, as determined by the Commissioner based on COVID-19 incidence and prevalence, as well as any other public health and/or clinical risk factors related to COVID-19 disease spread.

Costs:

As part of ongoing efforts to address the COVID-19 pandemic, regulated parties have been a partner in implementing measures to limit the spread and/or mitigate the impact of COVID-19 within the state since March of 2020. Accordingly, this regulation does not impose additional costs to regulated parties.

Economic and Technological Feasibility:

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

Minimizing Adverse Impact:

As part of ongoing efforts to address the COVID-19 pandemic, regulated parties have been a partner in implementing measures to limit the spread and/or mitigate the impact of COVID-19 within the state since March of 2020. Accordingly, 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.

NOTICE OF ADOPTION

Article 28 Nursing Homes; Establishment; Notice and Character and Competence Requirements

I.D. No. HLT-46-21-00006-A
Filing No. 110
Filing Date: 2022-02-17
Effective Date: 2022-03-09

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

Action taken: Amendment of sections 600.1 and 600.2 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 2803

Subject: Article 28 Nursing Homes; Establishment; Notice and Character and Competence Requirements.

Purpose: To strengthen the establishment application review process for all article 28 facilities.

Substance of final rule: This regulation amends Title 10 NYCRR Sections 600.1 and 600.2.

Subdivision (d) is added to section 600.1 to articulate notice requirements for nursing home establishment applications, as required by new Subdivision 2-b of Article 2801-a of the Public Health Law. The State Long-Term Care Ombudsman and residents, staff, and other parties affiliated with an existing nursing home, will be notified once a nursing home establishment application has been acknowledged by the Department and also, when a nursing home establishment application is placed on the Establishment and Project Review Committee agenda of the Public Health and Health Planning Council, for consideration.

Paragraph (2) of subdivision (b) of section 600.2 is amended to make the "character, competence, and standing in the community" review standard comparable for all applicants; and to include a limited liability company as an acceptable legal entity applicant, whose members are subject to the "character, competence, and standing in the community" review.

Paragraph (4) of subdivision (b) of section 600.2 is amended to include additional titles of applicant individuals, it removes a reference to outdated reporting requirements that no longer appear in statute, it clarifies establishment application review criteria, and defines the terms 'recurrent' and 'prompt correction' related to violations at article 28 facilities.

Paragraph (5) is added to subdivision (b) of section 600.2 to incorporate additional information the Public Health and Health Planning Council is required to consider when making a determination about a "consistently high level of care" rendered at a nursing home. This required information is found in the new Subdivision 3-b of Article 2801-a of the Public Health Law. In addition, the proposed regulation clearly sets forth five (5) occurrences that automatically render a determination that a consistently high level of care is not found, including determining the percentage of nursing homes in an applicant individual's portfolio with a CMS star rating of two stars or less. And finally, it also includes the amendments made to paragraph (4) of subdivision (b) of section 600.2, which applies to all article 28 facilities, generally.

Altogether, the proposed regulation in paragraph (5) of subdivision (b) of section 600.2 responds to legislative actions and recommendations and sets forth uniform, transparent, and outcome-based standards to determine when a "consistently high level of care" has been delivered by applicant operators in the nursing homes that they own or have owned over the last seven years.

Together the proposed regulations in Sections 600.1 and 600.2 of Title 10 NYCRR, strengthen the establishment application review process for all article 28 facilities, generally and nursing homes, specifically. They also provide the transparency and clarity necessary to determine when a nursing home establishment application (includes changes of ownership and transfers of ownership applications) will be considered by the Establishment and Project Review Committee of the Public Health and Health Planning Council.

Final rule as compared with last published rule: Nonsubstantial changes were made in section 600.2(b)(4) and (iii)(b).

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

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

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

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

Proposed amendments to 10 NYCRR § 600.1 articulate notice requirements for nursing home establishment applications, as required by new Subdivision 2-b of Article 2801-a of the Public Health Law. Proposed amendments to 10 NYCRR § 600.2 make the "character, competence, and standing in the community" review standard comparable for all applicants; and include a limited liability company as an acceptable legal entity applicant, whose members are subject to the "character, competence, and standing in the community" review.

Following the assessment of public comment, the Department has determined that no substantive changes to the regulations were necessary, and no additional requirements were added as a result of the comments received. The New York State Department of Health ("Department" or "DOH") received comments from LeadingAge New York and Center for Elder Law and Justice regarding proposed amendments. The general theme of the comments were seeking clarification on implementation and suggested recommendations for additional requirements that furthered the intent of the proposed regulations under 10 NYCRR §§ 600.1 and 600.2. The Department responded to the comments made, and the issues stated will be addressed when the amended regulations are presented publicly to the Public Health and Health Planning Council ("PHHPC") and in public discussions of the PHHPC going forward as the new requirements under the amended regulations are implemented. There was a comment that identified a typo in the proposed regulations, which will be addressed in the version to be presented for adoption.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Updated Retention Standards for Adult Care Facilities

I.D. No. HLT-10-22-00009-P

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

Proposed Action: Amendment of sections 487.4, 488.4 and 490.4 of Title 18 NYCRR.

Statutory authority: Social Services Law, section 461(1)

Subject: Updated Retention Standards for Adult Care Facilities.

Purpose: To ensure admission and retention standards for adult care facilities are consistent with the Americans with Disabilities Act.

Text of proposed rule: Subdivisions (b) and (c) of Section 487.4 are amended to read as follows:

(b) An operator shall not exclude an individual on the [sole] basis that such individual is a person who [primarily] uses a wheelchair for mobility, *or on the basis of such individual's mobility impairment,* and shall make reasonable accommodations to the extent necessary to admit such individuals, consistent with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq. and with the provisions of this section. *Provided, however, the operator must determine that the adult home: can safely accommodate the needs of such individual; is in compliance with local fire codes; and has an appropriate level of staffing to evacuate such individual; or the operator must determine that such individual is capable of self-preservation in the event of an emergency. Persons incapable of self-preservation are those who, because of age, physical limitations, mental limitations, chemical dependency, or medical treatment, cannot respond as an individual in an emergency situation.*

(c) An operator shall not accept nor retain any person who:

(1) is in need of continual medical or nursing care or supervision as provided by facilities licensed pursuant to article 28 of the Public Health Law, or licensed or operated pursuant to articles 19, 23, 29 and 31 of the Mental Hygiene Law;

(2) suffers from a serious and persistent mental disability sufficient to warrant placement in a residential facility licensed pursuant to article 19, 23, 29 or 31 of the Mental Hygiene Law;

(3) requires health or mental health services which are not available or cannot be provided safely and effectively by local service agencies or providers;

(4) causes, or is likely to cause, danger to himself or others;

(5) repeatedly behaves in a manner which directly impairs the well-being, care or safety of the resident or other residents, or which substantially interferes with the orderly operation of the facility;

(6) has a medical condition which is unstable and which requires continual skilled observation of symptoms and reactions or accurate re-

cording of such skilled observations for the purposes of reporting to the resident's physician;

(7) refuses or is unable to comply with a prescribed treatment program, including but not limited to a prescribed medications regimen when such failure causes, or is likely to cause, in the judgment of a physician, life-threatening danger to the resident or others;

(8) is chronically bedfast;

[(9) chronically requires the physical assistance of another person in order to walk;

(10) chronically requires the physical assistance of another person to climb or descend stairs, unless assignment on a floor with ground-level egress can be made;]

[(11)] *(9)* has chronic unmanaged urinary or bowel incontinence;

[(12)] *(10)* suffers from a communicable disease or health condition which constitutes a danger to other residents and staff;

[(13)] *(11)* is dependent on medical equipment, unless it has been demonstrated that:

(i) the equipment presents no safety hazard;

(ii) use of the equipment does not restrict the individual to his room, impede the individual in the event of evacuation, or inhibit participation in the routine activities of the home;

(iii) use of the equipment does not restrict or impede the activities of other residents;

(iv) the individual is able to use and maintain the equipment with only intermittent or occasional assistance from medical personnel;

(v) such assistance, if needed, is available from approved community resources; and

(vi) each required medical evaluation attests to the individual's ability to use and maintain the equipment;

[(14)] *(12)* engages in alcohol or drug use which results in aggressive or destructive behavior; or

[(15)] *(13)* is under 18 years of age; or, in a public adult home, under 16 years of age.

Subdivisions (b) and (c) of Section 488.4 is amended to read as follows:

(b) An operator shall not exclude an individual on the [sole] basis that such individual is a person who [primarily] uses a wheelchair for mobility, *or on the basis of such individual's mobility impairment,* and shall make reasonable accommodations to the extent necessary to admit such individuals, consistent with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq. and with the provisions of this section. *Provided, however, the operator must determine that the enriched housing program: can safely accommodate the needs of such individual; is in compliance with local fire codes; and has an appropriate level of staffing to evacuate such individual; or the operator must determine that such individual is capable of self-preservation in the event of an emergency. Persons incapable of self-preservation are those who, because of age, physical limitations, mental limitations, chemical dependency, or medical treatment, cannot respond as an individual in an emergency situation.*

(c) An operator must not accept nor retain any person who:

(1) needs continual medical or nursing care or supervision as provided by an acute care facility or a residential health care facility certified by the Department of Health;

(2) suffers from a serious and persistent mental disability sufficient to warrant placement in an acute care or residential treatment facility operated or certified by an office of the Department of Mental Hygiene;

(3) requires health, mental health, or other services which cannot be provided by local service agencies;

(4) causes, or is likely to cause, a danger to himself/herself or others;

(5) repeatedly behaves in a manner which directly impairs the well-being, care, or safety of the resident or other residents or which substantially interferes with the orderly operation of the enriched housing program;

(6) requires continual skilled observation of symptoms and reactions or accurate recording of such skilled observations for the purpose of reporting on a medical condition to the resident's physician;

(7) refuses or is unable to comply with a prescribed treatment program, including but not limited to a prescribed medications regimen when such refusal or inability causes, or is likely to cause, in the judgment of a physician, life-threatening danger to the resident or others;

(8) is chronically bedfast;

[(9) is chronically in need of the physical assistance of another person in order to walk;

(10) is chronically in need of the physical assistance of another person to climb or descend stairs, unless assignment on a floor with ground-level egress can be made;]

[(11)] *(9)* has chronic unmanaged urinary or bowel incontinence;

[(12)] *(10)* suffers from a communicable disease or health condition which constitutes a danger to other residents and staff;

[(13)] *(11)* is dependent on medical equipment unless it has been demonstrated that:

(i) the equipment presents no safety hazard;

(ii) use of the equipment does not restrict the individual to his/her room, impede the individual in the event of evacuation, or inhibit participation in the routine activities of the home;

(iii) use of the equipment does not restrict or impede the activities of other residents;

(iv) the individual is able to use and maintain the equipment with only intermittent or occasional assistance from medical personnel;

(v) assistance in the use or maintenance of the equipment, if needed, is available from local social services agencies or approved community resources;

(vi) each required medical evaluation attests to the individual's ability to use and maintain the equipment;

[(14)] *(12)* has chronic personal care needs which cannot be met by enriched housing staff or approved community providers;

[(15)] *(13)* is not self-directing; i.e., requires continuous supervision and is not capable of making choices about his/her activities of daily living; or

[(16)] *(14)* engages in alcohol or drug use which results in aggressive or destructive behavior.

Subdivisions (b) and (c) of Section 490.4 is amended to read as follows:

(b) An operator shall not exclude an individual on the [sole] basis that such individual is a person who [primarily] uses a wheelchair for mobility, *or on the basis of such individual's mobility impairment,* and shall make reasonable accommodations to the extent necessary to admit such individuals, consistent with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq. and with the provisions of this section. *Provided, however, the operator must determine that the residence for adults: can safely accommodate the needs of such individual; is in compliance with local fire codes; and has an appropriate level of staffing to evacuate such individual; or the operator must determine that such individual is capable of self-preservation in the event of an emergency. Persons incapable of self-preservation are those who, because of age, physical limitations, mental limitations, chemical dependency, or medical treatment, cannot respond as an individual in an emergency situation.*

(c) An operator must not accept or retain any person who:

(1) is in need of continual medical or nursing care or supervision as provided by facilities licensed pursuant to article 28 of the Public Health Law or licensed or operated pursuant to articles 19, 23, 29 and 31 of the Mental Hygiene Law;

(2) suffers from a serious and persistent mental disability sufficient to warrant placement in a residential treatment facility licensed or operated pursuant to articles 19, 23, 29 or 31 of the Mental Hygiene Law;

(3) requires health or mental health services which are not available or cannot be provided safely and effectively by local social services agencies or providers;

(4) causes, or is likely to cause, danger to himself/herself or others;

(5) repeatedly behaves in a manner which directly impairs the well-being, care, or safety of the resident or other residents or which substantially interferes with the orderly operation of the facility;

(6) has a medical condition which requires continual skilled observation of symptoms or reactions to medications or accurate recording of such skilled observations for the purpose of reporting to the resident's physician;

(7) refuses or is unable to comply with a prescribed treatment program, including but not limited to a prescribed medications regimen, when such refusal or inability causes, or, in the judgment of a physician, is likely to cause life-threatening danger to the resident or others;

(8) requires more than supervision and assistance with self-administration of medications in order to maintain a prescribed medication regimen;

(9) chronically requires physical assistance with the personal activities of daily living, including grooming, bathing, dressing, toileting, or eating;

(10) is chronically bedfast;

[(11) chronically requires the physical assistance of another person in order to walk;

(12) chronically requires the physical assistance of another person to climb or descend stairs, unless assignment on a floor with ground-level egress can be made;]

[(13)] *(11)* has chronic unmanaged urinary or bowel incontinence;

[(14)] *(12)* suffers from a communicable disease or health condition which constitutes a danger to other residents and staff;

[(15)] *(13)* is dependent on medical equipment unless it has been demonstrated that:

(i) the equipment presents no safety hazard;

(ii) use of the equipment does not restrict the individual to his/her room, impede the individual in the event of evacuation, or inhibit participation in the routine activities of the facility;

(iii) use of the equipment does not restrict or impede the activities of other residents;

(iv) the individual is able to use and maintain the equipment with only intermittent or occasional assistance from medical personnel, and such assistance is available from local social service agencies or approved community resources; and

(v) each required medical evaluation attests to the individual's ability to use and maintain the equipment;

[(16)] *(14)* engages in alcohol or drug use which results in aggressive or destructive behavior;

[(17)] *(15)* is under 18 years of age; or under 16 years of age if such person is to be admitted to a residence for adults operated by a social services district.

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

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

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

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

Regulatory Impact Statement

Statutory Authority:

Sections 461(1) of the Social Services Law provides authority for the Department to promulgate regulations for adult care facilities: specifically, adult homes, enriched housing, and residences for adults.

Legislative Objectives:

The legislative objective of Social Services Law section 461 is to promote the life, health, safety and comfort of adults residing in adult care facilities (see Social Services Law section 460).

Needs and Benefits:

This regulation is intended to ensure that adult care facilities comply the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq (ADA). The regulation clarifies admission and retention standards to make clear that adult care facilities must make reasonable accommodation for residents who use wheelchairs for mobility. The adult care facility nevertheless must be able to safely accommodate the needs of such individual, must be in compliance with local fire codes, or must have an appropriate level of staffing to evacuate such individual. The operator must also determine that such individual is capable of self-preservation in the event of an emergency. Persons incapable of self-preservation are those who, because of age, physical limitations, mental limitations, chemical dependency, or medical treatment, cannot respond as an individual in an emergency situation.

This regulation is needed to make sure that the admission and retention standards for adult care facilities are consistent with the ADA.

Costs:

Costs to Regulated Parties:

This regulation imposes no costs on adult care facilities, because adult care facilities should already be in compliance with the ADA. This regulation simply clarifies what is required by the ADA.

Costs to State and Local Governments:

This regulation imposes no costs on State and local governments, because adult care facilities should already be in compliance with the ADA. This regulation simply clarifies what is required by the ADA.

Paperwork:

This regulation creates no new paperwork requirements.

Local Government Mandates:

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

Duplication:

These regulations will not conflict with any State or federal rules.

Alternatives:

The alternative is to not make these amendments to the regulations. This alternative was rejected, because the current regulations are arguably not consistent with the ADA.

Federal Standards:

This regulation is consistent with federal standards.

Compliance Schedule:

This regulation is effective upon publication of a Notice of Adoption in the State Register.

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

Department of Law

INFORMATION NOTICE

Advance Notice of Proposed Rulemaking
pursuant to N.Y. Gen. Bus. L. § 396-r(5) (Price Gouging)

I. Summary

The New York State Office of the Attorney General (the "Office" or the "Attorney General") is issuing this Advance Notice of Proposed Rulemaking ("ANPRM") to solicit comments, data, and other information to assist the Office in crafting rules to prevent price gouging pursuant to New York General Business Law § 396-r ("GBL 396-r").[1]

The COVID-19 pandemic led to significant price increases for consumers, patients, retailers, and state and local governments in New York. Low-income New Yorkers were the most impacted. Some of the inflation was caused by disruptions in supply chains and increased costs, as well as price hikes for nonessential products and services. However, some of the increases in prices for essential goods and services likely constituted illegal pricing gouging. GBL 396-r prohibits "unconscionably excessive" pricing which includes "unconscionably extreme pricing" and pricing using "unfair leverage or unconscionable means." The statute is broadly written to cover price gouging at every point in the supply chain.

This ANPRM is structured as follows. Part I summarizes New York State's price gouging statute. Part II provides background on the COVID-19 pandemic and on pricing that raises questions about price gouging. Part III lays out the economic context in which price gouging is likely to occur. Part IV asks for public comment on a series of questions about whether and how the Attorney General might provide regulatory guidance in this area.

Comments should be submitted to stopillegalprofiteering@ag.ny.gov by April 15, 2022.

II. New York State's Price Gouging Statute

GBL 396-r provides as follows:

During any abnormal disruption of the market for goods and services vital and necessary for the health, safety and welfare of consumers or the general public, no party within the chain of distribution of such goods or services or both shall sell or offer to sell any such goods or services or both for an amount which represents an unconscionably excessive price.[2]

The statute defines an "abnormal disruption of the market" as either an "actual or imminently threatened" change in the market resulting from "stress of weather, convulsion of nature, failure or shortage of electric power or other source of energy, strike, civil disorder, war, military action, national or local emergency" or a disruption "which results in the declaration of a state of emergency by the governor."[3]

Covered goods and services include: (1) vital and necessary consumer goods and services, (2) vital and necessary medical supplies and services, and (3) other vital and necessary goods and services "used to promote the health or welfare of the public." GBL 396-r also covers emergency repairs "made by any party within the chain of distribution."[4]

Whether a price is unconscionably excessive "is a question of law for the court." The statute lays out two kinds of "unconscionably excessive" pricing. First, where "the amount of the excess in price is unconscionably extreme." Second, where the price was set through either "an exercise of unfair leverage" or "unconscionable means."[5] The statute makes clear that a case may be supported by a combination of the two kinds of excessive pricing.

A prima facie case for a violation of GBL 396-r can be established by showing either (i) "a gross disparity" between the allegedly excessive price, and "the price at which such goods or services were sold or offered for sale by the defendant in the usual course of business immediately prior to the onset of the abnormal disruption of the market," or (ii) that the allegedly excessive price "grossly exceeded the price at which the same or similar goods or services were readily obtainable in the trade area." If established, such a prima facie case can be rebutted by showing that the price increase "preserves the margin of profit" that the defendant received prior to the disruption, or that the defendant incurred "additional

costs" not within its control. These defenses only apply to the margins and costs of the goods and services for which prices were raised.[6]

GBL 396-r applies to all parties within the chain of distribution: "This prohibition shall apply to all parties within the chain of distribution, including any manufacturer, supplier, wholesaler, distributor or retail seller of goods or services or both sold by one party to another when the product sold was located in the state prior to the sale."[7]

Enforcement of GBL 396-r is entrusted to the Attorney General, who may seek, inter alia, (i) an injunction; (ii) a civil penalty up to $25,000 per violation or three times the gross receipts, whichever is greater; and (iii) restitution.[8] Section 396-r was modified by the Legislature in June 2020, three months into the pandemic, in several ways that indicate that the Legislature considers price gouging a significant threat to the well-being of New Yorkers, and that the statute needed a broader reach to stop harmful conduct. The modifications expanded the scope of the statute by removing language that suggested only consumers were harmed by price gouging. It added not only medical supplies and services, but a broad catchall provision covering "any" essential goods and services "used to promote the health and welfare of the public." It added an affirmative defense applicable where sellers preserve their pre-disruption profit margins, underlining that the core purpose of the statute is to prohibit profiteering in a disruption. Finally, it added the rulemaking authority upon which this ANPRM is based, indicating that it believed that the Attorney General, through rulemaking, could play a significant role in deterring price gouging.[9]

III. Prices and Profitability During the COVID-19 Pandemic

New York State is currently experiencing an "abnormal disruption of the market." The state is in an ongoing severe health crisis and has faced disruptions to supply chains, large shifts in demand for goods and services and supply of labor, and reductions in manufacturing output in certain industries. COVID-19 led to the worst economic crisis in New York since the Great Depression, and massive unemployment.[10]

The state is experiencing one of the biggest inflation increases in decades.[11] According to the Bureau of Labor Statistics, the Consumer Price Index ("CPI")[12] in the New York, Newark, and Jersey City metropolitan area increased by 5.1% from January 2021 to January 2022.[13] The Bureau of Labor Statistics does not generate data that gives insight into rural areas such as upstate New York, but the entire United States experienced a 7.5% increase in the CPI in the last year, the highest since 1982.[14]

New Yorkers experienced significant price increases across the board, including in essential goods and services. From January 2021 to January 2022, for instance, gasoline prices increased 39.6%; the cost of used vehicles increased 41.6%; the cost of new vehicles increased by 18.4%; transportation costs increased 13.1%; the cost of meats, poultry, fish, and eggs increased 16%; and household energy costs increased 21.4%.[15]

These and other price increases affected all New York households, with the heaviest burden falling on those with low incomes. For instance, the poorest 20% of families spend around 27% of their budgets on food, so even a small increase in food prices can lead to foregoing necessities.[16] Households in the bottom 20% of income pay on average 33.9% of their income toward health care. A quarter of households spend at least 6% of their income on energy costs, and a tenth spend over 10%, so when energy costs spike, people frequently cannot pay their bills.[17]The 50.9% increase in gasoline prices has had an especially large impact on lower income families, where pre-pandemic households spent on average 14% of their income on gasoline.[18]

Many of these price hikes were legal, but when steep price hikes during an abnormal disruption are accompanied by increases in profitability, it raises questions about whether price gouging occurred. What follows are two examples of pricing for essential goods during the pandemic that raise questions about "unconscionably excessive pricing" and the use of "unfair leverage or unconscionable means."

A. Beef

During the pandemic, the price of meat went up sharply, constituting half of the price increases of food bought at grocery stores. Beef prices were a large part of that price spike.

The price hikes cannot be explained by supply chain disruption and increased costs alone. Four major companies in the meat packing industry—Cargill, Tyson, JBS, and National Beef Packing Company—account for 70% of beef sales in the United States.[19] Though they experienced a reduction in volume during the pandemic, the increase in beef prices led to an overall increase in their dollar sales and an even larger increase in their profits. The meatpackers had a 120% increase in gross profits and 500% increase in net income.[20] In the fourth quarter of 2021 (ending last fall, for instance, Tyson reported a 32.7% increase in prices and a 17.3% increase in dollar sales despite a decrease in beef volume.[21] Tyson reported a 110.1% increase in profit margins for beef from the previous year. JBS US similarly reported a 127% increase in profit margins.[22] Marfrig (the Brazilian parent of National Beef) had its net profits increase by 149% worldwide.[23]

At the same time, New York families were facing sticker shock at the grocery store. Beef prices rose 30% between January 2021 and January 2022.[24] The increases are especially hard on the poorest one-fifth of households, who spend over a quarter of their income on food. Because meat prices have such a big impact on the purchasing power of low-income households, these price hikes left New Yorkers choosing between food, medical care, and transportation.

B. Shipping

Shipping price increases impact all New Yorkers because they lead to higher prices across the board for consumer goods, including for essential goods, as well as for medical supplies.

Shipping prices went up substantially in 2020 and 2021. According one industry expert, the price to ship a 40-foot container from Shanghai to Los Angeles went up 75% between December 2020 and December 2021. Another reported that Shanghai to West Coast prices more than doubled between 2019 and late 2021.[25] Shipping costs impact the costs of automotive parts, medical supplies, and everyday food items.[26] The price hikes appear to be caused by a combination of actual supply chain disruptions and the motivation to increase profits.

The eight largest global container shipping companies had net profits of $48.1 billion in the last quarter of 2021, nine times more than their record third quarter profits of 2020.[27] The world's largest shipping company, A.P. Møller–Maersk, announced its most profitable quarter in its 117-year history, with a 278% increase in profits from 2020 to 2021.[28] UPS posted its best year ever in 2021 and announced substantial price hikes in 2022.[29] DHL imposed several price hikes during the pandemic, justifying them by inflation and the need for infrastructure investment,[30] but also boasted record profits in 2021, including its most profitable quarter ever in early 2021.[31]

C. Other industries

Meat and shipping are not isolated instances of big price increases impacting vulnerable New Yorkers who are struggling in a global pandemic. Nor are they isolated instances of increased profitability accompanying those price increases.

Other industries which have seen big price and profitability increases include auto dealers,[32] supermarkets,[33] fast food,[34] oil and natural gas,[35] and lumber.[36] As with the two examples listed above, high prices and profitability may be legal or may be examples of price gouging that is illegal under New York law.

Digital.com, a website that reviews products and services for small businesses, reported that 56% of the 1,000 businesses they surveyed in November 2021 increased prices beyond inflation to boost profitability.[37] According to the Federal Reserve Bank of Saint Louis, corporate profits have increased more than 100% in the past year, significantly above the rate of inflation.[38] These record-setting profits by big companies have led to a 70-year high in corporate profit margins. Two-thirds of the United States' largest publicly traded companies had higher profits in 2021 than they did before the pandemic. One report concluded that in the second quarter of 2021, right in the middle of the pandemic, the share of GDP composed of profits for all United States corporations was the second highest on record since 1960. A hundred of the largest publicly traded companies had 2021 profit margins at least 50% above 2019 levels.[39]

D. At-Home COVID-19 Tests

The pandemic also led to new products that became essential—and costly—for New Yorkers. For instance, at-home COVID-19 tests became a critical public health tool during the pandemic. People are encouraged to test regularly when they have symptoms or contact with people with COVID-19.

Many New Yorkers were required or strongly encouraged to test to be eligible for work assignments, and to test their children as a condition of school or daycare attendance if they had symptoms. They could not avoid the high prices of test kits without jeopardizing their livelihoods and access to childcare. Most over-the-counter rapid COVID-19 tests cost between $17 and $25. For a family of four, testing once or twice a week at current pricing could cost between $160 and $400 a month. The tests represented a new ongoing cost to already strapped budgets.

Several questions have been raised by public officials about these test kits. Senators Ed Markey and Richard Blumenthal asked the Federal Trade Commission to investigate possible price gouging.[40] Their letter to the FTC cited evidence that the cost of manufacturing the tests is a fraction of the price at which it is being sold.[41]

For these and similar products, the question of what constitutes price gouging is complicated under New York law, because there are no pre-disruption prices for comparison. At the same time, the importance of these new products to New Yorkers during this abnormal disruption certainly provided manufacturers and distributors of at-home test kits

with leverage that could potentially be exercised unfairly. In Section V, we ask how New York's price gouging law should apply, if at all, to essential products that entered the market after the abnormal disruption, but whose value and demand flow directly from the reasons for the disruption, resulting in new or enhanced pricing power.

IV. Economic Framework

At the onset of the pandemic, the economy experienced shortages of several goods and services. Businesses restricted their activity, laid off workers, and reduced production. At the same time, consumers spent more time at home and increased their demand for products such as groceries, household energy, furniture, and electronics. As consumers tried to avoid public transportation, they also increased their demand for cars and gasoline. As demand for these products increased, there was a severe disruption in the supply chain due to backlogged ports as well as shortages of warehouses, containers, and truck drivers.[42] These developments raised costs for raw materials, labor, and the transportation of goods in many industries, forcing companies to raise prices to cover those costs.

Uncertainty about the future availability of certain goods led some buyers to hoard goods above their immediate needs. Producers did not increase production because they anticipated that the shortage would be short-lived. These behaviors prolonged the shortages for months.

All these factors undoubtedly drove up prices.[43] However, the current economic data discussed above, which show substantial profit increases during the COVID-19 pandemic, demonstrate that higher costs caused by supply chain disruptions, hoarding, production-stoppages, and changes in demand are insufficient to explain the higher inflation rates that New York consumers, patients, retailers, and local governments have been experiencing. Instead, the data on record-level profitability suggest that some of the past price hikes and current inflation are the result of companies taking advantage of the disruption to raise prices beyond the need to cover costs.

A disruption in the economy can create market power by building a moat around an existing industry: entry costs rise steeply, borrowing becomes difficult, investors are wary, and customers—whether private or governmental—turn to known entities. For the same reasons, a disruption can enhance existing market power by strengthening the relative market power of firms within an already concentrated industry.[44] A disruption also reduces the price sensitivity of consumers, patients, and governments, who are desperate to get access to essential goods. Demand for certain products becomes less elastic, allowing sellers to increase their prices even in the absence of increased costs.

Moreover, a disruption can give cover to companies with existing market power to raise prices under the guise of economy-wide inflation.[45] Consumers either find inflation to be a plausible explanation for price increases or cannot distinguish between supply-chain-driven increases and profit-driven increases.

There is an elevated risk of increased prices in highly concentrated industries, where the small number of companies dominating that industry are more likely to adopt similar pricing strategies and have less incentive to undercut their competitors.[46] For instance, the meat-packing industry (mentioned above) went through rapid consolidation during the 1980s and 1990s, when a reduction in the wage paid by larger plants and the emergence of technological economies of scale led smaller firms to leave the market and slaughterhouses to become much larger. A recent White House report argued that consolidation has allowed the companies to pay less to cattle rangers while charging consumers more.[47]

Similarly, when prices are pegged to industry indexes, it is easier for firms to converge on higher prices. When all market participants increase their prices contemporaneously, consumers are prone to blame inflation rather than individual companies' pricing decisions and to be more accepting of the price increases. One example is the egg industry—an industry that has been the subject of prior price gouging enforcement activity by the Office. Most egg producers peg their egg prices to indices set by Urner Barry—indices that are based, at least in part, on market assessments provided by the major companies in the industry. Thus, egg prices are determined using a "feedback loop" where: (i) egg producers communicate to Urner Barry their assessment of egg prices; (ii) Urner Barry uses these assessments to create price indices, which are later sent to the producers; and (iii) the egg producers sell their eggs at prices based on the Urner Barry indices. This pricing method is not tied to costs and, in periods of disruption, it may allow egg producers to converge to a higher price even in the absence of cost increases.

The economic costs of companies using abnormal disruptions, including the current supply-chain disruptions and the overall increase in inflation, to justify charging higher prices can be significant and long-lasting.[48] When price increases persist, they can lead buyers to believe that they are inevitable, thus continuing the inflationary spiral. Meanwhile, low-income buyers are forced to absorb these price increases by using government financial assistance, depleting their savings, or turning to high interest loans.

While raising prices to increase profits is often tolerated in our legal system (except where a firm engages in illegal monopolization), our laws recognize that there are special contexts in which such behavior cannot be tolerated. New York's price gouging law places restrictions on rent-seeking with respect to essential goods and services during times of abnormal disruptions. It serves the interest of economic stability, by preventing a disruption from triggering a broader economic downturn and exacerbating individual suffering. Most importantly, the law protects poor and working-class New Yorkers who are the most likely to be exposed to price increases in essential items, the least likely to have savings to cover crises, and the most likely to have to choose between going into debt or foregoing essential goods and services.

V. Questions for Public Comment

The Attorney General is issuing this ANPRM to solicit comments, including consumer experiences, market data, and other industry information that will assist the Office in determining what rulemaking would help deter price gouging under GBL 396-r, and what examples of pricing behavior during the COVID-19 disruption can inform rulemaking. The Attorney General seeks the broadest participation in the rulemaking and encourages all interested parties to submit written comments. In particular, the Attorney General seeks comment from interested parties—including consumers, consumer advocacy groups, industry participants, and other members of the public—on the following questions. Please provide examples, data, and analysis to back up your comments.

Comments should be submitted to stopillegalprofiteering@ag.ny.gov by April 15, 2022.

A. General Questions

1) One distinct feature of New York's price gouging statute is that it applies to suppliers and distributors. What kinds of price gouging by suppliers and distributors is most likely to occur in a pandemic, and how would enforcers detect it?

2) What, if any, forms of coordinated conduct (such as agreements to restrict supply) facilitate illegal price gouging?

3) What industry characteristics are likely to facilitate and potentially mask price gouging?

4) Is there any reason that, in the presence of abnormal disruptions, it would not be feasible to limit price increases for covered goods and services to the amount of cost increases?

5) What role does profit play in determining whether price gouging has occurred? Should manufacturers, distributors, and retailers of covered goods and services be permitted to increase their profit margins during a period of abnormal market disruptions through price increases?

6) What role does dynamic pricing play in price gouging and in masking the ability to detect price gouging?

7) Firms at every stage in the supply chain routinely sell the same product at different prices. When it comes to a big price jump during a disruption and measuring gross disparity, which pre-disruption price best captures the jump in price? What types of sales—and to whom—should be included in evaluating the pre-disruption price?

8) What mechanisms should the Office offer to allow retailers to report price gouging by other firms in the supply chain? What other steps can be taken to improve the ability detect price gouging?

9) To what extent do competing stakeholders in a distribution chain subject to GBL 396-r exchange information on pricing, inputs, inventory, or the source or quantity of supply? How does information flow impact potential price gouging, or the ability to detect it? Are there contractual arrangements between stakeholders that could reduce transparency around potential price gouging or create a fear of retaliation for cooperating with law enforcement?

10) Sometimes new products develop in response to the reasons for the market disruption, as with the COVID-19 at-home testing example mentioned above. How should price gouging be measured for a product that did not exist prior to the disruption?

B. Unconscionably extreme

11) GBL 396-r prohibits the sale of covered goods or services at "unconscionably excessive price[s]" during periods of abnormal market disruption. One of the tests for finding that a price was unconscionably excessive is that "that the amount of the excess in price is unconscionably extreme." Is it appropriate to set thresholds at which price increases could give rise to a presumption of "unconscionably extreme" excesses in price? If so, which benchmarks should be used? Should those thresholds be absolute measures or relative to historical or other market trends?

12) What methods of measurement are appropriate to calculate any threshold for a presumption that an excess in price is "unconscionably extreme"?

13) If a percentage increase from the benchmark is used as one of the indicators, what percentage increase is unconscionable?

14) In some contexts, such as automobile sales or medical devices, even a small percentage price increase can be devastating during a disruption. Should the absolute cost of the good or service inform the level at which price increases are considered unconscionably extreme? Should "unconscionability" be treated differently for goods or services that have a high absolute cost and are unquestionably essential?

C. Unfair Leverage or Unconscionable Means

15) GBL 396-r prohibits the sale of covered goods or services at an "unconscionably excessive price" during periods of abnormal market disruption. One of the tests for finding that a price was unconscionably excessive is that "there was an exercise of unfair leverage or unconscionable means." How should "unfair leverage" be defined? What factors should inform the determination of whether a price increase is due to an exercise of unfair leverage?

16) When a firm increases price through the exercise of unfair leverage, should the percentage price increases creating a presumption of illegality be lower?

17) Is it appropriate to consider industry concentration when defining unfair leverage, and if so, what levels of concentration create a presumption of leverage?

18) If levels of concentration create a presumption of leverage, how should the relevant industry for determining the level of concentration be defined?

19) Are there characteristics other than concentration that would allow a firm to exercise "unfair leverage"? What information would be helpful to determine whether a company has the ability to exercise "unfair leverage"?

20) Are there particular forms of conduct, such as exclusive dealing arrangements, that might give rise to a presumption of, or be part of a test for, unfair leverage?

21) Should "unconscionable means" be distinguished from "unfair leverage," and if so, how?

22) Some market participants have reportedly stockpiled goods to be able to sell these products at higher prices when other sellers ran out of inventory. Can this type of stockpiling constitute the exercise of unfair leverage or unconscionable means, and if so, under what conditions?

23) Some industries have reportedly charged different prices to customers and patients for the same good or service during the pandemic. Can first degree price discrimination—where the seller charges similar customers a different price for the same good or service– constitute the use of unfair leverage or unconscionable means, and if so, under what conditions?

24) Many industries engage in dynamic pricing, making it difficult to know what a "price" is for a particular good or service. Can dynamic pricing constitute the use of unfair leverage or unconscionable means, and if so, under what conditions?

24) Many industries engage in dynamic pricing, making it difficult to know what a "price" is for a particular good or service. Can dynamic pricing constitute the use of unfair leverage or unconscionable means, and if so, under what conditions?

25) Several industries that are in the supply chain for covered goods experienced significant increases in prices and/or profitability since the beginning of the pandemic, including shipping, meat packing, lumber and other homebuilding products, rental housing, grocery stores, online platforms, and basic household goods like diapers. What information about these industries, including the nature of their supply chains, could help shed light on whether price gouging is occurring in these industries? How are prices set in each of these industries? Are there features of these industries that would make price gouging likely and/or would mask price gouging?

26) GBL 396-r particularly mentions medical supplies and services. What particular medical goods and services have features that might make price gouging more likely and/or mask price gouging?

27) During the pandemic there have been large spikes in energy prices and profitability. What features of energy production and distribution might make price gouging more likely and/or mask price gouging?

28) What other industries have features that make them prone to price gouging? What industries may have engaged in price gouging during the COVID-19 pandemic, and what can we learn from studying them?

[1]The statute authorizes the Attorney General to "promulgate such rules and regulations as are necessary to effectuate and enforce the provisions of this section." N.Y. Gen. Bus. L. § 396-r(5).

[2]*Id.* § 396-r(2).

[3]*Id.*

[4]*Id.*

[5]*Id.* § 396-r(3)(a).

[6]*Id.* § 396-r(3)(c).

[7]*Id.* § 396-r(2).

[8]*Id.* § 396-r(4).

[9]2020 N.Y. Sess. Laws ch. 90 (McKinney's) (Senate Bill S8189, enacted June 6, 2020).

[10]Matthew Haag & Patrick McGeehan, *The 'Double Whammy' That Is Slowing New York City's Job Growth*, N.Y. TIMES (Dec. 14, 2021), https://www.nytimes.com/2021/12/14/nyregion/nyc-economy-jobless.html.

[11]*See*, e.g., Drew DeSilver, Pew Research Center, Inflation has risen around the world, but the U.S. has seen one of the biggest increases (Nov. 24, 2021), https://www.pewresearch.org/fact-tank/2021/11/24/inflation-has-risen-around-the-world-but-the-u-s-has-seen-one-of-the-biggest-increases/; Jeanna Smialek, *Inflation Warning Signs Flash Red, Posing Challenge for Washington*, N.Y. TIMES (Oct. 1, 2021), https://www.nytimes.com/2021/10/01/business/economy/inflation-supply-chain.html.

[12]The CPI measures the price of a representative basket of consumer goods and services purchased by U.S. households. Goods and services included in the CPI include rent, groceries, gasoline, and health care among others. Each month, the change in CPI over the preceding 12 months is used as a measure of annual inflation. *See* U.S. Dep't of Labor, Bureau of Labor Statistics, Handbook of Methods, Consumer Price Index: Overview, *available at* https://www.bls.gov/opub/hom/cpi/ (last visited Feb. 8, 2022).

[13]U.S. Dep't of Labor, Bureau of Labor Statistics, Economic News Release: Consumer Price Index, New York-Newark-New Jersey (Feb. 10, 2022), https://www.bls.gov/regions/new-york-new-jersey/news-release/consumerpriceindex_newyorkarea.htm.

[14]U.S. Dep't of Labor, Bureau of Labor Statistics, Economic News Release: Consumer Price Index Summary (Feb. 10, 2022), https://www.bls.gov/news.release/cpi.nr0.htm.

[15]U.S. Dep't of Labor, CPI Databases, All Urban Consumers, *supra* note 13. This data covers the New York City/New Jersey Metropolitan area, not the entire state.

[16]U.S. Dep't of Agriculture, Econ. Res. Serv., Food spending as a share of income declines as income rises (Nov. 8, 2021), https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail/?chartId=58372.

[17]ARIEL DREHOBL, LAUREN ROSS, & ROXANA AYALA, AMERICAN COUNCIL FOR AN ENERGY-EFFICIENT ECONOMY, HOW HIGH ARE HOUSEHOLD ENERGY BURDENS? (2006), https://www.aceee.org/sites/default/files/pdfs/u2006.pdf.

[18]*See*, e.g., SHRUTI VAIDYANATHAN, PETER HUETHER, & BEN JENNINGS, AMERICAN COUNCIL FOR AN ENERGY-EFFICIENT ECONOMY, UNDERSTANDING TRANSPORTATION ENERGY BURDENS (2021).

[19]*Explainer: How four big companies control the U.S. beef industry*, REUTERS (June 17, 2021), https://www.reuters.com/business/how-four-big-companies-control-us-beef-industry-2021-06-17/.

[20]*See, e.g.*, Brian Deese, Sameera Fazili & Bharat Ramamurti, White House, Briefing Room, Recent Data Show Dominant Meat Processing Companies Are Taking Advantage of Market Power to Raise Prices and Grow Profit Margins (Dec. 10, 2021), https://www.whitehouse.gov/briefing-room/blog/2021/12/10/recent-data-show-dominant-meat-processing-companies-are-taking-advantage-of-market-power-to-raise-prices-and-grow-profit-margins/.

[21]Tyson Foods, Inc., Current Report (Form 8-K), Ex. 99.1, at 2 (Nov. 15, 2021).

[22]*Id.* at 6; JBS S.A, JBS Ends 3Q21 with Net Income of R$7.6 Billion (Nov. 10, 2021), https://api.mziq.com/mzfilemanager/v2/d/043a77e1-0127-4502-bc5b-21427b991b22/5c65b4c8-a358-615f-bf06-277f30fc22d3?origin=1; JBS S.A, Earnings Release Third Quarter 2020 (Nov. 11, 2020), https://api.mziq.com/mzfilemanager/v2/d/043a77e1-0127-4502-bc5b-21427b991b22/9077303c-b25f-6724-8ab5-b839ac5b6eb2?origin=1.

[23]Marfrig Global Foods S.A., Release de Resultados 3T21 (Oct. 25, 2021), https://api.mziq.com/mzfilemanager/v2/d/b8180300-b881-4e6c-b970-12ad72a86ec8/2383b1e5-2e88-3cbf-d89f-e29ce7bc3de7?origin=1.

[24]IndexBox, U.S. Meat Prices: Broilers Gain Most, Inflation Accelerates on Rising Feed Costs (Jan. 27, 2022), https://www.indexbox.io/blog/u-s-meat-price-broilers-gain-most-inflation-accelerates-on-rising-feed-costs/.

[25]*See, e.g.*, Jennifer Smith, Paul Berger & Lydia O'Neal, *Shipping and logistics are expected to keep rising in 2022*, WALL ST. J. (Dec. 19, 2021), https://www.wsj.com/articles/shipping-and-logistics-costs-are-expected-to-keep-rising-in-2022-11639918804.

[26]*See, e.g.*, Evelyn Cheng, *Surging shipping costs will drive up prices for some consumer products by 10%, new UN report finds*, CNBC (Nov.

18, 2021), https://www.cnbc.com/2021/11/19/surging-shipping-costs-to-drive-consumer-price-inflation-unctad-says.html.

[27]Marcus Hand, *Container shipping Q3 profits surpass tech giants*, SEATRADE MARITIME NEWS (Nov. 22, 2021), https://www.seatrade-maritime.com/finance-insurance/container-shipping-q3-profits-surpass-tech-giants; Nicole Goodkind, *Shipping container lines on track make a record-breaking $150 billion this year from the supply chain breakdown*, FORTUNE (Dec. 3, 2021), https://fortune.com/2021/12/03/shipping-container-record-profit-supply-chain-breakdown/.

[28]*See, e.g.*, Grace Kay, *The supply-chain crisis propelled the world's largest shipping company to its most profitable quarter in 117 years*, BUSINESS INSIDER (Nov. 2, 2021), https://www.businessinsider.com/largest-shipping-company-maersk-most-profitable-quarter-supply-chain-crisis-2021-11; Goodkind, *supra* note 28.

[29]Paul Ziobro, *UPS, Delivering Amazon's Surge, Posts Record Revenue*, WALL ST. J. (Feb. 2, 2021), https://www.wsj.com/articles/upss-revenue-jumps-21-on-online-shopping-surge-11612266696.

[30]Lydia O'Neal, *DHL Raising Rates for U.S. Shippers by 5.9%*, WALL ST. J. (Oct. 1, 2021), https://www.wsj.com/articles/dhl-raising-rates-for-u-s-shippers-by-5-9-11633089600.

[31]Deutsche Post DHL Group, Press Release, Deutsche Post DHL Group expects record earnings in 2021 of more than EUR 7.7 billion—mid-term outlook also raised (Nov. 4, 2021), https://www.dpdhl.com/en/media-relations/press-releases/2021/deutsche-post-dhl-group-financial-figures-q3-2021.html.

[32]David Muller, *Dealerships have already beat 2020's profit record*, AUTOMOTIVE NEWS (Nov. 15, 2021), https://www.autonews.com/dealers/auto-dealerships-have-blown-past-2020-profit-records.

[33]The Food Industry Association, Grocery Store Chains Net Profit, https://www.fmi.org/our-research/supermarket-facts/grocery-store-chains-net-profit (last visited Feb. 15, 2022).

[34]Julie Creswell, *How Much Are You Willing to Pay for a Burrito*, N.Y. TIMES (Jan. 21, 2022), https://www.nytimes.com/2022/01/21/business/fast-food-prices-inflation.html.

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[36]Lance Lambert, *Sawmill profits soared 200%--now the bursting lumber bubble is bringing back reality*, FORTUNE, (Nov. 18, 2021), https://fortune.com/2021/11/18/sawmill-profits-soared-bursting-lumber-bubble-bringing-them-back-down/. The combined net profits of the five largest North American lumber producers jumped 2,218% between the second quarter of 2020 and 2021.

[37]Digital.com, More than half of retail businesses are using inflation to price gouge (Nov. 30, 2021), https://digitalcom/half-of-retail-businesses-using-inflation-to-price-gouge/.

[38]Fed. Res. Bank of St. Louis, FRED Economic Data: Corporate Profits After Tax (without IVA and CCAdj), https://fred.stlouisfed.org/series/CP (last visited Feb. 7, 2022).

[39]Kristin Broughton & Theo Francis, *What Does Inflation Mean for American Businesses? For Some, Bigger Profits*, WALL ST. J. (Nov. 14, 2021), https://www.wsj.com/articles/inflation-yellen-biden-price-increase-cost-shipping-supply-chain-labor-shortage-pandemic-11636934826.

[40]Kris Van Cleave, *Lawmakers call for investigation into reports of at-home COVID test price gouging*, CBS NEWS (Jan. 19, 2022), https://www.cbsnews.com/news/senators-seek-information-covid-test-price-gouging/.

[41]*Id.*

[42]*See, e.g.*, Rebecca Heilweil, *Shipping is broken. Here's how to fix it*, RECODE (Nov. 5, 2021), https://www.vox.com/recode/2021/11/5/22764088/supply-chain-shipping-delays-logistics; John Burnett, *Waiting on that holiday gift from your online cart? It might be stuck at a seaport*, NAT'L PUB. RADIO (Nov. 5, 2021), https://www.npr.org/2021/11/05/1048678575/waiting-on-that-holiday-gift-from-your-online-cart-it-might-be-stuck-at-a-seapor; Peter S. Goodman, *'It's Not Sustainable': What America's Port Crisis Looks Like Up Close*, N.Y. TIMES (Oct. 10, 2021), https://www.nytimes.com/2021/10/11/business/supply-chain-crisis-savannah-port.html.

[43]*See, e.g.*, DeSilver, *supra* note 11; Smialek, *supra* note 11.

[44]*See, e.g.*, Steven C. Salop & Fiona Scott Morton, *The 2010 HMGs Ten Years Later: Where Do We Go From Here?*, at 25-27 (2020), *available at* https://scholarship.law.georgetown.edu/facpub/2285; published at 58 REV. INDUS. ORG. 81 (2021).

[45]*See, e.g.*, Hal Singer, *Antitrust Should Be Used to Fight Inflation*, AM. PROSPECT (Feb. 2, 2022), https://prospect.org/economy/antitrust-should-be-used-to-fight-inflation/ ("[E]conomics teaches us that concentrated industries are more susceptible to price-fixing. The pandemic provides the cover for coordinated pricing. Indeed, general inflation can serve as a pretext for a coordinated price hike.").

[46]*Id.*

[47]*See* Deese, Fazili & Ramamurti, *supra* note 23.

[48]*See, e.g.*, Molly Smith & David McLaughlin, *Inflation Risks Getting Sticky as Big Firms Flex Pricing Power*, BLOOMBERG (Jan. 14, 2022), https://www.bloomberg.com/news/articles/2022-01-14/inflation-risks-getting-sticky-as-big-firms-flex-pricing-power (" 'The longer inflation lasts and the more widespread it is, the more air cover it gives companies to raise prices,' [Barclays Plc global head of research Jeffrey] Meli said. 'It feeds on itself.' ").

State Liquor Authority

NOTICE OF ADOPTION

Commencement of Administrative Disciplinary Proceedings Via Electronic Means

I.D. No. LQR-36-21-00002-A
Filing No. 116
Filing Date: 2022-02-22
Effective Date: 2022-03-09

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

Action taken: Amendment of sections 54.1, 54.2, 54.3, 54.6 and 80.6 of Title 9 NYCRR.

Statutory authority: Alcoholic Beverage Control Law, sections 119(2), 119(3); State Administrative Procedure Act, sections 201 and 301(3)

Subject: Commencement of administrative disciplinary proceedings via electronic means.

Purpose: To modernize outdated administrative disciplinary procedures to provide for service of pleadings via electronic means.

Text or summary was published in the September 8, 2021 issue of the Register, I.D. No. LQR-36-21-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: Paul Karamanol, Senior Attorney, New York State Liquor Authority, 80 South Swan Street, Suite 900, Albany, New York 12210, (518) 486-6743, email: paul.karamanol@sla.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 2025, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

Since publication of a Notice of Proposed Rule Making in the September 8, 2021 State Register, three (3) written public comments were received from two (2) individuals regarding the Electronic Pleadings Rules Reform Package (the "Package"), with one individual revising his original concerns upon further inquiry and reflection. There were also public comments made orally at the Authority's public meeting on November 10, 2021

PUBLIC COMMENTER ONE: The first individual expressed generalized concerns that adding email service of pleadings might cause a potential increase in licensees defaulting in their disciplinary cases. According to the commenter, some licensees may not check their electronic mail, or fail to provide a working electronic mail address to the Authority. The comments about these possibilities were not quantified in any way, nor were they supported by any analysis of the licensees or even a single, anecdotal instance in which a licensee's business practices would make it difficult or impossible to provide an email address to the SLA and check that email address regularly. Nonetheless, this individual suggested amending the Package to require the Authority to serve a certified mail notice to any defaulting licensee in a disciplinary case at least ten (10) days before deeming the Licensee to be in default. The same individual suggested amending the package to require Notices of Pleadings served electronically to be copied to the attorney or representative of record from the original application or most recent renewal application.

After receiving initial comments, the SLA had the opportunity to clarify, at one of its public meetings, the context in which the Package was being proposed: the SLA's computer systems were being modernized and re-

designed to create more efficient processes for all interactions between applicants/licensees and the SLA, including having all licensees interact with the SLA through a single, dedicated business email address and through a portal that licensees could log into at any time to view the status of any licensing or disciplinary matters relating to their licenses.

After becoming aware of this context, this individual wrote an additional letter commenting on the proposed Rule changes. He indicated that he supported the concept of the online portal and any new mechanism that lowers processing times, improves efficiency and bypasses the postal system, but that he remain concerned for licensees and applicants who may lack technological savvy because they may still miss deadlines creating increased defaults in disciplinary cases.

AUTHORITY RESPONSE: The Authority disagrees with the contention that the Package should be rejected or amended as suggested. The Authority seeks to update its rules to correspond with technology improvements it has undertaken, at great expense, to modernize all of its processes and interactions with applicants and licensees. This technology update is long overdue. The rules are being changed to provide for service of the pleadings that commence administrative disciplinary proceedings via email, a process not dissimilar from updates made in criminal and civil courts in New York over the last 10 years. Computer-based service will make the pleadings process simpler and easier to process for Authority staff, will better ensure that licensees receive actual notice of such pleadings (given inconsistencies in mail delivery), and will facilitate the ease of responding to such pleadings. The rule changes will also serve to clarify that personal appearances by licensees at Authority offices are not a proper method of responding to such pleadings.

The service of pleading changes specifically are designed to increase the efficiency and speed in which disciplinary cases are resolved, a process the Authority undertakes to promote the health, welfare and safety of the people of New York. The sooner disciplinary cases can be addressed, the sooner law-breaking licensees can be assessed discipline and, thus, deterred from future misconduct – or in extreme cases, have their licenses cancelled or revoked.

The new computer regime at the Authority will require, ultimately, that anyone holding a liquor license will have one, dedicated email address to conduct all of its business with the Authority. While it is perhaps possible that some licensed businesses will have issues with such technology advances, the Authority views this as unlikely, given that most licensees already use computers to find wholesale prices for liquor and wine purchases and otherwise conduct business using email. The commenter's generalized concerns about the risk of defaults arising from licensees not checking their email are unsupported and speculative. And importantly, the proposed changes will not eliminate the Authority's option to serve notices of pleadings by mail – it merely adds email as and additional option for such service. Accordingly, if after the Rule is changed, the Authority does find defaults to be a problem with some percentage of licensees served by email, a percentage that exceeds the percentage of defaults the Authority currently has with its regular mail services, the Authority will then have the flexibility to consider an appropriate adjustment to its service practices, but do so at a time where the issues to be addressed are actual, and not generalized speculation.

PUBLIC COMMENTER TWO: The second individual also expressed concern about the possibility of defaults and suggested that the new email notification procedures be gradually phased in, stating that the existing service methods should continue while the electronic service method is introduced.

AUTHORITY RESPONSE: The Authority will be phasing in the email service process gradually, but does not agree to do so in the way this commenter suggests. Under the proposed technology changes, the Authority will not require all licensees to immediately provide designated email addresses or to otherwise be subject to email service of pleadings in disciplinary proceedings immediately. New licensees will come onto the Authority's systems and will be providing a dedicated email for their businesses as a condition of licensing. Existing licensees will not be served with pleadings by email until after they renew their licenses. At the time of renewal, existing licensees will be required to provide a dedicated email address to apply for the renewal and, from that point forward, all business will be conducted through that email, including service of notices of pleadings. Thus, the Authority already plans to adopt a version of what Public Commenter Two suggests after the rule change is made and its new technology system is deployed.

COMMENTS AT THE AUTHORITY'S PUBLIC MEETING:

At the public meeting on November 10, 2021, the only comments critical of the proposed rule changes concerned the same issues raised in the written comments: the risk of possible defaults from the change to an email based service system. These generalized comments were similarly unsupported by any quantification, support, or even anecdotal examples of licensees who would be unable to check emails for notices of pleading.

AUTHORITY RESPONSE: For the reasons discussed above, the Authority disagrees that concerns about potential defaults should derail its effort to upgrade and update its technology and communications protocols with its licensees. The proposed rule changes are needed to accomplish that upgrade and update.

Office of Mental Health

REVISED RULE MAKING NO HEARING(S) SCHEDULED

Establishes Crisis Stabilization Centers

I.D. No. OMH-33-21-00005-RP

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

Proposed Action: Addition of Part 600 to Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09, 9.41, 9.43, 9.45, 9.58, 9.51, 22.09, 22.11, 31.04, 31.05, 31.07, 31.09, 31.13, 31.16, 31.17, 31.19, 31.26, 31.27, 31.36, 32.07, 32.09, 32.36, 33.21 and 36.01

Subject: Establishes Crisis Stabilization Centers.

Purpose: To establish standards for a Crisis Stabilization Center which provides a full range of psychiatric and substance use services.

Substance of revised rule (Full text is posted at the following State website: https://omh.ny.gov/omhweb/policy_and_regulations/): Part 600 Crisis Stabilization Centers

The Offices of Mental Health and Office of Addiction Services and Supports (Office) propose regulations implementing Article 36 of the Mental Hygiene Law, establishing Crisis Stabilization Centers. The proposed rule states in summary:

Part 600 of Title 14 is amended as follows:

• Subpart 1 provides for the background and intent of the regulation to provide crisis services for those individuals with a known or suspected mental health condition or substance use disorder, to provide observation, evaluation, care, and treatment in a safe and comfortable environment, twenty-four (24) hours per day, seven (7) days per week.

• Subpart 2 provides the legal base for the regulation.

• Subpart 3 states the Part applies to any provider of services who operates or proposes to operate a Crisis Stabilization Center.

• Subpart 4 provides for program definitions. Definitions of note include:

o Supportive Crisis Stabilization Center means a center that provides support and assistance to individuals with mental health or substance use crisis symptoms and who are experiencing challenges in daily life that create risk for an escalation of behavioral health symptoms that cannot reasonably be managed in the person's home and/or community environment without onsite supports, and do not pose likelihood of serious harm. The center provides voluntary services for those who require support with an emphasis on peer and recovery services. Supportive Crisis Stabilization Centers provide or contract to provide behavioral health observation/stabilization services twenty-four hours per day, seven days per week. Recipients may receive services in a Supportive Crisis Stabilization Center up to twenty-four hours.

o Intensive Crisis Stabilization Center means a center that provides urgent treatment to individuals experiencing an acute mental health or substance use crisis. This service provides diversion from higher levels of care by rapid treatment interventions and stabilization of acute symptoms. The center provides voluntary crisis treatment services in a safe and therapeutic environment with up to twenty-four hour observation. Intensive Crisis Stabilization Centers shall provide or contract to provide behavioral health stabilization and referral services twenty-four hours per day, seven days per week. Recipients may receive services in an Intensive Crisis Stabilization Center up to twenty-four hours.

o Clinical staff, is defined as all staff members who provide services directly to Recipients. Students and trainees may qualify if they are participating in a program leading to a degree or certificate appropriate to the goals, objectives and services of the Crisis Stabilization Center, are supervised in accordance with the policies governing the training program and are included in the staffing plan approved by the Office. Students or trainees may qualify as clinical staff under the following conditions: (a) the students and trainees are actively participating in a program leading to attainment of a recognized degree or certificate in a field related to mental health and substance use disorder at an institution chartered or approved by the New York State Education Department. Limited-permit physicians

are considered students or trainees; (b) the students or trainees are supervised and trained by professional staff meeting the qualifications specified in this section, and limited-permit physicians are supervised by physicians; (c) the students or trainees use titles that clearly indicate their status; and (d) written policies and procedures pertaining to the integration of students and trainees within the overall operation of the Crisis Stabilization Center shall receive approval by the Office.

o Professional staff, is defined as individuals who are qualified by credentials, training and experience to provide supervision and direct service related to the treatment of a mental health condition and/or substance use disorder in a Crisis Stabilization Center and may include the following: Creative arts therapist, Credentialed alcoholism and substance use counselor, Licensed practical nurse, Licensed psychoanalyst, Marriage and family therapist, Mental health counselor, Nurse practitioner, Nurse practitioner in psychiatry, Physician, Physician assistant, Psychiatrist Psychologist, Registered professional nurse, Rehabilitation counselor, Social worker, Certified peer specialist, Certified recovery peer advocate, Credentialed family peer advocate, Credentialed youth peer advocate or other professional disciplines approved as part of the staffing plan submitted to the Office.

o Definitions are amended to clarify the voluntary status of centers.

o Approved medication is defined as any medication approved by state or federal authorities for the treatment of medical and psychiatric conditions, including those conditions caused by the use of substances.

o Creating definitions for on-call and on-duty.

o Substance use disorder is defined as a group of cognitive, behavioral, and physiological symptoms indicating that an individual continues using substances despite significant substance-related physical, psychological and social problems as determined through assessment and diagnosis using the most recent version of the Diagnostic and Statistical Manual (DSM), as incorporated by reference in Part 800 of this Title.

• Subpart 5 provides for an application and approval process.

o Providers seeking licensure for a Crisis Stabilization Center must be "licensed, certified or otherwise authorized by OMH, OASAS and DOH" in good standing at the time of application; and is in compliance with the physical plant requirements issued by the Office. Each center will be issued an operating certificate which specifies the type of Crisis Stabilization Center the provider is authorized to operate.

• Subpart 6 specifies inspection requirements. The Office shall have ongoing inspection responsibility for all Crisis Stabilization Centers. The Center will also undergo a fiscal viability review which will include an assessment of the financial information of the Center. Such information shall be submitted in intervals and in a form prescribed by the Office.

• Subpart 7 sets forth the organization and administration for Crisis Stabilization Centers.

o A governing body will have overall responsibility for the operation of the Center.

o For hospital-based Crisis Stabilization Centers, the governing body of the hospital is responsible for the overall operation and management of the Crisis Stabilization Center and may delegate responsibility for the day-to-day management of the program to appropriate staff pursuant to an organizational plan approved by the Office.

o For Crisis Stabilization Centers, the governing body may delegate responsibility for the day-to-day management of the Center in accordance with the written plan of organization.

o Centers are required to review demographic data for the Center's catchment area to determine the cultural and linguistic needs of the population as well as disparities in access to treatment and must ensure provision of language assistance services at no cost.

o Requires Centers to enter into memorandums of understanding (MOUS) with crisis residential services for individuals determined needing crisis stabilization beyond 23 hours and 59 minutes.

o Requires centers to develop policies and procedures describing Recipient drop off from law enforcement, emergency medical services, mobile crisis and other outreach and treatment teams.

o Requires Supportive Crisis Stabilization Centers to develop policies and procedures describing how Recipients will access services that are not provided by the Center and follow-up to ensure such services are accessed.

o Updates language to use more appropriate and inclusive terminology for populations served based upon public comment.

o Clarifies that service recipients should also receive a statement of recipients rights.

o Clarifies that centers should have an overdose prevention kit onsite with appropriately trained staff.

o Replaces the undefined term "significant others" with the defined term "collaterals" for clarity.

o Provides clarification that Centers may have MOUS with any available crisis residential services or comparable services to ensure that options are maximized for recipients needing care longer than 24 hours.

• Subpart 8 establishes screening and assessment requirements.

o Permits the Centers to access the Psychiatric Services and Clinical Knowledge Enhancement System (PSYCKES) or other available database(s) with the Recipient's consent, to identify treatment providers and prior medication use and/or treatment engagement history.

o Provides screening and assessment requirements.

• Subpart 9 identifies services available through Crisis Stabilization Centers.

o Crisis Stabilization Centers shall operate, or develop a MOU with, the following program types in order to facilitate rapid access and documented linkages to follow-up services: (1) OASAS inpatient withdrawal and stabilization certified pursuant to Part 816; (2) OASAS residential treatment consisting of at minimum stabilization services, certified pursuant to Part 820;(3) Emergency Department and/or Comprehensive Psychiatric Emergency Services;(4) OMH Licensed Crisis Residential Services; (5) OASAS and OMH certified and licensed outpatient programs; (6) Other behavioral health crisis or emergency services; (7) Agencies delivering harm reduction services; and (8) Other supportive services as appropriate.

o Centers must provide: (1) Triage, Screening and Assessment of all presenting individuals which includes screening for risk of harm to self and/or others, risk of substance use/withdrawal and any immediate physical health needs; (2) Therapeutic interventions that may include crisis counseling, psychoeducation, crisis de-escalation/intervention services; (3) Peer Support Services; (4) Ongoing observation; (5) Care collaboration with a Recipient's friends, family and/or care providers (with consent); and (6) Discharge and After Care Planning.

o In addition to the above-mentioned services, Intensive Crisis Stabilization Centers must also provide, where appropriate: (1) Psychiatric Diagnostic Evaluation and Plan; (2) Psychosocial Assessment; (3) Medication Management and Training; (4) Medication for Addiction Treatment (MAT); (5) Medication Therapy; and (6) Mild to Moderate Detoxification Services.

• Subpart 10 establishes discharge criteria and is revised to ensure the recipient and any collateral upon consent of the recipient, receives the discharge plan or at a minimum, referral information, prior to leaving the Center.

• Subpart 11 establishes staffing requirements for Crisis Stabilization Centers;

o Provides clarification of qualifications for Medical Directors to require such staff be a physician licensed in New York State with one year of education, training and experience in mental health or substance use disorder services.

o Provides that intensive centers must have a prescriber on duty or on call.

o Clarifies that centers must have a program director who is a health professional with 2 years of clinical work experience in mental health or substance use disorder field and one year of supervisory experience.

o Provides maximum local flexibility for staffing by clarifying the staffing plan must include staff in sufficient type, schedules and numbers to meet projected volume and recipient need.

o Conforms background check language to be consistent with other licensed entities.

o Clarifies staffing for centers to require a registered nurse onsite twenty-four hours a day seven days a week and provides flexibility to centers by allowing on duty or on call required staff including a psychiatrist or psychiatric nurse practitioner, CASAC and certified peer specialists.

• Subpart 12 establishes requirements relating to case records.

• Subpart 13 establishes the requirement for premises that are adequate and appropriate for the safe and effective operation of a Crisis Stabilization Center including the requirement that minors under the age of 18 must not be commingled with adults.

• Subpart 14 establishes requirements for statistical records and reports.

Revised rule compared with proposed rule: Substantial revisions were made in sections 600.4, 600.5, 600.7, 600.9, 600.10 and 600.11.

Text of revised proposed rule and any required statements and analyses may be obtained from Sara Paupini, Esq., Office of Mental Health, 44 Holland Ave., Albany, NY 12229, (518) 474-1331, email: regs@omh.ny.gov

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

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

Revised Regulatory Impact Statement

1. Statutory authority:

(a) Section 31.36 of the Mental Hygiene Law provides the Commissioner of Mental Health (OMH) with the authority to coordinate with the Office of Addiction Services and Supports (OASAS) to create and operate Crisis Stabilization Centers within New York State and promulgate joint regulations for the operation of such centers.

(b) Section 32.36 of the Mental Hygiene Law provides the Commissioner of OASAS with the authority to coordinate with the OMH to create and operate Crisis Stabilization Centers within New York State and promulgate joint regulations for the operation of such centers.

(c) Section 36.01 of the Mental Hygiene Law grants the Commissioners of OMH and OASAS the authority to jointly license Crisis Stabilization Centers.

(d) Sections 31.05, 31.07, 31.09, 31.13, 31.19 and 31.27 of the Mental Hygiene Law, further authorize the Commissioner of Mental Health or their representative, to examine and inspect such Centers to determine their suitability and proper operation.

(e) Sections 31.16 and 31.17 of the Mental Hygiene Law authorize the Commissioner of Mental Health to suspend, revoke or limit any operating certificate.

(f) Sections 9.41, 9.43, 9.45 and 9.58 of the Mental Hygiene Law provide authority to assess and transport individuals to such Crisis Stabilization Centers.

(g) Section 33.21 of the Mental Hygiene Law authorizes the voluntary treatment of minors.

(h) Section 22.09 of the Mental Hygiene Law authorizes the Commissioner of OASAS to designate appropriate facilities as providers of emergency services for persons intoxicated, impaired or incapacitated including the voluntary retention of such person. (i) Section 32.07 of the Mental Hygiene Law grants the Commissioner of OASAS the authority to regulate the standards of quality and adequacy, physical plant and ongoing compliance for providers of substance use disorder services.

(j) Section 32.09 of the Mental Hygiene Law grants the Commissioner of OASAS the authority to regulate the issuance, temporary approval of and/or revocation of, operating certificates for substance use disorder programs.

(k) Section 22.11 of the Mental Hygiene Law authorizes treatment for minors for substance use disorder without consent from a parent or guardian.

(l) Parts 800-857 of Title 14 of the New York Codes, Rules and Regulations outline provisions for the operation, administration and responsibilities for substance use disorder treatment programs.

(m) Parts 500-599 of Title 14 of the New York Codes, Rules and Regulations outlining provisions for the operation administration and responsibilities for mental health services.

2. Legislative objectives: To implement Article 36 of the Mental Hygiene Law by establishing standards for Crisis Stabilization Centers which provide a full range of psychiatric and substance use services within a defined geographic area. Crisis Stabilization Centers will provide an array of services as set-forth in this Part and any guidance and standards jointly issued by the Office of Mental Health (OMH) and The Office of Addiction Services and Supports (OASAS).

3. Needs and benefits:

(a) The purpose of Crisis Stabilization Centers for those individuals with a known or suspected mental health condition or substance use disorder is to provide observation, evaluation, care, and treatment in a safe and comfortable environment, twenty-four (24) hours per day, seven (7) days per week.

(b) The purpose of this Part is to establish standards for a Crisis Stabilization Center which provides a full range of psychiatric emergency and substance use services within a defined geographic area. Crisis Stabilization Centers will provide an array of services as set forth in this Part and any guidance and standards issued by the Office of Mental Health (OMH) and the Office of Addiction Services and Supports (OASAS).

(c) Crisis Stabilization Centers are hereby developed under the authority of the Office of Mental Health (OMH) and the Office of Addiction Services and Supports (OASAS) and all provisions of the Mental Hygiene Law are accordingly integrated. Existing OMH and OASAS Mental Hygiene Law provisions will be relied upon to support Center implementation and operation as referenced herein.

4. Costs:

(a) Cost to State government: There may be limited additional agency costs for reviewing applications for licensure, and other administrative oversight. The operation of Crisis Stabilization Centers is not mandated, providers must apply to the Office to be authorized to operate such Centers.

(b) Cost to Local Government: There are no new costs to local government as a result of these amendments.

(c) Cost to Regulated Parties: There are no new costs to regulated parties as a result of these amendments as this regulation does not impose any mandatory requirements on non-Article 36 authorized Centers. There will operational and administrative costs to providers who wish to submit an application to operate such Centers.

5. Local government mandates: These regulatory amendments will not involve or result in any additional imposition of duties or responsibilities upon county, city, town, village, school, or fire districts.

6. Paperwork: There are no new paperwork requirements as a result of the amendments.

7. Duplication: These regulatory amendments do not duplicate existing State or Federal requirements.

8. Alternatives: It was determined that should the Offices consider not moving forward with the proposed rule, it would have a detrimental effect on crisis behavioral health care and substance use care delivery by not operationalizing Crisis Stabilization Centers. The field has consistently expressed support for an increase in availability of crisis services. Further, based upon public comment, amendments were made including revised definitions which clarify the voluntary status of centers, Incorporate an approved medication definition, creates definitions for on-call and on-duty and updates the Substance Use Disorder definition. The rule was revised to remove requirements that providers seeking licensure for a Crisis Stabilization Center must be currently licensed as an Art 31 or 32 pursuant to the Mental Hygiene Law and Art 28 of the Public Health Law to permit those who are "licensed, certified or otherwise authorized by OMH, OASAS and DOH" to apply for licensure. Language has been updated to use more appropriate and inclusive terminology and clarifies that service recipients should receive a statement of recipients rights. The rule also provides clarification that Centers may have MOUS with any available crisis residential services or comparable services to ensure that options are maximized for recipients needing care longer than 24 hours. Revises the rule to clarify the ability of Centers to enter into an MOU and develop linkages with additional follow up services including other behavioral health crisis or emergency services, agencies delivering harm reduction services and other supportive services to give more discretion to local needs. The rule also provides staffing clarifications including qualifications for Medical directors, requiring that intensive centers must have a prescriber on duty or on call and clarifies that centers must have a program director who is a health professional with 2 years of clinical work experience in mental health or substance use disorder field and one year of supervisory experience. Additional they rule clarifies staffing for centers to require a registered nurse onsite twenty-four hours a day seven days a week and provides flexibility to centers by allowing on duty or on call required staff including a psychiatrist or psychiatric nurse practitioner, CASAC and certified peer specialists.

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

10. Compliance schedule: This rulemaking will be effective upon filing with the Department of State.

Revised Regulatory Flexibility Analysis

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

Revised Rural Area Flexibility Analysis

No rural area flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. 14 NYCRR Part 600 establishes standards for Crisis Stabilization Centers which provide a full range of psychiatric emergency and substance use services within a defined geographic area, including rural areas with service deficits. Crisis Stabilization Centers will provide an array of services as set-forth in this Part and any guidance and standards issued by the Office of Mental Health (OMH) and The Office of Addiction and Support Services (OASAS). The proposed rule will not impose any adverse economic impact on rural areas; therefore, a Rural Area Flexibility Analysis is not necessary with this notice.

Revised Job Impact Statement

The amendments to 14 NYCRR Part 600 are intended to improve crisis mental health and substance use services by establishing Crisis Stabilization Centers to expand access to critical care. It is evident from the subject matter of this rule, that it could only have a positive impact or no impact on jobs or employment, therefore a Job Impact Statement is not necessary with this notice.

Assessment of Public Comment

Comment: The rule should conform to PAR Applications, requiring applicants to obtain a letter of support from the local governmental unit (LGU) and should be amended to provide the LGU with the opportunity to review all appropriate records, attend staff and recipient interviews and review other material.

Response: Comment has been considered and additional amendments are not necessary as practice varies depending on the agency and application and the level of LGU oversight varies across the state and such oversight is not precluded by the regulation.

Comment: Part 600.6(e)(8) should be amended to read "verification of staff credentials and staff training, as applicable".

Response: Comment is adopted into revised rule.

Comment: The rule should provide that the Regional Catchment Area DCS will participate in local review and monitoring, receive the written report pursuant to Part 600.6(g) and receive the corrective action plan pursuant to Part 600.6(j).

Response: Comment has been considered and additional amendments are not necessary as this practice is not precluded by the regulation and will be addressed further in guidance.

Comment: Part 600.6(i) should be amended to include that the fiscal viability review must also assess the potential effect on local Medicaid costs.

Response: Comment will be considered in development of guidance to memorialize the current practice of having the LGU as a reviewer on applications.

Comment: Part 600.7 (d) should reference Part 405.2 not the entirety of Part 405.

Response: Amendment made to address ministerial error.

Comment: The rule should be amended to require Program Directors to have at least 5 years of administrative and clinical experience in the operation of mental hygiene service programs.

Response: Considered and rule amended to require program directors to have two years of clinical work in mental health or substance use disorder fields and one year of supervisory experience.

Comment: Part 600.7 (f) (3) should reference section 590.12 of this Title.

Response: Amendment made to address this ministerial error.

Comment: Part 600.7 should be amended to contain all of the language required by statute which requires the stabilization centers to participate in county and community planning activities.

Response: Amendment made to clarify and conform regulation to statute.

Comment: Part 600.7(l) should address where there is a lack of availability in a residential services/program, the ability to discharge an individual to a shelter.

Response: The offices have reviewed the comment and will incorporate the comment into the proposed rule.

Comment: Part 600.7(m) should be amended to include contact and training with local law enforcement.

Response: Will be addressed in guidance.

Comment: Part 600.7(o) should provide the Program Director with the authority to prevent new admissions based on census.

Response: The regulation permits the Program Director to take such action, upon notice to the Offices.

Comment: Part 600.8 should be amended to require consent before any services are provided.

Response: Unnecessary, any service provided by a Center must be on a voluntary basis.

Comment: Part 600.9 (b) include the local ''crisis respite.''

Response: Clarifying amendment made to include other behavioral health crisis or emergency services.

Comment: Part 600.9 (c) should be amended to include all screening and assessments tools and therapeutic interventions should be evidence based.

Response: Clarifying amendment made.

Comment: Part 600.10(3)(iii) should be amended to require centers to refer and schedule appointments with community providers.

Response: Addressed in guidance.

Comment: Comments expressed concerns with prescriber shortages.

Response: The regulation is constrained by Federal requirements that the initial prescription for controlled substances must be in person. Will be addressed in guidance.

Comment: Commentors noted having an RN onsite fulltime would be problematic.

Response 25: An amendment is not necessary, as the RN would be required to serve in the triage function for the center. Clarification will be provided through guidance.

Comment: Part 600.12(d)(1) should remove the law enforcement interview requirement, and replace it with the ability for the center to request any relevant incident or summary report.

Response: Clarification will be provided through guidance.

Comment: Commentor expressed concerns about the appropriateness of internet access for recipients.

Response: Clarifying amendment made with additional explanation in guidance.

Comment: Part 600.13(a)(15) should also reference ambulance providers.

Response: Clarification will be addressed in guidance.

Comment: A commentor stated that Part 600.13(a)(16) should provide more clarity relating to separating adult and youth populations utilizing the Center.

Response: Additional information will be provided through guidance.

Comment: A commentor recommended the review of existing data on behavioral health calls, hospital admissions, substance use counseling, and civil commitments across New York to identify high priority regions and to provide targeted support through outreach and partnerships.

Response: The Offices are in support of the commentor's suggestions and find that they are more appropriately addressed through guidance.

Comment: A commentor stated that prescribing privileges should be limited to centers in regions where no other entities exist to provide medications.

Response: Information will be addressed through guidance.

Comment: Clarification whether a crisis stabilization center can be both a supportive crisis and an intensive crisis center.

Response: The comment will be considered in the development of guidance.

Comment: A commenter wanted additional clarification of what the geographic area means in Part 600.4(4).

Response: The area the Center will serve is self identified in its application for licensure and is not linked to any other geographic metric.

Comment: A commentor requested that Part 600.5 be amended to provide the opportunity for community based providers, who do not currently operate Article 31, 32 or 28 clinics, be licensed as Supportive Crisis Stabilization Centers or alternatively provide a path for such providers to jointly apply with a licensed Article 31, 32 or 28 provider to operate a co-located satellite clinic.

Response: Conforming amendment made.

Comment: A commentor requested additional clarification with regards to Part 600.5 and the narrow set of circumstances that pose sufficient risk to deny care.

Response: Clarification will be provided in guidance.

Comment: A commentor requested a clarification to Part 600.5, so that only mental health professionals may determine if an individual poses an imminent risk of serious harm.

Response: It should be noted that only mental health professionals are qualified to make determinations during triage.

Comment: A commentor stated that Part 600.5 improperly provides the police with a continuum of equally permissible drop-off locations with no guidance as to appropriateness of settings, and requests an amendment to provide a clear preference for non-coercive settings.

Response: The comment was reviewed by the office and determined to be beyond the scope of the proposed rule. The concern is best addressed by guidance, community outreach, education and systems collaboration.

Comment: A commentor requested Part 600.7(f)(1) be amended to read "all criminal legal system-involved populations."

Response: Clarifying amendment made.

Comment: A commentor requested clarification to Part 600.7(f)(5) to outline the structure of the required grievance procedure.

Response: Will be addressed in guidance.

Comment: Comments were made relating to utilizing more inclusive language in the proposed rule.

Response: Comments were incorporated into revised rule.

Comment: A commentor proposed an amendment to Part 600.7(f)(7) to require policies that all direct care staff are trained in and able to discuss the appropriate care for opioid use disorder and the effectiveness of medications.

Response: The expectation is that appropriate staff will be available to discuss the full continuum of care available.

Comment: A commentor recommended funding linked to requirements in Part 600.7(g)(2) relating to language assistance services.

Response: The language proposed is consistent with other programs, and as such, no amendments were made and will be further addressed in guidance.

Comment: A commentor recommended the addition of individual services plans to Part 600.9(c)(1).

Response: The addition of individual service plans to the list of services would not be appropriate since they are not classified as a service.

Comment: A commentor recommended that Part 600.9(d) include harm reduction services.

Response: Will be addressed in guidance.

Comment: Several commentors suggested Part 600.9(b) be amended to require a review of the recipient's social determinants of health and linkage to services beyond those currently reflected in the proposed rules, to require linkage to housing assistance and support, food aid, and family supports.

Response: The comment was determined to be outside the scope of the proposed rule. Additional clarification relating to discharge and after-care best practices will be provided through guidance.

Comment: A commentor recommended Parts 600.10(a)(3)(iv) and 600.10(a)(5) be amended to substitute the term "collaterals" for references to family or significant other.

Response: Clarifying change made.

Comment: Comments relating to concerns about arranging for linkages to after-care appointments within the 24-hour length of stay limitation.

Response: Additional information will be provided through guidance.

Comment: A commentor recommended consistency in the regulation when referencing the recipient versus person.

Response: Clarifying amendment made.

Comment: Comments were received relating to discharge and adequate linkage to care.

Response: Additional information will be provided through guidance.

Comment: A commentor requested an amendment of the terms relating to peers in Part 600.11(h) mirror those referenced in Part 600.4(b) for consistency.

Response: Clarifying amendment made.

Comment: A commentor stated that Part 600.11(i) inappropriately imposed additional criminal background checks.

Response: The background checks imposed upon such Centers is in alignment with all Mental Hygiene Law Article 31 licensed facilities.

Comment: A commentor recommended that Part 600.11 be amended to specifically address the needs of individuals with intellectual and developmental disabilities (I/DD).

Response: Information will be provided through guidance.

Comment: A commentor requested Part 600.11 be amended to set clear minimum staffing ratios.

Response: The proposed rule provides centers with staffing flexibility based upon actual recipient data. It is the intent that oversight agencies will monitor volume and where staffing is an issue, staffing plan will be adjusted in accordance with actual volume.

Comment: A commentor requested "untoward" be removed from Part 600.12(d)(7).

Response: Amendment made.

Comment: A commentor requested the addition of terms relating to shower facilities and food services.

Response: An amendment was not determined to be required. Information will be provided through guidance.

Comment: A commentor requested amendments to Part 600.13(a)(16) to state that centers will not comingle minors and adults.

Response: Additional information will be provided through guidance.

Comment: A commentor requested a clarification of the definition of "observation chairs" in § 600.13(b).

Response: Additional information will be provided through guidance.

Comment: A commentor recommended the creation of an oversight council and increased stakeholder input mechanisms.

Response: Information will be provided in guidance.

Comment: A commentor requested additional collection and reporting of data.

Comment: Clarification will be provided in guidance.

Comment: Several comments were received relating to clarifying the funding mechanism, rates and reimbursement for the billable components to each type of crisis stabilization center.

Response: Clarification will be provided in guidance.

Comment: A commentor requested additional clarification that all interactions with centers, will be voluntary and that once at a center, individuals will be protected from commitment to non-voluntary services.

Response: The comment was reviewed by the offices and no amendment was determined to be necessary as the proposed rule addresses the need for appropriate linkages to post center services, which where appropriate, may include non-voluntary care. Clarification will be provided in guidance.

Comment: A commentor requested clarification as to what is a disqualifying risk of "harm" or "violence" including who will make this determination at the center.

Response: The comment was reviewed by the offices and no amendment was determined to be necessary, as these determinations will be made by qualified staff within their scope of practice. Clarification will be provided in guidance.

Comment: A commentor requested that the centers serve the needs of relevant subpopulations through partnerships and community based organizations.

Response: Addressed in guidance.

Comment: A commentor requested further clarification regarding the difference between the "Supportive" and "Intensive" models and how individuals with co-occurring diagnoses will be served.

Response: The comment was reviewed by the offices and no amendment was determined to be necessary as the proposed rule itself defines the two distinct models and does not preclude individuals with co-occurring diagnoses from receiving services. Additional clarification will be provided through guidance.

Office for People with Developmental Disabilities

EMERGENCY RULE MAKING

Mandatory Face Coverings in OPWDD Settings

I.D. No. PDD-40-21-00002-E
Filing No. 111
Filing Date: 2022-02-18
Effective Date: 2022-02-18

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

Action taken: Addition of section 633.26 to Title 14 NYCRR.

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

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

Specific reasons underlying the finding of necessity: The emergency adoption of a new section, 14 NYCRR 633.26, that requires face coverings for all staff, volunteers, contractors, vendors, visitors and individuals receiving services when in facilities or providing services that are certified or operated by OPWDD, is necessary to protect the health, safety, and welfare of individuals who receive these services. This regulation must be issued by emergency regulation giving the increasing transmission of COVID-19 despite vaccines being available. OPWDD serves a vulnerable population and as such has a duty to ensure the services provided meet public health and safety standards.

Subject: Mandatory face coverings in OPWDD settings.

Purpose: To protect pubic health.

Text of emergency rule: A new section 633.26 is added to read as follows:

633.26 Mandatory Face Coverings

(a) Applicability

(1) This section applies to all agencies providing services or operating facilities that are certified or operated by OPWDD (hereinafter "Providers of Services").

(b) Legal Basis

(1) Section 13.07 of the Mental Hygiene Law charges the OPWDD with the responsibility for seeing that persons with developmental disabilities are provided with care and treatment, and that such care, treatment and rehabilitation is of high quality and effectiveness.

(2) Section 13.09 of the Mental Hygiene Law gives the commissioner of OPWDD the power and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.

(3) Section 16.00 of the Mental Hygiene Law grants the commissioner of OPWDD the power and responsibility to adopt regulations to effectuate the provisions and purposes of article 16 of such law, including procedures for the issuance and amendment of operating certificates, and for setting standards of quality and adequacy of facilities.

(4) Section 16.11 of the Mental Hygiene Law authorizes the commissioner of OPWDD to provide for the oversight of facilities and providers of services holding operating certificates pursuant to section 16.03 of this article.

(c) Mask wearing requirements

(1) All Providers of Services shall require all staff, volunteers, contractors, vendors, visitors and individuals receiving services to wear appropriate face coverings, consistent with any directives issued by OPWDD and consistent with guidance from the Centers for Disease Control and Prevention (CDC).

(d) Exemptions from face covering requirements

(1) Face coverings are not required to be worn by:

(i) Children under two years of age

(ii) A person with a disability who cannot wear a mask, or cannot safely wear a mask, for reasons related to the disability, or

(iii) A person for whom wearing a mask would create a risk to workplace health, safety, or job duty as determined by an Occupational Health and Safety Administration workplace risk assessment.

(e) Enforcement

(1) OPWDD will enforce this mandate as part of its oversight activities in accordance with the authority set forth in subsection b of this section.

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. PDD-40-21-00002-EP, Issue of October 6, 2021. The emergency rule will expire April 18, 2022.

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 12209, (518) 474-7700, email: rau.unit@opwdd.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.

Regulatory Impact Statement

1. Statutory Authority:

a. The Office for People With Developmental Disabilities (OPWDD) has the statutory responsibility to provide and encourage the provision of appropriate programs, supports, and services in the areas of care, treatment, habilitation, rehabilitation, and other education and training of persons with intellectual and developmental disabilities, as stated in the New York State (NYS) Mental Hygiene Law (MHL) Section 13.07.

b. OPWDD has the statutory authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the NYS MHL Section 13.09(b).

c. OPWDD has the statutory authority to adopt regulations concerned with the operation of programs and the provision of services, as stated in the NYS MHL Section 16.00. The regulation also ensures compliance by OPWDD certified and operated residences with the proper provision of services.

d. OPWDD has the statutory authority to provide for the oversight of facilities and providers of services holding operating certificates, as stated in the NYS MHL Section 16.11.

2. Legislative Objectives: The proposed regulations further legislative objectives embodied in MHL sections 13.07, 13.09(b), and 16.00. The proposed regulation adds Title 14 NYCRR Section 633.26 in order to protect individuals receiving services from providers certified or operated by OPWDD.

3. Needs and Benefits: The proposed regulation adds Title 14 NYCRR Section 633.26 to require face coverings for all staff, volunteers, contractors, vendors, visitors and individuals receiving services when in facilities or providing services that are certified or operated by OPWDD. This regulation is necessary to protect the health, safety, and welfare of individuals who receive services from providers that are certified or operated by OPWDD. This regulation is being proposed due to the increasing transmission of COVID-19 and despite vaccines being available. OPWDD serves a vulnerable population and as such has a duty to ensure the services provided meet public health and safety standards.

4. Costs:

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

There is no anticipated impact on Medicaid expenditures as a result of the proposed regulations, as the entities that provide these services will only be providing such services to individual's already receiving Medicaid, in accordance with existing OPWDD policies and processes.

These regulations will not have any fiscal impact on local governments, as the contribution of local governments to Medicaid has been capped. Chapter 58 of the Laws of 2005 places a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

There are no anticipated costs to OPWDD in its role as a provider of services to comply with the new requirements.

b. Costs to private regulated parties: There will not be any anticipated costs to regulated providers to comply with the proposed regulations. The regulation requires face coverings for all staff, volunteers, contractors, vendors, visitors and individuals receiving services when in facilities or providing services that are certified or operated by OPWDD. Throughout the past two years there have been various masking requirements for these providers. Therefore, there are no new anticipated costs.

5. Local Government Mandates: This rule would not apply to local government units. There are no new requirements imposed by the rule on any other county, city, town, village; or school, fire, or other special district.

6. Paperwork: Providers will not experience an increase in paperwork as a result of the proposed regulations.

7. Duplication: The proposed regulations do not duplicate any existing State or Federal requirements on this topic.

8. Alternatives: OPWDD did not consider any other alternatives to the proposed regulations. These changes are necessary to protect public health and individuals receiving services from providers certified or operated by OPWDD.

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

10. Compliance Schedule: OPWDD plans to adopt the regulations as an emergency regulation effective upon filing. Following the comment period OPWDD plans to adopt the regulation as permanent. OPWDD expects that providers will be in compliance with the proposed requirements at the time of their effective date(s).

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses or local governments.

The proposed regulation adds Title 14 NYCRR Section 633.26 to require all providers certified or operated by OPWDD require face coverings for all staff, volunteers, contractors, vendors, visitors and individuals receiving services when in facilities or providing services that are certified or operated by OPWDD. The regulation will not result in new compliance requirements or additional professional services for providers. There is also no additional paperwork required by the amendment. The regulation is designed to protect individuals receiving services during the ongoing COVID-19 pandemic. A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses and/or local governments.

Rural Area Flexibility Analysis

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

The proposed regulation adds Title 14 NYCRR Section 633.26 in order to require face coverings for all staff, volunteers, contractors, vendors, visitors and individuals receiving services when in facilities or providing services that are certified or operated by OPWDD. The regulation will not result in an adverse impact on rural communities because the regulation applies to all employees, volunteers, or contractors working at providers who are certified or operated by OPWDD. The proposed regulation will not result in costs for regulated parties. Therefore, the amendments will not have any adverse effects on providers in rural areas and local governments.

Job Impact Statement

A Job Impact Statement for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on jobs and/or employment opportunities.

The proposed regulation adds Title 14 NYCRR Section 633.26 in order to require face coverings for all staff, volunteers, contractors, vendors, visitors and individuals receiving services when in facilities or providing services that are certified or operated by OPWDD. The regulation will result in new compliance requirements for providers. However, throughout the past two years there have been face covering requirements on these types of providers so the compliance measures would be minimal and not overly burdensome. The regulation will not have a substantial impact on jobs or employment opportunities in New York State.

Assessment of Public Comment This document contains responses to public comments submitted during the public comment period for emergency/proposed regulations that requires all agencies providing services or operating facilities that are certified or operated by OPWDD to require all staff, volunteers, contractors, vendors, visitors, and individuals receiving services to wear a face covering during the ongoing COVID-19 pandemic.

Comment: There are concerns that this regulation would require developmentally disabled individuals to wear masks while in communal areas of their own homes or group homes. An individual's home is a place of respite, not an extension of the outside world.

Response: This comment was considered and the text will not be changed. OPWDD guidance states that pursuant to the most recent CDC guidance, individuals living in congregate care settings are at greatest risk of transmission, serious illness and death due to COVID-19. Individuals living in certified residential facilities should be strongly encouraged to wear masks while in their certified residential setting under the following circumstances: (1) when social distance cannot be maintained within the home, (2) in communities with a high or substantial transmission rate, as identified by the CDC, regardless of vaccination status; (3) for individuals who have reduced immunity due to a medical condition or medication, regardless of vaccination status; and (4) for individuals who are unvaccinated.

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Training Flexibilities

I.D. No. PDD-10-22-00010-EP
Filing No. 108
Filing Date: 2022-02-16
Effective Date: 2022-02-16

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

Proposed Action: Addition of section 633.27 to Title 14 NYCRR.

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

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

Specific reasons underlying the finding of necessity: The emergency addition of section 14 NYCRR 633.27 that authorizes the Commissioner to permit abbreviated trainings and extend recertification deadlines for direct support professionals during periods of extreme staffing shortages for Article 16 facilities, is necessary to protect the health, safety, and welfare of individuals who receive these services. This regulation must be issued by emergency regulation to allow OPWDD the ability to increase staff available to properly take care of service recipients. OPWDD serves a vulnerable population and as such has a duty to ensure the services provided meet public health and safety standards which includes safe and appropriate staffing.

Subject: Training Flexibilities.

Purpose: To provide flexibility in training requirements.

Text of emergency/proposed rule: A new section 633.27 is added to read as follows:

633.27 Training Flexibilities

Notwithstanding the requirements set forth in sections 633.8, 633.14, 633.16 and 633.17 of this Part, during periods of extreme staffing shortages, as determined by the commissioner, the commissioner may permit abbreviated training and/or approve the extension of recertification deadlines, as applicable, for direct support professionals employed in programs and facilities certified pursuant to article 16 of the Mental Hygiene 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 May 16, 2022.

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, 3rd Floor, Albany, NY 12229, (518) 474-7700, email: rau.unit@opwdd.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 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

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

Regulatory Impact Statement

1. Statutory Authority:

a. The Office for People With Developmental Disabilities (OPWDD) has the statutory responsibility to provide and encourage the provision of appropriate programs, supports, and services in the areas of care, treatment, habilitation, rehabilitation, and other education and training of persons with intellectual and developmental disabilities, as stated in the New York State (NYS) Mental Hygiene Law (MHL) Section 13.07.

b. OPWDD has the statutory authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the NYS MHL Section 13.09(b).

c. OPWDD has the statutory authority to adopt regulations concerned with the operation of programs and the provision of services, as stated in the NYS MHL Section 16.00. The regulation also ensures compliance by OPWDD certified and operated residences with the proper provision of services.

d. OPWDD has the statutory authority to provide for the oversight of facilities and providers of services holding operating certificates, as stated in the NYS MHL Section 16.11.

2. Legislative Objectives: The proposed regulations further legislative objectives embodied in MHL sections 13.07, 13.09(b), and 16.00. The proposed regulation adds Title 14 NYCRR Section 633.27 to authorize the Commissioner to permit abbreviated trainings and extend recertification deadlines for direct support professionals during periods of extreme staffing shortages as determined by the Commissioner.

3. Needs and Benefits: The proposed regulation adds Title 14 NYCRR Section 633.27 to authorize the Commissioner to permit abbreviated trainings and extend recertification deadlines for direct support professionals during periods of extreme staffing shortages. This regulation is necessary to protect the health, safety, and welfare of individuals who receive services from providers that are certified or operated by OPWDD. This regulation is being proposed due to the increasing need of services as well as staffing shortages during the ongoing COVID-19 epidemic. OPWDD serves a vulnerable population and as such has a duty to ensure the services provided meet public health and safety standards. Given the rise in covid cases throughout the pandemic OPWDD has had challenges meeting minimum staffing requirements for the many locations certified or operated across the state. By allowing more individuals to work in these Article 16 facilities, individuals being provided services will not have interruptions in their services.

4. Costs:

a. Costs to the agency and to the State and its local governments:

There is no anticipated impact on Medicaid expenditures as a result of the proposed regulations, as the entities that provide these services will only be providing such services to individual's already receiving Medicaid, in accordance with existing OPWDD policies and processes.

These regulations will not have any fiscal impact on local governments, as the contribution of local governments to Medicaid has been capped. Chapter 58 of the Laws of 2005 places a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

There are no anticipated costs to OPWDD in its role as a provider of services to comply with the new requirements.

b. Costs to private regulated parties: There will not be any anticipated costs to regulated providers to comply with the proposed regulations. The regulation authorizes the Commissioner to facilitate more staff when there are periods of extreme staffing shortages. Therefore, there are no new anticipated costs.

5. Local Government Mandates: This rule would not apply to local government units. There are no new requirements imposed by the rule on any other county, city, town, village; or school, fire, or other special district.

6. Paperwork: Providers will not experience an increase in paperwork as a result of the proposed regulations.

7. Duplication: The proposed regulations do not duplicate any existing State or Federal requirements on this topic.

8. Alternatives: OPWDD did not consider any other alternatives to the proposed regulations. These changes are necessary to protect public health and individuals receiving services from providers certified or operated by OPWDD.

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

10. Compliance Schedule: OPWDD plans to adopt the regulations as an emergency regulation effective upon filing. Following the comment period OPWDD plans to adopt the regulation as permanent. OPWDD expects that providers will be in compliance with the proposed requirements at the time of their effective date(s).

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses or local governments.

The proposed regulation adds Title 14 NYCRR Section 633.27 to authorize the Commissioner to permit abbreviated trainings and extend recertification deadlines for direct support professionals during periods of extreme staffing shortages for Article 16 facilities. The regulation will not result in new compliance requirements or additional professional services for providers. There is also no additional paperwork required by the amendment. The regulation is designed to protect individuals when staffing shortages prevent the ability to safely care for an individual receiving services. A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses and/or local governments.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for these amendments is not being submitted because the regulation will not impose any adverse impact or

significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed regulation.

The proposed regulation adds Title 14 NYCRR Section 633.27 in order to authorize the Commissioner to permit abbreviated trainings and extend recertification deadlines for direct support professionals during periods of extreme staffing shortages for Article 16 facilities. The regulation will not result in an adverse impact on rural communities because the regulation applies to all Article 16 clinics who are certified or operated by OPWDD. The proposed regulation will not result in costs for regulated parties. Therefore, the amendments will not have any adverse effects on providers in rural areas and local governments.

Job Impact Statement

A Job Impact Statement for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on jobs and/or employment opportunities.

The proposed regulation adds Title 14 NYCRR Section 633.27 in order to allow the Commissioner to permit abbreviated trainings and extend recertification deadlines for direct support professionals during periods of extreme staffing shortages for Article 16 facilities. The regulation will not result in new compliance requirements for providers. The regulation is designed to protect individuals when staffing shortages prevent the ability to safely care for an individual receiving services. The regulation is only to be used in cases of extreme staffing shortages. Thus, the regulation will not have a substantial impact on jobs or employment opportunities in New York State.

Public Service Commission

NOTICE OF ADOPTION

Financing Petition

I.D. No. PSC-01-21-00006-A

Filing Date: 2022-02-17

Effective Date: 2022-02-17

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

Action taken: On 2/17/22, the PSC adopted an order approving Champlain Hudson Power Express (CHPE) Properties, Inc. and CHPE LLC's petition to enter into financing arrangements.

Statutory authority: Public Service Law, sections 5, 64, 65, 66 and 69

Subject: Financing petition.

Purpose: To approve CHPE's petition to enter into financing arrangements.

Text or summary was published in the January 6, 2021 issue of the Register, I.D. No. PSC-01-21-00006-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0598SA1)

NOTICE OF ADOPTION

Transfer of Stock

I.D. No. PSC-18-21-00005-A

Filing Date: 2022-02-18

Effective Date: 2022-02-18

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

Action taken: On 2/17/22, the PSC adopted an order approving Dutchess Estates Water Co., Inc. (Dutchess), Lawrence H. Heaton (Heaton), and Fernando Dongo's (Dongo) petition to transfer 100 percent of the outstanding stock of Dutchess to Dongo.

Statutory authority: Public Service Law, sections 4(1), 5(1)(f), 89-c(1), (10) and 89-h(1)

Subject: Transfer of stock.

Purpose: To approve the petition to transfer stock from Dutchess to Dongo.

Text or summary was published in the May 5, 2021 issue of the Register, I.D. No. PSC-18-21-00005-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-W-0192SA1)

NOTICE OF ADOPTION

Increase in Annual Revenues

I.D. No. PSC-33-21-00006-A

Filing Date: 2022-02-17

Effective Date: 2022-02-17

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

Action taken: On 2/17/22, the PSC adopted an order authorizing South Cross Road Water Company, Inc. (South Cross) to increase its annual revenues by $28,024 or 81.27 percent, effective March 1, 2022.

Statutory authority: Public Service Law, sections 4(1), 5(1)(f), 89-c(1), (3), (10)(a), (b) and (f)

Subject: Increase in annual revenues.

Purpose: To authorize South Cross to increase its annual revenues.

Text or summary was published in the August 18, 2021 issue of the Register, I.D. No. PSC-33-21-00006-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-W-0400SA1)

NOTICE OF ADOPTION

Transfer of Property

I.D. No. PSC-36-21-00005-A

Filing Date: 2022-02-18

Effective Date: 2022-02-18

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

Action taken: On 2/17/22, the PSC adopted an order approving KeySpan Gas East Corporation d/b/a National Grid's (KEDLI) petition to transfer property located at 29 Community Road in Bay Shore, New York to East Coast Imperial Properties LLC (East Coast).

Statutory authority: Public Service Law, sections 5, 65, 66 and 70(1)

Subject: Transfer of property.

Purpose: To approve KEDLI's petition to transfer property to East Coast.

Text or summary was published in the September 8, 2021 issue of the Register, I.D. No. PSC-36-21-00005-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-G-0446SA1)

NOTICE OF ADOPTION

Transfer of Property

I.D. No. PSC-36-21-00008-A

Filing Date: 2022-02-18

Effective Date: 2022-02-18

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

Action taken: On 2/17/22, the PSC adopted an order approving KeySpan Gas East Corporation d/b/a National Grid's (KEDLI) petition to transfer property located at 18 Garner Lane in Bay Shore, New York to East Coast Imperial Properties LLC (East Coast).

Statutory authority: Public Service Law, sections 5, 65, 66 and 70(1)

Subject: Transfer of property.

Purpose: To approve KEDLI's petition to transfer property to East Coast.

Text or summary was published in the September 8, 2021 issue of the Register, I.D. No. PSC-36-21-00008-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-G-0447SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-36-21-00009-A

Filing Date: 2022-02-22

Effective Date: 2022-02-22

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

Action taken: On 2/17/22, the PSC adopted an order approving Belnord Partners, LLC's (Belnord) notice of intent to submeter electricity at 225 West 86th Street, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To approve Belnord's notice of intent to submeter electricity.

Substance of final rule: The Commission, on February 17, 2022, adopted an order approving Belnord Partners, LLC's notice of intent to submeter electricity at 225 West 86th Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0379SA1)

NOTICE OF ADOPTION

Petition for Transfer of Ownership Interests and Financing

I.D. No. PSC-41-21-00006-A

Filing Date: 2022-02-18

Effective Date: 2022-02-18

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

Action taken: On 2/17/22, the PSC adopted an order approving, with conditions, Generation Bridge II, LLC (Gen Bridge) and PSEG Power, LLC's (PSEG) petition for a transfer of ownership interests and financing arrangement.

Statutory authority: Public Service Law, sections 5, 64, 65, 66, 69 and 70

Subject: Petition for transfer of ownership interests and financing.

Purpose: To approve, with conditions, Gen Bridge and PSEG's petition for transfer of ownership interests and financing.

Text or summary was published in the October 13, 2021 issue of the Register, I.D. No. PSC-41-21-00006-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0485SA1)

NOTICE OF ADOPTION

Waiver Request

I.D. No. PSC-44-21-00011-A

Filing Date: 2022-02-18

Effective Date: 2022-02-18

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

Action taken: On 2/17/22, the PSC adopted an order granting, with modifications, New York Municipal Power Agency's (NYMPA) waiver request of 16 NYCRR section 13.7(b) and (d)(1) and directed tariff revisions to be filed, to become effective on March 1, 2022.

Statutory authority: Public Service Law, sections 69 and 70

Subject: Waiver request.

Purpose: To grant, with modifications, NYMPA's waiver request.

Text or summary was published in the November 3, 2021 issue of the Register, I.D. No. PSC-44-21-00011-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(18-E-0126SA2)

NOTICE OF ADOPTION

Petition on Interconnection Agreement for Federal Agencies

I.D. No. PSC-45-21-00004-A

Filing Date: 2022-02-17

Effective Date: 2022-02-17

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

Action taken: On 2/17/22, the PSC adopted an order approving United States Department of Veterans Affairs' (VA) petition to implement an Interconnection Agreement for use with Federal agencies.

Statutory authority: Public Service Law, sections 5(1), (2), 65(1), (2), (3), 66(1), (2), (3), (5), (8) and (10)

Subject: Petition on Interconnection Agreement for Federal Agencies.

Purpose: To approve VA's petition to implement an Interconnection Agreement for use with Federal agencies.

Substance of final rule: The Commission, on February 17, 2022, adopted an order approving United States Department of Veterans Affairs' (VA) petition to implement an Interconnection Agreement for use with federal agencies. The Interconnection Agreement is referred to as Appendix A-1 of the Standardized Interconnection Requirements and will allow federal agencies to interconnect distributed generation and energy storage systems located at their New York facilities. Central Hudson Gas & Electric Corporation (Central Hudson), Consolidated Edison Company of New York, Inc. (Con Edison), Orange and Rockland Utilities, Inc. (O&R), New York State Electric & Gas Corporation (NYSEG), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), and Rochester Gas and Electric Corporation (RG&E) are directed to make tariff filings to incorporate into their electric tariffs the New York State Standardized Contract for Interconnection of New Distributed Generation Units and/or Energy Storage Systems with Capacity of 5 MW or Less Connected in Parallel with Utility Distribution Systems, as set forth in the Appendix to the order. These tariff amendments shall become effective on not less than one day's notice, to take effect on or before April 1, 2022. Central Hudson, Con Edison, O&R, NYSEG, National Grid, and RG&E shall post the New York State Standardized Contract for Interconnection of New Distributed Generation Units and/or Energy Storage Systems with Capacity of 5 MW or Less Connected in Parallel with Utility Distribution Systems, as set forth in the Appendix to the order, to their respective Distributed Generation websites no later than April 1, 2022, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0511SA1)

NOTICE OF ADOPTION

Transfer of Street Lighting Facilities

I.D. No. PSC-46-21-00011-A

Filing Date: 2022-02-17

Effective Date: 2022-02-17

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

Action taken: On 2/17/22, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) petition to transfer street lighting facilities located within the Village of Kenmore (Kenmore) to Kenmore.

Statutory authority: Public Service Law, sections 5, 65, 66 and 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To approve National Grid's petition to transfer street lighting facilities to Kenmore.

Text or summary was published in the November 17, 2021 issue of the Register, I.D. No. PSC-46-21-00011-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0530SA1)

NOTICE OF ADOPTION

Transfer of Street Lighting Facilities

I.D. No. PSC-46-21-00012-A

Filing Date: 2022-02-17

Effective Date: 2022-02-17

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

Action taken: On 2/17/22, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) petition to transfer street lighting facilities located within the Village of New York Mills (New York Mills) to New York Mills.

Statutory authority: Public Service Law, sections 5, 65, 66 and 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To approve National Grid's petition to transfer street lighting facilities to New York Mills.

Substance of final rule: The Commission, on February 17, 2022, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) petition to transfer street lighting facilities located within the Village of New York Mills (New York Mills) to Kenmore. The authority is granted for one year from the issuance of the order and shall expire if the transaction does not occur within that time period. National Grid shall file with the Secretary, within 60 days of the final transfer of the street lighting facilities to New York Mills, a copy of the actual journal entries recorded to account for this transaction, together with the related workpapers, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0531SA1)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-48-21-00004-A

Filing Date: 2022-02-18

Effective Date: 2022-02-18

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

Action taken: On 2/17/22, the PSC adopted an order approving Consolidated Edison Company of New York, Inc. (Con Edison) and Orange and Rockland Utilities, Inc.'s (O&R) tariff amendments, to become effective March 1, 2022.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff amendments.

Purpose: To approve Con Edison and O&R's tariff amendments.

Text or summary was published in the December 1, 2021 issue of the Register, I.D. No. PSC-48-21-00004-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0534SA1)

NOTICE OF ADOPTION

Transfer of Street Lighting Facilities

I.D. No. PSC-48-21-00005-A
Filing Date: 2022-02-17
Effective Date: 2022-02-17

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

Action taken: On 2/17/22, the PSC adopted an order approving New York State Electric & Gas Corporation's (NYSEG) petition to transfer street lighting facilities located within the Town of Hamburg (Hamburg) to Hamburg.

Statutory authority: Public Service Law, section 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To approve NYSEG's petition to transfer street lighting facilities to Hamburg.

Substance of final rule: The Commission, on February 17, 2022, adopted an order approving New York State Electric & Gas Corporation's (NYSEG) petition to transfer street lighting facilities located within the Town of Hamburg (Hamburg) to Hamburg. The authority is granted for one year from the issuance of the order and shall expire if the transaction does not occur within that time period. NYSEG is directed to file with the Secretary, within 60 days of the sale closing, a copy of the actual journal entries, including all related workpapers, recorded to account for the transaction. NYSEG is directed to file with the Secretary, within 60 days of the sale closing, a copy of the final signed pole attachment agreement, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0529SA1)

NOTICE OF ADOPTION

Electric Metering Equipment

I.D. No. PSC-48-21-00006-A
Filing Date: 2022-02-22
Effective Date: 2022-02-22

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

Action taken: On 2/17/22, the PSC adopted an order approving General Electric's (GE) petition to use the GE JBW-5ER instrument transformer for electric metering applications in New York State.

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

Subject: Electric metering equipment.

Purpose: To approve GE's petition for the use of electric metering equipment.

Substance of final rule: The Commission, on February 17, 2022, adopted an order approving General Electric's (GE) petition to use the GE JBW-5ER instrument transformer for electric metering applications in New York State, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0549SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-50-21-00007-A
Filing Date: 2022-02-22
Effective Date: 2022-02-22

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

Action taken: On 2/17/22, the PSC adopted an order approving 186N6 Owner LLC's (186N6 Owner) notice of intent to submeter electricity at 186 North 6th Street, 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: Submetering of electricity.

Purpose: To approve 186N6 Owner's notice of intent to submeter electricity.

Text or summary was published in the December 15, 2021 issue of the Register, I.D. No. PSC-50-21-00007-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0398SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-50-21-00009-A
Filing Date: 2022-02-22
Effective Date: 2022-02-22

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

Action taken: On 2/17/22, the PSC adopted an order approving 180 East 88th Street Condominium's (180 East 88th) notice of intent to submeter electricity at 180 East 88th Street, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To approve 180 East 88th's notice of intent to submeter electricity.

Substance of final rule: The Commission, on February 17, 2022, adopted an order approving 180 East 88th Street Condominium's notice of intent to submeter electricity at 180 East 88th Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0426SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-50-21-00015-A
Filing Date: 2022-02-22
Effective Date: 2022-02-22

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

Action taken: On 2/17/22, the PSC adopted an order approving BOP Greenpoint H3 LLC's (BOP Greenpoint) notice of intent to submeter electricity at One Bell Slip, 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: Submetering of electricity.

Purpose: To approve BOP Greenpoint's notice of intent to submeter electricity.

Substance of final rule: The Commission, on February 17, 2022, adopted an order approving BOP Greenpoint H3 LLC's notice of intent to submeter electricity at One Bell Slip, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(21-E-0486SA1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity and Request for Waiver

I.D. No. PSC-10-22-00011-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 Peninsula Building 1B LLC to submeter electricity at 720 Tiffany Street, Bronx, New York and request for waiver of the requirement of an energy audit in 16 NYCRR section 96.5(k)(3).

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 and request for waiver.

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

Substance of proposed rule: The Commission is considering the notice of intent filed by Peninsula Building 1B LLC on February 4, 2022, seeking authority to submeter electricity at a new market rate and income-based rental building located at 720 Tiffany Street, Bronx, New York, 10474, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison). Additionally, the petitioner requested waiver of 16 NYCRR § 96.5(k)(3), the requirement for an energy audit for buildings where 20 percent or more of the residents receive income-based housing assistance.

In the notice of intent, Peninsula Building 1B 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 Commission is also considering the Owner's request for waiver of 16 NYCRR § 96.5(k)(3), which requires proof that an energy audit has been conducted when 20 percent or more of the residents receive income-based housing assistance. The Owner states that because the building is new construction, it must comply with the current New York State Energy Conservation Construction Code, which provides strict energy conservation requirements for new and renovated buildings, including the design and construction of energy-efficient building envelopes, mechanical, lighting and power systems and therefore, an energy audit is not appropriate in this case.

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

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

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, 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.
(22-E-0074SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Transfer of Street Lighting Facilities

I.D. No. PSC-10-22-00012-P

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

Proposed Action: The Commission is considering a petition filed by Niagara Mohawk Power Corporation d/b/a National Grid seeking authorization to transfer certain street lighting facilities in the Village of Fort Plain to the Village of Fort Plain.

Statutory authority: Public Service Law, sections 5, 65, 66 and 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed on February 8, 2022 by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), requesting authorization to transfer certain street lighting facilities located in the Village of Fort Plain (Village) to the Village.

The original cost of the facilities was approximately $315,819 and the net book value of the assets is $200,462, as of November 30, 2021. National Grid proposes to transfer the street lighting facilities to the Village for approximately $208,125, which includes the net book value of the assets as well as transition and transaction costs. National Grid explains that the agreement between it and the Village provides that the purchase price will be adjusted (up or down) to reflect the actual net book value at the date of the closing.

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

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

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, 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.
(22-E-0079SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Agreement for the Provision of Water Service and Waivers

I.D. No. PSC-10-22-00013-P

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

Proposed Action: The Commission is considering the petition of Saratoga Water Services, Inc. for a water supply agreement for service and a request for waivers of certain tariff provisions and Commission rules.

Statutory authority: Public Service Law, sections 4(1) and 89-b

Subject: Agreement for the provision of water service and waivers.

Purpose: To consider whether the terms of a service agreement and requested waivers are in the public interest.

Substance of proposed rule: The Commission is considering the petition (Petition) filed by Saratoga Water Services, Inc. (Saratoga) for a waiver of a provision of its existing tariff and Commission regulations (16 NYCRR Parts 501 and 502) that have the effect of prohibiting it from providing service to customers located outside the physical boundaries of its service territory on non-tariff terms. Saratoga seeks the waiver in order to provide water service to Catskill Hudson Bankcorp, Inc. (Catskill Hudson), which is located outside Saratoga's "service territory" as defined by the Department of Environmental Conservation (DEC). Saratoga notes in its petition that it would also need permission from DEC to provide service to Catskill Hudson.

Saratoga seeks to provide service to Catskill Hudson under the terms of an "Agreement for the Provision of Water Service" (Agreement), dated December 17, 2021, which is as noted is inconsistent with Saratoga's existing tariff and Commission regulations. Under the Agreement, Catskill Hudson would pay for the entire cost of extending Saratoga's infrastructure to provide service without receiving potential refunds of that cost. Saratoga seeks waiver of 16 NYCRR § 501.9, which requires that main extension agreements be in compliance with the Commission's regulations and water-work's tariff. Saratoga asserts that the waiver is necessary on the grounds that the Agreement would technically be inconsistent with Commission's regulations that restrict service to customers located within the company's service territory. as Catskill Hudson is outside Saratoga's service area, and Saratoga requests a waiver to avoid ambiguity). Saratoga also seeks a waiver of 16 NYCRR § 501.10, which requires water companies to receive permission from DEC to extend their service territory before seeking a waiver of tariff requirements from the Commission.

The petition requests an Order (a) approving the terms and conditions of the Agreement as being in the public interest, (b) determining that the provision of water service by Saratoga, in accordance with the terms set forth in the Agreement, is in the public interest, (c) waiving Saratoga's tariff provisions to the extent they are inconsistent with the Agreement, and (d) waiving the applicability of 16 NYCRR § 501, including § 501.10, and § 502 to the extent they are inconsistent with the Agreement.

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

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

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

(22-W-0023SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Amendments to Outdoor Gas Lighting Tariff Provisions

I.D. No. PSC-10-22-00014-P

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

Proposed Action: The Commission is considering a proposal filed by Rochester Gas and Electric Corporation to modify P.S.C. No. 16—Gas, to eliminate Outdoor Gas Lighting provisions.

Statutory authority: Public Service Law, sections 65 and 66(12)

Subject: Amendments to Outdoor Gas Lighting tariff provisions.

Purpose: To eliminate the outdated provisions concerning the use of natural gas for decorative outdoor lighting.

Substance of proposed rule: The Public Service Commission (Commission) is considering a proposal filed by the Rochester Gas and Electric Corporation (RG&E) on February 9, 2022, to amend its gas tariff schedule, P.S.C. No. 16 – Gas, to eliminate Outdoor Gas Lighting provisions.

RG&E is proposing to modify its tariff to eliminate the outdated provisions, implemented in the 1970s, concerning the use of natural gas for decorative outdoor lighting. The proposed amendments have an effective date of July 1, 2022.

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

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

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

(22-G-0082SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

To Assign Certain Easement Interests and to Transfer Certain Central Hudson's Property to Transco

I.D. No. PSC-10-22-00015-P

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

Proposed Action: The Commission is considering a joint petition filed by Central Hudson Gas & Electric Corporation (Central Hudson) and New York Transco LLC (Transco) to assign certain easement interests and to transfer certain Central Hudson's property to Transco.

Statutory authority: Public Service Law, section 70(1)

Subject: To assign certain easement interests and to transfer certain Central Hudson's property to Transco.

Purpose: To consider whether the easement interests and transfer of certain Central Hudson property to Transco is in the public interest.

Substance of proposed rule: The Public Service Commission is considering a joint petition (Joint Petition) filed on February 7, 2022, by Central Hudson Gas & Electric Corporation (Central Hudson or Company) and New York Transco LLC (Transco) to assign certain easement interests in Central Hudson's property and to transfer personal property related to operations from Central Hudson to Transco.

The joint petition is related to the Rock Tavern to Sugarloaf Project(RTS Project) subject to the Order Granting Certificate of Environmental Compatibility and Public Need, issued on September 9, 2021 in Case 20-T-0549. The transfer provides Transco with certain real and personal prop-

erty interests that are necessary to conduct and operate the RTS Project. The easement interest would cover the real property associated with 12-mile overhead 115 kV SL Line running form the Rock Tavern Substation to the 115 kV Sugarloaf Switching Station. Central Hudson's property to be transferred Transco is personal property related to the operation of Company's existing 115 kV Sugarloaf Switching Station and SL Line (i.e., certain poles, wires, and conduits). Central Hudson and Transco negotiated a purchased price for the easement of $4,338,300. The personal property price of $233,692 was based on the undepreciated capital cost of the assets of the day of the filing and will be updated at the time of the transfer.

The full text of the joint petition and the full record of the proceeding may be viewed 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) 474-6517, email: secretary@dps.ny.gov

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

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

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

(22-E-0077SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Amendments to Outdoor Gas Lighting Tariff Provisions

I.D. No. PSC-10-22-00016-P

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

Proposed Action: The Commission is considering a proposal filed by New York State Electric & Gas Corporation to modify P.S.C. No. 90—Gas, to eliminate Outdoor Gas Lighting provisions.

Statutory authority: Public Service Law, sections 65 and 66(12)

Subject: Amendments to Outdoor Gas Lighting tariff provisions.

Purpose: To eliminate the outdated provisions concerning the use of natural gas for decorative outdoor lighting.

Substance of proposed rule: The Public Service Commission (Commission) is considering a proposal filed by the New York State Electric & Gas Corporation (NYSEG) on February 9, 2022, to amend its gas tariff schedule, P.S.C. No. 90 – Gas, to eliminate Outdoor Gas Lighting provisions.

NYSEG is proposing to modify its tariff to eliminate what it views as outdated provisions, originally implemented in the 1970s, that prohibit the use of natural gas for decorative outdoor lighting. The proposed amendments have an effective date of July 1, 2022.

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

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

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

(22-G-0081SP1)

Department of State

EMERGENCY
RULE MAKING

General Administration Relating to the Division of Licensing Services

I.D. No. DOS-51-21-00004-E

Filing No. 121

Filing Date: 2022-02-24

Effective Date: 2022-02-24

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

Action taken: Addition of Part 159 to Title 19 NYCRR.

Statutory authority: Executive Law, section 91

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

Specific reasons underlying the finding of necessity: On March 7, 2020, Executive Order Number 202 was issued declaring a state disaster emergency for the entire State of New York, relating to the COVID-19 pandemic. On June 24, 2021, the state disaster declaration was terminated. During the state of emergency, approved providers were authorized to offer education remotely, as in-person education was significantly reduced or restricted. Notwithstanding termination of the disaster declaration, the COVID-19 virus has continued to impact the State, requiring the continuation of innovative solutions, including new remote options.

In consideration of the ongoing COVID-19 pandemic and the impact it imposes on Department approved educational providers, the Department finds that it is necessary to adopt this rule on an emergency basis for the preservation of the public health, safety, and general welfare. Specifically, by granting schools the discretion to offer mandated educational courses remotely, the rule will ensure that those regulated by the Department can continue to receive important education while simultaneously offering schools and students safe learning environments (i.e., remote options) to help curb the spread of the COVID-19 virus.

On December 7, 2021, former Secretary of State Rossana Rosado, filed the first emergency adoption relating to this rule. Due to the regulatory schedule, the final adoption of the regulation associated with this emergency adoption is not yet complete. Accordingly, a second emergency adoption is needed as a temporary measure to ensure continuity of the rule until the final adoption is effective.

For the foregoing reasons, this rule is being adopted on an emergency basis.

Subject: General Administration Relating to the Division of Licensing Services.

Purpose: To give approved educational providers the option of offering mandatory course work virtually.

Text of emergency rule: A new Part 159 is added to Chapter V, prior to Subchapter A, of Title 19 NYCRR to read as follows:

Part 159. Administration Relating to the Division of Licensing Services
Section 159.1 Live Distance Offerings

(a) Definitions. As used in this section, the following terms shall have the following meanings:

(1) "Approved instructor" means a person authorized, pursuant to applicable law, to provide personal instruction to students for the purpose of satisfying: educational requirements leading to an original license, certification, or registration issued by the Division; or continuing educational requirements leading to a renewal license, certification, or registration issued by the Division.

(2) "Approved entity" means any entity, authorized pursuant to applicable law: to offer educational courses or enroll students in such educational courses leading to an original license, certification, or registration issued by the Division; or to offer continuing educational courses or enroll students in such courses for the purpose of satisfying continuing educational requirements leading to a renewal license, certification, or registration by the Division.

(3) "Division" means the Division of Licensing Services of the Department of State.

(4) "Live distance education" means providing instruction, in real-time, where the approved instructor and the students are physically separated, but the use of remote technology allows each person participat-

ing in the educational program to view and communicate with each other in a live and interactive manner that transmits simultaneous live audio and video.

(5) "Live distance examination" means offering a proctored examination where the students and proctor are physically separated, but the use of remote technology allows each person participating in the examination to view and communicate with each other in a live and interactive manner that transmits simultaneous live audio and video.

(b) Unless otherwise expressly prohibited by law, an approved entity may, subject to the provisions in this subdivision and following approval by the Division, offer live distance education.

(1) Live distance education shall not be offered for segments of a course that require practical, in-person, or hands-on-learning.

(2) Prior to offering a live distance education course, an approved entity shall apply and disclose to the Division, on a form provided by the Division the following:

(i) a detailed description of the technology used, that the approved entity will rely upon, to provide live distance education, which must contain simultaneous live audio and video instruction;

(ii) a detailed description of the methods used, that the approved entity will rely upon, to ensure active participation by students;

(iii) a detailed description of the methods used, that the approved entity will rely upon, to verify the identity of students enrolled in an approved course of study;

(iv) a detailed description of the methods used to obtain a signed certification from each enrolled student evidencing that the student participated in the instruction;

(v) a detailed description of the instructions that will be provided to students to ensure that such students comprehend how to participate in a live distance course;

(vi) a detailed description of the methods used that the approved entity will rely upon to ensure the privacy and security of student records, and

(vii) such other information as the Division finds appropriate.

(c) An approved entity, that is approved to offer live distance education may also, subject to the provisions in this subdivision and following approval by the Division, offer live distance examinations.

(1) Live distance examinations shall not be offered to test segments of, or relating, to a course that requires practical, in-person, or hands-on-learning.

(2) Prior to offering live distance examinations, an approved entity shall apply and disclose to the Division, on a form provided by the Division the following:

(i) a detailed description of the technology used, that the approved entity will rely upon, to provide the examination, which must contain simultaneous live audio and video instruction;

(ii) a detailed description of the methods used, that the approved entity will rely upon, to ensure active participation by students and measures to detect and prevent fraud;

(iii) a detailed description of the methods used, that the approved entity will rely upon, to verify the identity of students taking a live distance proctored examination;

(iv) a detailed description of the methods used that the approved entity will rely upon to ensure the privacy and security of student examination records, and

(v) such other information as the Division finds appropriate.

(3) An approved entity that is approved to offer live distance education but does not satisfy the provisions in this subdivision shall not provide live distance examinations.

(d) Every approved entity that elects to offer live distance education shall, in addition to existing requirements imposed by applicable law, retain a record of each student's participation in and completion of the live distance learning program for a period of five years, and such records must be available for review and inspection by the Division. Each approved entity that elects to provide live distance education shall ensure that each location where an approved instructor is providing instruction is appropriate, free of distraction, and conducive to learning.

(e) A duly authorized designee of the Division may audit any course offered and may verify attendance and inspect the records of attendance of the course at any time during its presentation or thereafter.

(f) The Division may deny, suspend, or revoke the approval or renewal of a live distance education course, live distance examination authorization, or the authorization of an approved entity, if it is determined following a hearing, that they are not in compliance with applicable law and rules, or if the course or examination does not adequately reflect, present, or test the approved curriculum.

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-51-21-00004-EP, Issue of December 22, 2021. The emergency rule will expire March 9, 2022.

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

Regulatory Impact Statement

1. Statutory authority:

Section 91 of the New York Executive Law provides: "[s]ubject to and in conformity with the provisions of the constitution and laws of the state, the secretary of state may adopt and promulgate such rules which shall regulate and control the exercise of the powers of the department of state and the performance of the duties of officers, agents and other employees thereof."

2. Legislative objectives:

The Department of State is responsible for, among other things, the regulation and licensing of numerous occupations throughout the state. Each of these occupations are established pursuant to their own enabling statutes of which many require qualifying and/or continuing education. These requirements have been imposed to ensure that those that seek licensure are qualified throughout their occupational career.

3. Needs and benefits:

This purpose of this rule is to allow providers, at their option, to offer many of the same educational courses, in a similar format, that were offered during the declared state of emergency during the COVID-19 pandemic. During the state of emergency educational providers were authorized to teach already approved courses remotely as many educational providers were required to reduce capacity or not permitted to meet for in-person instruction. Following the termination of the COVID-19 emergency declaration the Department has received numerous requests from industry representatives and constituents to enact this regulation as remote learning was not an available option for many of the license types issued by the Department. This is a first re-adoption of an emergency rule which went into effect on December 7, 2021 and since that time nearly all schools, that could fall within the scope of the regulation, elected to voluntarily participate in offering such courses. Accordingly, the rulemaking is needed to ensure continuity of education across the Department's many licensing disciplines.

4. Costs:

a. Costs to regulated parties:

The Department anticipates that there will be no significant costs resulting from the implementation of the rule. Prior to this rule many schools were already providing remote education pursuant to a previously issued emergency executive order. As such, those providers that opt-in to offer remote education are likely to already have the necessary technology to comply with the rule. Additionally, the Department is aware that there are numerous commercially available products available to providers that range in monthly costs from $14.99 to $19.99. Moreover, as noted above, since the emergency regulation went into effect, most schools opted to voluntarily participate in the program supporting that cost would not be an impediment.

b. Costs to the Department of State:

The rule does not impose any costs to the agency, the state or local governments for the implementation and continuation of the rule. Existing Department staff will be able to implement the requirements of this rule. Since adoption, the Department has not observed any increases in relation to the rule.

5. Local government mandates:

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

6. Paperwork:

Providers are already required to apply to the Department prior to providing education. This rule offers those providers the option of also providing the same instruction remotely by disclosing additional information to the Department. Providers that desire to offer remote education will have to complete an application form that the Department will make available. Providers that do not opt-in to provide remote education will have no new or additional paperwork requirements.

7. Duplication:

This rule does not duplicate, overlap or conflict with any other state or federal requirement.

8. Alternatives:

The Department considered not proposing the rule but determined that offering remote learning would benefit many industries under the Department's jurisdiction. The Department also considered permitting approved entities to provide remote learning without applying for such approval but determined that a rule was needed to ensure the integrity of remote learning.

9. Federal standards:

This rule does not exceed any existing federal standard pertaining to disclosure and/or instruction.

10. Compliance schedule:

The rule is being proposed as an emergency rule with notice of proposed. Accordingly, the rule will go into effect immediately to allow providers to take advantage of this rule as soon as possible. Providers that do not want to offer remote learning will not have to comply with the rule.

Regulatory Flexibility Analysis

This rule does not require a RFA or RAFA. As evident from the purpose of the rule, it will not impose any adverse impacts on small businesses, local governments, or public or private entities, including those in rural areas of the state. Additionally, the rule will not impose any mandatory reporting, record keeping or other compliance requirements on those impacted by the rule.

The New York State Department of State (the "Department") does not expect any person to be negatively impacted by the adoption of this rule because it will provide greater flexibility to educational providers and students to satisfy non-discretionary educational requirements. Further, since the rule is discretionary, it will not impose any new mandates on providers or students.

The rule provides that entities already approved by the Department to offer education, at their choosing and subject to reasonable restrictions, may offer the same education remotely to students. Further, the rule will also allow such educational providers, at their choosing and subject to reasonable restrictions, to offer final examinations remotely. Accordingly, schools that do not desire to offer remote learning will not need to comply with this rule.

Additionally, the Department does not anticipate that any person will be adversely affected by the rule, as many industry providers have requested the Department to propose the instant rule. During the COVID-19 state of emergency, approved providers were authorized to offer education remotely, as in-person education was significantly reduced or restricted. This rule seeks to allow providers, at their option, to offer many of the same educational courses, in a similar format, that were offered during the state of emergency.

Moreover, as an emergency re-adoption, the Department has seen that nearly all of the schools, within the scope of the rule, have voluntarily participated in this program, offering further support that continuation of the rule will only benefit the public.

For the foregoing reasons, the Department finds that this rule will not impose any adverse impacts.

Rural Area Flexibility Analysis

This rule does not require a RFA or RAFA. As evident from the purpose of the rule, it will not impose any adverse impacts on small businesses, local governments, or public or private entities, including those in rural areas of the state. Additionally, the rule will not impose any mandatory reporting, record keeping or other compliance requirements on those impacted by the rule.

The New York State Department of State (the "Department") does not expect any person to be negatively impacted by the adoption of this rule because it will provide greater flexibility to educational providers and students to satisfy non-discretionary educational requirements. Further, since the rule is discretionary, it will not impose any new mandates on providers or students.

The rule provides that entities already approved by the Department to offer education, at their choosing and subject to reasonable restrictions, may offer the same education remotely to students. Further, the rule will also allow such educational providers, at their choosing and subject to reasonable restrictions, to offer final examinations remotely. Accordingly, schools that do not desire to offer remote learning will not need to comply with this rule.

Additionally, the Department does not anticipate that any person will be adversely affected by the rule, as many industry providers have requested the Department to propose the instant rule. During the COVID-19 state of emergency, approved providers were authorized to offer education remotely, as in-person education was significantly reduced or restricted. This rule seeks to allow providers, at their option, to offer many of the same educational courses, in a similar format, that were offered during the state of emergency.

Moreover, as an emergency re-adoption, the Department has seen that nearly all of the schools, within the scope of the rule, have voluntarily participated in this program, offering further support that continuation of the rule will only benefit the public.

For the foregoing reasons, the Department finds that this rule will not impose any adverse impacts.

Job Impact Statement

A Job Impact Statement is not required for these regulations, because it is apparent from the nature and purpose of the regulations that they will not have a substantial adverse impact on jobs or employment opportunities in either the public or private sectors. The regulations provide that entities already approved by the Department to offer education, at their choosing and subject to reasonable requirements, may offer the same education remotely to students. Further, these regulations will also allow such educational providers, at their choosing and subject to reasonable requirements, to offer final examinations remotely. The Department finds that by expanding educational opportunities to students, these regulations will have positive effects on jobs and employment opportunities, as it will become easier for students to complete mandated education. Moreover, as an emergency re-adoption, the Department notes that nearly all the schools, within the scope of the rule, voluntarily participated in the program, thereby supporting that this rule does not have any adverse impacts on jobs. Accordingly, the Department finds that a job impact statement is not required.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Procedures to Help Avoid Abandonment of Cemeteries and Determine When a Cemetery Has Become Abandoned

I.D. No. DOS-39-21-00013-A
Filing No. 122
Filing Date: 2022-02-24
Effective Date: 2022-03-09

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

Action taken: Amendment of Part 202; renumbering of section 202.1 to 202.6; addition of new sections 202.1 through 202.5 to Title 19 NYCRR.

Statutory authority: Executive Law, section 91; General Municipal Law, section 165; Not-for-Profit Corporation Law, section 1504(c)

Subject: Procedures to help avoid abandonment of cemeteries and determine when a cemetery has become abandoned.

Purpose: To provide procedures to help avoid abandonment of cemeteries and determine when a cemetery has become abandoned.

Text of final rule: The name of Part 202 of Title 19 of NYCRR is changed from "VOLUNTEER CEMETERY MAINTENANCE" to "CEMETERY ABANDONMENTS;" current section 202.1 "Volunteer cemetery maintenance and cleanup programs" is renumbered to section 202.6; and new sections 202.1 through 202.5 are added as follows:

PART 202

[VOLUNTEER CEMETERY MAINTENANCE] *CEMETERY ABANDONMENTS*

§ [202.1] *202.6* Volunteer cemetery maintenance and cleanup programs

(a) Upon the request of a municipal corporation, the Division of Cemeteries shall assist a municipal corporation in the organization, implementation and administration of a volunteer cemetery maintenance and cleanup program in an abandoned cemetery wholly contained within such municipal corporation for which such municipal corporation has the primary responsibility to provide care.

(b) Assistance provided by the division shall include, but shall not be limited to, the following:

(1) provide professional and technical guidance;

(2) provide a listing of service providers, such as historical monument restorers; and

(3) provide written guidelines for general maintenance.

§ 202.1 Purpose

It is the policy of the state, as stated in N-PCL section 1501, "to prevent cemeteries from falling into disrepair and dilapidation and becoming a burden upon the community." The Cemetery Board has adopted these rules and regulations to set forth procedures to involve all stakeholders early-on to avoid abandonment, and to determine that a cemetery has become abandoned.

§ 202.2 Definitions

(a) The term abandoned cemetery has the same meaning found in N-PCL section 1506-c, Town Law section 291, or County Law section 222, as appropriate.

(b) The term assume maintenance and management means an application by a cemetery pursuant to N-PCL section 1506-c to assume the management and maintenance of an abandoned cemetery.

§ 202.3 Steps to Avoid Abandonment

The division may at any time determine that a cemetery is at risk of abandonment and, together with the cemetery, take the following steps, as appropriate, to avoid abandonment:

(a) Contact local officials to seek their support and assistance and to provide them the following information:

(1) An explanation of cemetery abandonment;

(2) An explanation of why the cemetery is at risk of abandonment;

(3) Options available to the cemetery and the municipality to avoid abandonment to the municipality; and

(4) Proposed steps to be taken by the division and the cemetery and a request for municipal participation.

(b) Contact other cemeteries that may have the ability and willingness to merge or consolidate with, or assume the management and maintenance of the cemetery in danger of abandonment and provide them appropriate information.

(c) Commence an audit and inspection of the cemetery as soon as practicable.

(d) Conduct a meeting between the division and cemetery representatives to plan steps to be taken to avoid abandonment. Notice of the meeting shall be posted on the cemetery's and the division's website and local officials and other cemeteries should be invited and encouraged to attend. The attendees should consider the following:

(1) Adding board members and increasing board participation;

(2) Increasing lot owner participation and support;

(3) Obtaining community support and volunteers;

(4) Increasing revenue and decreasing expenses;

(5) Raising revenue other than from operations;

(6) Entering into joint contracts for goods or services with other cemeteries;

(7) Entering into a management agreement;

(8) Entering into service agreements;

(9) Municipal assistance – financial or in-kind;

(10) Merger or consolidation with another cemetery;

(11) Assumption of management and maintenance by another cemetery; and

(12) That abandonment funds are available when a cemetery is abandoned to a municipality or to another cemetery.

(e) The risk of abandonment should be made part of the agenda of the next regular lot owner meeting or, if the regular lot owner meeting is more than three months after the division notifies local officials that the cemetery is at risk of abandonment as provided in paragraph (a), above, it should be made part of the agenda for a special lot owner meeting scheduled to occur within such three-month period. Prior to such meeting the cemetery should:

(1) Prepare a meeting agenda;

(2) Update its list of lot owners and their addresses;

(3) Provide notice to lot owners as required by law and additional notice to maximize attendance;

(4) Give notice of the meeting to local officials and to other cemeteries that may have the ability to, and an interest in, merging or consolidating with, or assuming the management and maintenance of the cemetery; and

(5) Review and understand procedures for the conduct of the meeting and voting.

In addition to any notices required by the Not-for-Profit Corporation Law, the division shall post notice of such meetings on its website at least 30 days before the meeting.

(f) The division will attend the lot owner meeting and be available to assist the cemetery with the following:

(1) Explain the risk of abandonment;

(2) Explain the division's audit and inspection reports;

(3) Explain options and what can be done to avoid abandonment to the municipality;

(4) Provide local officials and representatives from other cemeteries an opportunity to be heard;

(5) Answer lot owner questions and concerns;

(6) Conduct board nominations and elections; and

(7) Conduct officer nominations and elections.

(g) At least quarterly, the division shall report to the board any actions taken pursuant hereto.

202.4 Procedure for Cemetery Assumption of Abandoned Cemetery

A cemetery corporation proposing to assume the management and maintenance of a cemetery pursuant to N-PCL § 1506-c shall submit an application to the Cemetery Board with the following information included:

(a) The proposed assumption of management and maintenance, for which approval of the lot owners of the applicant has been obtained at a special or regular meeting. If not, a description of the authorization or approval that has been obtained. A copy of the minutes of the meeting of the lot owners or board of directors, or of the resolution, shall be included.

(b) Support for the following representations: that the applicant has the resources, ability and commitment of directors and officers to ensure that the cemeteries will be properly operated and maintained, that they shall not fall into disrepair and dilapidation and become a burden upon the community, that they shall be operated for the mutual benefit of lot owners, and that they shall continue to serve and benefit the local communities in which they are located.

(c) A financial plan for the operations of the cemeteries. The plan shall include:

(1) A provision that all rights of lot owners of the cemetery to be abandoned and all rights of burial and memorialization will be honored and will not be affected by the assumed maintenance and management;

(2) An explanation of adjustments to prices and charges for the cemeteries, if any;

(3) An explanation of how the rules and regulations shall be applied to the cemeteries; and

(4) An identification of any significant liabilities and obligations of the cemetery to be abandoned and what treatment they will receive after the assumption of management and maintenance.

(d) Whether the applicant will assume the name under which the cemetery to be abandoned is organized or any other names by which it is known, and if so, that the applicant will file a certificate of the assumed name or names with the appropriate entity.

(e) Any planned immediate repairs, maintenance or improvements to the property or facilities of the cemetery to be abandoned, the cost of same and source of funds and terms of payment, including any expectation of state cemetery abandonment funds for such work.

(f) Whether the cemetery to be abandoned is affiliated with any religious denomination or tradition or if the majority of the persons whose bodies are interred in such cemetery are affiliated with any religious denomination or tradition, and whether the applicant follows or will follow the customs and practices of the same religious denomination or tradition.

(g) Compliance with the following public posting requirements. No earlier than 10 days prior to filing such application, post notice of the proposed assumption of management and maintenance at any offices of the cemeteries and, in a manner so as not to violate local zoning ordinances or to create a traffic hazard, all entrances to the cemeteries. The notice at each cemetery shall provide the name and address of the other cemetery. It shall also provide the telephone number and address and, where available, email address where comments may be received and the last date on which such comments will be accepted, which shall be no earlier than 60 days following the date the notices are posted.

202.5 Procedure for Determination of Abandonment –Town Maintenance

(a) Determination by the Division. At any time after initiating steps to avoid abandonment, the division, on its own or at the request of the cemetery, may issue a written determination that the cemetery has become abandoned. The written determination shall be sent to directors and officers of the cemetery corporation and to any town in which any part of the cemetery is located.

(b) The determination shall include the following information:

(1) The name and address of the cemetery corporation and contact information for directors and officers of the cemetery corporation;

(2) A description of the standard for determining that a cemetery is deemed abandoned;

(3) A description of the factors that led to the determination of abandonment;

(4) A description of any efforts taken to avoid abandonment and the results of those efforts;

(5) A list of financial accounts showing the name of the entity with whom the account is maintained; the type of account; the account number; and the last known balance;

(6) A statement that the funds in the account are the property of the town, unless the determination of abandonment is overturned, and that the town should seek guidance from the Office of the New York State Comptroller regarding the use of such funds;

(7) A description of the other assets and liabilities of the cemetery; and

(8) A statement that the town is not obligated to take title to the real property of the abandoned cemetery.

(c) Within sixty (60) days of the date of the determination letter, the determination shall be presented to the Cemetery Board for final determination. The cemetery and the town or towns shall be given written notice of the date, time and place of the meeting of the Cemetery Board at which it will be presented for final determination and representatives from same shall be heard. The board shall either confirm or reverse the determination or may seek additional information.

Final rule as compared with last published rule: Nonsubstantial changes were made in sections 202.2(a), 202.3(a)(2), (d)(11), (e), (5), (f)(2), 202.4(b), (c), (1), (2), (3), (4), (5), (6), (7), (e), (f), (g) and (h).

Text of rule and any required statements and analyses may be obtained from: Robert Vanderbles, Department of State, One Commerce Plaza, 99 Washington Ave, Suite 1120, Albany, NY 12231-0001, (518) 486-7055, email: Robert.Vanderbles@dos.ny.gov

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

Modification of the Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement that

were published as part of the Notice of Proposed Rule Making is unnecessary. The rule does not contain any substantial revisions, and non-substantial revisions to the rule text do not render the Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement inadequate or incomplete.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2025, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The Department of State (DOS) received two comment letters during the public comment period. Some of the comments requested clarification or indicated that some provisions had been misunderstood. As a result, several editorial clarifications and minor technical changes have been made to the rule, increasing clarity and flexibility to the extent permitted by Article 15 of the Not-for-Profit Corporations Law. A summary and analysis of issues raised, significant alternatives suggested by the comments, and reasons why any significant alternatives were not incorporated into the rule are described below.

COMMENT #1: One commenter suggested that a cemetery may be at risk of abandonment when it lacks a volunteer base or lot owners to assume management of the cemetery and suggested adding to § 202.2(4), "not having sufficient volunteers to hold board positions of president, secretary, and treasurer."

RESPONSE TO COMMENT #1: DOS has considered the comment and agrees that an inability to have sufficient volunteers to serve as officers or directors, among other factors, may put a cemetery at risk of abandonment. § 202.2(a) defines "abandoned cemetery." DOS has modified this definition to refer to the meaning of that term as it appears in Not-for-Profit Corporation Law section 1506-c, Town Law section 291, and County Law section 222, as appropriate. The definition references these statutes because they explicitly consider the existence of a corporate body and they provide the clarity suggested by the comment.

COMMENT #2: A commenter suggested that § 202.3 include "shall" to make the "steps to avoid abandonment" mandatory. The commenter suggested that proactive actions are required to prevent abandonment.

RESPONSE TO COMMENT #2: DOS considered making the steps described in § 202.3 mandatory. Although DOS, together with the cemetery, will ordinarily follow these steps in seeking to prevent abandonment, there may be occasions where fulfilling each step is not appropriate. For example, where DOS has just completed an audit of a cemetery before determining that the cemetery is at risk of abandonment, completing another audit may not be appropriate. Accordingly, DOS has not incorporated the alternative language suggested by the commenter.

COMMENT #3: A commenter suggested that § 202.3(a)(2) should be amended to provide, "The written report or explanation and any determination as to why the cemetery is at risk of abandonment" in order to address variables, including urgency.

RESPONSE TO COMMENT #3: DOS has considered and agrees with this comment; § 202.3(a)(2) has been rephrased to read, "An explanation of why the cemetery is at risk of abandonment."

COMMENT #4: A commenter suggested that clarity was needed at § 202.3(b) to specify that the New York State regulated cemeteries that may be contacted - regarding merger or consolidation with a cemetery at risk of abandonment - have "experience," in addition to potentially having ability and willingness to merge or consolidate.

RESPONSE TO COMMENT #4: DOS considered this comment and believes the regulation is sufficiently clear as to cemeteries that may be contacted concerning possible merger or consolidation. DOS considered adding experience as an element to § 202.3(b), but decided that it may be construed as limiting the opportunity for assumption of the obligation to manage and maintain cemeteries to only those that have previously done so. Accordingly, DOS has not incorporated the alternative language suggested by the commenter.

COMMENT #5: A commenter suggested that DOS should compile information on a cemetery at risk of abandonment including financials, management structure, liabilities, litigation, and investigations and distribute this information before meeting with a cemetery at risk of abandonment.

RESPONSE TO COMMENT #5: DOS considered this comment and, while DOS anticipates compiling and sharing such information, has determined - for the same reasons outlined in the response to Comment #2 - the regulation should not impose a specific mandate to compile this information in all matters. Accordingly, DOS has not incorporated the suggestion.

COMMENT #6: A commenter suggested that § 202.3(e) should be redrafted to provide, "Prior to such meeting the cemetery may request division assistance in completing the following." The commenter suggested that most cemeteries will not be able to comply because, at that point in time, most cemeteries – even without a formal finding of abandonment - are most likely abandoned for all practical purposes.

RESPONSE TO COMMENT #6: DOS considered the comment and will replace "shall" with "should" to clarify that the steps set forth in § 203.3(e) may be undertaken by the Department and cemetery as appropriate. The Department has also made other minor changes to this subdivision to clarify its terms.

COMMENT #7: A commenter suggested that small struggling cemeteries will not be able to update their lists of lot owners and addresses as required by § 202.3(e)(2). The commenter suggested it should be removed or DOS should be responsible for updating the list if the cemetery is unable to do so.

RESPONSE TO COMMENT #7: DOS considered this comment and will replace "shall" with "should" to clarify that the steps set forth in § 202.3(e) may be undertaken by the Department and cemetery as appropriate. A cemetery shall maintain a list of members and their addresses in accordance with Not-for-Profit Corporation Law § 621; this regulation does not alter this statutory obligation. This regulation is designed to ensure that cemeteries at risk of abandonment try to identify as many lot owners as possible who might be interested in helping save the cemetery from abandonment.

COMMENT #8: A commenter suggested that § 202.3(e)(3) should be deleted because "additional notice" to lot owners is not defined.

RESPONSE TO COMMENT #8: DOS considered this comment and has replaced "shall" with "should" to clarify that the steps set forth in § 202.3(e) may be undertaken by the Department and cemetery as appropriate. DOS did not prescribe methods of notice in order to enable DOS and the cemetery, working together, to identify the best ways to maximize meeting attendance by lot owners within a particular community. DOS anticipates issuing a guidance document describing the best practices that cemeteries can take to try to reach lot owners and improve their membership lists.

COMMENT #9: A commenter suggested that § 202.3(e)(5) is aspirational and unrealistic because the commenter did not know how a cemetery could demonstrate to DOS that it has reviewed the procedures for the conduct of a meeting and voting.

RESPONSE TO COMMENT #9: DOS has considered this comment and has replaced "shall" with "should" to clarify that the steps set forth in § 202.3(e) may be undertaken by the Department and cemetery as appropriate, and reworded § 202.3(e)(5) to provide, "review and understand procedures for the conduct of the meeting and voting."

COMMENT #10: A commenter suggested that § 202.3(f)(2) should be rewritten because a formal report may not always be available, but other documents relating to a risk of abandonment may be available.

RESPONSE TO COMMENT #10: DOS has considered this comment and agrees. Accordingly, DOS has reworded § 202.3(f)(2) to provide, "Explain the division's audit and inspection reports."

COMMENT #11: A commenter suggested that § 202.3(f)(3) should be amended to specify the option of merging with another cemetery.

RESPONSE TO COMMENT #11: DOS considered this comment and does not believe the regulation should require explaining the possibility of merger in all cases. Accordingly, DOS has not incorporated the suggestion.

COMMENT #12: A commenter suggested that § 202.4(e) should be amended to highlight the availability of state funds in a cemetery abandonment.

RESPONSE TO COMMENT #12: DOS has considered this comment and agrees with this suggestion. Accordingly, § 202.4(e) now ends with the phrase, "including any expectation of state cemetery abandonment funds for such work."

COMMENT #13: A commenter suggested that § 202.4(g) should be clarified to require applicants to specify whether they will follow the customs and practices of the same religious denominations or traditions in an abandoned cemetery in specific sections or in all new cemetery development.

RESPONSE TO COMMENT #13: DOS considered this comment and has not incorporated the suggestion in order to keep the regulatory language identical to Not-for-Profit Corporation Law section 1506-c(a).

COMMENT #14: A commenter suggested that § 202.5 should be clarified to require DOS to provide a statement to a town that includes reasons why a town may wish to take title to an abandoned cemetery.

RESPONSE TO COMMENT #14: DOS considered this comment and has determined that it may not be in a position, in every determination concerning abandonment, to articulate to a town why it may wish to take title to a cemetery. Accordingly, DOS has not incorporated the suggestion.

COMMENT #15: A commenter was generally supportive of the proposed regulations and suggested that the proposal could be improved by providing sufficient lead times to accommodate town operations. The commenter suggested a notice period of at least one hundred eighty days to towns before the Cemetery Board may determine that a cemetery is abandoned. Alternatively, the commenter suggested that, in the absence of

regulatory change, the Cemetery Board and DOS should develop protocols to ensure sufficient lead time and resources prior to issuing a determination of abandonment.

RESPONSE TO COMMENT #15: DOS has considered this comment and will endeavor to develop protocols and continue to involve municipal officers as early as possible to avoid cemetery abandonment. However, DOS will not adopt a mandatory, minimum amount of notice prior to issuing a determination of abandonment. A cemetery may operate in a distressed condition for years or, alternatively, may fall into a distressed condition over a relatively short period of time. Requiring a minimum amount of notice in all circumstances does not comport with such variables and could even require the cemetery or DOS to begin the process earlier than may be necessary or appropriate.

NOTICE OF ADOPTION

General Administration Relating to the Division of Licensing Services

I.D. No. DOS-51-21-00004-A
Filing No. 120
Filing Date: 2022-02-24
Effective Date: 2022-03-09

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

Action taken: Addition of Part 159 to Title 19 NYCRR.

Statutory authority: Executive Law, section 91

Subject: General Administration Relating to the Division of Licensing Services.

Purpose: To give approved educational providers the option of offering mandatory course work virtually.

Text or summary was published in the December 22, 2021 issue of the Register, I.D. No. DOS-51-21-00004-EP.

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, Department of State, 123 William Street, New York, NY 10038, (212) 417-2063, email: david.mossberg@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 2025, 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.

HEARINGS SCHEDULED FOR PROPOSED RULE MAKINGS

Agency I.D. No.	Subject Matter	Location—Date—Time
Environmental Conservation, Department of		
ENV-51-21-00003-P	Environmental Remediation Programs	Electronic Webinar—April 5, 2022, 2:00 p.m. Electronic Webinar—April 7, 2022, 5:30 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 375 by December 22, 2021. The proposed regulations webpage for 6 NYCRR Part 375 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) 402-9764 and leave a message for Jenn Dawson. Please provide your first and last name, address, and telephone number and reference the Part 375 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 March 22, 2022. The written request must be addressed to Deputy Commissioner, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to the Office of Hearings and Mediation Services at ohms@dec.ny.gov. Please include "Part 375 Public Comment Hearing" in the subject line. The public comment period for Part 375 is open until 8:00 p.m., April 21, 2022. Comments may be entered during the hearing, e-mailed to derweb@dec.ny.gov, or mailed to NYS DEC, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233, Attn: Jenn Dawson. Please include "Part 375 Comments" in the subject or memo line of the correspondence.

ACTION PENDING INDEX

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

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

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

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

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
AGRICULTURE AND MARKETS, DEPARTMENT OF			
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
AAM-52-21-00001-EP	12/29/22	Control of the Box Tree Moth (Cydalima perspectalis)	To help control the spread of the Box Tree Moth, which infests certain landscaping host plants, rendering them unmarketable
AAM-02-22-00002-EP	01/12/23	License to Grow Hemp and Hemp Research Authorizations	To implement the New York State Hemp Grower License program.
ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF			
ASA-27-21-00009-P	07/07/22	General provisions applicable to all OASAS programs	To identify those provisions that are required of all OASAS certified, funded or otherwise authorized programs
ASA-42-21-00010-P	10/20/22	Provision of problem gambling treatment and recovery services.	Identify the requirements for provision of problem gambling services.
ASA-52-21-00005-EP	12/29/22	Masking requirements in all OASAS certified/ funded/otherwise authorized settings	To prevent the ongoing threat to public health of the spread of COVID-19 in OASAS settings
AUDIT AND CONTROL, DEPARTMENT OF			
AAC-09-22-00003-P	03/02/23	Electronic Contact	To provide that forms of electronic contact satisfy the written communication requirements under Abandoned Property Law
CANNABIS MANAGEMENT, OFFICE OF			
OCM-46-21-00010-P	11/17/22	Part 115 - Personal Cultivation of Cannabis	Regulation to authorize the home cultivation of cannabis for certified medical cannabis patients
OCM-01-22-00026-P	01/05/23	Part 114 - Cannabinoid Hemp	To create a licensing framework for cannabinoid hemp processors and cannabinoid hemp retailers

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CANNABIS MANAGEMENT, OFFICE OF			
OCM-10-22-00017-P	03/09/23	Part 113 - Medical Cannabis	The proposed rule established the framework for the medical cannabis program in New York State
CHILDREN AND FAMILY SERVICES, OFFICE OF			
CFS-52-21-00002-EP	12/29/22	To establish minimum standards to control the spread of COVID-19	To establish minimum standards to control the spread of COVID-19
CFS-52-21-00003-EP	12/29/22	To establish minimum standards to control the spread of COVID-19 at residential congregate programs.	To establish minimum standards to control the spread of COVID-19 at residential congregate programs.
CIVIL SERVICE, DEPARTMENT OF			
CVS-23-21-00007-P	06/09/22	Jurisdictional Classification	To classify a position in the exempt class
CVS-40-21-00008-P	10/06/22	Jurisdictional Classification	To classify a position in the exempt class.
CVS-40-21-00009-P	10/06/22	Jurisdictional Classification	To delete positions from and classify positions in the exempt class.
CVS-40-21-00010-P	10/06/22	Jurisdictional Classification	To delete positions from and classify a position in the exempt class and to classify a position in the non-competitive class
CVS-40-21-00011-P	10/06/22	Jurisdictional Classification	To classify positions in the exempt class.
CVS-40-21-00012-P	10/06/22	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-40-21-00013-P	10/06/22	Jurisdictional Classification	To classify positions in the exempt class.
CVS-40-21-00014-P	10/06/22	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-40-21-00015-P	10/06/22	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-40-21-00016-P	10/06/22	Jurisdictional Classification	To delete a position from and classify a position in the non-competitive class
CVS-44-21-00003-P	11/03/22	Jurisdictional Classification	To delete a position and to classify a position in the exempt class and to classify a position in the non-competitive class
CVS-44-21-00004-P	11/03/22	Jurisdictional Classification	To classify a position in the exempt class.
CVS-44-21-00005-P	11/03/22	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-44-21-00006-P	11/03/22	Jurisdictional Classification	To delete a position in the exempt class.
CVS-44-21-00007-P	11/03/22	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-49-21-00002-P	12/08/22	Jurisdictional Classification	To delete a position from and classify positions in the non-competitive class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-49-21-00003-P	12/08/22	Jurisdictional Classification	To delete positions from the exempt class
CVS-49-21-00004-P	12/08/22	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-49-21-00005-P	12/08/22	Jurisdictional Classification	To classify positions in the exempt class.
CVS-49-21-00006-P	12/08/22	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-49-21-00007-P	12/08/22	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-01-22-00019-P	01/05/23	Family Sick Leave	To increase amount of annual family sick leave from fifteen (15) to twenty-five (25) days for eligible M/C employees
CVS-01-22-00020-P	01/05/23	Jurisdictional Classification	To classify a position in the exempt class.
CVS-01-22-00021-P	01/05/23	Jurisdictional Classification	To classify positions in the exemp class and to classify a subheading and positions in the non-competitive class
CVS-01-22-00022-P	01/05/23	Jurisdictional Classification	To delete a position from and classify a position in the non-competitive class
CVS-01-22-00023-P	01/05/23	Jurisdictional Classification	To delete a position from and classify a position in the exempt class.
CVS-01-22-00024-P	01/05/23	Jurisdictional Classification	To classify a position in the exempt class.
CVS-01-22-00025-P	01/05/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-06-22-00001-P	02/09/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-06-22-00002-P	02/09/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-06-22-00003-P	02/09/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-06-22-00004-P	02/09/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-22-00005-P	02/09/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-22-00006-P	02/09/23	Jurisdictional Classification	To delete a position and to classify a position in the exempt class and to classify positions in the non-competitive class
CVS-06-22-00007-P	02/09/23	Jurisdictional Classification	To delete a position from and to add a subheading and classify positions in the non-competitive class
CVS-06-22-00008-P	02/09/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-09-22-00001-P	03/02/23	Supplemental military leave benefits	To extend the availability of supplemental military leave benefits for certain New York State employees until December 31, 2022

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-10-22-00001-P	03/09/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-10-22-00002-P	03/09/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-10-22-00003-P	03/09/23	Jurisdictional Classification	To delete a position from the non-competitive class
CVS-10-22-00004-P	03/09/23	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-10-22-00005-P	03/09/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-10-22-00006-P	03/09/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-10-22-00007-P	03/09/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-10-22-00008-P	03/09/23	Jurisdictional Classification	To classify a position in the non-competitive class
CORRECTION, STATE COMMISSION OF			
CMC-34-21-00001-P	08/25/22	Jail staffing requirements	To provide county governments and the City of New York an increased role and flexibility in determining officer staffing levels
CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF			
CCS-49-21-00001-P	12/08/22	Incarcerated Individual Correspondence Program	To further clarify facility mail processing procedures
CCS-07-22-00006-P	02/16/23	Forwarding Incarcerated Individual Mail	To further clarify facility mail forwarding processing procedures.
CCS-08-22-00007-EP	02/23/23	Disposition for violations of the conditions of release	To bring Board regulations into compliance with recent amendments to the Executive Law.
CRIMINAL JUSTICE SERVICES, DIVISION OF			
CJS-42-21-00004-EP	10/20/22	Professional Policing Standards	Implementation of the “New York State Professional Policing Act of 2021”
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
EDV-45-21-00001-P	11/10/22	Commercial Production Credit Program	Update regulations to include a third party verification process for application submissions.
EDV-51-21-00006-P	12/22/22	Employee Training Incentive Program	To update the administrative process for the ETIP program
EDV-05-22-00007-P	02/02/23	Post Production Tax Credit Program	Update regulations to clarify the taxable year in which a credit is allowable.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
EDU-48-21-00008-P	02/17/23	Special education impartial hearing officers and the special education due process system procedures.	To address volume of special education due process complaints in the New York City due process system
EDU-48-21-00009-P	12/01/22	Licensure of Psychologists.	To conform New York State's licensure requirements with national standards and create a pathway for licensure by endorsement.
EDU-48-21-00010-P	12/01/22	Definition of the term "year of experience" for permanent or professional certification.	To streamline the definition of "year of experience" for permanent or professional certification.
EDU-48-21-00011-P	12/01/22	School districts' exemption from the establishment of an internal audit function.	To align the student enrollment number for eligibility for such exemption with the applicable statute.
EDU-48-21-00012-ERP	12/01/22	Annual visitation of voluntarily registered nursery schools and kindergartens.	To extend flexibility for the annual visitation of voluntarily registered nursery schools and kindergartens to the 2021-2022 SY.
EDU-48-21-00013-P	12/01/22	Records retention and disposition scheudles	To revise records retention and disposition schedule LGS-1 and to remove superseded disposition schedules.
EDU-52-21-00012-P	12/29/22	General Education Core in the Liberal Arts and Sciences requirements	To remove the General Education Core in the Liberal Arts and Sciences requirements for registered teacher preparation programs and Individual Evaluation Pathway to teacher certification
EDU-52-21-00013-P	12/29/22	The eacher performance assessment requirement for certification.	To modify the teacher performance assessment requirement by eliminating the requirement of the edTPA for certification
EDU-52-21-00014-ERP	12/29/22	Requirements for the Reissuance of an Initial Certificate	To remove the requirement that candidates complete 50 hours of CTLE and/or professional learning to obtain a reissuance
EDU-52-21-00015-EP	12/29/22	Administration of non-injectable glucagon in schools by trained unlicensed school personnel	To conform the Commissioner's regulations to Chapter 339 of the Laws of 2021
EDU-04-22-00008-EP	01/26/23	Cancellation of January 2022 administration of Regents Examinations	To provide regulatory flexibility in response to the cancellation of the January 2022 Regents examination administration.
EDU-04-22-00009-EP	01/26/23	Administration of Immunizations by Pharmacists.	To conform the Commissioner's regulation to Chapter 555 of the Laws of 2021 authorizing pharmacists to administer certain immunizations.
EDU-04-22-00010-EP	01/26/23	Assessment requirements for school district leader and school district business leader program completion, the institutional recommendation for Professional SDL and SDBL certification, and the institutional recommendation Transitional D certification.	Removes the requirement that SDL, SDBL, and Transitional D candidates pass the SDL and SDBL assessment, respectively, for program completion and the institutional recommendation for Professional and Transitional D certification

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
EDU-09-22-00013-P	03/02/23	Use of Therapeutic Pharmaceutical Agents by Certified Optometrists.	To add a new class of drugs, Rho kinase inhibitors, to the list of drugs that an optometrist certified to use phase two therapeutic pharmaceutical agents may use and prescribe to treat patients
EDU-09-22-00014-P	03/02/23	Content core requirements for candidates seeking an additional science certificate.	To revise the content core requirements in registered teacher preparation programs
EDU-09-22-00015-P	03/02/23	Literacy (All Grades) certificate	Establishes the Literacy (All Grades) certificate
EDU-09-22-00016-P	03/02/23	Board of education cooperative services regional technology plans.	To modernize the language and align requirements of the regional technology plans required to be submitted by BOCES.
ELECTIONS, STATE BOARD OF			
SBE-33-21-00010-P	08/18/22	Public Campaign Finance Program	Implementation of the Public Campaign Finance Program
SBE-39-21-00003-P	09/29/22	Required Debates for Statewide Candidates Participating in the Public Campaign Finance Program	Outlines Debate Requirements for Statewide Candidates Participating in the Public Campaign Finance Program
SBE-46-21-00001-P	11/17/22	Public Campaign Finance Board's Enforcement Procedure	Relates to how the Public Campaign Finance Board will enforce the public campaign finance provisions of the Election Law
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
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-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-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
ENV-36-21-00003-P	11/15/22	Expanded Polystyrene Foam Container and Polystyrene Loose Fill Packaging Reduction	Implementation of the expanded polystyrene foam container and loose fill packaging ban in ECL Art. 27, Title 30
ENV-37-21-00004-P	09/15/22	Deer Hunting	This rulemaking will allow counties to annually, by county law, "opt-out" of the late bow and/or muzzleloader deer seasons
ENV-43-21-00010-P	10/27/22	Sunfish and crappie fishing regulations	To revise sunfish and crappie fishing regulations
ENV-49-21-00008-EP	12/08/22	Sanitary Condition of Shellfish Lands	To reclassify underwater shellfish lands to protect public health

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-49-21-00009-P	12/08/22	Freshwater fishing regulation simplification and clean-up	Eliminate unnecessary regulations, provide consistency and align regulations with actual management intent
ENV-51-21-00003-P	04/07/23	Environmental Remediation Programs	To amend 6 NYCRR Part 375, Environmental Remediation Programs.
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 Liabilty Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
DFS-42-21-00011-P	10/20/22	DISCLOSURE REQUIREMENTS FOR CERTAIN PROVIDERS OF COMMERCIAL FINANCING TRANSACTIONS	To provide new disclosure rules for small business financings
DFS-44-21-00015-P	11/03/22	Compliance With Community Reinvestment Act Requirements	To provide new rules concerning data collection on extension of credit to women-owned and minority-owned businesses.
DFS-47-21-00006-P	11/24/22	Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure	To hold insurers, plans and HMOs responsible for inaccurate provider directory information and replies to insureds' inquiries.
DFS-50-21-00016-P	12/15/22	Debt Collection by Third-Party Debt Collectors and Debt Buyers	To clarify and modify standards for debt collection practices in New York
DFS-09-22-00018-P	03/02/23	Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure	To provide additional minimum standards for the content of health insurance identification cards in accordance with Federal law
GAMING COMMISSION, NEW YORK STATE			
SGC-37-21-00017-P	09/15/22	Discretion to require a Thoroughbred jockey to serve a suspension for a riding violation at track where the violation occurred	To enhance the integrity and safety of thoroughbred horse racing
SGC-02-22-00003-P	01/12/23	Regulation of charitable gaming Internet raffles.	To implement Internet raffles regulation as directed by statute.
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-05-21-00011-RP	05/04/22	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-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HEALTH, DEPARTMENT OF			
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-46-21-00005-P	11/17/22	Nursing Home Minimum Direct Resident Care Spending	Every RHCF shall spend a minimum of 70% of revenue on direct resident care and 40% of revenue on resident-facing staffing.
HLT-46-21-00007-P	11/17/22	Minimum Staffing Requirements for Nursing Homes	Requiring minimum staffing levels for nursing homes
HLT-50-21-00001-EP	12/15/22	Prevention of COVID-19 Transmission by Covered Entities	To require covered entities to ensure their personnel are fully vaccinated against COVID-19 subject to certain exemptions.
HLT-50-21-00002-EP	12/15/22	Investigation of Communicable Disease; Isolation and Quarantine	Control of communicable disease.
HLT-50-21-00003-EP	12/15/22	Face Coverings for COVID-19 Prevention	To control and promote the control of communicable diseases to reduce their spread.
HLT-50-21-00004-EP	12/15/22	Personal Caregiving and Compassionate Caregiving Visitors in Nursing Homes (NH's) and Adult Care Facilities (ACF's)	To require NH's & ACF's to establish policies & procedures relating to personal caregiving & compassionate caregiving visitors.
HLT-01-22-00004-P	01/05/23	Prescription Refills	Limits Medicaid FFS prescriptions to a maximum of 12 fills within one year from the date the prescriber initiates a prescription
HLT-07-22-00010-P	02/16/23	Clinical Staffing in General Hospitals	Requires general hospitals to have clinical staffing committees and create clinical staffing plans
HLT-07-22-00011-P	02/16/23	Surge and Flex Health Coordination System	Provides authority to the Commissioner to direct certain actions and waive certain regulations in an emergency.
HLT-10-22-00009-P	03/09/23	Updated Retention Standards for Adult Care Facilities	To ensure admission and retention standards for adult care facilities are consistent with the Americans with Disabilities Act.
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
INDUSTRIAL BOARD OF APPEALS			
IBA-45-21-00003-P	11/10/22	Rules of Procedure and Practice for administrative hearings; Freedom of Information Law	To update the Rules of Procedure and Practice for administrative review and to correct address for Freedom of Information Law.
JOINT COMMISSION ON PUBLIC ETHICS, NEW YORK STATE			
JPE-06-22-00015-EP	02/09/23	Adjudicatory proceedings and appeals procedures for matters under the Commission's jurisdiction	To increase transparency of the Commission

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LABOR, DEPARTMENT OF			
LAB-34-21-00002-EP	11/17/22	New York Health and Essential Rights Act (NY HERO Act)	Airborne Infectious Disease Exposure Prevention Standard
LAB-51-21-00007-P	02/09/23	Workplace Safety Committees	To comply with Labor Law 27-d(8) which requires that the Department adopt regulations.
LAB-05-22-00008-EP	02/02/23	Unemployment Insurance Work Search	Permit unemployment claimants to use virtual and electronic methods to engage in systemic and sustained work search efforts.
LAW, DEPARTMENT OF			
LAW-48-21-00016-P	12/01/22	Contents of annual financial reports required to be filed by charities required to register with the Department of Law	Amend filing requirement held unconstitutional by the United States Supreme Court; conform filing thresholds to law
LAW-49-21-00016-P	12/08/22	Charities regulatory framework and the use of gendered pronouns therein	Removal of all references to gender pronouns and replacing them with the neutral pronoun, “they” or “their”
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LONG ISLAND POWER AUTHORITY			
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
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-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
OMH-33-21-00005-ERP	08/18/22	Establishes Crisis Stabilization Centers.	To establish standards for a Crisis Stabilization Center which provides a full range of psychiatric and substance use services.
OMH-40-21-00007-EP	10/06/22	COVID-19 Masking Program	To implement a COVID-19 mask program
OMH-43-21-00002-EP	10/27/22	COVID-19 Vaccination Program	To implement a COVID-19 vaccination program in OMH Operated or Licensed Hospitals
OMH-48-21-00003-EP	12/01/22	Telehealth Expansion.	To establish regulations regarding the expansion of telehealth.
METROPOLITAN TRANSPORTATION AGENCY			
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-09-22-00017-P	03/02/23	Passenger and commercial registrations	Allows a passenger class registration for non-commercially used pickup trucks by removing the truck weight limitation
NIAGARA FALLS WATER BOARD			
*NFW-04-13-00004-EP	exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
NFW-49-21-00010-EP	12/08/22	Adoption of Rates, Fees, and Charges	To pay for increased costs necessary to operate, maintain, and manage the system, and to meet covenants with the bondholders
OGDENSBURG BRIDGE AND PORT AUTHORITY			
*OBA-33-18-00019-P	exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
OGDENSBURG BRIDGE AND PORT AUTHORITY			
*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-37-21-00001-P	09/15/22	Certified Residential Opportunities	To provide equity in opportunities for certified residential opportunities
PDD-40-21-00002-EP	10/06/22	Mandatory Face Coverings in OPWDD Certified Services	To protect public health
PDD-43-21-00003-ERP	10/27/22	COVID-19 vaccines	To require vaccinations in certain OPWDD settings
PDD-46-21-00015-P	11/17/22	Community Transition Services	To match federal limitations and use gender neutral terminology
PDD-04-22-00007-P	01/26/23	Reportable Incidents	To remove administration of medical cannabis from the list of reportable incidents
PDD-07-22-00004-EP	02/16/23	Certification of the Facility Class Known as Individualized Residential Alternative	To increase IRA capacity in cases of emergent circumstances
PDD-07-22-00005-EP	02/16/23	General Purpose	To increase IRA capacity in cases of emergent circumstances
PDD-09-22-00005-P	03/02/23	Administrative Compensation	To repeal Part 645 as Executive Order 38 has sunset
PDD-10-22-00010-EP	03/09/23	Training Flexibilities	To provide flexibility in training requirements
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 EMPLOYMENT RELATIONS BOARD			
PRB-01-22-00006-P	01/05/23	Rules and regulations to effectuate the purposes of the State Employment Relations Act (Labor Law Art. 20).	To enact procedures for the Farm Laborers Fair Laborers Practice Act, which amended the State Employment Relations Act.
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-07-02-00032-P	exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement

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PUBLIC SERVICE COMMISSION			
*PSC-28-04-00006-P	exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	exempt	Accounts recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*PSC-46-04-00012-P	exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer

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PUBLIC SERVICE COMMISSION			
*PSC-50-05-00008-P	exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*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

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PUBLIC SERVICE COMMISSION			
*PSC-11-07-00011-P	exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*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

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PUBLIC SERVICE COMMISSION			
*PSC-08-08-00016-P	exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*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

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PUBLIC SERVICE COMMISSION			
*PSC-43-08-00014-P	exempt	Annual Reconcilliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-05-09-00009-P	exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commerical 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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-09-00012-P	exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p
*PSC-29-09-00011-P	exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-36-09-00008-P	exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	exempt	Modifications to the $5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income $5 Bill Credit Program
*PSC-39-09-00018-P	exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to $50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-12-10-00015-P	exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	exempt	Approval of a contract for $250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of $250,000 for tank repairs
*PSC-34-10-00006-P	exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-40-10-00014-P	exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	exempt	The proposed transfer of 55.42 acres of land and $1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and $1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	exempt	Water rates and charges	To approve an increase in annual revenues by about $25,266 or 50%

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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 Commssion reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order.	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing.
*PSC-35-11-00011-P	exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York
*PSC-01-12-00007-P	exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-11-12-00002-P	exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than $100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*PSC-23-12-00007-P	exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-45-12-00010-P	exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*PSC-08-13-00014-P	exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.
*PSC-18-13-00007-P	exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive
*PSC-21-13-00009-P	exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-25-13-00008-P	exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-25-13-00009-P	exempt	Provision by utilities of natural gas main and service lines.	To help ensure efficient and economic expansion of the natural gas system as appropriate.
*PSC-25-13-00012-P	exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-27-13-00014-P	exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.
*PSC-28-13-00017-P	exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	exempt	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices
*PSC-32-13-00012-P	exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island.	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-45-13-00023-P	exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines.	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	exempt	Petition for submetering of electricity.	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	exempt	Conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.	Consideration of conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.
*PSC-49-13-00008-P	exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00010-P	exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00011-P	exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-52-13-00012-P	exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	exempt	To enter into a loan agreement with the banks for up to an amount of $94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality andthe Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-11-14-00003-P	exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties.	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties.
*PSC-16-14-00015-P	exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336.	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00008-P	exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	exempt	Petition to transfer and merge systems, franchises and assets.	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.
*PSC-23-14-00010-P	exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.
*PSC-26-14-00013-P	exempt	Waiver of RG&E's tariffed definition of emergency generator.	To consider waiver of RG&E's tariffed definition of emergency generator.
*PSC-26-14-00020-P	exempt	New electric utility backup service tariffs and standards for interconnection may be adopted.	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.
*PSC-26-14-00021-P	exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established.	To balance the need for the information necessary to support a robust market with customer privacy concerns.
*PSC-28-14-00014-P	exempt	Petition to transfer systems, franchises and assets.	To consider the Comcast and Charter transfer of systems, franchise and assets.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-30-14-00023-P	exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter.	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.
*PSC-30-14-00026-P	exempt	Petition for a waiver to master meter electricity.	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive,Albany, NY.
*PSC-31-14-00004-P	exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*PSC-36-14-00009-P	exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
*PSC-38-14-00003-P	exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.
*PSC-38-14-00004-P	exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	exempt	Whether to expand Con Edison's low income program to include Medicaid recipients.	Whether to expand Con Edison's low income program to include Medicaid recipients.
*PSC-38-14-00008-P	exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.
*PSC-38-14-00012-P	exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-39-14-00020-P	exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-40-14-00009-P	exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality.	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1.
*PSC-40-14-00011-P	exempt	Late Payment Charge.	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-40-14-00013-P	exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.
*PSC-40-14-00014-P	exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-40-14-00015-P	exempt	Late Payment Charge.	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-42-14-00003-P	exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	exempt	Considering the recommendations contained in Staff' s electric outage investigation report for MNRR, New Haven Line.	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.
*PSC-52-14-00019-P	exempt	Petition for a waiver to master meter electricity.	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY..
*PSC-01-15-00014-P	exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-08-15-00010-P	exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.	To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program.
*PSC-10-15-00007-P	exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*PSC-13-15-00024-P	exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking's request to recover a shortfall in earnings
*PSC-13-15-00026-P	exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of $2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of $2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program.	To consider approval of remote net metering of a demonstration community net metering program.
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project.	To consider approval of remote net metering of a Community Solar Demonstration Project.
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-42-15-00006-P	exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.
*PSC-44-15-00028-P	exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	exempt	Whitepaper on Implementing Lightened Ratemaking Regulation.	Consider Whitepaper on Implementing Lightened Ratemaking Regulation.
*PSC-48-15-00011-P	exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	exempt	Modification of the EDP	To consider modifying the EDP
*PSC-01-16-00005-P	exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.
*PSC-06-16-00013-P	exempt	Continued deferral of approximately $16,000,000 in site investigation and remediation costs.	To consider the continued deferral of approximately $16,000,000 in site investigation and remediation costs.
*PSC-06-16-00014-P	exempt	MEGA's proposed demonstration CCA program.	To consider MEGA's proposed demonstration CCA program.
*PSC-14-16-00008-P	exempt	Resetting retail markets for ESCO mass market customers.	To ensure consumer protections with respect to residential and small non-residential ESCO customers.
*PSC-18-16-00013-P	exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00014-P	exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*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.

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-47-16-00009-P	exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for RG&E.
*PSC-02-17-00012-P	exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for NYSEG.
*PSC-18-17-00024-P	exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist.
*PSC-18-17-00026-P	exempt	Revisions to the Dynamic Load Management surcharge.	To consider revisions to the Dynamic Load Management surcharge.
*PSC-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 payour 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.

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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 Aspirity for its non-compliance with Commission requirements.	To ensure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-24-18-00013-P	exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-28-18-00011-P	exempt	Storm Hardening Collaborative Report.	To ensure safe and adequate gas service.
*PSC-29-18-00008-P	exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00015-P	exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and energy efficiency protections are in place.
*PSC-34-18-00016-P	exempt	Deferral of pre-staging and mobilization storm costs.	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs.
*PSC-35-18-00003-P	exempt	Con Edison's 2018 DSIP and BCA Handbook Update.	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00005-P	exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update.	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers.
*PSC-35-18-00006-P	exempt	National Grid's 2018 DSIP and BCA Handbook Update.	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00008-P	exempt	Central Hudson's 2018 DSIP and BCA Handbook Update.	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00010-P	exempt	O&R's 2018 DSIP and BCA Handbook Update.	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider.
*PSC-39-18-00005-P	exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-40-18-00014-P	exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018.

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-31-19-00013-P	exempt	Implementation of Statewide Energy Benchmarking.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-32-19-00012-P	exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources
*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.
*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-44-19-00009-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-08-20-00003-P	exempt	PSC regulation 16 NYCRR § § 86.3(a)(2) and 86.3(b)(2).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
*PSC-10-20-00003-P	exempt	The Commission's statewide low-income discount policy.	To consider modifications to certain conditions regarding utility low-income discount programs.
*PSC-12-20-00008-P	exempt	Delivery rates of Corning Natural Gas Corporation.	Whether to postpone the implementation of a change in rates that would otherwise become effective on June 1, 2020.
*PSC-15-20-00011-P	exempt	To modify the terms and conditions under which gas utilities provide service to electric generators.	To provide clarity and uniformity to the provision of gas service to electric generators.
*PSC-16-20-00004-P	exempt	Disposition of a state sales tax refund.	To determine how much of a state sales tax refund should be retained by Central Hudson.
*PSC-18-20-00012-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-20-00015-P	exempt	Participation of Eligible Telecommunications Carriers (ETCs) in New York State Lifeline Program.	Commission will consider each petition filed by an ETCs seeking approval to participate in the NYS Lifeline program.
*PSC-19-20-00004-P	exempt	Clarification of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether energy service companies should be permitted to bank RECs to satisfy their renewable energy requirements.
*PSC-19-20-00005-P	exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation.	To provide cost recovery for new DLM programs and prevent double compensation to participating customers.
*PSC-19-20-00009-P	exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation.	To consider revisions to P.S.C. No. 10 - Electricity, and P.S.C. No. 12 - Electricity.
*PSC-25-20-00010-P	exempt	Whitepaper regarding energy service company financial assurance requirements.	To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies.
*PSC-25-20-00016-P	exempt	Modifications to the Low-Income Affordability program.	To address the economic impacts of the COVID-19 pandemic.
*PSC-27-20-00003-P	exempt	To make the uniform statewide customer satisfaction survey permanent.	To encourage consumer protections and safe and adequate service.
*PSC-28-20-00022-P	exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-28-20-00034-P	exempt	Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act	To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals
*PSC-34-20-00005-P	exempt	Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers.	To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory.
*PSC-38-20-00004-P	exempt	The annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.
*PSC-42-20-00008-P	exempt	Availability of gas leak information to the public safety officials.	Facilitate availability of gas leak information to public safety officials by gas corporations.
*PSC-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-45-20-00003-P	exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-46-20-00005-P	exempt	The recommendations of the DPS Staff report to improve Hudson Valley Water's service.	To determine if approving the DPS Staff's recommendations is in the public interest.
*PSC-48-20-00005-P	exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Chief Energy Power, LLC should be permitted to offer green gas products to mass market customers.
*PSC-48-20-00007-P	exempt	Tariff modifications to change National Fuel Gas Distribution Corporation's Monthly Gas Supply Charge provisions.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

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PUBLIC SERVICE COMMISSION			
*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-51-20-00014-P	exempt	Electric system needs and compensation for distributed energy resources.	To ensure safe and adequate service and just and reasonable rates, including compensation, for distributed energy resources.
*PSC-01-21-00004-P	exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether petitioner should be permitted to offer its Home Warranty product to mass market customers.
*PSC-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-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-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-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-09-21-00005-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-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-14-21-00003-RP	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-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-17-21-00005-P	exempt	Submetering equipment.	To consider use of submetering equipment and if it is in the public interest.
PSC-17-21-00006-P	exempt	Community Choice Aggregation and Community Distributed Generation.	To consider permitting opt-out Community Distributed Generation to be offered as the sole product in an aggregation.
PSC-17-21-00007-P	exempt	Utility studies of climate change vulnerabilities.	To assess the need for utilities to conduct distinct studies of their climate change vulnerabilities.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-18-21-00004-P	exempt	Community Choice Aggregation programs.	To modify and improve Community Choice Aggregation programs in New York State.
PSC-18-21-00006-P	exempt	Community Choice Aggregation renewable products.	To consider waiving the locational and delivery requirements for RECs purchased to support renewable CCA products.
PSC-18-21-00008-P	exempt	RG&E's Economic Development Programs and exemption from funding limits.	To consider RG&E to grant up to $5.25 million in ED funding to Project Block to the benefit of ratepayers.
PSC-19-21-00008-P	exempt	Community Choice Aggregation (CCA) and Community Distributed Generation (CDG).	To consider permitting Upstate Power, LLC to serve as a CCA administrator offering an opt-out CDG focused program.
PSC-19-21-00009-P	exempt	Major electric rate filing.	To consider an increase in O&R's electric delivery revenues.
PSC-19-21-00012-P	exempt	Major gas rate filing.	To consider an increase in O&R's gas delivery revenues.
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-21-21-00015-P	exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
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-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-25-21-00005-P	exempt	Transfer of Penelec assets and franchise rights.	To consider the transfer of utility assets and franchise to be in Waverly ratepayer and public interest.
PSC-26-21-00010-P	exempt	Proposed acquisition of all shares of common stock of Corning Natural Gas Holding Corporation by ACP Crotona Corp.	To consider whether the acquisition of all shares of common stock of CNGH by ACP Crotona Corp. is in the public interest.
PSC-26-21-00011-P	exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-28-21-00012-P	exempt	Transfer of ownership interests in a 55 megawatt natural gas-fired cogeneration facility located in North Tonawanda, NY.	To address the proposed transfer and any matters within the public interest.
PSC-28-21-00013-P	exempt	Elimination of internal audits of wholesale performance metrics.	To consider Verizon New York Inc.'s petition to eliminate requirements for certain internal audits.
PSC-28-21-00015-P	exempt	Proposals for active and passive managed charging programs for mass market EV customers.	To shift EV charging to moderate grid impacts and customer costs.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-29-21-00004-P	exempt	Exemptions from utility standby rates for efficient combined heat and power projects.	To determine whether utility standby rate exemptions should be continued.
PSC-29-21-00009-P	exempt	Proposed pilot program to use AMI to disconnect electric service to customers during gas system emergencies.	To study the efficacy of using AMI to disconnect electric service during gas system emergencies.
PSC-30-21-00006-P	exempt	NYSERDA proposal regarding Clean Energy Standard backstop collection processes.	To ensure that NYSERDA has sufficient funds to make timely payments to generators pursuant to the Clean Energy Standard.
PSC-32-21-00002-P	exempt	The prohibition on ESCO service to low-income customers.	To consider whether Icon Energy, LLC d/b/a Source Power Company should be granted a waiver to serve low-income customers.
PSC-32-21-00003-P	exempt	Exemptions from utility standby rates for certain designated or environmentally advantageous technologies.	To harmonize standby rate exemptions statewide.
PSC-33-21-00008-P	exempt	Establishment of a Tapping and Connection Fee.	To consider whether the proposed fees are in the public interest.
PSC-33-21-00009-P	exempt	Banking of credits and switching between Community Distributed Generation and Remote Crediting projects.	To ensure just and reasonable rates charged to customers.
PSC-34-21-00004-P	exempt	CDG subscriber eligibility requirements.	To consider modifications to the CDG program eligibility requirements for certain Standby Service customers.
PSC-34-21-00006-P	exempt	Staff recommendations to address the financial impacts of the COVID-19 pandemic.	To consider measures to provide relief to those financially impacted by the COVID-19 pandemic.
PSC-35-21-00004-P	exempt	Major gas rate filing.	To consider a proposed increase in Corning's gas delivery revenues of approximately $5.8 million (20.4% in total revenues).
PSC-35-21-00009-P	exempt	To modify the terms and conditions under which gas utilities provide service to electric generators.	To provide clarity and uniformity to the provision of gas service to electric generators in New York State.
PSC-36-21-00006-P	exempt	The Westchester Power Program.	To consider integration of Opt-out Community Distributed Generation into the Westchester Power program.
PSC-36-21-00007-P	exempt	Pension settlement payout losses incurred in 2020.	Consideration of NYAW's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2020.
PSC-37-21-00009-P	exempt	Procedures necessary to implement Tax Law Section 187-q.	To establish procedures by which eligible utility-taxpayers can have the amounts of certain waived customer arrears certified.
PSC-37-21-00010-P	exempt	Zero emitting electric generating facilities that are not renewable energy systems.	To consider modifications to the Clean Energy Standard.
PSC-37-21-00011-P	exempt	Green Button Connect implementation.	To consider the proposed Green Button Connect User Agreement and Green Button Connect Onboarding Process document.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-37-21-00012-P	exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Catalyst should be permitted to offer its Community Distributed Generation product to mass market customers.
PSC-37-21-00014-P	exempt	Consideration of Time Warner Cable Information Services (New York)'s Revised Implementation Plan and audit recommendations.	To ensure that recommendations issued in a management and operations audit are appropriately addressed and implemented.
PSC-38-21-00006-P	exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.
PSC-38-21-00007-P	exempt	Electric metering equipment.	To consider use of electric submeter and ensure that consumer bills will be based on accurate measurements of electric usage.
PSC-39-21-00006-P	exempt	Minor electric rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-39-21-00007-P	exempt	The proposed alternative method of account identification.	To facilitate secure customer data exchanges between the utility or provider and energy service entities.
PSC-40-21-00017-P	exempt	The Commission's Order Adopting Utility Energy Registry Modifications	To determine if the Commission committed errors of law or fact in its Order, or if new facts warrant a different result.
PSC-40-21-00021-P	exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-43-21-00007-P	exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates.
PSC-43-21-00008-P	exempt	Incremental demand side management programs.	To consider proposed demand side management programs and cost recovery.
PSC-44-21-00010-P	exempt	Petition to enter a long term loan agreement and to institute a surcharge for recovery.	To determine if the issuance of long term debt and a surcharge mechanism for recovery is in the public interest.
PSC-44-21-00012-P	exempt	Disposition of a New York State tax refund.	To determine the disposition of a tax refund obtained by New York American Water Company, Inc.
PSC-44-21-00014-P	exempt	Development of distribution and local transmission in accordance with the AREGCB Act.	To support distribution and local transmission investments necessary to achieve the the State's climate goals.
PSC-46-21-00013-P	exempt	ESCO Eligibility	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.
PSC-46-21-00014-P	exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-47-21-00003-P	exempt	Utility processes for customers to consent to sharing data with third parties and how consent options will be communicated.	To develop standardized consent requirements that will increase customer familiarity with appropriate data sharing and access.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-47-21-00004-P	exempt	Proposed modifications to CDRP.	To consider revisions to CDRP, as well as conforming tariff revisions.
PSC-47-21-00005-P	exempt	Utility processes for customers to consent to sharing data with third parties and how consent options will be communicated.	To develop standardized consent requirements that will increase customer familiarity with appropriate data sharing and access.
PSC-48-21-00007-P	exempt	Verizon's Performance Assurance Plan.	To consider whether to retire the Performance Assurance Plan.
PSC-49-21-00011-P	exempt	Amendments to the SIR.	To more effectively interconnect distributed generation and energy storage systems 5 MW or less to the distribution system.
PSC-49-21-00012-P	exempt	Hosting capacity maps at investor-owned electric utilities.	To provide more useful information about the distribution system's hosting capacity.
PSC-49-21-00013-P	exempt	Amendments to the SIR and funding mechanisms.	To more equitably share costs among distributed generation and energy storage projects that require capital upgrades.
PSC-49-21-00014-P	exempt	A Tier 4 renewable energy certificate contract.	To increase renewable generation in New York city.
PSC-49-21-00015-P	exempt	A Tier 4 renewable energy certificate contract.	To increase renewable generation in New York city.
PSC-50-21-00005-P	exempt	Notice of intent to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-50-21-00006-P	exempt	Implementation of the Host Community Benefit Program.	To consider the proposed administration and implementation related to disbursement of customer bill credits.
PSC-50-21-00008-P	exempt	Implementation of the Host Community Benefit Program.	To consider the proposed administration and implementation related to disbursement of customer bill credits.
PSC-50-21-00010-P	exempt	New York City's proposal to procure Tier 4 Renewable Energy Certificates.	To modify load serving entity compliance obligations under the Clean Energy Standard.
PSC-50-21-00011-P	exempt	Implementation of the Host Community Benefit Program.	To consider the proposed administration and implementation related to disbursement of customer bill credits.
PSC-50-21-00012-P	exempt	Implementation of the Host Community Benefit Program.	To consider the proposed administration and implementation related to disbursement of customer bill credits.
PSC-50-21-00013-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-50-21-00014-P	exempt	Submetering of electricity and waiver request.	To ensure adequate submetering equipment, consumer protections and energy efficiency measures are in place.
PSC-51-21-00008-P	exempt	Distribution level demand response programs	More efficient demand response programs to gain operational efficiency and shave peak demand

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-51-21-00009-P	exempt	Distribution-level demand response programs	More efficient demand response programs to gain operational efficiency and shave peak demand
PSC-51-21-00010-P	exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-51-21-00011-P	exempt	Distribution-level demand response programs	More efficient demand response programs to gain operational efficiency and shave peak demand
PSC-51-21-00012-P	exempt	Distribution-level demand response programs	More efficient demand response programs to gain operational efficiency and shave peak demand
PSC-51-21-00013-P	exempt	Distribution-level demand response programs	More efficient demand response programs to gain operational efficiency and shave peak demand
PSC-51-21-00014-P	exempt	Distribution level demand response programs	More efficient demand response programs to gain operational efficiency and shave peak demand
PSC-51-21-00015-P	exempt	PSC Regulation 16 NYCRR 86.3(b)(2), and 88.4(a)(4)	To consider the Applicants requests relating to the content of their application for transmission line siting
PSC-51-21-00016-P	exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-52-21-00006-P	exempt	Proposed tariff revisions to the Companies firm demand response programs for the 2021-2022 season.	To effectuate more efficient firm gas demand response programs to gain operational efficiency and shave peak demand.
PSC-52-21-00007-P	exempt	Clean Energy Standard Tier 1 Load Serving Entity Obligations.	To modify the Tier 1 Load Serving Entity obligations for compliance year 2023 and establish the obligation for year 2024.
PSC-52-21-00008-P	exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-52-21-00009-P	exempt	Authorization to recover costs for 19 transmission projects and related mechanisms.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-52-21-00010-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-01-22-00007-P	exempt	Amendments to the SIR.	To more effectively interconnect distributed generation and energy storage systems 5 MW or less to the distribution system.
PSC-01-22-00008-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-01-22-00009-P	exempt	Notice of intent to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-01-22-00010-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-01-22-00011-P	exempt	Waiver of Article VII requirements.	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-01-22-00012-P	exempt	Notice of intent to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-01-22-00013-P	exempt	Interconnection costs.	To consider a petition requesting relief from interconnection costs assigned by the interconnecting utility.
PSC-01-22-00014-P	exempt	Notice of intent to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-01-22-00015-P	exempt	Petition to enter into a lease agreement and impose a surcharge.	To consider entry into a lease agreement and to impose a surcharge.
PSC-01-22-00016-P	exempt	Notice of intent to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-01-22-00017-P	exempt	Establishment of the regulatory regime applicable to a renewable natural gas project.	To ensure appropriate regulation of a new gas corporation.
PSC-01-22-00018-P	exempt	The New York State Reliability Council's establishment of an Installed Reserve Margin of 19.6%	To ensure adequate levels of Installed Capacity.
PSC-02-22-00004-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-02-22-00005-P	exempt	The electric utilities' 2022 Electric Emergency Response Plans.	To consider the adequacy of the proposed 2022 Electric Emergency Response Plans.
PSC-02-22-00006-P	exempt	Green gas products.	To consider whether to extend the waiver permitting Family Energy, Inc. to serve existing customers on a green gas product.
PSC-02-22-00007-P	exempt	Proposed changes to Rider Z - SC 1 Innovative Pricing Pilot and Rider AA - SC 2 Innovative Pricing Pilot.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-03-22-00003-P	exempt	Proposal by electric utilities on a revised benefit cost analysis method.	To support distribution and local transmission investments necessary to achieve the the State's clean energy and climate goals.
PSC-03-22-00004-P	exempt	Proposal by electric utilities on a coordinated electric grid planning process.	To support distribution and local transmission investments necessary to achieve the the State's clean energy and climate goals.
PSC-04-22-00002-P	exempt	Con Edison's petition for specific non-pipeline alternative projects.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-04-22-00003-P	exempt	Proposed sale of real property.	To determine if the proposed sale of real property is in the public interest.
PSC-04-22-00004-P	exempt	Extension of the State Universal Service Fund.	To continue to provide universal service at a reasonable rate in certain service territories.
PSC-04-22-00005-P	exempt	Petition to continue development and recover the costs of 23 local transmission projects.	To ensure safe and adequate service at just and reasonable rates and to support the State's clean energy and climate goals.
PSC-04-22-00006-P	exempt	Area code overlay as relief of the exhausting 845 area code.	To ensure performance in accordance with applicable telecommunications laws, regulations and standards and the public interest.
PSC-05-22-00001-P	exempt	Green gas products.	To consider an extension of the waiver permitting energy service companies to serve existing customers on green gas products.
PSC-05-22-00002-P	exempt	Notification concerning tax refunds.	To consider Verizon New York Inc.'s request to retain a portion of a property tax refund.
PSC-05-22-00003-P	exempt	Green gas products.	To consider an extension of the waiver permitting energy service companies to serve existing customers on a green gas product.
PSC-05-22-00004-P	exempt	Initial Tariff Schedule.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-05-22-00005-P	exempt	Disposition of a garbage and refuse tax refund.	To determine the disposition of tax refunds and other related matters.
PSC-05-22-00006-P	exempt	Green gas products.	To consider an extension of the waiver permitting energy service companies to serve existing customers on a green gas product.
PSC-06-22-00009-P	exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-06-22-00010-P	exempt	Tariff rate modifications for PASNY Delivery Service.	To implement just and reasonable rates for distributed energy resources.
PSC-06-22-00011-P	exempt	Green gas products.	To consider whether to extend the waiver permitting American Power & Gas to serve existing customers on a green gas product.
PSC-06-22-00012-P	exempt	Retainment of property tax refunds.	To consider Verizon New York Inc.'s request to retain a portion of a property tax refund.
PSC-06-22-00013-P	exempt	The Commission's Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether to extend the date to comply with the CES locational and delivery requirements when purchasing RECs.
PSC-06-22-00014-P	exempt	The regulatory regime applicable to a solar electric generating facility.	To ensure appropriate regulation of a new electric corporation.
PSC-07-22-00007-P	exempt	Minor electric rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-07-22-00008-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-07-22-00009-P	exempt	Notice of intent 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-08-22-00002-P	exempt	Issuance of securities and other forms of indebtedness.	To provide funding for capital needs, including construction, and refinancing of maturing debt.
PSC-08-22-00003-P	exempt	Electric metering equipment.	To consider the use of equipment and ensure that consumer bills will be based on accurate measurements of electric usage.
PSC-08-22-00004-P	exempt	Debt financing arrangement.	To review the proposed financing and consider whether it is within the public interest.
PSC-08-22-00005-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-08-22-00006-P	exempt	Establishment of a lightened regulatory regime applicable to a battery storage project.	To ensure appropriate regulation of an electric corporation.
PSC-09-22-00006-P	exempt	Assessment of the need of the project for the the provision of safe and adequate service at just and reasonable rates.	To determine whether the project is necessary and whether the utility can begin cost recovery through a surcharge mechanism.
PSC-09-22-00007-P	exempt	Green gas products.	To consider whether to extend the waiver permitting Viridian Energy PA, LLC to serve existing customers on a green gas product.
PSC-09-22-00008-P	exempt	Green gas products.	To consider whether to extend the waiver permitting Just Energy New York to serve existing customers on a green gas product.
PSC-09-22-00009-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-09-22-00010-P	exempt	Green gas products.	To consider whether to extend the waiver permitting Alpha Gas & Electric to serve existing customers on a green gas product.
PSC-09-22-00011-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-09-22-00012-P	exempt	Proposals to implement an Electric Vehicle Make Ready Surcharge for Street Lighting Customers.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-10-22-00011-P	exempt	Notice of intent to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-10-22-00012-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-10-22-00013-P	exempt	Agreement for the provision of water service and waivers.	To consider whether the terms of a service agreement and requested waivers are in the public interest.
PSC-10-22-00014-P	exempt	Amendments to Outdoor Gas Lighting tariff provisions.	To eliminate the outdated provisions concerning the use of natural gas for decorative outdoor lighting.
PSC-10-22-00015-P	exempt	To assign certain easement interests and to transfer certain Central Hudson's property to Transco.	To consider whether the easement interests and transfer of certain Central Hudson property to Transco is in the public interest.
PSC-10-22-00016-P	exempt	Amendments to Outdoor Gas Lighting tariff provisions.	To eliminate the outdated provisions concerning the use of natural gas for decorative outdoor lighting.
STATE UNIVERSITY OF NEW YORK			
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
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-08-22-00001-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.	To set the sales tax component and the composite rate per gallon for the period April 1, 2022 through June 30, 2021.
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-51-21-00002-EP	12/22/22	Elderly Simplified Application Project (ESAP) for the Supplemental Nutrition Assistance Program (SNAP)	To simplify the SNAP eligibility process for certain elderly and/or disabled residents in New York State
TDA-01-22-00001-EP	01/05/23	2019 Novel Coronavirus (COVID-19) masking requirements in congregate shelters	Protect the well-being of shelter staff and persons staying in congregate shelters
WORKERS' COMPENSATION BOARD			
WCB-28-21-00009-RP	07/14/22	Telehealth	Provides the option for telehealth visits in some circumstances
WCB-52-21-00004-EP	12/29/22	Independent Livery Drivers and Independent Livery Driver Fund	To implement the Cisnero Appellate Division case (194 A.D.3d 1344)
WCB-03-22-00002-P	01/19/23	DME Fee Schedule	To update the DME fee schedule
WCB-09-22-00002-P	03/02/23	Intraoperative Neurophysiological Monitoring	To define IOM and clarify that remote IOM is prohibited except in very limited circumstances

REGULATORY AGENDA

Office for People with Developmental Disabilities

February 2022

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act (SAPA), notice is provided of the following rules that the Office for People With Developmental Disabilities (OPWDD) is considering proposing, but for which a rule making proceeding has not begun. All following references to regulatory provisions are to Title 14 of the New York Code of Rules and Regulations. Please note that the regulatory plans of OPWDD are subject to change. OPWDD reserves the right to add, delete, or modify items appearing on this list. Further, as indicated in SAPA section 202-d (2), OPWDD is not required to propose or adopt any rule listed on a regulatory agenda and may propose or adopt a rule that has not been listed on an agenda.

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

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

The following rules are under consideration for submission as a Notice of Proposed Rulemaking during the calendar year 2022:

DESCRIPTION OF THE RULE SUBJECT MATTER
Title 14 NYCRR (Mental Hygiene)

Health Care Proxy revisions - to amend 14 NYCRR 633.20 to add Nurse Practitioners and Physician Assistants as authorized to perform specified functions.

Objection to Services Updates - to streamline and standardize processes for objecting to services pursuant to 14 NYCRR 633.12.

Life Safety Code - to implement updates in Life Safety and Emergency Planning.

Supported Decision-Making - to implement supported decision-making practices.

Delegation of Nursing Tasks to Direct Support Professionals - to implement changes to the Nurse Practice Act.

Repeal Rate Appeal Processes - to repeal processes for appealing rate methodologies as this function now rests with the Department of Health.

Repeal of Rate Setting Authority - to repeal rates and rate setting methodologies as rulemaking authority for rates now rests with the Department of Health.

Rate Setting for Specialty Hospitals – to update regulatory authority regarding rate setting methodology for specialty hospitals consistent with State Plan authority.

Intermediate Care Facilities (ICF) Closure and Conversions - to require ICF conversion compliance as necessary.

Day Habilitation with/ without Walls – to define programmatic standards for day habilitation with/ without walls.

Care Coordination/Basic HCBS Regulatory updates – to amend current regulatory language to reflect the changes due to Health Homes/Care Coordination.

General Regulatory Relief – to implement amendments to outdated regulatory processes in order to provide resource relief to OPWDD regulated providers.

Supported Employment (SEMP) – to amend the regulation to have tracking requirements reported on a calendar, rather than based on date of hire.

Limits on Administrative Expenses and Executive Compensation – to repeal 14 NYCRR 645 due to the recission of Executive Order 38.

Care Demonstration Program – to establish policy and procedures for the Care demonstration program pursuant to Chapter 670 of the Laws of 2021.

Training Flexibilities – to add 14 NYCRR Part 633.27 to allow for training flexibilities, including abbreviated trainings and extended time for recertifications during a State Disaster Emergency.

Operation of Community Residences – to revise 14 NYCRR Part 686.

Employment Regulations –review and revise, if necessary, regulations in order to enhance vocational, educational, employment, and training programs for individuals with intellectual and/or developmental disabilities.

Contact person: Mary Beth P. Babcock, Deputy Counsel, Office for People With Developmental Disabilities, Office of Counsel, Bureau of Policy and Regulatory Affairs, 44 Holland Ave., 3rd Fl., Albany, NY 12229, (518) 474- 7700, e-mail: marybeth.p.babcock@opwdd.ny.gov

This agenda is also posted on the OPWDD website at: www.opwdd.ny.gov

RULE REVIEW

Department of Civil Service

Rules Continued Without Modification

Pursuant to section 207 of the State Administrative Procedure Act (SAPA), notice is hereby provided that upon publication of the Five Year Review of Existing Regulations and the conclusion of the forty-five (45) day public comment period, no public comments were received regarding any of the subject rules. The rules referenced herein have functioned consistent with the purposes underlying their adoption and shall be continued without modification.

1997

Amendments to the Rules for the Classified Service (Chapter 1 of Title 4 NYCRR)

A resolution amended 4 NYCRR 4.5 (b)(2) to grant State agencies the authority to waive probationary terms for certain non-competitive class employees and to broaden the definition of a "promotion."

A resolution amended 4 NYCRR 4.5(b)(2)(ii) to revise the probationary period for certain Vocational Instructor 4 incumbents.

A new section 4 NYCRR 5.10 was added to provide for redeployment lists for certain classified service employees.

2002

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

A resolution amended 4 NYCRR 4.5(b)(2)(v) to revise the probationary term for positions of Highway Maintenance Supervisor 1.

A resolution amended 4 NYCRR 4.5(b)(3) to set forth and standardize the probationary terms and training advancements for certain Research Scientist and Psychiatrist titles.

Amendments to Part 72 of the Regulations of the Department of Civil Service (President's Regulations; Chapter V of Title 4 NYCRR)

Separate layoff units were designated within the Division of Alcoholic Beverage Control and within the Office of Children and Family Services.

2007

No current rules or regulations amending the text of Title 4 NYCRR were adopted during the calendar year.

2012

Amendments to Part 73 of the Regulations of the Department of Civil Service (President's Regulations; Chapter V of Title 4 NYCRR)

Regulations adjusted contribution rates for certain eligible enrollees, dependents and retirees participating in the New York State Health Insurance Program (NYSHIP).

2017

No current rules or regulations amending the text of Title 4 NYCRR were adopted during the calendar year.

SECURITIES OFFERINGS

STATE NOTICES

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

DEALERS; BROKERS

CX Alexandria, DST
4890 W. Kennedy Blvd., Suite 200, Tampa, FL 33609
State or country in which incorporated — Delaware

CX Riverstone, DST
4890 W. Kennedy Blvd., Suite 200, Tampa, FL 33609
State or country in which incorporated — Delaware

NexPoint Storage Ill DST
300 Crescent Court, Suite 700, Dallas, TX 75201
State or country in which incorporated — Delaware

ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

SEALED BIDS

REPLACE
ELECTRICAL SYSTEM
Sing Sing Correctional Facility
Ossining, Westchester County

Sealed bids for Project No. 45863-E, comprising a contract for Electrical Work, Replace Electrical System, Building 31, Sing Sing Correctional Facility, 354 Hunter Street, Ossining (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 Department of Corrections and Community Supervision, until 2:00 p.m. on Wednesday, March 16, 2022, 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 $29,700 for E).

Further, Wicks Exempt Projects require a completed form BDC 59 (Wicks Exempt List of Contractors) be filled out and submitted (included in a separate, sealed envelope) in accordance with Document 002220, Supplemental Instructions to Bidders – Wicks Exempt. Failure to submit this form correctly will result in a disqualification of the bid.

All successful bidders 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 $500,000 and $1,000,000 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-. 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 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.

__X__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 436 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 9:00 a.m. on March 3, 2022, at the OGS Field Trailer, 130 State Street, Ossining, NY. Prospective bidders are urged, but not mandated, to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search. Refer to Document 002218 for any additional requirements for attendance at the pre-bid site visit.

Phone the office of Allison Krebs-Fogel, (914-941-1122) 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.

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 20% for MWBE participation, 10% for Minority-Owned Business Enterprises ("MBE") participation and 10% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials.

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 6% for the E trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: http://www.bidexpress.com

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp

By OGS - Design & Construction Group

PROVIDE
GENERATOR RADIATOR SHROUD
Green Haven Correctional Facility
Stormville, Dutchess County

Sealed bids for Project No. 47079-C, comprising a contract for Construction Work, Provide Generator Radiator Shroud, Green Haven Correctional Facility, Route 216, Stormville (Dutchess County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Corrections and Community Supervision, until 2:00 p.m. on Wednesday, March 16, 2022, 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 $19,900 for C).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between $250,000 and $500,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: https://ogs.ny.gov/ACPL/

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over $5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is $1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

_____Project commenced design before January 1, 2020. Not subject to provision.

__X__Project commenced design on or after January 1, 2020. Subject to provision.

The substantial completion date for this project is 274 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 11:00 a.m. on March 2, 2022, at the NYS OGS Field Office, Route 216, East Side of Green Haven CF, Stormville, NY 12582. Prospective bidders are urged, but not mandated, to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply, and all vehicles will be subject to search. Refer to Document 002218 for any additional requirements for attendance at the pre-bid site visit.

Phone the office of Gina Defreitas (845-227-3829) 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.

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 6% for MWBE participation, 3% for Minority-Owned Business Enterprises ("MBE") participation and 3% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). 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: 0% for the C trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: http://www.bidexpress.com

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp

By OGS - Design & Construction Group

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.

PUBLIC NOTICE

Office of Addiction Services and Supports

The Office of Addiction Services and Supports (OASAS) and The Office of Mental Health (OMH) are promulgating regulations to establish Crisis Stabilization Centers in New York State, pursuant to Article 36 of the Mental Hygiene Law. The purpose of the Crisis Stabilization Centers is to provide observation, evaluation, care, and treatment in a safe and comfortable environment, 24 hours a day, 7 days a week, to those individuals with a known or suspected to have a mental health condition or substance use disorder.

The Office of Mental Health is filing the regulation as a Revised Proposed Rulemaking. The regulation will be published in the March 9th, 2022 Issue of the State Register. The regulation will also be posted on the OASAS website at that time along with guidance, and public comment can be sent to regs@omh.ny.gov.

PUBLIC NOTICE

Agriculture and Markets

In the Matter of Considering the Continuation of the Onion Research and Development Program Pursuant to Sections 16-Y and 16-Z of Urban Development Corporation Act 174/68 and § 203.13 of Title One of the Official Compilation of Codes, Rules and Regulations of the State of New York (1 NYCRR)

DETERMINATION

PRELIMINARY STATEMENT

Section 203.13 of Title One of the Official Compilation of Codes, Rules and Regulations of the State of New York (''1 NYCRR''), set forth in the Onion Research and Development Program (''the Program''), provides that at least once during each six-year period the Program is in effect, the Commissioner shall conduct a referendum of eligible onion growers to substantiate approval of the Program. The approval of not less than 50 percent of all New York State onion growers participating in the referendum substantiates grower approval and acceptance of the Program.

FINDINGS AND CONCLUSIONS

Pursuant to a Notice of Referendum, released online on November 3, 2021 and mailed directly to known eligible voters on November 15, 2021, a referendum of eligible New York State onion growers was conducted through December 15, 2021 to substantiate approval of the Program. The results of the referendum have been duly recorded and verified as follows:

In favor --	29 (97%)
In opposition --	1 (3%)

Total eligible ballots counted and verified: 30

No received ballots were declared ineligible.

Certification

Upon the results of the referendum as set forth above, I hereby certify, pursuant to Sections 16-Y and 16-Z of Urban Development Corporation Act 174/68 ("the Act") and 1 NYCRR section 203.13, that the percentage of eligible New York State onion growers required to substantiate approval of the Program has been met, with 97 percent of such onion growers participating in the referendum voting in favor of continuation of the Program.

NOW, THEREFORE, upon the findings and conclusions herein, I determine that the Onion Research and Development Program should be and hereby is continued, pursuant and subject to the Act and 1 NYCRR.

Richard A. Ball
Commissioner of Agriculture and
Markets of the State of New York

PUBLIC NOTICE

New York City Deferred Compensation Plan and NYCE IRA

The New York City Deferred Compensation Plan & NYCE IRA (the "Plan") is seeking proposals from qualified vendors to provide Auditing Services for the City of New York Deferred Compensation Plan. The Request for Proposals ("RFP") will be available beginning on Wednesday, March 9, 2022. Responses are due no later than 4:30 p.m. Eastern Time on Tuesday, April 5, 2022. To obtain a copy of the RFP, please visit the Plan's website at www1.nyc.gov/site/olr/about/about-rfp.page and download and review the applicable documents.

If you have any questions, please email them to Georgette Gestely, Director, at rfpmail@nyceplans.org

Consistent with the policies expressed by the City, proposals from certified minority-owned and/or women-owned businesses or proposals that include partnering arrangements with certified minority-owned and/or women-owned firms are encouraged. Additionally, proposals from small and New York City-based businesses are also encouraged.

PUBLIC NOTICE

Department of State
F-2021-0757
Date of Issuance – March 9, 2022

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2021-0757, the Albany Port District Commission, is proposing to develop an offshore wind tower manufacturing and shipping facility. Project elements/construction would include:

- Construction of five warehouse buildings totaling ~589,000 square feet with the maximum building height of 110 feet.
- Construct ~500 linear feet of new wharf including a heavy stone sloped revetment.
- Construct a new bridge over the Normans Kill.
- Construct an employee parking facility.
- Install site utilities including water, sanitary, power and communications.
- Create internal roadway infrastructure and offsite road improvements.
- Install a stormwater management system, including treated runoff outfalls to the Normans Kill and Hudson River.
- Install a Wastewater Package Treatment Plant with an outfall discharging to the Normans Kill.
- Install an 8" water intake into the Hudson River.
- Dredge up to 105,000 cubic yards of material from 190,000 square foot (~4.4 acres) area of the Hudson River. Dredge depth would be -32 below Mean Lower Low Water plus two feet of over dredge. Dredged material would be placed in upland locations with Class B and C sediments being amended and placed in a Confined Disposal Facility and Class A material may be placed at an upland location on-site or at a solid waste disposal facility.
- The project would result in permanent impacts to 0.86 acres of regulated freshwater wetland and 0.33 acres of temporary wetland impacts. Compensatory mitigation for permanent wetland impacts would be satisfied via In-Lieu Fee Mitigation Program. Temporarily impacted areas would be restored to pre-construction conditions.

The project is mainly located in an 81.6-acre parcel (Beacon Island) at River Road (State Road 144) in the Town of Bethlehem, south of the Normans Kill, immediately between existing port facilities and the Bethlehem Energy Center on the west side of the Hudson River. In addition, the proposal includes a 4.5-acre site on the adjoining parcel owned by National Grid, and a 14.7-acre parcel located at 700 Smith Boulevard in the City of Albany.

The stated purpose of the proposed action is to generate economic development for the region and accommodate future growth and to support New York State in achieving its renewable energy goals by providing additional port infrastructure, building space, cargo and wharf capacity necessary for the manufacturing and distribution of wind turbine components.

The applicant's consistency certification and supporting information are available for review at the following locations:

Applications, Pre-Application Presentation and Agency Coordination:

https://dos.ny.gov/system/files/documents/2022/03/appspreappagencycoord.pdf

Site Plans:

https://dos.ny.gov/system/files/documents/2022/03/siteplans.pdf

Rare Plants, Submerged Aquatic Vegetation and Wetlands:

https://dos.ny.gov/system/files/documents/2022/03/rareplantssavwetlands.pdf

Soils, Sub Surface Investigation and Sediment Analysis

https://dos.ny.gov/system/files/documents/2022/03/soilsubsurfacesediment.pdf

Response to DEC's 9/30/2021 Notice of Incomplete Application

https://dos.ny.gov/system/files/documents/2022/03/responsetodec.pdf

and via links found at https://dos.ny.gov/public-notices

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

The proposal has been subject to Generic Environmental Impact Statement (GEIS) as well as a Supplemental Environmental Impact Statement. The Final GEIS as accepted by the Town of Bethlehem Planning Board as Lead Agency on May 5, 202 can be found at http://bethlehemtownny.iqm2.com/Citizens/Detail_Meeting.aspx?ID=1782 and the Supplemental Draft Environmental Impact State submitted to the Town of Bethlehem Planning Board is available for review at: https://bethlehemtownny.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=1905&MediaPosition=&ID=8266

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or April 8, 2022.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2021-0931
Date of Issuance – March 9, 2022

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2021-0931, the Village of Cape Vincent, is proposing the below improvements to the East End Park:

- Replace two existing boat ramps with new pre-cast concrete ramps (50' x 24' and 60' x 24') each with heavy stone fill (8' x 24') placed at the waterward end. Boat ramp fill volumes are 36cy of precast concrete and 11cy of heavy stone fill and 39cy of precast concrete and 11cy of heavy stone fill.
- Remove and replace existing fixed and floating docks at the eastern end of the park. The new docks would include a 37'9″ x 8'2″ and 75'6″ x 8'2″ on the sides of the boat ramp. In addition, a new "L" shaped docking structure comprised of two 113'4″ x 8'2″ docks two 3'11″ x 30' and an 8'2″ x 30' finger docks. All docks are floating and would be anchored by 8' x 8' precast anchor blocks and connected to shore by 4'25' aluminum ramps
- Install a 188' x 11″ x 20' floating wave attenuator, accessed by a new 4' x 15' aluminum ramp and secured with 8' x 8' anchor blocks.
- Install sheet pile along ~270 linear feet of existing shoreline/shoreline structure with rock fill and topsoil placed landward to an elevation of 250'
- Install sloped (2:1) riprap revetment along 250 linear feet of existing shoreline/shoreline structure with a vegetated revetment above Ordinary High Water
- Install a 12' x 400' floating dock supported by 8' x 8' anchor blocks dock would be attached to shore by a 12' x 12' floating platform and 20' x 6' aluminum ramp

• Install delineation buoys around a historical shipwreck

• The project also includes various upland improvements including vegetated bank stabilization, drainage structures, including bioretention areas, sidewalks, landscaping, lighting and parking.

The proposal is for the Village of Cape Vincent East End Park located at 1125 East Broadway Street in the Village of Cape Vincent, Jefferson County on St. Lawrence River.

The stated purpose of the proposed action is to a deep-water dock, a wave attenuator and a floating L-shaped dock with fingers. The project is part of the Resiliency and Economic Development Initiative (REDI) and the intent is to provide betterments to the area that was affected by the high-water and storm events of 2017 and 2019. The project will provide shore protection to the banks of the St. Lawrence River along East End Park and encourage public use for fishing, diving, general recreation, and future tour ships. The proposed projects include upgrades and improvements to reduce risk to infrastructure and to strengthen the Village of Cape Vincent's local economy after the damage caused by the 2017 and 2019 flood events.

The applicant's consistency certification and supporting information are available for review at: https://dos.ny.gov/system/files/documents/2022/03/f-2021-0931publicnotice.pdf or at https://dos.ny.gov/public-notices

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or March 24, 2022.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2021-1116
Date of Issuance – March 9, 2022

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2021-0221, The Town of Oswego is proposing to replace three (3) failing culverts with new 60″ x 46″ pipe arches, to include headwalls (7' wide) and wing walls (15' wide on each side of headwalls). Culvert would be located roughly at the same horizontal alignment as existing culverts. The roadway will be raised by up to 2.34' using asphalt pavement and subbase material. At the edges of the roadway the grade will be raised to support the roadway and will transition down to meet existing grade and will be protected by either vegetation or medium stone fill. The project will result in 7,332 square feet of permanent wetland loss and 111 square feet of permanent open water loss. There would also be temporary impacts to 7,420 square feet of wetlands and 2,269 square feet of open water and the conversion of 436 square feet of open water to wetland.

To mitigate temporary wetland impacts the applicant has proposed to restore the impacted area via seeding, planting wetland species and selectively treating with herbicide for invasive species. To mitigate for permanent impacts the applicant has proposed a compensatory wetland mitigation project within the same wetland complex. The mitigation project would include removal of historic fill from uplands and lowering grades below the upland wetland/boundary to re-establish 11,475 square feet of wetland in addition a 10,100 square foot treatment lagoon will be enhanced by removing the existing berms to hydrologically connect the lagoon to the adjacent wetland areas. A 146 square foot area of open water will be restored by lowering grades to create a deep unvegetated pool. The above areas will be regraded and planted as shrub-scrub wetland (16,907 sf), emergent wetland (4,161 sf) and forested wetland (507 sf). The mitigation project would also include a monitoring and maintenance for at least 5 growing seasons.

The culvert replacements and road raising would occur along ~1,625 linear feet of Lake Shore Road where Lake Shore Road crosses through Snake Creek Marsh. The mitigation project would occur at the Sleepy Hollow Treatment Stie located on Perry Hill road and ~800 feet to the east of the proposed work along Lake Shore Road. All work is located within the Town of Oswego, Oswego County.

The stated purpose of the proposed action is "to replace three failing and undersized culverts along a portion of Lake Shore Road that were damaged during the federally-declared disaster DR-4472, commonly referred to as the 'Halloween Storm' which occurred October 31, 2019. Additionally, the road elevation will be raised at low points to help prevent further flood events along the same section of road."

This proposal is part of the New York State Lake Ontario Resiliency & Economic Development Initiative (REDI). REDI is a program created to increase the resilience of shoreline communities and bolster economic development throughout the Lake Ontario and St. Lawrence River regions of New York State. Additional information about the REDI program including project profiles can be found at: https://www.governor.ny.gov/programs/lake-ontario-resiliency-and-economic-development-initiative-redi

The applicant's consistency certification and supporting information are available for review at: https://dos.ny.gov/system/files/documents/2022/01/f-2021-1116publicnotice.pdf or at https://dos.ny.gov/public-notices

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or March 24, 2022.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2022-0022
Date of Issuance – March 9, 2022

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2022-0022, the City of Buffalo plans to redevelop the Ralph C. Wilson Jr. Centennial Park to create a signature park adjacent to

downtown and Lake Erie / Black Rock Canal. The shoreline protection measures in this Park are at the end of their useful life and need to be replaced. As part of the larger project. the existing shoreline protection measures will be replaced and enhanced. In addition, the inlet at the south end of the Park will be enhanced to provide additional ecological benefits. The project includes replacement of the existing seawall with a series of different shoreline protection measures. At some locations, the seawall will be replaced with a steel sheet pile wall. In others, a sloped rock revetment will be used to provide shoreline protection. In concert with this shoreline protection, ecological enhancements will be added and wetland plant communities, including emergent and deep emergent vegetation (EV), and submerged aquatic vegetation (SAV), will be established to provide new habitat for fish and wildlife.

The applicant's consistency certification and supporting information are available for review at: https://dos.ny.gov/system/files/documents/2022/03/f-2022-0022a.pdf

https://dos.ny.gov/system/files/documents/2022/03/f-2022-0022b.pdf

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or April 8, 2022.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
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.

2022-0079 Matter of Mark Design Studios Architecture, PC, Michael Mark, 270 North Broadway, Hicksville, NY 11801, for a variance concerning safety requirements, including required sprinkler system in an E occupancy fire area greater than 12,000 square feet. Involved is an existing school; Harbor Country Day School, located at 17 Three Sisters Road, St. James, Inc., Village of Head of the Harbor, NY 11780, County of Suffolk, State of New York.

PUBLIC NOTICE

Department of State
Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2022-0080 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 height under a girder/soffit. Involved is an existing one-family dwelling located at 23 William Street, Valley Stream, Town of Hempstead, NY 11580, County of Nassau, State of New York.

2022-0082 Matter of Speed Process Services, Juan Lopez, 2470 Great Neck Road, Copiague, NY 11726, for a variance concerning safety requirements, including the ceiling height. Involved is an existing one-family dwelling located at 235 Caboto Avenue, Copiague, Town of Babylon, NY 11726, County of Suffolk, State of New York.

EXECUTIVE ORDERS

Executive Order No. 5.5: Continuing the Temporary Suspension and Modification of Laws Related to the Disaster Emergency in the Counties of the Bronx, Kings, New York, Richmond and Queens Due to Conditions at Rikers Island Correctional Center.

WHEREAS, the Rikers Island Correctional Center has been facing a severe staffing shortage in recent months and this is expected to continue;

WHEREAS, the conditions in the facilities are expected to continue to create an unsafe, life-threatening environment for both the inmates and the staff;

WHEREAS, a federal monitor appointed to oversee the Correctional Center reported a ''pervasive level of disorder and chaos,'' in the facilities in its Eleventh Report of the *Nunez* Independent Monitor;

WHEREAS, there has been an increased number of deaths of inmates at Rikers Island this year;

WHEREAS, there is a need to facilitate the use of virtual court appearances to expedite proceedings and to reallocate corrections department staff from transportation and production of defendants to housing supervision and safety;

NOW, THEREFORE, I, KATHY HOCHUL, Governor of the State of New York, by virtue of the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, do hereby extend the state disaster emergency as set forth in Executive Order 5, as continued by Executive Order 5.4, and do hereby continue the terms, conditions, and suspensions contained in Executives Order 5, 5.1, 5.2, 5.3, and 5.4 until March 6, 2022.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this fourth day of February in the year two thousand twenty-two.

BY THE GOVERNOR

/S/ Kathy Hochul

/s/ Karen Persichilli Keogh

Secretary to the Governor