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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
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

Each paid subscription to the New York State Register includes one weekly issue for a full year and four “Quarterly Index” issues. The Quarterly is a cumulative list of actions that shows the status of every rule making action in progress or initiated within a calendar year.

The Register costs $80 a year for a subscription mailed first class and $40 for periodical (second) class. Prepayment is required. To order, send a check or money order payable to the NYS Department of State to the following address:

NYS Department of State
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Albany, NY 12231-0001
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Individuals may send public comment via electronic mail to those recipients who provided an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings. Choose pertinent issue of the Register and follow the procedures on the website (www.dos.ny.gov)

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RULE MAKING ACTIVITIES

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

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

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

Office of Alcoholism and Substance Abuse Services

NOTICE OF ADOPTION

Tobacco Use in Adult Services

L.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.
(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.

Section 856.3 Applicability
(a) The tobacco-limited services provisions of [Title] this Part apply 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”)]

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 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) [bb] 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...]

Section 856.5 Effective date
This regulation becomes effective upon publication in the State Register.
is utilized by patients, staff, volunteers or visitors. This shall include the service buildings and grounds which are under the direction 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 device that delivers 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.

§ 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. 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. 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.

3. (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.

4. (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 policy including posted notices and the provision of copies of the policy;

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

7. (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];

8. (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];

9. (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;

10. (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;

11. (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.

12. (10) Describes training on tobacco use and nicotine dependence and tobacco use disorder 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.

(b) Tobacco-limited programs, establishes tobacco free policies consistent with this Part and guidance issued by the Office.

§ 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.

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 Waverly 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 19.12(b) of the Mental Hygiene Law authorizes 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.

   (c) Section 19.21(b) of the Mental Hygiene Law requires 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.

   (d) Section 32.07(a) of the Mental Hygiene Law authorizes the Commissioner to adopt regulations that will effectively execute the provisions and purposes of Article 32 of the Mental Hygiene Law.

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 change 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 amendment to Part 856 simply change tobacco-free services to tobacco-limited services, allowing for 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.
Rule Making Activities

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 delineated 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.

Initial Review of Rule

As a rule that does not require a RF A, 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 take 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 the hospital stay. 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

L.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.
§ 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 organizations 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. Prohibits 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 by patients or others who are not authorized under the prohibitions.

§ 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 regulation 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, medical use, registration of organizations and designated caregivers, dispensing facilities, 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, control 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. These proposed rules and regulations 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 provisions for renewal registration. Renewal requirements for medical cannabis products, and allowing 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 served 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 new application and pay an additional $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 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 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 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:

The 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 organizations 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 44 dispensing sites, of which 24 are 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 Title 10 NYCCR 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 Tecnological 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:
There are 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, 441.41, 447.17, 447.41, 447.10, 447.21, 447.3, 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, 463(a)(4); 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 a “foster care” and “residential program for youth who have been or are at-risk of sex trafficking” to allow the new congregate foster care program types to be 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 amendment 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 amendment of a new Part 440 to 18 NYCRR establishes the health, safety, and programmatic standards for the issuance of a program’s 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 definitions 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 non-discrimination 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 NYCRR 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 NYCRR 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 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 caring 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 allows 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 448 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 to clearly identify 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 staff 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 NYCRR 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, 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 Children’s Health Insurance Program Reauthorization Act of 2018 (PL. 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 a foster home for children in certain age groups remains placed in QRTPs for specified extended periods of time (long stayer reviews) and after care services that may 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 260(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 on 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 concerning 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 relating 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 measures 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 of 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 requirements 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. 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.

6. Economic and Technological Feasibility:
No economic or technological barriers have been identified that would prohibit implementation of these regulations as written.

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.
to adopt provisions and standards necessary to operationalize compliance with the Federal Children’s 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, 449.4, 449.6, 449.7, 449.8, and 628.3 of 18 NCCR 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 “Quality Residential Treatment Programs” (QRTP) and “Quality Residential Treatment Program (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 program operators, operating certificates from OCFS as necessary to provide these types of 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 based on the following programs: 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, Quality 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. 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 and clarity 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 for the 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 is a child of a parenting youth unit. OCFS notes 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.

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, one of the comments included a question regarding the importance of placing siblings 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 a 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 a program or agency have to choose OCFS-specific pediatricians 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 the Long Stayer Review Process. OCFS requests 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 commenter that the Long Stayer Review process is not the only procedures for review of a child’s placement. OCFS also has the responsibility to ensure 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 Uniform Case Record Requirements. The comments were varied, including editing suggestions to eliminate redundancies. Multiple comments also requested additional details to be provided to clarify how evaluations will be conducted, timelines for the provision of information, and clarification on when 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 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 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 by 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

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).

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, 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-01-22-00005-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-01-22-00005-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-01-22-00005-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-01-22-00005-P, Issue of January 5, 2022.

PROPOSED RULE MAKING

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 Department of Corrections and Community Supervision, by deleting the position of Deputy Superintendent for Reception and Classification (2).

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, 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-01-22-00005-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-01-22-00005-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-01-22-00005-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-01-22-00005-P, Issue of January 5, 2022.
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, 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 Immigration 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.
A job 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.

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**PROPOSED RULE MAKING**

**NO HEARING(S) SCHEDULED**

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**Jurisdictional Classification**

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

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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.

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**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.
**Department of Environmental Conservation**

**EMERGENCY RULE MAKING**

**Sanitary Condition of Shellfish Lands**

**L.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, 11-0305, 11-0307 and 11-0319.

**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:

- **Hempstead Harbor:** Less than 1-acre 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 31 to May 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 Ligonnee 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 seasonally uncertified.

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.

Oriental 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 from 4-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, 231 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:

State 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 such lands. 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 being met, but 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 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 instability in the shellfish related illness. By protecting 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/shellfish harvesters 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 Department's proposed decision. Initial or non-capital expenses, in order to comply with these proposed regulations. The Department cannot provide an estimate of potential cost 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 these 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.

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
businesses or local governments must undertake to comply with the requirements for small businesses or local governments. Babylon, Islip, Brookhaven, Southampton, East Hampton, Southold, North Hempstead, and Oyster Bay in Nassau County, and the towns of Shelter Island, Riverhead, Smithtown, and Huntington in Suffolk County. These include the towns 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 assess 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 affect 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 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 number of shellfish species present, the land’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 the number of regulations, and increase the Department’s ability to enforce 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 to 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 impact on state and local governments is 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-acre 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 and there are some who work for companies with privately controlled shellfish lands or who harvest surf clams or oyster pearl clams 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, 34; and Other, 10.
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 harvest 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

L.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 nation of Southold, 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 March 11, 2020, 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-E, 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 Cerullo, 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 Title 25 of the Public Health Law (PHL), which authorizes the Public Health and Health Planning Council (PPHPC), subject to the approval of the Commissioner of Health (Commissioner), to establish and amend the State Sanitary Code (SSC) provisions related to any matter affecting the security of life or health or the preservation and improvement of public health in the State of New York. Additionally, Section 2103 of the PHL requires all local health officers to report cases of communicable disease to the New York State Department of Health (Department).

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

The statutory authority for the proposed amendments to section 405.3 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York is section 2803 of the PHL, which authorizes PHHPC to adopt and amend rules and regulations, subject to the approval of the Commissioner, to implement the purposes and provisions of PHL Article 28, and to establish minimum standards governing the operation of health care facilities.

Legislative Objectives:

The legislative objective of PHL § 225 is, in part, to protect the public health by authorizing PHHPC, with the approval of the Commissioner, to amend the SSC to address public health issues related to communicable disease.

The legislative objective of PHL § 576 is, in part, to promote public health by establishing minimum standards for clinical laboratory testing and reporting of test results, including to the Department for purposes of taking prompt action to address outbreaks of disease.
The legislative objective of PHL § 2803 includes among other objectives amending PHRL § 19, 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.

- Requires clinical laboratories to report all test results, 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.
- Requires local health departments to report communicable disease testing results using the ECLRS and must also immediately report communicable diseases pursuant to PHL § 2102.

Part 406 Amendments
- Specifies other procedures that apply when a person is isolated or quarantined.

Part 407 Amendments
- Clarifies locations where isolation or quarantine may be appropriate.
- Clarifies that the State Department of Health has the authority to issue isolation and quarantine orders in response to COVID-19.

Part 408 Amendments
- 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.

Part 409 Amendments
- Requires clinical laboratories to report all test results, including negative and indeterminate results, for communicable diseases identified as requiring prompt attention, via the Electronic Clinical Laboratory Reporting System (ECLRS).
- Requires local health departments to report communicable disease testing results using the ECLRS and must also immediately report communicable diseases pursuant to PHL § 2102.
- Requires hospitals to report syndromic surveillance data during an outbreak of a highly contagious communicable disease.
- Requires the Commissioner to direct hospitals to take patients during an outbreak of a highly contagious communicable disease.

Part 410 Amendments
- Clarifies that the State Department of Health has the authority to issue isolation and quarantine orders in response to COVID-19.
- Requires clinical laboratories to report all test results, including negative and indeterminate results, for communicable diseases identified as requiring prompt attention, via the Electronic Clinical Laboratory Reporting System (ECLRS).
- Requires local health departments to report communicable disease testing results using the ECLRS and must also immediately report communicable diseases pursuant to PHL § 2102.
- Requires the Commissioner to direct hospitals to take patients during an outbreak of a highly contagious communicable disease.

Part 411 Amendments
- 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.

Part 412 Amendments
- Requires clinical laboratories to report all test results, including negative and indeterminate results, for communicable diseases identified as requiring prompt attention, via the Electronic Clinical Laboratory Reporting System (ECLRS).
- Requires local health departments to report communicable disease testing results using the ECLRS and must also immediately report communicable diseases pursuant to PHL § 2102.
- Requires the Commissioner to direct hospitals to take patients during an outbreak of a highly contagious communicable disease.

Part 413 Amendments
- Clarifies that the State Department of Health has the authority to issue isolation and quarantine orders in response to COVID-19.
- Requires clinical laboratories to report all test results, including negative and indeterminate results, for communicable diseases identified as requiring prompt attention, via the Electronic Clinical Laboratory Reporting System (ECLRS).
- Requires local health departments to report communicable disease testing results using the ECLRS and must also immediately report communicable diseases pursuant to PHL § 2102.
- Requires the Commissioner to direct hospitals to take patients during an outbreak of a highly contagious communicable disease.
Rule Making Activities

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 impose any substantial additional costs beyond what local health departments 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.

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
- Cattaraugus County
- Cayuga County
- Chautauqua County
- Chenango County
- Clinton County
- Columbia County
- Cortland County
- Delaware County
- Essex County
- Franklin County
- Fulton County
- Genesee County
- Jefferson County
- Lewis County
- Madison County
- Montgomery County
- Orleans County
- Oswego County
- Otsego County
- Putnam County
- Rensselaer County
- Seneca County
- Schenectady County
- St. Lawrence County
- Steuben County
- Sullivan County
- Tioga County
- Tompkins County
- Ulster County
- Warren County
- Washington County
- Wayne County
- Wyoming County
- Yates County
- Orange County
- Saratoga County
- Suffolk County
- Onondaga 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
- Broome County
- Dutchess County
- Erie County
- Genesee County
- Lewis County
- Monroe County
- Niagra County
- Oneida County
- Schoharie County
- Saratoga County
- Schenectady County
- Steuben County
- Wayne County
- Washington County
- Warren County
- Wyoming 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.

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-
NYS Register/March 9, 2022

Rule Making Activities

NYS (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, or 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 Commissioner 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 the 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 age 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 events with more than five thousand attendees shall require patrons to wear face coverings consistent with subdivision (a) of this section; may require 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) Penalties and enforcement.
(1) 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.
(2) All local health officers shall take such steps as may be necessary to enforce the provisions of this Section according 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-R, 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 Cerulo, 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 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 the 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 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...
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...some cost of enforcement, however such costs are anticipated to be minimal as these provisions continue existing enforcement requirements.

Effect of Rule:

As part of ongoing efforts to address the COVID-19 pandemic, businesses and local governments have been partners 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 bureau population projections:

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

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

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 NYCCR.

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 NYCCR 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.

Paragraph (5) 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.

Proposed Action: Amendment of sections 600.1 and 600.2 of Title 10 NYCCR.

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, 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 individual, 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. An operator may not restrict the individual to his/her
room, impede the individual in the event of evacuation, or inhibit participa-
tion in the routine activities of the home;
(ii) use of the equipment does not restrict the individual to his/her
room, impede the individual in the event of evacuation, or inhibit participa-
tion 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 com-
munity resources;
(vi) each required medical evaluation attests to the individual’s
ability to use and maintain the equipment;
[(11)] (13) is not self-directing; i.e., requires continuous supervision
and is not capable of making choices about his/her activities of daily liv-
ing or
[(16)] (14) engages in alcohol or drug use which results in aggressive or
destructive behavior.

Subdivisions (b) and (c) of Section 490.4 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 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 incap-
able of self-preservation are those who, because of age, physical limi-
tations, 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 articles 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 agen-
cies 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 substan-
tially interferes with the orderly operation of the enriched housing
program;
(6) has a medical condition which requires continual skilled observa-
tion 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) is chronically bedfast;
[(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 participa-
tion 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;
(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 com-
munity resources;
[(15)] (13) is not self-directing; i.e., requires continuous supervision
and is not capable of making choices about his/her activities of daily liv-
ing or
[(16)] (14) engages in alcohol or drug use which results in aggressive or
destructive behavior.
A Rural Area Flexibility Analysis for these amendments is not being
local governments, and it does not impose reporting, recordkeeping or
other compliance requirements on small businesses or local governments. 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

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”).

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 unconscionably excessive 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 case 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.

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.”

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.”

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 excessive.” Second, where the price was set through either “an exercise of unfair leverage” or “unconscionably means.” 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.” As 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.8

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 retailer of goods or services or both sold by one party to another when the product sold was located in the state prior to sale.”

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. 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 price spikes. 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, goods and supplies of labor, and redistributions of 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) in the New York-Newark, and Jersey City metropolitan area increased by 5.1% from January 2021 to January 2022.12 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 1982.13

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%.14

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. Households in the bottom 20% of income experienced a 33% increase in their income toward health care. A quarter of households spend at least 6% of their income on food costs.15

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.16 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 profits compared to the same quarter in 2020.17 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 profit 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 many of these households have a disproportionate 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.29 DHL increased 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, “supermarkets,” fast food,9 oil and natural gas, and lumber.32 As with the 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.33 According to the Federal Reserve Bank of St. Louis, corporate profits have increased more than 100% in the past year, significantly above the rate of inflation.34 These record-setting profits by big companies have led to a 70-year high in corporate profit margins. Two-thirds of the United States cannot publicly trade their profits.35 But then 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 profitability gains at least 50% above 2019 levels.36

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 high prices and accompanying those price increases.

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.33 According to the Federal Reserve Bank of St. Louis, corporate profits have increased more than 100% in the past year, significantly above the rate of inflation.34 These record-setting profits by big companies have led to a 70-year high in corporate profit margins. Two-thirds of the United States cannot publicly trade their profits. But then 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 profitability gains at least 50% above 2019 levels.36

Several questions have been raised by public officials about these test kits. New York’s Em Ed Markert 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-existing rules for medical supplies.
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 heart 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. 39 These developments raised prices for raw materials and 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. 40 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 disruption, hoarding, and 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 entrenched entities. For these same reasons, a disruption can enhance existing market power by strengthening the relative market power of firms within an already concentrated industry. 41 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. 42 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. 43 For instance, the meat-packing industry (mentioned above) went through a 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 ranchers while charging consumers more. 44 Similarly, when prices are pegged to industry indices, 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 prices. This pricing mechanism 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, must justify charging higher prices can be significant and long-lasting. 45 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 periods 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.

1. What is the range of anticompetitive behavior that 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?

2. 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?

3. 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?

4. 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?

5. In Section V, we asked 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.

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 base captures the jump in price? What types of sales—and to whom—should be included in evaluating the pre-disruption price?

8. What industry characteristics are likely to facilitate and potentially mask price gouging?

9. What role does profit 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?

10. 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?

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 “the amount of the excess in price is unconscionably excessive.” It applies if the price increase 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?

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 conditions 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?

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 58189, enacted June 6, 2020).


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).


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.


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


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.


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.


designed to create more efficient processes for all interactions between applicants and the Authority. The Authority is concerned that 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 being made 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 remains 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 reflect technological 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 response to such pleadings. The rule changes will also serve to ensure 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 by the Authority. 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

L.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 NYCCR.


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 Support (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 behavioral health observation/stabilization services 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:
  - Supportive Crisis Stabilization Center means a center that provides supportive 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 voice-centered peer support and recovery services.
  - 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.

- 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.

- 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 admission process 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 (psychiatric), 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 Creative arts therapist means an individual with credentials, training and experience in the field of creative arts therapy.

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 the 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 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 “collaborators” 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 Subpart 9 identifies services available through Crisis Stabilization Centers.

o Upon 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 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 11 establishes staffing requirements for Crisis Stabilization Centers.

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 12 establishes requirements relating to case records.

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 Requires such centers be a physician licensed in New York State with one year of education, training and experience in mental health or substance use disorder field for initial staffing.

o Requires Centers to enter into memorandums of understanding (MOUS) with crisis residential services for individuals determined needing crisis stabilization beyond 24 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 “collaborators” 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 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.

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 Requires maximum local flexibility for staffing by clarifying the staffing plan must include staff in sufficient type, schedule 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 psychiatric or psychiatric nurse practitioner, CASAC and certified peer specialists.

o Requires Centers to enter into memorandums of understanding (MOUS) with crisis residential services for individuals determined needing crisis stabilization beyond 24 hours and 59 minutes.

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 “collaborators” 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 Subpart 9 identifies services available through Crisis Stabilization Centers.

o Requires 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 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 11 establishes staffing requirements for Crisis Stabilization Centers.

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 12 establishes requirements relating to case records.

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 Requires such centers be a physician licensed in New York State with one year of education, training and experience in mental health or substance use disorder field for initial staffing.

o Requires Centers to enter into memorandums of understanding (MOUS) with crisis residential services for individuals determined needing crisis stabilization beyond 24 hours and 59 minutes.

o Requires Supportive Crisis Stabilization 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.

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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 “collaborators” 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.
(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 representatives 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 the 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, therefore, it is not possible to specify the costs 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 be 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.

Response: Comment has been considered and additional amendments were made including revised definitions which clarify the voluntary status of centers. Incorporate an appropriate mediation 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; 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 of facilities that 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. Additionally they rule clarifies staffing for centers to include 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 Area Flexibility Analysis

No rural area flexibility analysis is required pursuant to section 202(b)(3) of the State Administrative Procedure Act. No rural area flexibility analysis is required pursuant to section 202(b)(3) of the State Administrative Procedure Act. The proposed amendment does 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(c)(8) should be amended to read “verification of staff credentials and staff training, as applicable”.

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Response: Comment was 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(l) 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: Clarification will be provided through guidance.
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(c) 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 emergent 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: 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: 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 commentator 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 commentator 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 commentator 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 commentator 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 commentator requested “untoward” be removed from Part 600.12(d)(7).
Response: Amendment made.
Comment: A commentator 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 commentator 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 commentator requested a clarification of the definition of “observation chairs” in § 600.13(b).
Response: Additional information will be provided through guidance.
Comment: A commentator recommended the creation of an oversight council and increased stakeholder input mechanisms.
Response: Information will be provided in guidance.
Comment: A commentator requested additional collection and reporting of data.
Response: 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 commentator 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 commentator 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 commentator requested that the centers serve the needs of relevant subpopulations through partnerships and community based organizations.
Response: Addressed in guidance.
Comment: A commentator 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.
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, L.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: Beth Blacklock, 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 EIS 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 concerning 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.
   e. 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.

2. Legislative Objectives: 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.

3. 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 individuals’ 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 be no 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.
   c. 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.
   d. Paperwork: Providers will not experience an increase in paperwork as a result of the proposed regulations.
   e. Duplication: The proposed regulations do not duplicate any existing State or Federal requirements on this topic.
   f. 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 recording, 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 regulations.

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 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 refuge, 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.
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 NYCCR.

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 NYCCR 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. Need 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 delivered meet public health and safety standards which includes safe and appropriate staffing.

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.

      The 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 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.

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**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 Dongos’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-bt(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)

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**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 $29,024 or 8.27 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)

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**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 4(1), 5(1)(f), 89-c(1), (3), (10)(a), (b) and (f)

**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-41-21-00007-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-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:
NOTICE OF ADOPTION

Transfer of Street Lighting Facilities

L.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. 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 Kenmore, 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

L.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.

Notices were provided on the NYS Public Service Commission’s website: https://www.dps.ny.gov

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.

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-03985A1)

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 General Electric’s (GE) notice of intent to submeter electricity at 180 East 88th Street Condominium, 180 East 88th Street, New York, New York.

Effective Date:  2022-02-22

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-04265A1)
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-0007SP1)

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-0007SP1)
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-00082SP1)

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) and New York Transco LLC (Transco) to assign certain easement interests and to transfer certain Central Hudson’s property 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-
emt 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

LD. 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 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)
Rule Making Activities

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 technology allows each participant to participate 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 verify the identity of students enrolled in an approved course of study;

(iii) a detailed description of the methods used to obtain a signed certification from each enrolled student evidencing that the student participated in the instruction;

(iv) 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;

(v) a detailed description of the methods used that the approved entity will rely upon to ensure the privacy and security of student records, and

(vi) 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 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 Department. 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 any 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.
The rule is being proposed as an emergency rule with notice of proposed rule making, and it 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 choosing, to offer 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 choosing, to offer 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. Therefore, 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

L.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.”

**PART 202 [Volunteer Cemetery Maintenance] Cemetery Abandonments**

§ [202.1] 202.1 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.

§ 202.2 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 assumes responsibility 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; and
(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) Review 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) Conduct 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 was 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.

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 shall 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), (c), (d), (g) and (h).

Text of rule and any required statements and analyses may be obtained from: Robert Vanderbiles, Department of State, One Commerce Plaza, 99 Washington Ave, Suite 1120, Albany, NY 12231-0001, (518) 486-7055, email: Robert.Vanderbiles@oyster.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. This includes not containing any substantive revisions, and
non-substantive revisions to the rule text do not render the Regulatory Impact
Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analy-
sis 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 2023, which is no later than the 3rd year af-
ter 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 changes and clarifications 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 com-
ments, 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 as-
sume management of the cemetery and suggested adding a section to § 202.2(4),
"not having sufficient volunteers to hold board positions of president, sec-
tary, and treasurer."

RESPONSE TO COMMENT #1: DOS has considered the comment and
agrees that an inability to have sufficient volunteers to serve as of-
ficers or directors, among other factors, may put a cemetery at risk of
abandonment. § 202.2(a) defines “abandoned cemetery.” DOS has added
this definition to refer to the meaning of that term as it appears in Not-
for-Profit Corporation Law § 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 thereby provide the clarity suggested by the commenter.

COMMENT #2: A commenter suggested that § 202.3 include “shall”
to make the “steps to avoid abandonment” mandatory. The commenter sug-
gested 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 aban-
donment, 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 an-
other 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 determi-
nation as to why the cemetery is at risk of abandonment” in order to ad-
dress various issues, 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 in-
formation on a cemetery at risk of abandonment including financials,
management structure, liabilities, litigation, investigations and distrib-
ute 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 in-
formation 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 sug-
gested that most cemeteries will not be able to comply because, at that
point in time, most cemeteries – even without a formal finding of abandon-
ment – are still unlikely to meet all prerequisites.

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 appro-
priate. The Department has also made other minor changes to this subdvision to clarify its terms.

COMMENT #7: A commenter suggested that small struggling cemeter-
ies 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 un-
able to do so.

RESPONSE TO COMMENT #7: 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 suggests issuing a guidance document focusing on the best prac-
tices that cemeteries can take to try to reach lot owners and improve their
membership lists.

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 appro-
priate. 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 suggests issuing a guidance document focusing on the best prac-
tices 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 aspira-
tional 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 appro-
priate, 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(1)(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(1)(2) to provide,
“Explain the division’s audit and inspection reports.”

COMMENT #11: A commenter suggested that § 202.3(3) should be
amended to specify that added to 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
practices and customs 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-a.

COMMENT #14: A commenter suggested that § 202.5(a) should be
clarified to require DOS to provide a notification 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

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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.
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<td>Environmental Remediation Programs</td>
<td><strong>Electronic Webinar</strong>—April 5, 2022, 2:00 p.m.</td>
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<td><strong>Electronic Webinar</strong>—April 7, 2022, 5:30 p.m.</td>
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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](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.
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.

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

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<tr>
<td>AGRICULTURE AND MARKETS, DEPARTMENT OF</td>
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<tr>
<td>AAM-23-21-00001-P</td>
<td>07/07/22</td>
<td>Regulated commodity labeling, packaging and method of sale requirements</td>
<td>Amend packaging, labeling &amp; method of sale requirements for various commodities to align with industry &amp; federal standards</td>
</tr>
<tr>
<td>AAM-52-21-00001-EP</td>
<td>12/29/22</td>
<td>Control of the Box Tree Moth (Cydalima perspectalis)</td>
<td>To help control the spread of the Box Tree Moth, which infests certain landscaping host plants, rendering them unmarketable</td>
</tr>
<tr>
<td>AAM-02-22-00002-EP</td>
<td>01/12/23</td>
<td>License to Grow Hemp and Hemp Research Authorizations</td>
<td>To implement the New York State Hemp Grower License program.</td>
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</table>

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 |
<p>| 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 |</p>
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<td>OCM-10-22-00017-P</td>
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<td>Part 113 - Medical Cannabis</td>
<td>The proposed rule established the framework for the medical cannabis program in New York State</td>
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<td>To establish minimum standards to control the spread of COVID-19</td>
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<tr>
<td>CFS-52-21-00003-EP</td>
<td>12/29/22</td>
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<td>To establish minimum standards to control the spread of COVID-19 at residential congregate programs.</td>
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<td>CVS-40-21-00009-P</td>
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<tr>
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<td>Family Sick Leave</td>
<td>To increase amount of annual family sick leave from fifteen (15) to twenty-five (25) days for eligible M/C employees</td>
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<td>CVS-06-22-00003-P</td>
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<td>CVS-09-22-00001-P</td>
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<td>Supplemental military leave benefits</td>
<td>To extend the availability of supplemental military leave benefits for certain New York State employees until December 31, 2022</td>
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<td>CMC-34-21-00001-P</td>
<td>08/25/22</td>
<td>Jail staffing requirements</td>
<td>To provide county governments and the City of New York an increased role and flexibility in determining officer staffing levels.</td>
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<tr>
<td>CCS-49-21-00001-P</td>
<td>12/08/22</td>
<td>Incarcerated Individual Correspondence Program</td>
<td>To further clarify facility mail processing procedures.</td>
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<td>CCS-07-22-00006-P</td>
<td>02/16/23</td>
<td>Forwarding Incarcerated Individual Mail</td>
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<td>CCS-08-22-00007-EP</td>
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<td>Disposition for violations of the conditions of release</td>
<td>To bring Board regulations into compliance with recent amendments to the Executive Law.</td>
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<td>EDV-45-21-00001-P</td>
<td>11/10/22</td>
<td>Commercial Production Credit Program</td>
<td>Update regulations to include a third party verification process for application submissions.</td>
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<td>EDV-51-21-00006-P</td>
<td>12/22/22</td>
<td>Employee Training Incentive Program</td>
<td>To update the administrative process for the ETIP program.</td>
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<td>EDV-05-22-00007-P</td>
<td>02/02/23</td>
<td>Post Production Tax Credit Program</td>
<td>Update regulations to clarify the taxable year in which a credit is allowable.</td>
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<tr>
<td>EDU-48-21-00008-P</td>
<td>02/17/23</td>
<td>Special education impartial hearing officers and the special education due process system procedures.</td>
<td>To address volume of special education due process complaints in the New York City due process system</td>
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<tr>
<td>EDU-48-21-00009-P</td>
<td>12/01/22</td>
<td>Licensure of Psychologists.</td>
<td>To conform New York State's licensure requirements with national standards and create a pathway for licensure by endorsement.</td>
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<td>EDU-48-21-00010-P</td>
<td>12/01/22</td>
<td>Definition of the term “year of experience” for permanent or professional certification.</td>
<td>To streamline the definition of “year of experience” for permanent or professional certification.</td>
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<td>EDU-48-21-00011-P</td>
<td>12/01/22</td>
<td>School districts’ exemption from the establishment of an internal audit function.</td>
<td>To align the student enrollment number for eligibility for such exemption with the applicable statute.</td>
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<td>EDU-48-21-00012-ERP</td>
<td>12/01/22</td>
<td>Annual visitation of voluntarily registered nursery schools and kindergartens.</td>
<td>To extend flexibility for the annual visitation of voluntarily registered nursery schools and kindergartens to the 2021-2022 SY.</td>
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<td>EDU-48-21-00013-P</td>
<td>12/01/22</td>
<td>Records retention and disposition schedules</td>
<td>To revise records retention and disposition schedule LGS-1 and to remove superseded disposition schedules.</td>
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<td>EDU-52-21-00012-P</td>
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<td>General Education Core in the Liberal Arts and Sciences requirements</td>
<td>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</td>
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<td>EDU-52-21-00013-P</td>
<td>12/29/22</td>
<td>The teacher performance assessment requirement for certification.</td>
<td>To modify the teacher performance assessment requirement by eliminating the requirement of the edTPA for certification</td>
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<td>Requirements for the Reissuance of an Initial Certificate</td>
<td>To remove the requirement that candidates complete 50 hours of CTLE and/or professional learning to obtain a reissuance.</td>
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<td>EDU-52-21-00015-EP</td>
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<td>Administration of non-injectable glucagon in schools by trained unlicensed school personnel</td>
<td>To conform the Commissioner’s regulations to Chapter 339 of the Laws of 2021</td>
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<td>EDU-04-22-00008-EP</td>
<td>01/26/23</td>
<td>Cancellation of January 2022 administration of Regents Examinations</td>
<td>To provide regulatory flexibility in response to the cancellation of the January 2022 Regents examination administration.</td>
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<td>EDU-04-22-00009-EP</td>
<td>01/26/23</td>
<td>Administration of Immunizations by Pharmacists.</td>
<td>To conform the Commissioner’s regulation to Chapter 555 of the Laws of 2021 authorizing pharmacists to administer certain immunizations.</td>
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<td>EDU-04-22-00010-EP</td>
<td>01/26/23</td>
<td>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.</td>
<td>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.</td>
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<tr>
<td>EDU-09-22-00013-P</td>
<td>03/02/23</td>
<td>Use of Therapeutic Pharmaceutical Agents by Certified Optometrists.</td>
<td>To add a new class of drugs, Rho kinase inhibitors, to the list of drugs that an</td>
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<td>optometrist certified to use phase two therapeutic pharmaceutical agents may use</td>
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<td>and prescribe to treat patients</td>
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<tr>
<td>EDU-09-22-00014-P</td>
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<td>Content core requirements for candidates seeking an additional science certificate.</td>
<td>To revise the content core requirements in registered teacher preparation programs</td>
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<td>Establishes the Literacy (All Grades) certificate</td>
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<td>EDU-09-22-00016-P</td>
<td>03/02/23</td>
<td>Board of education cooperative services regional technology plans.</td>
<td>To modernize the language and align requirements of the regional technology plans</td>
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<td>required to be submitted by BOCES.</td>
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<td>08/18/22</td>
<td>Public Campaign Finance Program</td>
<td>Implementation of the Public Campaign</td>
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<td>Finance Program</td>
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<tr>
<td>SBE-46-21-00001-P</td>
<td>11/17/22</td>
<td>Public Campaign Finance Board's Enforcement Procedure</td>
<td>Relates to how the Public Campaign Finance Board will enforce the public campaign finance provisions of the Election Law</td>
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<td>04/21/22</td>
<td>Regulations governing whelk management</td>
<td>To protect immature whelk from harvest and establish gear and reporting rules for marine resource protection and public safety</td>
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<td>ENV-22-21-00001-EP</td>
<td>06/02/22</td>
<td>Peekamoose Valley Riparian Corridor</td>
<td>Protect public health, safety, general welfare and natural resources on the Peekamoose Valley Riparian Corridor</td>
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<tr>
<td>ENV-24-21-00008-P</td>
<td>08/17/22</td>
<td>Petroleum Bulk Storage (PBS)</td>
<td>To amend the PBS regulations, 6 NYCRR Part 613</td>
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<tr>
<td>ENV-24-21-00009-P</td>
<td>08/17/22</td>
<td>Chemical Bulk Storage (CBS)</td>
<td>To repeal existing 6 NYCRR Parts 596, 598,599 and replace with new Part 598; and amend existing Part 597; for the CBS program</td>
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<tr>
<td>ENV-36-21-00003-P</td>
<td>11/15/22</td>
<td>Expanded Polystyrene Foam Container and Polystyrene Loose Fill Packaging Reduction</td>
<td>Implementation of the expanded polystyrene foam container and loose fill packaging ban in ECL Art. 27, Title 30</td>
</tr>
<tr>
<td>ENV-37-21-00004-P</td>
<td>09/15/22</td>
<td>Deer Hunting</td>
<td>This rulemaking will allow counties to annually, by county law, “opt-out” of the late bow and/or muzzleloader deer seasons</td>
</tr>
<tr>
<td>ENV-43-21-00010-P</td>
<td>10/27/22</td>
<td>Sunfish and crappie fishing regulations</td>
<td>To revise sunfish and crappie fishing regulations</td>
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<tr>
<td>ENV-49-21-00008-EP</td>
<td>12/08/22</td>
<td>Sanitary Condition of Shellfish Lands</td>
<td>To reclassify underwater shellfish lands to protect public health</td>
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<tr>
<td>ENV-49-21-00009-P</td>
<td>12/08/22</td>
<td>Freshwater fishing regulation simplification and clean-up</td>
<td>Eliminate unnecessary regulations, provide consistency and align regulations with actual management intent</td>
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<tr>
<td>ENV-51-21-00003-P</td>
<td>04/07/23</td>
<td>Environmental Remediation Programs</td>
<td>To amend 6 NYCRR Part 375, Environmental Remediation Programs.</td>
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<tbody>
<tr>
<td>DFS-17-16-00003-P</td>
<td>exempt</td>
<td>Plan of Conversion by Commercial Travelers Mutual Insurance Company</td>
<td>To convert a mutual accident and health insurance company to a stock accident and health insurance company</td>
</tr>
<tr>
<td>DFS-25-18-00006-P</td>
<td>exempt</td>
<td>Plan of Conversion by Medical Liability Mutual Insurance Company</td>
<td>To convert a mutual property and casualty insurance company to a stock property and casualty insurance company</td>
</tr>
<tr>
<td>DFS-42-21-00011-P</td>
<td>10/20/22</td>
<td>DISCLOSURE REQUIREMENTS FOR CERTAIN PROVIDERS OF COMMERCIAL FINANCING TRANSACTIONS</td>
<td>To provide new disclosure rules for small business financings</td>
</tr>
<tr>
<td>DFS-44-21-00015-P</td>
<td>11/03/22</td>
<td>Compliance With Community Reinvestment Act Requirements</td>
<td>To provide new rules concerning data collection on extension of credit to women-owned and minority-owned businesses.</td>
</tr>
<tr>
<td>DFS-47-21-00006-P</td>
<td>11/24/22</td>
<td>Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure</td>
<td>To hold insurers, plans and HMOs responsible for inaccurate provider directory information and replies to insureds' inquiries.</td>
</tr>
<tr>
<td>DFS-50-21-00016-P</td>
<td>12/15/22</td>
<td>Debt Collection by Third-Party Debt Collectors and Debt Buyers</td>
<td>To clarify and modify standards for debt collection practices in New York</td>
</tr>
<tr>
<td>DFS-09-22-00018-P</td>
<td>03/02/23</td>
<td>Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure</td>
<td>To provide additional minimum standards for the content of health insurance identification cards in accordance with Federal law</td>
</tr>
</tbody>
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<tr>
<th>Agency I.D. No.</th>
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</thead>
<tbody>
<tr>
<td>SGC-37-21-00017-P</td>
<td>09/15/22</td>
<td>Discretion to require a Thoroughbred jockey to serve a suspension for a riding violation at track where the violation occurred</td>
<td>To enhance the integrity and safety of thoroughbred horse racing</td>
</tr>
<tr>
<td>SGC-02-22-00003-P</td>
<td>01/12/23</td>
<td>Regulation of charitable gaming Internet raffles.</td>
<td>To implement Internet raffles regulation as directed by statute.</td>
</tr>
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<tr>
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<tbody>
<tr>
<td>*HLT-14-94-00006-P</td>
<td>exempt</td>
<td>Payment methodology for HIV/AIDS outpatient services</td>
<td>To expand the current payment to incorporate pricing for services</td>
</tr>
<tr>
<td>*HLT-05-21-00011-RP</td>
<td>05/04/22</td>
<td>Ingredient Disclosures for Vapor Products and E-Cigarettes</td>
<td>To provide for enhanced public awareness of the chemicals used in vapor products and electronic cigarettes</td>
</tr>
<tr>
<td>HLT-22-21-00004-P</td>
<td>06/02/22</td>
<td>Hospice Residence Rates</td>
<td>To authorize Medicaid rate of payment to increase the Hospice Residence reimbursement rates by 10 percent</td>
</tr>
<tr>
<td>Agency I.D. No.</td>
<td>Expires</td>
<td>Subject Matter</td>
<td>Purpose of Action</td>
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</tr>
<tr>
<td>HLT-22-21-00009-P</td>
<td>06/02/22</td>
<td>Managed Care Organizations (MCOs)</td>
<td>To maintain the contingent reserve requirement at 7.25% through 2022 applied to Medicaid Managed Care, HIV SNP &amp; HARP programs</td>
</tr>
<tr>
<td>HLT-46-21-00005-P</td>
<td>11/17/22</td>
<td>Nursing Home Minimum Direct Resident Care Spending</td>
<td>Every RHCF shall spend a minimum of 70% of revenue on direct resident care and 40% of revenue on resident-facing staffing.</td>
</tr>
<tr>
<td>HLT-46-21-00007-P</td>
<td>11/17/22</td>
<td>Minimum Staffing Requirements for Nursing Homes</td>
<td>Requiring minimum staffing levels for nursing homes</td>
</tr>
<tr>
<td>HLT-50-21-00001-EP</td>
<td>12/15/22</td>
<td>Prevention of COVID-19 Transmission by Covered Entities</td>
<td>To require covered entities to ensure their personnel are fully vaccinated against COVID-19 subject to certain exemptions.</td>
</tr>
<tr>
<td>HLT-50-21-00003-EP</td>
<td>12/15/22</td>
<td>Face Coverings for COVID-19 Prevention</td>
<td>To control and promote the control of communicable diseases to reduce their spread.</td>
</tr>
<tr>
<td>HLT-50-21-00004-EP</td>
<td>12/15/22</td>
<td>Personal Caregiving and Compassionate Caregiving Visitors in Nursing Homes (NH’s) and Adult Care Facilities (ACF’s)</td>
<td>To require NH’s &amp; ACF’s to establish policies &amp; procedures relating to personal caregiving &amp; compassionate caregiving visitors.</td>
</tr>
<tr>
<td>HLT-01-22-00004-P</td>
<td>01/05/23</td>
<td>Prescription Refills</td>
<td>Limits Medicaid FFS prescriptions to a maximum of 12 fills within one year from the date the prescriber initiates a prescription</td>
</tr>
<tr>
<td>HLT-07-22-00010-P</td>
<td>02/16/23</td>
<td>Clinical Staffing in General Hospitals</td>
<td>Requires general hospitals to have clinical staffing committees and create clinical staffing plans</td>
</tr>
<tr>
<td>HLT-07-22-00011-P</td>
<td>02/16/23</td>
<td>Surge and Flex Health Coordination System</td>
<td>Provides authority to the Commissioner to direct certain actions and waive certain regulations in an emergency.</td>
</tr>
<tr>
<td>HLT-10-22-00009-P</td>
<td>03/09/23</td>
<td>Updated Retention Standards for Adult Care Facilities</td>
<td>To ensure admission and retention standards for adult care facilities are consistent with the Americans with Disabilities Act.</td>
</tr>
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**HUMAN RIGHTS, DIVISION OF**

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<tr>
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<tbody>
<tr>
<td>HRT-15-21-00005-P</td>
<td>04/14/22</td>
<td>Notice of tenants’ rights to reasonable modifications and accommodations for persons with disabilities</td>
<td>To comply with the requirements of Executive Law section 170-d</td>
</tr>
</tbody>
</table>

**INDUSTRIAL BOARD OF APPEALS**

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**JOINT COMMISSION ON PUBLIC ETHICS, NEW YORK STATE**

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<tbody>
<tr>
<td>JPE-06-22-00015-EP</td>
<td>02/09/23</td>
<td>Adjudicatory proceedings and appeals procedures for matters under the Commission’s jurisdiction</td>
<td>To increase transparency of the Commission</td>
</tr>
<tr>
<td>Agency I.D. No.</td>
<td>Expires</td>
<td>Subject Matter</td>
<td>Purpose of Action</td>
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</tr>
<tr>
<td>LAB-51-21-00007-P</td>
<td>02/09/23</td>
<td>Workplace Safety Committees</td>
<td>To comply with Labor Law 27-d(8) which requires that the Department adopt regulations.</td>
</tr>
<tr>
<td>LAB-05-22-00008-EP</td>
<td>02/02/23</td>
<td>Unemployment Insurance Work Search</td>
<td>Permit unemployment claimants to use virtual and electronic methods to engage in systemic and sustained work search efforts.</td>
</tr>
<tr>
<td>LAW-48-21-00016-P</td>
<td>12/01/22</td>
<td>Contents of annual financial reports required to be filed by charities required to register with the Department of Law</td>
<td>Amend filing requirement held unconstitutional by the United States Supreme Court; conform filing thresholds to law</td>
</tr>
<tr>
<td>LAW-49-21-00016-P</td>
<td>12/08/22</td>
<td>Charities regulatory framework and the use of gendered pronouns therein</td>
<td>Removal of all references to gender pronouns and replacing them with the neutral pronoun, “they” or “their”</td>
</tr>
<tr>
<td>LIPA-08-01-00003-P</td>
<td>exempt</td>
<td>Pole attachments and related matters</td>
<td>To approve revisions to the authority’s tariff</td>
</tr>
<tr>
<td>LIPA-41-02-00005-P</td>
<td>exempt</td>
<td>Tariff for electric service</td>
<td>To revise the tariff for electric service</td>
</tr>
<tr>
<td>LIPA-04-06-00007-P</td>
<td>exempt</td>
<td>Tariff for electric service</td>
<td>To adopt provisions of a ratepayer protection plan</td>
</tr>
<tr>
<td>LIPA-03-10-00004-P</td>
<td>exempt</td>
<td>Residential late payment charges</td>
<td>To extend the application of late payment charges to residential customers</td>
</tr>
<tr>
<td>LIPA-15-18-00013-P</td>
<td>exempt</td>
<td>Outdoor area lighting</td>
<td>To add an option and pricing for efficient LED lamps to the Authority’s outdoor area lighting</td>
</tr>
<tr>
<td>LIPA-37-18-00013-P</td>
<td>exempt</td>
<td>The net energy metering provisions of the Authority’s Tariff for Electric Service</td>
<td>To implement PSC guidance increasing eligibility for value stack compensation to larger projects</td>
</tr>
<tr>
<td>LIPA-37-18-00017-P</td>
<td>exempt</td>
<td>The treatment of electric vehicle charging in the Authority’s Tariff for Electric Service.</td>
<td>To effectuate the outcome of the Public Service Commission’s proceeding on electric vehicle supply equipment.</td>
</tr>
<tr>
<td>LIPA-37-18-00018-P</td>
<td>exempt</td>
<td>The treatment of energy storage in the Authority’s Tariff for Electric Service.</td>
<td>To effectuate the outcome of the Public Service Commission’s proceeding on the NY Energy Storage Roadmap.</td>
</tr>
<tr>
<td>LIPA-09-20-00010-P</td>
<td>exempt</td>
<td>To update and implement latest requirements for ESCOs proposing to do business within the Authority’s service territory.</td>
<td>To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets.</td>
</tr>
<tr>
<td>LIPA-28-20-00033-EP</td>
<td>exempt</td>
<td>LIPA’s late payment charges, reconnection charges, and low-income customer discount enrollment</td>
<td>To allow waiver of late payment and reconnection charges and extend the grace period for re-enrolling in customer bill discounts</td>
</tr>
<tr>
<td>LIPA-37-20-00013-EP</td>
<td>exempt</td>
<td>The terms of deferred payment agreements available to LIPA’s commercial customers</td>
<td>To expand eligibility for and ease the terms of deferred payment agreements for LIPA’s commercial customers</td>
</tr>
<tr>
<td>Agency I.D. No.</td>
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<tr>
<td><strong>LONG ISLAND POWER AUTHORITY</strong></td>
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<tr>
<td>LPA-12-21-00011-P</td>
<td>exempt</td>
<td>LIPA's Long Island Choice (retail choice) tariff</td>
<td>To simplify and improve Long Island Choice based on stakeholder collaborative input</td>
</tr>
<tr>
<td><strong>MENTAL HEALTH, OFFICE OF</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>*OMH-09-21-00001-EP</td>
<td>03/03/22</td>
<td>Redesigning Residential Treatment Facilities (RTF)</td>
<td>To provide clarity and provide uniformity relating to RTF’s and to implement Chapter 58 of the Laws of 2020</td>
</tr>
<tr>
<td>OMH-20-21-00006-P</td>
<td>05/19/22</td>
<td>Establishment of Youth Assertive Community Treatment (ACT)</td>
<td>To include children in the populations eligible to receive ACT and other conforming changes</td>
</tr>
<tr>
<td>OMH-33-21-00005-ERP</td>
<td>08/18/22</td>
<td>Establishes Crisis Stabilization Centers.</td>
<td>To establish standards for a Crisis Stabilization Center which provides a full range of psychiatric and substance use services.</td>
</tr>
<tr>
<td>OMH-40-21-00007-EP</td>
<td>10/06/22</td>
<td>COVID-19 Masking Program</td>
<td>To implement a COVID-19 mask program</td>
</tr>
<tr>
<td>OMH-43-21-00002-EP</td>
<td>10/27/22</td>
<td>COVID-19 Vaccination Program</td>
<td>To implement a COVID-19 vaccination program in OMH Operated or Licensed Hospitals</td>
</tr>
<tr>
<td><strong>METROPOLITAN TRANSPORTATION AGENCY</strong></td>
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</tr>
<tr>
<td>MTA-16-21-00004-EP</td>
<td>04/21/22</td>
<td>Requiring mask wearing when using the facilities and conveyances of the MTA and its operating affiliates and subsidiaries</td>
<td>To safeguard the public health and safety by adding a new all-agency rule requiring the use of masks in facilities and conveyances</td>
</tr>
<tr>
<td><strong>MOTOR VEHICLES, DEPARTMENT OF</strong></td>
<td></td>
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</tr>
<tr>
<td>MTV-09-22-00017-P</td>
<td>03/02/23</td>
<td>Passenger and commercial registrations</td>
<td>Allows a passenger class registration for non-commercially used pickup trucks by removing the truck weight limitation</td>
</tr>
<tr>
<td><strong>NIAGARA FALLS WATER BOARD</strong></td>
<td></td>
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</tr>
<tr>
<td>*NFW-04-13-00004-EP</td>
<td>exempt</td>
<td>Adoption of Rates, Fees and Charges</td>
<td>To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders</td>
</tr>
<tr>
<td>*NFW-13-14-00006-EP</td>
<td>exempt</td>
<td>Adoption of Rates, Fees and Charges</td>
<td>To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders</td>
</tr>
<tr>
<td>NFW-49-21-00010-EP</td>
<td>12/08/22</td>
<td>Adoption of Rates, Fees, and Charges</td>
<td>To pay for increased costs necessary to operate, maintain, and manage the system, and to meet covenants with the bondholders</td>
</tr>
<tr>
<td><strong>OGDENSBURG BRIDGE AND PORT AUTHORITY</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>*OBA-33-18-00019-P</td>
<td>exempt</td>
<td>Increase in Bridge Toll Structure</td>
<td>To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit.</td>
</tr>
<tr>
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</tr>
<tr>
<td>OGDENSBURG BRIDGE AND PORT AUTHORITY</td>
<td>*OBA-07-19-00019-P</td>
<td>. . . . . . exempt</td>
<td>Increase in Bridge Toll Structure</td>
</tr>
<tr>
<td>PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR</td>
<td>PDD-37-21-00001-P</td>
<td>09/15/22</td>
<td>Certified Residential Opportunities</td>
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<tr>
<td></td>
<td>PDD-40-21-00002-EP</td>
<td>10/06/22</td>
<td>Mandatory Face Coverings in OPWDD Certified Services</td>
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<tr>
<td></td>
<td>PDD-43-21-00003-ERP</td>
<td>10/27/22</td>
<td>COVID-19 vaccines</td>
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<td>PDD-46-21-00015-P</td>
<td>11/17/22</td>
<td>Community Transition Services</td>
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<tr>
<td></td>
<td>PDD-04-22-00007-P</td>
<td>01/26/23</td>
<td>Reportable Incidents</td>
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<tr>
<td></td>
<td>PDD-07-22-00004-EP</td>
<td>02/16/23</td>
<td>Certification of the Facility Class Known as Individualized Residential Alternative</td>
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<td>PDD-07-22-00005-EP</td>
<td>02/16/23</td>
<td>General Purpose</td>
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<td>PDD-09-22-00005-P</td>
<td>03/02/23</td>
<td>Administrative Compensation</td>
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<td>PDD-10-22-00010-EP</td>
<td>03/09/23</td>
<td>Training Flexibilities</td>
</tr>
<tr>
<td>POWER AUTHORITY OF THE STATE OF NEW YORK</td>
<td>*PAS-01-10-00010-P</td>
<td>. . . . . . exempt</td>
<td>Rates for the sale of power and energy</td>
</tr>
<tr>
<td>PUBLIC EMPLOYMENT RELATIONS BOARD</td>
<td>PRB-01-22-00006-P</td>
<td>01/05/23</td>
<td>Rules and regulations to effectuate the purposes of the State Employment Relations Act (Labor Law Art. 20).</td>
</tr>
<tr>
<td>PUBLIC SERVICE COMMISSION</td>
<td>*PSC-09-99-00012-P</td>
<td>. . . . . . exempt</td>
<td>Transfer of books and records by Citizens Utilities Company</td>
</tr>
<tr>
<td></td>
<td>*PSC-15-99-00011-P</td>
<td>. . . . . . exempt</td>
<td>Electronic tariff by Woodcliff Park Corp.</td>
</tr>
<tr>
<td></td>
<td>*PSC-12-00-00001-P</td>
<td>. . . . . . exempt</td>
<td>Winter bundled sales service election date by Central Hudson Gas &amp; Electric Corporation</td>
</tr>
<tr>
<td></td>
<td>*PSC-44-01-00005-P</td>
<td>. . . . . . exempt</td>
<td>Annual reconciliation of gas costs by Corning Natural Gas Corporation</td>
</tr>
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<tr>
<td>*PSC-07-02-00032-P</td>
<td>exempt</td>
<td>Uniform business practices</td>
<td>To consider modification</td>
</tr>
<tr>
<td>*PSC-36-03-00010-P</td>
<td>exempt</td>
<td>Performance assurance plan by Verizon New York</td>
<td>To consider changes</td>
</tr>
<tr>
<td>*PSC-40-03-00015-P</td>
<td>exempt</td>
<td>Receipt of payment of bills by St. Lawrence Gas Company</td>
<td>To revise the process</td>
</tr>
<tr>
<td>*PSC-41-03-00010-P</td>
<td>exempt</td>
<td>Annual reconciliation of gas expenses and gas cost recoveries</td>
<td>To consider filings of various LDCs and municipalities</td>
</tr>
<tr>
<td>*PSC-41-03-00011-P</td>
<td>exempt</td>
<td>Annual reconciliation of gas expenses and gas cost recoveries</td>
<td>To consider filings of various LDCs and municipalities</td>
</tr>
<tr>
<td>*PSC-44-03-00009-P</td>
<td>exempt</td>
<td>Retail access data between jurisdictional utilities</td>
<td>To accommodate changes in retail access market structure or commission mandates</td>
</tr>
<tr>
<td>*PSC-02-04-00008-P</td>
<td>exempt</td>
<td>Delivery rates for Con Edison’s customers in New York City and Westchester County by the City of New York</td>
<td>To rehear the Nov. 25, 2003 order</td>
</tr>
<tr>
<td>*PSC-06-04-00009-P</td>
<td>exempt</td>
<td>Transfer of ownership interest by SCS Energy LLC and AE Investors LLC</td>
<td>To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC</td>
</tr>
<tr>
<td>*PSC-10-04-00005-P</td>
<td>exempt</td>
<td>Temporary protective order</td>
<td>To consider adopting a protective order</td>
</tr>
<tr>
<td>*PSC-10-04-00008-P</td>
<td>exempt</td>
<td>Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue</td>
<td>To amend the agreement</td>
</tr>
<tr>
<td>*PSC-14-04-00008-P</td>
<td>exempt</td>
<td>Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds</td>
<td>To submeter gas service to commercial customers located at the Buffalo Speedway</td>
</tr>
<tr>
<td>*PSC-15-04-00022-P</td>
<td>exempt</td>
<td>Submetering of electricity by Glenn Gardens Associates, L.P.</td>
<td>To permit submetering at 175 W. 87th St., New York, NY</td>
</tr>
<tr>
<td>*PSC-21-04-00013-P</td>
<td>exempt</td>
<td>Verizon performance assurance plan by Metropolitan Telecommunications</td>
<td>To clarify the appropriate performance level</td>
</tr>
<tr>
<td>*PSC-22-04-00010-P</td>
<td>exempt</td>
<td>Approval of new types of electricity meters by Powell Power Electric Company</td>
<td>To permit the use of the PE-1250 electronic meter</td>
</tr>
<tr>
<td>*PSC-22-04-00013-P</td>
<td>exempt</td>
<td>Major gas rate increase by Consolidated Edison Company of New York, Inc.</td>
<td>To increase annual gas revenues</td>
</tr>
<tr>
<td>*PSC-22-04-00016-P</td>
<td>exempt</td>
<td>Master metering of water by South Liberty Corporation</td>
<td>To waive the requirement for installation of separate water meters</td>
</tr>
<tr>
<td>*PSC-25-04-00012-P</td>
<td>exempt</td>
<td>Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.</td>
<td>To amend the agreement</td>
</tr>
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<td>Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)</td>
<td>Whether to partially modify its order requiring regulated local exchange carriers’ participation NYDE</td>
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<tr>
<td>*PSC-40-11-00012-P</td>
<td>exempt</td>
<td>Granting of transfer of plant in-service to a regulatory asset</td>
<td>To approve transfer and recovery of unamortized plant investment</td>
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<tr>
<td>*PSC-42-11-00018-P</td>
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<td>Availability of telecommunications services in New York State at just and reasonable rates</td>
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<tr>
<td>*PSC-43-11-00012-P</td>
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<td>Transfer of outstanding shares of stock</td>
<td>Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC</td>
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<tr>
<td>*PSC-47-11-00007-P</td>
<td>exempt</td>
<td>Remedying miscalculations of delivered gas as between two customer classes</td>
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<tr>
<td>*PSC-48-11-00007-P</td>
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<td>Transfer of controlling interests in generation facilities from Dynegy to PSEG</td>
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<tr>
<td>*PSC-48-11-00008-P</td>
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<td>Petition for the submetering of electricity</td>
<td>To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York</td>
</tr>
<tr>
<td>*PSC-01-12-00007-P</td>
<td>exempt</td>
<td>The New York State Reliability Council’s revisions to its rules and measurements</td>
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<tr>
<td>*PSC-01-12-00008-P</td>
<td>exempt</td>
<td>Transfer of real property and easements from NMPNS to NMP3</td>
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<tr>
<td>*PSC-01-12-00009-P</td>
<td>exempt</td>
<td>Recovery of expenses related to the expansion of Con Edison’s ESCO referral program, PowerMove</td>
<td>To determine how and to what extent expenses related to the Expansion of Con Edison’s ESCO referral program should be recovered</td>
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<tr>
<td>*PSC-11-12-0002-P</td>
<td>exempt</td>
<td>Whether to grant, deny or modify, in whole or part, Hegeman’s petition for a waiver of Commission policy and Con Edison tariff</td>
<td>Whether to grant, deny or modify, in whole or part, Hegeman’s petition for a waiver of Commission policy and Con Edison tariff</td>
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<tr>
<td>*PSC-11-12-00005-P</td>
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<td>Transfer of land and water supply assets</td>
<td>Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman</td>
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<tr>
<td>*PSC-13-12-00005-P</td>
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<td>Authorization to transfer certain real property</td>
<td>To decide whether to approve the transfer of certain real property</td>
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<tr>
<td>*PSC-19-12-00023-P</td>
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<td>Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than $100,000</td>
<td>To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.</td>
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<tr>
<td>*PSC-21-12-00006-P</td>
<td>exempt</td>
<td>Tariff filing requirements and refunds</td>
<td>To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted</td>
</tr>
<tr>
<td>*PSC-21-12-00011-P</td>
<td>exempt</td>
<td>Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47</td>
<td>Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47</td>
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<tr>
<td>*PSC-23-12-00007-P</td>
<td>exempt</td>
<td>The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility</td>
<td>To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility</td>
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<tr>
<td>*PSC-23-12-00009-P</td>
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<td>Over earnings sharing between rate payers and shareholders</td>
<td>To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning’s rate plan</td>
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<tr>
<td>*PSC-27-12-00012-P</td>
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<td>Implementation of recommendations made in a Management Audit Report</td>
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<tr>
<td>*PSC-28-12-00013-P</td>
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<td>Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism</td>
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<tr>
<td>*PSC-29-12-00019-P</td>
<td>exempt</td>
<td>Waiver of 16 NYCRR 894.1 through 894.4</td>
<td>To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.</td>
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<td>*PSC-30-12-00010-P</td>
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<td>Waiver of 16 NYCRR 894.1 through 894.4</td>
<td>To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process</td>
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<tr>
<td>*PSC-33-12-00009-P</td>
<td>exempt</td>
<td>Telecommunications companies ability to attach to utility company poles</td>
<td>Consideration of Tech Valley’s ability to attach to Central Hudson poles</td>
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<tr>
<td>*PSC-37-12-00009-P</td>
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<td>Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers</td>
<td>Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers</td>
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<td>*PSC-42-12-00009-P</td>
<td>exempt</td>
<td>Regulation of Gipsy Trail Club, Inc.’s long-term financing agreements</td>
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<tr>
<td>*PSC-45-12-00008-P</td>
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<td>Whether to grant, deny or modify, in whole or part, ESHG’s petition for a waiver of Commission policy and RG&amp;E tariff</td>
<td>Whether to grant, deny or modify, in whole or part, ESHG’s petition for a waiver of Commission policy and RG&amp;E tariff</td>
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<tr>
<td>*PSC-45-12-00010-P</td>
<td>exempt</td>
<td>Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District</td>
<td>Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District</td>
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<tr>
<td>*PSC-50-12-00003-P</td>
<td>exempt</td>
<td>Affiliate standards for Corning Natural Gas Corporation</td>
<td>To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing</td>
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<tr>
<td>*PSC-04-13-00006-P</td>
<td>exempt</td>
<td>Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW</td>
<td>To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW</td>
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<tr>
<td>*PSC-04-13-00007-P</td>
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<tr>
<td>*PSC-06-13-00008-P</td>
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<td>Verizon New York Inc.'s retail service quality</td>
<td>To investigate Verizon New York Inc.'s retail service quality</td>
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<td>*PSC-08-13-00012-P</td>
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<td>Filing requirements for certain Article VII electric facilities</td>
<td>To ensure that applications for certain electric transmission facilities contain pertinent information</td>
</tr>
<tr>
<td>*PSC-08-13-00014-P</td>
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<td>Uniform System of Accounts - Request for Accounting Authorization</td>
<td>To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred</td>
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<tr>
<td>*PSC-12-13-00007-P</td>
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<td>Protecting company water mains</td>
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<tr>
<td>*PSC-13-13-00008-P</td>
<td>exempt</td>
<td>The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.</td>
<td>To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.</td>
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<tr>
<td>*PSC-18-13-00007-P</td>
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<td>Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes</td>
<td>Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes</td>
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<tr>
<td>*PSC-21-13-00003-P</td>
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<td>To consider policies that may impact consumer acceptance and use of electric vehicles</td>
<td>To consider and further develop policies that may impact consumer acceptance and use of electric vehicles</td>
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<tr>
<td>*PSC-21-13-00005-P</td>
<td>exempt</td>
<td>To implement an abandonment of Windover’s water system</td>
<td>To approve the implementation of abandonment of Windover’s water system</td>
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<tr>
<td>*PSC-21-13-00008-P</td>
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<td>Rates of National Fuel Gas Distribution Corporation</td>
<td>To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive</td>
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<td>*PSC-21-13-00009-P</td>
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<td>Reporting requirements for natural gas local distribution companies</td>
<td>To help ensure efficient and economic expansion of the natural gas system as appropriate</td>
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<tr>
<td>*PSC-22-13-00009-P</td>
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<td>On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers</td>
<td>On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers</td>
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<tr>
<td>*PSC-23-13-00005-P</td>
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<td>Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations</td>
<td>Equalize regulatory treatment based on level of competition and practical considerations</td>
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<tr>
<td>PSC-25-13-00008-P</td>
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<td>To deny, grant or modify, in whole or in part, Central Hudson’s rehearing request.</td>
<td>To deny, grant or modify, in whole or in part, Central Hudson’s rehearing request.</td>
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<td>PSC-25-13-00009-P</td>
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<td>Provision by utilities of natural gas main and service lines.</td>
<td>To help ensure efficient and economic expansion of the natural gas system as appropriate.</td>
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<tr>
<td>PSC-25-13-00012-P</td>
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<td>To deny, grant or modify, in whole or in part, Central Hudson’s rehearing request.</td>
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<tr>
<td>PSC-28-13-00014-P</td>
<td>exempt</td>
<td>Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces</td>
<td>To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces</td>
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<tr>
<td>PSC-28-13-00016-P</td>
<td>exempt</td>
<td>The request of NGT for lightened regulation as a gas corporation.</td>
<td>To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.</td>
</tr>
<tr>
<td>PSC-28-13-00017-P</td>
<td>exempt</td>
<td>The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments</td>
<td>Consider the request by TE for waiver of regulations that gas be odorized in certain lines</td>
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<tr>
<td>PSC-32-13-00009-P</td>
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<td>To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices</td>
<td>To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices</td>
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<tr>
<td>PSC-32-13-00012-P</td>
<td>exempt</td>
<td>To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion</td>
<td>To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion</td>
</tr>
<tr>
<td>PSC-33-13-00027-P</td>
<td>exempt</td>
<td>Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.</td>
<td>Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.</td>
</tr>
<tr>
<td>PSC-33-13-00029-P</td>
<td>exempt</td>
<td>Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.</td>
<td>To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.</td>
</tr>
<tr>
<td>PSC-34-13-00004-P</td>
<td>exempt</td>
<td>Escrow account and surcharge to fund extraordinary repairs</td>
<td>To approve the establishment of an escrow account and surcharge</td>
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<tr>
<td>PSC-42-13-00013-P</td>
<td>exempt</td>
<td>Failure to Provide Escrow Information</td>
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<td>PSC-42-13-00015-P</td>
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<td>Failure to Provide Escrow Information</td>
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<tr>
<td>PSC-43-13-00015-P</td>
<td>exempt</td>
<td>Petition for submetering of electricity</td>
<td>To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.</td>
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<tr>
<td>PSC-45-13-00021-P</td>
<td>exempt</td>
<td>Investigation into effect of bifurcation of gas and electric utility service on Long Island.</td>
<td>To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.</td>
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<tr>
<td>PSC-45-13-00022-P</td>
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<td>Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)</td>
<td>To consider a waiver of certain regulations relating to the content of an application for transmission line siting</td>
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<tr>
<td>*PSC-45-13-00023-P</td>
<td></td>
<td>Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).</td>
<td>To consider a waiver of certain regulations relating to the content of an application for transmission line siting</td>
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<tr>
<td>*PSC-45-13-00024-P</td>
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<td>Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines.</td>
<td>To consider a waiver of certain regulations relating to the content of an application for transmission line siting</td>
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<tr>
<td>*PSC-45-13-00025-P</td>
<td></td>
<td>Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).</td>
<td>To consider a waiver of certain regulations relating to the content of an application for transmission line siting</td>
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<tr>
<td>*PSC-47-13-00009-P</td>
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<td>Petition for submetering of electricity.</td>
<td>To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.</td>
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<tr>
<td>*PSC-47-13-00012-P</td>
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<td>Conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&amp;E from certain affiliates.</td>
<td>Consideration of conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&amp;E from certain affiliates.</td>
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<tr>
<td>*PSC-49-13-00008-P</td>
<td></td>
<td>Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.</td>
<td>To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.</td>
</tr>
<tr>
<td>*PSC-51-13-00009-P</td>
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<td>Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.</td>
<td>To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.</td>
</tr>
<tr>
<td>*PSC-51-13-00010-P</td>
<td></td>
<td>Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.</td>
<td>To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.</td>
</tr>
<tr>
<td>*PSC-51-13-00011-P</td>
<td></td>
<td>Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.</td>
<td>To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.</td>
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<tr>
<td>*PSC-52-13-00012-P</td>
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<td>The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).</td>
<td>To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).</td>
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<tr>
<td>*PSC-52-13-00015-P</td>
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<td>To enter into a loan agreement with the banks for up to an amount of $94,000.</td>
<td>To consider allowing Knolls Water Company to enter into a long-term loan agreement.</td>
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<tr>
<td>*PSC-05-14-00010-P</td>
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<td>The New York State Reliability Council’s revisions to its rules and measurements</td>
<td>To adopt revisions to various rules and measurements of the New York State Reliability Council</td>
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<tr>
<td>*PSC-07-14-00008-P</td>
<td></td>
<td>Petition for submetering of electricity</td>
<td>To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.</td>
</tr>
<tr>
<td>*PSC-07-14-00012-P</td>
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<td>Water rates and charges</td>
<td>Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project</td>
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<tr>
<td>*PSC-08-14-00015-P</td>
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<td>Verizon New York Inc.’s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities</td>
<td>To improve Verizon New York Inc.’s service quality and the Customer Trouble Report Rate levels at certain central office entities</td>
</tr>
<tr>
<td>*PSC-10-14-00006-P</td>
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<td>Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance</td>
<td>To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance</td>
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<tr>
<td>*PSC-11-14-00003-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces</td>
<td>To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces</td>
</tr>
<tr>
<td>*PSC-16-14-00014-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties.</td>
<td>To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties.</td>
</tr>
<tr>
<td>*PSC-16-14-00015-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336.</td>
<td>Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336</td>
</tr>
<tr>
<td>*PSC-17-14-00004-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>To consider certain portions of petitions for rehearing, reconsideration and/or clarification</td>
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<tr>
<td>*PSC-17-14-00007-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>To consider petitions for rehearing, reconsideration and/or clarification</td>
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<tr>
<td>*PSC-17-14-00008-P</td>
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<td>To consider certain portions of petitions for rehearing, reconsideration and/or clarification</td>
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</tr>
<tr>
<td>*PSC-19-14-00014-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Market Supply Charge</td>
<td>To make tariff revisions to the Market Supply Charge for capacity related costs</td>
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<tr>
<td>*PSC-19-14-00015-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Whether to permit the use of the Sensus accuWAIVE for use in residential and commercial gas meter applications</td>
<td>To permit gas utilities in New York State to use the Sensus accuWAIVE 415TC gas meter</td>
</tr>
<tr>
<td>*PSC-22-14-00013-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Petition to transfer and merge systems, franchises and assets.</td>
<td>To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.</td>
</tr>
<tr>
<td>*PSC-23-14-00010-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications</td>
<td>To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter</td>
</tr>
<tr>
<td>*PSC-23-14-00014-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Waiver of the negative revenue adjustment associated with KEDLI’s 2013 Customer Satisfaction Performance Metric</td>
<td>Consideration of KEDLI’s waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric</td>
</tr>
<tr>
<td>*PSC-24-14-00005-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>To examine LDC’s performance and performance measures.</td>
<td>To improve gas safety performance.</td>
</tr>
<tr>
<td>*PSC-26-14-00013-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Waiver of RG&amp;E’s tariffed definition of emergency generator.</td>
<td>To consider waiver of RG&amp;E’s tariffed definition of emergency generator.</td>
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<tr>
<td>*PSC-26-14-00020-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>New electric utility backup service tariffs and standards for interconnection may be adopted.</td>
<td>To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.</td>
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<tr>
<td>*PSC-26-14-00021-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Consumer protections, standards and protocols pertaining to access to customer data may be established.</td>
<td>To balance the need for the information necessary to support a robust market with customer privacy concerns.</td>
</tr>
<tr>
<td>*PSC-28-14-00014-P</td>
<td>. . . . . . . . . . . . exempt</td>
<td>Petition to transfer systems, franchises and assets.</td>
<td>To consider the Comcast and Charter transfer of systems, franchise and assets.</td>
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<tr>
<td>*PSC-30-14-00023-P</td>
<td>exempt</td>
<td>Whether to permit the use of the Sensus iPERL Fire Flow Meter.</td>
<td>Pursuant to 16 NYCRR Part 500.3, it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.</td>
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<tr>
<td>*PSC-30-14-00026-P</td>
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<td>Petition for a waiver to master meter electricity.</td>
<td>Considering the request of Renaissance Corporation to master meter electricity at 100 Union Drive, Albany, NY.</td>
</tr>
<tr>
<td>*PSC-31-14-00004-P</td>
<td>exempt</td>
<td>To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross</td>
<td>To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross</td>
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<td>*PSC-32-14-00012-P</td>
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<td>Whether to grant or deny, in whole or in part, the Connect New York Coalition’s petition</td>
<td>To consider the Connect New York Coalition’s petition seeking a formal investigation and hearings</td>
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<tr>
<td>*PSC-35-14-00004-P</td>
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<td>Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY</td>
<td>To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY</td>
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<tr>
<td>*PSC-35-14-00005-P</td>
<td>exempt</td>
<td>Whether to permit the use of the Sensus iConA electric meter</td>
<td>Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter</td>
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<tr>
<td>*PSC-36-14-00009-P</td>
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<td>Modification to the Commission’s Electric Safety Standards.</td>
<td>To consider revisions to the Commission’s Electric Safety Standards.</td>
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<td>*PSC-38-14-00003-P</td>
<td>exempt</td>
<td>Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.</td>
<td>Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.</td>
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<td>*PSC-38-14-00005-P</td>
<td>exempt</td>
<td>Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.</td>
<td>Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.</td>
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<tr>
<td>*PSC-38-14-00007-P</td>
<td>exempt</td>
<td>Whether to expand Con Edison’s low income program to include Medicaid recipients.</td>
<td>Whether to expand Con Edison’s low income program to include Medicaid recipients.</td>
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<tr>
<td>*PSC-38-14-00010-P</td>
<td>exempt</td>
<td>Inter-carrier telephone service quality standard and metrics and administrative changes.</td>
<td>To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.</td>
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<tr>
<td>*PSC-38-14-00012-P</td>
<td>exempt</td>
<td>Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.</td>
<td>Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.</td>
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<tr>
<td>*PSC-39-14-00020-P</td>
<td>exempt</td>
<td>Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters</td>
<td>Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters</td>
</tr>
<tr>
<td>*PSC-40-14-00008-P</td>
<td>exempt</td>
<td>To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.</td>
<td>To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.</td>
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<td>*PSC-40-14-00009-P</td>
<td>exempt</td>
<td>Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality.</td>
<td>Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1.</td>
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<td>*PSC-40-14-00011-P</td>
<td>exempt</td>
<td>Late Payment Charge.</td>
<td>To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.</td>
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<tr>
<td>*PSC-40-14-00013-P</td>
<td>exempt</td>
<td>Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.</td>
<td>To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.</td>
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<tr>
<td>*PSC-40-14-00014-P</td>
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<td>Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)</td>
<td>To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.</td>
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<tr>
<td>*PSC-40-14-00015-P</td>
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<td>Late Payment Charge.</td>
<td>To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.</td>
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<tr>
<td>*PSC-42-14-00003-P</td>
<td>exempt</td>
<td>Annual Reconciliation of Gas Expenses and Gas Cost Recoveries</td>
<td>The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries</td>
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<td>*PSC-42-14-00004-P</td>
<td>exempt</td>
<td>Winter Bundled Sales Service Option</td>
<td>To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge</td>
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<tr>
<td>*PSC-48-14-00014-P</td>
<td>exempt</td>
<td>Considering the recommendations contained in Staff’s electric outage investigation report for MNRR, New Haven Line.</td>
<td>To consider the recommendations contained in Staff’s electric outage investigation report for MNRR, New Haven Line.</td>
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<tr>
<td>*PSC-52-14-00019-P</td>
<td>exempt</td>
<td>Petition for a waiver to master meter electricity.</td>
<td>Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY.</td>
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<td>*PSC-01-15-00014-P</td>
<td>exempt</td>
<td>State Universal Service Fund Disbursements</td>
<td>To consider Edwards Telephone Company’s request for State Universal Service Fund disbursements</td>
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<tr>
<td>*PSC-08-15-00010-P</td>
<td>exempt</td>
<td>Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.</td>
<td>To grant, deny, or modify URAC Rate Consultants’ request that National Grid cease its summary billing program.</td>
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<td>*PSC-10-15-00007-P</td>
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<tr>
<td>*PSC-10-15-00008-P</td>
<td>exempt</td>
<td>Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes</td>
<td>Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes</td>
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<tr>
<td>*PSC-13-15-00024-P</td>
<td>exempt</td>
<td>Whether Leatherstocking should be permitted to recover a shortfall in earnings</td>
<td>To decide whether to approve Leatherstocking’s request to recover a shortfall in earnings</td>
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<tr>
<td>*PSC-13-15-00026-P</td>
<td>exempt</td>
<td>Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product</td>
<td>To permit the use of the Sensus Smart Point Gas AMR/AMI product</td>
</tr>
<tr>
<td>*PSC-13-15-00027-P</td>
<td>exempt</td>
<td>Whether to permit the use of the Measurlogic DTS 310 electric submeter</td>
<td>To permit the use of the Measurlogic DTS 310 submeter</td>
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<tr>
<td>*PSC-13-15-00028-P</td>
<td>. . . . . exempt</td>
<td>Whether to permit the use of the SATEC EM920 electric meter</td>
<td>To permit necessary to permit the use of the SATEC EM920 electric meter</td>
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<tr>
<td>*PSC-13-15-00029-P</td>
<td>. . . . . exempt</td>
<td>Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters</td>
<td>To permit the use of the Triacta submeters</td>
</tr>
<tr>
<td>*PSC-17-15-00007-P</td>
<td>. . . . . exempt</td>
<td>To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of $2.75 million</td>
<td>To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of $2.75 million</td>
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<tr>
<td>*PSC-19-15-00011-P</td>
<td>. . . . . exempt</td>
<td>Gas Safety Performance Measures and associated negative revenue adjustments</td>
<td>To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid</td>
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<tr>
<td>*PSC-22-15-00015-P</td>
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<td>To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)</td>
<td>To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)</td>
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<tr>
<td>*PSC-23-15-00005-P</td>
<td>. . . . . exempt</td>
<td>The modification of New York American Water’s current rate plan</td>
<td>Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff</td>
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<td>*PSC-23-15-00006-P</td>
<td>. . . . . exempt</td>
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<tr>
<td>*PSC-25-15-00008-P</td>
<td>. . . . . exempt</td>
<td>Notice of Intent to Submeter electricity.</td>
<td>To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.</td>
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<tr>
<td>*PSC-29-15-00025-P</td>
<td>. . . . . exempt</td>
<td>Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY</td>
<td>Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY</td>
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<td>*PSC-33-15-00009-P</td>
<td>. . . . . exempt</td>
<td>Remote net metering of a demonstration community net metering program.</td>
<td>To consider approval of remote net metering of a demonstration community net metering program.</td>
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<tr>
<td>*PSC-33-15-00012-P</td>
<td>. . . . . exempt</td>
<td>Remote net metering of a Community Solar Demonstration Project.</td>
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<tr>
<td>*PSC-34-15-00021-P</td>
<td>. . . . . exempt</td>
<td>Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs</td>
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<td>*PSC-35-15-00014-P</td>
<td>. . . . . exempt</td>
<td>Consideration of consequences against Light Power &amp; Gas, LLC for violations of the UBP</td>
<td>To consider consequences against Light Power &amp; Gas, LLC for violations of the UBP</td>
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<tr>
<td>*PSC-37-15-00007-P</td>
<td>. . . . . exempt</td>
<td>Submetered electricity</td>
<td>To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007</td>
</tr>
<tr>
<td>*PSC-40-15-00014-P</td>
<td>. . . . . exempt</td>
<td>Whether to permit the use of the Open Way 3.5 with cellular communications</td>
<td>To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93</td>
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<tr>
<td>PSC-42-15-00006-P</td>
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<td>Deferral of incremental expenses associated with NERC’s new Bulk Electric System (BES) compliance requirements approved by FERC.</td>
<td>Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.</td>
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<td>PSC-44-15-00028-P</td>
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<td>PSC-48-15-00011-P</td>
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<td>Proposal to retire Huntley Units 67 and 68 on March 1, 2016.</td>
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<td>To consider the reduction of rates charged by Independent Water Works, Inc.</td>
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<tr>
<td>PSC-50-15-00009-P</td>
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<td>Notice of Intent to submeter electricity.</td>
<td>To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.</td>
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<td>Modification of the EDP</td>
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<td>PSC-01-16-00005-P</td>
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<td>Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices</td>
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<td>PSC-04-16-00007-P</td>
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<td>Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.</td>
<td>Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.</td>
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<td>PSC-04-16-00012-P</td>
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<td>Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.</td>
<td>Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.</td>
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<tr>
<td>PSC-04-16-00013-P</td>
<td>exempt</td>
<td>Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.</td>
<td>Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.</td>
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<td>PSC-06-16-00013-P</td>
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<td>To consider the continued deferral of approximately $16,000,000 in site investigation and remediation costs.</td>
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<td>PSC-06-16-00014-P</td>
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<td>Resetting retail markets for ESCO mass market customers.</td>
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<td>Amendments to the Uniform Business Practices of ESCOs.</td>
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<td>Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study.</td>
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<td>To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY.</td>
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<tr>
<td>PSC-25-16-00009-P</td>
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<td>PSC-25-16-00025-P</td>
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<td>To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.</td>
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<td>PSC-25-16-00026-P</td>
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<td>To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.</td>
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<tr>
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<td>To determine appropriate rules for and calculation of the distributed generation reliability credit.</td>
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<td>To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements.</td>
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<tr>
<td>*PSC-47-16-00009-P</td>
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<td>Petition to use commercial electric meters</td>
<td>To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications</td>
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<tr>
<td>*PSC-47-16-00010-P</td>
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<td>To consider the report filed and the recommendations therein</td>
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<tr>
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<td>Standby Service rate design</td>
<td>To consider the report filed and the recommendations therein</td>
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<tr>
<td>*PSC-47-16-00014-P</td>
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<td>Standby Service rate design</td>
<td>To consider the report filed and the recommendations therein</td>
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<td>*PSC-47-16-00016-P</td>
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<td>Standby Service rate design</td>
<td>To consider the report filed and the recommendations therein</td>
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<tr>
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<td>Implementation of the four EAMs.</td>
<td>To consider the implementation of EAMs for RG&amp;E.</td>
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<tr>
<td>*PSC-02-17-00012-P</td>
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<td>Implementation of the four EAMs.</td>
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<tr>
<td>*PSC-18-17-00024-P</td>
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<td>A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades</td>
<td>To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist.</td>
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<tr>
<td>*PSC-18-17-00026-P</td>
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<td>Revisions to the Dynamic Load Management surcharge.</td>
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<td>*PSC-19-17-00004-P</td>
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<td>NYAW’s request to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2016.</td>
<td>Consideration of NYAW’s petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2016.</td>
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<td>*PSC-20-17-00008-P</td>
<td>exempt</td>
<td>Compressed natural gas as a motor fuel for diesel fueled vehicles.</td>
<td>To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel.</td>
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<tr>
<td>*PSC-20-17-00010-P</td>
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<td>Compressed natural gas as a motor fuel for diesel fueled vehicles.</td>
<td>To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel.</td>
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<td>*PSC-21-17-00013-P</td>
<td>exempt</td>
<td>The establishment and implementation of Earnings Adjustment Mechanisms.</td>
<td>To consider the establishment and implementation of Earnings Adjustment Mechanisms.</td>
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<tr>
<td>*PSC-21-17-00018-P</td>
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<td>Proposed agreement for the provision of water service by Saratoga Water Services, Inc.</td>
<td>To consider a waiver and approval of terms of a service agreement.</td>
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<td>*PSC-22-17-00004-P</td>
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<tr>
<td>*PSC-24-17-00006-P</td>
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<td>Development of the Utility Energy Registry.</td>
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<td>*PSC-26-17-00005-P</td>
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<td>Notice of Intent to submeter electricity.</td>
<td>To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York.</td>
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<tr>
<td>*PSC-34-17-00011-P</td>
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<td>Petition for a waiver to permit Energy Cooperative of America to serve low-income customers</td>
<td>To consider the petition for a waiver</td>
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<td>*PSC-37-17-00005-P</td>
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<td>To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms.</td>
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<td>*PSC-39-17-00011-P</td>
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<td>Whether to direct New York State Electric &amp; Gas to complete electric facility upgrades at no charge to Hanahan.</td>
<td>To determine financial responsibility between NYSEG and Hanahan for the electric service upgrades to Hanahan.</td>
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<td>*PSC-42-17-00010-P</td>
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<td>*PSC-48-17-00015-P</td>
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<td>To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs.</td>
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<td>*PSC-50-17-00017-P</td>
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<td>New Wave Energy Corp.'s petition for rehearing.</td>
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<td>*PSC-50-17-00018-P</td>
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<td>Disposition of tax refunds and other related matters.</td>
<td>To consider the disposition of tax refunds and other related matters.</td>
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<td>*PSC-51-17-00011-P</td>
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<td>Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project.</td>
<td>To consider Con Edison’s petition for the recovery of costs for implementing the JFK Project.</td>
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<td>*PSC-04-18-00005-P</td>
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<td>To consider the notice of intent of Montante/Morgan Gates Circle LLC to submeter electricity.</td>
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<td>*PSC-05-18-00004-P</td>
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<td>*PSC-06-18-00012-P</td>
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<td>To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan</td>
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<td>*PSC-06-18-00017-P</td>
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<td>Merger of NYAW and Whitlock Farms Water Corp.</td>
<td>To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity</td>
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<td>*PSC-07-18-00015-P</td>
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<td>To consider AEC’s petition requesting resolution of their billing dispute with National Grid.</td>
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<td>*PSC-11-18-00004-P</td>
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<td>New York State Lifeline Program.</td>
<td>To consider TracFone’s petition seeking approval to participate in Lifeline.</td>
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<td>*PSC-13-18-00015-P</td>
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<td>Eligibility of an ESCO to market to and enroll residential customers.</td>
<td>To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.</td>
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<td>*PSC-13-18-00023-P</td>
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<td>Reconciliation of property taxes.</td>
<td>To consider NYAW’s request to reconcile property taxes.</td>
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<td>PSC-14-18-00006-P</td>
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<td>Petition for abandonment</td>
<td>To consider the abandonment of Willsboro Bay Water Company’s water system</td>
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<td>PSC-17-18-00010-P</td>
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<td>Petition for use of gas metering equipment.</td>
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<td>PSC-18-18-00009-P</td>
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<td>Transfer of control of Keene Valley Video Inc.</td>
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<td>Whether to impose consequences on Aspirity for its non-compliance with Commission requirements.</td>
<td>To ensure the provision of safe and adequate energy service at just and reasonable rates.</td>
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<td>PSC-24-18-00013-P</td>
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<td>Implementation of program rules for Renewable Energy Standard and ZEC requirements.</td>
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<td>PSC-29-18-00008-P</td>
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<td>Participation in Targeted Accessibility Fund</td>
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<td>To ensure adequate submetering equipment and energy efficiency protections are in place.</td>
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<td>PSC-34-18-00016-P</td>
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<td>Deferral of pre-staging and mobilization storm costs.</td>
<td>To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs.</td>
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<td>PSC-35-18-00003-P</td>
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<td>Con Edison’s 2018 DSIP and BCA Handbook Update.</td>
<td>To continue Con Edison’s transition to a modern utility serving as a Distributed System Platform Provider.</td>
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<td>PSC-35-18-00005-P</td>
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<td>NYSEG and RG&amp;E’s 2018 DSIP and BCA Handbook Update.</td>
<td>To continue NYSEG and RG&amp;E’s transition to modern utilities acting as Distributed System Platform Providers.</td>
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<tr>
<td>PSC-35-18-00006-P</td>
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<td>National Grid’s 2018 DSIP and BCA Handbook Update.</td>
<td>To continue National Grid’s transition to a modern utility serving as a Distributed System Platform Provider.</td>
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<td>PSC-35-18-00008-P</td>
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<td>Central Hudson’s 2018 DSIP and BCA Handbook Update.</td>
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<td>PSC-35-18-00010-P</td>
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<td>O&amp;R’s 2018 DSIP and BCA Handbook Update.</td>
<td>To continue O&amp;R’s transition to a modern utility acting as a Distributed System Platform Provider.</td>
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<tr>
<td>*PSC-42-18-00011-P</td>
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<td>Voluntary residential beneficial electrification rate design.</td>
<td>To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers.</td>
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<tr>
<td>*PSC-42-18-00013-P</td>
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<td>Petition for clarification and rehearing of the Smart Solutions Program Order.</td>
<td>To address the increased demand for natural gas in the Con Edison’s service territory and the limited pipeline capacity.</td>
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<td>*PSC-44-18-00016-P</td>
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<td>Petition for approval of gas metering equipment.</td>
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<td>*PSC-45-18-00005-P</td>
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<td>Notice of intent to submeter electricity and waiver of energy audit</td>
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<td>*PSC-01-19-00013-P</td>
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<td>Order of the Commission related to caller ID unblocking.</td>
<td>To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County.</td>
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<tr>
<td>*PSC-03-19-00002-P</td>
<td>exempt</td>
<td>DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings.</td>
<td>To reduce damage to underground utility facilities by requiring certain training and approving training curricula.</td>
</tr>
<tr>
<td>*PSC-04-19-00004-P</td>
<td>exempt</td>
<td>Con Edison’s petition for the Gas Innovation Program and associated budget.</td>
<td>To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals.</td>
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<tr>
<td>*PSC-04-19-00011-P</td>
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<td>Update of revenue targets.</td>
<td>To ensure NYAW’s rates are just and reasonable and accurately reflect the needed revenues.</td>
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<tr>
<td>*PSC-06-19-00005-P</td>
<td>exempt</td>
<td>Consideration of the Joint Utilities’ proposed BDP Program.</td>
<td>To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects.</td>
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<tr>
<td>*PSC-07-19-00009-P</td>
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<td>Whether to impose consequences on AAA for its non-compliance with Commission requirements.</td>
<td>To insure the provision of safe and adequate energy service at just and reasonable rates.</td>
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<tr>
<td>*PSC-07-19-00016-P</td>
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<td>Participation in New York State Lifeline Program.</td>
<td>To encourage enhanced services for low-income customers.</td>
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<td>*PSC-09-19-00010-P</td>
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<td>Non-pipeline alternatives report recommendations.</td>
<td>To consider the terms and conditions applicable to gas service.</td>
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<tr>
<td>*PSC-12-19-00004-P</td>
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<td>To test innovative pricing proposals on an opt-out basis.</td>
<td>To provide pricing structures that deliver benefits to customers and promote beneficial electrification technologies.</td>
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<tr>
<td>*PSC-13-19-00010-P</td>
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<td>New Commission requirements for gas company operator qualification programs.</td>
<td>To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities.</td>
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<tr>
<td>*PSC-19-19-00013-P</td>
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<td>Proposed merger of three water utilities into one corporation.</td>
<td>To determine if the proposed merger is in the public interest.</td>
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<td>*PSC-20-19-00008-P</td>
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<td>Compensation policies for certain CHP projects</td>
<td>To consider appropriate rules for compensation of certain CHP resources</td>
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<td>*PSC-31-19-00013-P</td>
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<td>Implementation of Statewide Energy Benchmarking.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.</td>
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<tr>
<td>*PSC-32-19-00012-P</td>
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<td>Standby Service Rates and Buyback Service Rates</td>
<td>To ensure just and reasonable rates, including compensation, for distributed energy resources</td>
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<tr>
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<td>Petition to submeter electricity</td>
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<td>*PSC-39-19-00018-P</td>
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<td>Petition to submeter electricity.</td>
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<td>*PSC-41-19-00003-P</td>
<td>. . . . . . exempt</td>
<td>A voluntary residential three-part rate that would include fixed, usage and demand charges.</td>
<td>To provide qualifying residential customers with an optional three-part rate.</td>
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<tr>
<td>*PSC-44-19-00003-P</td>
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<td>Proposed revisions to Standby Service Rates and Buyback Service Rates.</td>
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<td>*PSC-44-19-00005-P</td>
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<td>*PSC-44-19-00006-P</td>
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<td>*PSC-44-19-00007-P</td>
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<td>*PSC-44-19-00009-P</td>
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<td>Proposed revisions to Standby Service Rates and Buyback Service Rates.</td>
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<td>*PSC-46-19-00008-P</td>
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<td>Wappingers Falls Hydroelectric LLC’s facility located in Wappingers Falls, New York.</td>
<td>To promote and maintain renewable electric energy resources.</td>
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<td>*PSC-46-19-00010-P</td>
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<td>To test innovative rate designs on an opt-out basis.</td>
<td>To implement alternative innovative rate designs intended to assess customer behaviors in response to price signals</td>
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<td>*PSC-08-20-00003-P</td>
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<td>To consider a waiver of certain regulations relating to the content of an application for transmission line siting.</td>
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<td>*PSC-10-20-00003-P</td>
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<td>Delivery rates of Corning Natural Gas Corporation.</td>
<td>Whether to postpone the implementation of a change in rates that would otherwise become effective on June 1, 2020.</td>
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<td>*PSC-15-20-00011-P</td>
<td>. . . . . . exempt</td>
<td>To modify the terms and conditions under which gas utilities provide service to electric generators.</td>
<td>To provide clarity and uniformity to the provision of gas service to electric generators.</td>
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<td>*PSC-16-20-00004-P</td>
<td>. . . . . . exempt</td>
<td>Disposition of a state sales tax refund.</td>
<td>To determine how much of a state sales tax refund should be retained by Central Hudson.</td>
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<td>*PSC-18-20-00012-P</td>
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<td>The purchase price of electric energy and capacity from customers with qualifying on-site generation facilities.</td>
<td>To revise the price to be paid by the Company under Service Classification No. 10, for qualifying purchases of unforced capacity.</td>
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<td>PSC-18-20-00015-P</td>
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<td>Participation of Eligible Telecommunications Carriers (ETCs) in New York State Lifeline Program.</td>
<td>Commission will consider each petition filed by an ETCs seeking approval to participate in the NYS Lifeline program.</td>
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<td>PSC-19-20-00004-P</td>
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<td>To consider whether energy service companies should be permitted to bank RECs to satisfy their renewable energy requirements.</td>
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<td>PSC-19-20-00005-P</td>
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<td>To provide cost recovery for new DLM programs and prevent double compensation to participating customers.</td>
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<td>To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies.</td>
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<td>PSC-25-20-00016-P</td>
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<td>To address the economic impacts of the COVID-19 pandemic.</td>
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<td>PSC-27-20-00003-P</td>
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<td>To make the uniform statewide customer satisfaction survey permanent.</td>
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<td>PSC-28-20-00022-P</td>
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<td>Compensation of distributed energy resources.</td>
<td>To ensure just and reasonable rates, including compensation, for distributed energy resources.</td>
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<td>Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act</td>
<td>To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals.</td>
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<td>PSC-34-20-00005-P</td>
<td>exempt</td>
<td>Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers.</td>
<td>To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory.</td>
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<td>PSC-38-20-00004-P</td>
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<td>The annual Reconciliation of Gas Expenses and Gas Cost Recoveries.</td>
<td>To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.</td>
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<td>PSC-42-20-00008-P</td>
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<td>Availability of gas leak information to the public safety officials.</td>
<td>Facilitate availability of gas leak information to public safety officials by gas corporations.</td>
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<td>PSC-43-20-00003-P</td>
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<td>The use of $50 million to support residential and commercial customers experiencing financial hardship</td>
<td>To consider whether the proposed support of ratepayers is in the public interest</td>
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<td>PSC-45-20-00003-P</td>
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<td>To ensure adequate submetering equipment and consumer protections are in place</td>
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<td>PSC-52-21-00006-P</td>
<td>exempt</td>
<td>Proposed tariff revisions to the Companies firm demand response programs for the 2021-2022 season.</td>
<td>To effectuate more efficient firm gas demand response programs to gain operational efficiency and shave peak demand.</td>
</tr>
<tr>
<td>PSC-52-21-00007-P</td>
<td>exempt</td>
<td>Clean Energy Standard Tier 1 Load Serving Entity Obligations.</td>
<td>To modify the Tier 1 Load Serving Entity obligations for compliance year 2023 and establish the obligation for year 2024.</td>
</tr>
<tr>
<td>PSC-52-21-00008-P</td>
<td>exempt</td>
<td>Notice of intent to submeter electricity.</td>
<td>To ensure adequate submetering equipment and consumer protections are in place.</td>
</tr>
<tr>
<td>PSC-52-21-00009-P</td>
<td>exempt</td>
<td>Authorization to recover costs for 19 transmission projects and related mechanisms.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.</td>
</tr>
<tr>
<td>PSC-52-21-00010-P</td>
<td>exempt</td>
<td>Transfer of street lighting facilities.</td>
<td>To determine whether to authorize the transfer of lighting facilities and the proper accounting for the transaction.</td>
</tr>
<tr>
<td>PSC-01-22-00007-P</td>
<td>exempt</td>
<td>Amendments to the SIR.</td>
<td>To more effectively interconnect distributed generation and energy storage systems 5 MW or less to the distribution system.</td>
</tr>
<tr>
<td>PSC-01-22-00008-P</td>
<td>exempt</td>
<td>Proposed transfer of the Company’s capital stock to the Purchaser.</td>
<td>To determine if transfer of the Company’s capital stock to the Purchaser is in the public interest.</td>
</tr>
<tr>
<td>PSC-01-22-00009-P</td>
<td>exempt</td>
<td>Notice of intent to submeter electricity and request for waiver.</td>
<td>To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.</td>
</tr>
<tr>
<td>Agency I.D. No.</td>
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</tr>
<tr>
<td>PSC-01-22-00010-P</td>
<td>exempt</td>
<td>Compensation of and incentives for distributed energy resources.</td>
<td>To encourage the development of and ensure just and reasonable rates for distributed energy resources.</td>
</tr>
<tr>
<td>PSC-01-22-00011-P</td>
<td>exempt</td>
<td>Waiver of Article VII requirements.</td>
<td>To consider a waiver of certain regulations relating to the content of an application for transmission line siting.</td>
</tr>
<tr>
<td>PSC-01-22-00012-P</td>
<td>exempt</td>
<td>Notice of intent to submeter electricity and request for waiver.</td>
<td>To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.</td>
</tr>
<tr>
<td>PSC-01-22-00013-P</td>
<td>exempt</td>
<td>Interconnection costs.</td>
<td>To consider a petition requesting relief from interconnection costs assigned by the interconnecting utility.</td>
</tr>
<tr>
<td>PSC-01-22-00014-P</td>
<td>exempt</td>
<td>Notice of intent to submeter electricity and request for waiver.</td>
<td>To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.</td>
</tr>
<tr>
<td>PSC-01-22-00015-P</td>
<td>exempt</td>
<td>Petition to enter into a lease agreement and impose a surcharge.</td>
<td>To consider entry into a lease agreement and to impose a surcharge.</td>
</tr>
<tr>
<td>PSC-01-22-00016-P</td>
<td>exempt</td>
<td>Notice of intent to submeter electricity and request for waiver.</td>
<td>To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.</td>
</tr>
<tr>
<td>PSC-01-22-00017-P</td>
<td>exempt</td>
<td>Establishment of the regulatory regime applicable to a renewable natural gas project.</td>
<td>To ensure appropriate regulation of a new gas corporation.</td>
</tr>
<tr>
<td>PSC-01-22-00018-P</td>
<td>exempt</td>
<td>The New York State Reliability Council’s establishment of an Installed Reserve Margin of 19.6%</td>
<td>To ensure adequate levels of Installed Capacity.</td>
</tr>
<tr>
<td>PSC-02-22-00004-P</td>
<td>exempt</td>
<td>Electric system needs and compensation for distributed energy resources.</td>
<td>To ensure safe and adequate service and just and reasonable rates, including compensation, for distributed energy resources.</td>
</tr>
<tr>
<td>PSC-02-22-00005-P</td>
<td>exempt</td>
<td>The electric utilities’ 2022 Electric Emergency Response Plans.</td>
<td>To consider the adequacy of the proposed 2022 Electric Emergency Response Plans.</td>
</tr>
<tr>
<td>PSC-02-22-00006-P</td>
<td>exempt</td>
<td>Green gas products.</td>
<td>To consider whether to extend the waiver permitting Family Energy, Inc. to serve existing customers on a green gas product.</td>
</tr>
<tr>
<td>PSC-02-22-00007-P</td>
<td>exempt</td>
<td>Proposed changes to Rider Z - SC 1 Innovative Pricing Pilot and Rider AA - SC 2 Innovative Pricing Pilot.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences</td>
</tr>
<tr>
<td>PSC-03-22-00003-P</td>
<td>exempt</td>
<td>Proposal by electric utilities on a revised benefit cost analysis method.</td>
<td>To support distribution and local transmission investments necessary to achieve the State’s clean energy and climate goals.</td>
</tr>
<tr>
<td>PSC-03-22-00004-P</td>
<td>exempt</td>
<td>Proposal by electric utilities on a coordinated electric grid planning process.</td>
<td>To support distribution and local transmission investments necessary to achieve the State’s clean energy and climate goals.</td>
</tr>
<tr>
<td>PSC-04-22-00002-P</td>
<td>exempt</td>
<td>Con Edison’s petition for specific non-pipeline alternative projects.</td>
<td>To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.</td>
</tr>
<tr>
<td>Agency I.D. No.</td>
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</tr>
<tr>
<td>PSC-04-22-00003-P</td>
<td>exempt</td>
<td>Proposed sale of real property.</td>
<td>To determine if the proposed sale of real property is in the public interest.</td>
</tr>
<tr>
<td>PSC-04-22-00004-P</td>
<td>exempt</td>
<td>Extension of the State Universal Service Fund.</td>
<td>To continue to provide universal service at a reasonable rate in certain service territories.</td>
</tr>
<tr>
<td>PSC-04-22-00005-P</td>
<td>exempt</td>
<td>Petition to continue development and recover the costs of 23 local transmission projects.</td>
<td>To ensure safe and adequate service at just and reasonable rates and to support the State’s clean energy and climate goals.</td>
</tr>
<tr>
<td>PSC-04-22-00006-P</td>
<td>exempt</td>
<td>Area code overlay as relief of the exhausting 845 area code.</td>
<td>To ensure performance in accordance with applicable telecommunications laws, regulations and standards and the public interest.</td>
</tr>
<tr>
<td>PSC-05-22-00001-P</td>
<td>exempt</td>
<td>Green gas products.</td>
<td>To consider an extension of the waiver permitting energy service companies to serve existing customers on green gas products.</td>
</tr>
<tr>
<td>PSC-05-22-00002-P</td>
<td>exempt</td>
<td>Notification concerning tax refunds.</td>
<td>To consider Verizon New York Inc.’s request to retain a portion of a property tax refund.</td>
</tr>
<tr>
<td>PSC-05-22-00003-P</td>
<td>exempt</td>
<td>Green gas products.</td>
<td>To consider an extension of the waiver permitting energy service companies to serve existing customers on a green gas product.</td>
</tr>
<tr>
<td>PSC-05-22-00004-P</td>
<td>exempt</td>
<td>Initial Tariff Schedule.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.</td>
</tr>
<tr>
<td>PSC-05-22-00005-P</td>
<td>exempt</td>
<td>Disposition of a garbage and refuse tax refund.</td>
<td>To determine the disposition of tax refunds and other related matters.</td>
</tr>
<tr>
<td>PSC-05-22-00006-P</td>
<td>exempt</td>
<td>Green gas products.</td>
<td>To consider an extension of the waiver permitting energy service companies to serve existing customers on a green gas product.</td>
</tr>
<tr>
<td>PSC-06-22-00009-P</td>
<td>exempt</td>
<td>Waiver of tariff rules and a related Commission regulation.</td>
<td>To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.</td>
</tr>
<tr>
<td>PSC-06-22-00010-P</td>
<td>exempt</td>
<td>Tariff rate modifications for PASNY Delivery Service.</td>
<td>To implement just and reasonable rates for distributed energy resources.</td>
</tr>
<tr>
<td>PSC-06-22-00011-P</td>
<td>exempt</td>
<td>Green gas products.</td>
<td>To consider whether to extend the waiver permitting American Power &amp; Gas to serve existing customers on a green gas product.</td>
</tr>
<tr>
<td>PSC-06-22-00012-P</td>
<td>exempt</td>
<td>Retainment of property tax refunds.</td>
<td>To consider Verizon New York Inc.’s request to retain a portion of a property tax refund.</td>
</tr>
<tr>
<td>PSC-06-22-00013-P</td>
<td>exempt</td>
<td>The Commission’s Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.</td>
<td>To consider whether to extend the date to comply with the CES locational and delivery requirements when purchasing RECs.</td>
</tr>
<tr>
<td>PSC-06-22-00014-P</td>
<td>exempt</td>
<td>The regulatory regime applicable to a solar electric generating facility.</td>
<td>To ensure appropriate regulation of a new electric corporation.</td>
</tr>
<tr>
<td>PSC-07-22-00007-P</td>
<td>exempt</td>
<td>Minor electric rate filing to increase annual electric revenues.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.</td>
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</tr>
<tr>
<td>PSC-07-22-00008-P</td>
<td>exempt</td>
<td>Transfer of street lighting facilities.</td>
<td>To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.</td>
</tr>
<tr>
<td>PSC-07-22-00009-P</td>
<td>exempt</td>
<td>Notice of intent to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).</td>
<td>To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.</td>
</tr>
<tr>
<td>PSC-08-22-00002-P</td>
<td>exempt</td>
<td>Issuance of securities and other forms of indebtedness.</td>
<td>To provide funding for capital needs, including construction, and refinancing of maturing debt.</td>
</tr>
<tr>
<td>PSC-08-22-00003-P</td>
<td>exempt</td>
<td>Electric metering equipment.</td>
<td>To consider the use of equipment and ensure that consumer bills will be based on accurate measurements of electric usage.</td>
</tr>
<tr>
<td>PSC-08-22-00004-P</td>
<td>exempt</td>
<td>Debt financing arrangement.</td>
<td>To review the proposed financing and consider whether it is within the public interest.</td>
</tr>
<tr>
<td>PSC-08-22-00005-P</td>
<td>exempt</td>
<td>Transfer of street lighting facilities.</td>
<td>To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.</td>
</tr>
<tr>
<td>PSC-08-22-00006-P</td>
<td>exempt</td>
<td>Establishment of a lightened regulatory regime applicable to a battery storage project.</td>
<td>To ensure appropriate regulation of an electric corporation.</td>
</tr>
<tr>
<td>PSC-09-22-00006-P</td>
<td>exempt</td>
<td>Assessment of the need of the project for the provision of safe and adequate service at just and reasonable rates.</td>
<td>To determine whether the project is necessary and whether the utility can begin cost recovery through a surcharge mechanism.</td>
</tr>
<tr>
<td>PSC-09-22-00007-P</td>
<td>exempt</td>
<td>Green gas products.</td>
<td>To consider whether to extend the waiver permitting Viridian Energy PA, LLC to serve existing customers on a green gas product.</td>
</tr>
<tr>
<td>PSC-09-22-00008-P</td>
<td>exempt</td>
<td>Green gas products.</td>
<td>To consider whether to extend the waiver permitting Just Energy New York to serve existing customers on a green gas product.</td>
</tr>
<tr>
<td>PSC-09-22-00009-P</td>
<td>exempt</td>
<td>Establishing an alternative recovery mechanism for certain types of fees.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.</td>
</tr>
<tr>
<td>PSC-09-22-00010-P</td>
<td>exempt</td>
<td>Green gas products.</td>
<td>To consider whether to extend the waiver permitting Alpha Gas &amp; Electric to serve existing customers on a green gas product.</td>
</tr>
<tr>
<td>PSC-09-22-00011-P</td>
<td>exempt</td>
<td>Establishing an alternative recovery mechanism for certain types of fees.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.</td>
</tr>
<tr>
<td>PSC-09-22-00012-P</td>
<td>exempt</td>
<td>Proposals to implement an Electric Vehicle Make Ready Surcharge for Street Lighting Customers.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.</td>
</tr>
<tr>
<td>PSC-10-22-00011-P</td>
<td>exempt</td>
<td>Notice of intent to submeter electricity and request for waiver.</td>
<td>To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.</td>
</tr>
<tr>
<td>PSC-10-22-00012-P</td>
<td>exempt</td>
<td>Transfer of street lighting facilities.</td>
<td>To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.</td>
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<tr>
<td>PSC-10-22-00013-P</td>
<td>. . . . . . exempt</td>
<td>Agreement for the provision of water service and waivers.</td>
<td>To consider whether the terms of a service agreement and requested waivers are in the public interest.</td>
</tr>
<tr>
<td>PSC-10-22-00014-P</td>
<td>. . . . . . exempt</td>
<td>Amendments to Outdoor Gas Lighting tariff provisions.</td>
<td>To eliminate the outdated provisions concerning the use of natural gas for decorative outdoor lighting.</td>
</tr>
<tr>
<td>PSC-10-22-00015-P</td>
<td>. . . . . . exempt</td>
<td>To assign certain easement interests and to transfer certain Central Hudson’s property to Transco.</td>
<td>To consider whether the easement interests and transfer of certain Central Hudson property to Transco is in the public interest.</td>
</tr>
<tr>
<td>PSC-10-22-00016-P</td>
<td>. . . . . . exempt</td>
<td>Amendments to Outdoor Gas Lighting tariff provisions.</td>
<td>To eliminate the outdated provisions concerning the use of natural gas for decorative outdoor lighting.</td>
</tr>
<tr>
<td>SUN-24-21-00002-EP</td>
<td>06/16/22</td>
<td>Gender Neutral Bathrooms</td>
<td>To conform with legislation requiring SUNY state-operated campuses to designate all single occupancy bathrooms as gender neutral.</td>
</tr>
<tr>
<td>*TAF-46-20-00003-P</td>
<td>. . . . . . exempt</td>
<td>Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith</td>
<td>To set the sales tax component and the composite rate per gallon for the period January 1, 2021 through March 31, 2021.</td>
</tr>
<tr>
<td>TAF-08-22-00001-P</td>
<td>. . . . . . exempt</td>
<td>Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.</td>
<td>To set the sales tax component and the composite rate per gallon for the period April 1, 2022 through June 30, 2021.</td>
</tr>
<tr>
<td>TDA-51-21-00002-EP</td>
<td>12/22/22</td>
<td>Elderly Simplified Application Project (ESAP) for the Supplemental Nutrition Assistance Program (SNAP)</td>
<td>To simplify the SNAP eligibility process for certain elderly and/or disabled residents in New York State.</td>
</tr>
<tr>
<td>TDA-01-22-00001-EP</td>
<td>01/05/23</td>
<td>2019 Novel Coronavirus (COVID-19) masking requirements in congregate shelters</td>
<td>Protect the well-being of shelter staff and persons staying in congregate shelters.</td>
</tr>
<tr>
<td>WCB-28-21-00009-RP</td>
<td>07/14/22</td>
<td>Telehealth</td>
<td>Provides the option for telehealth visits in some circumstances.</td>
</tr>
<tr>
<td>WCB-03-22-00002-P</td>
<td>01/19/23</td>
<td>DME Fee Schedule</td>
<td>To update the DME fee schedule.</td>
</tr>
<tr>
<td>WCB-09-22-00002-P</td>
<td>03/02/23</td>
<td>Intraoperative Neurophysiological Monitoring</td>
<td>To define IOM and clarify that remote IOM is prohibited except in very limited circumstances.</td>
</tr>
</tbody>
</table>

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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.
- 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
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 I 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.
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 $300,000 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.

_X_ 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
Stornville, 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, Stornville (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 for any contracts over $5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is $1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

Project commenced design before January 1, 2020. Not subject to provision.

Project commenced design on or after January 1, 2020. Subject to provision.

The substantial completion date for this project is 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
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. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

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)

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:


Rare Plants, Submerged Aquatic Vegetation and Wetlands: https://dos.ny.gov/system/files/documents/2022/03/ rareplantsswetlands.pdf

Soils, Sub Surface Investigation and Sediment Analysis


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://bethelehmtownny.iqm2.com/Citizens/Detail_Meeting.aspx?ID=1782 and the Supplemental Draft Environmental Impact Statement submitted to the Town of Bethlehem Planning Board is available for review at: https://bethelehmtownny.iqm2.com/Citizens/Detail_LegFile.aspx?Frame=&MeetingID=1905&MediaPosition=0&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:

- Remove and replace existing fixed and floating docks at the eastern end of the park. The new docks would include a 379’ x 82’ and 756’ x 82’ on the sides of the boat ramp. In addition, a new “L” shaped docking structure comprised of two 1134’ x 82’ docks two 3’ x 30’ and an 8’ 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’ x 25’ aluminum ramps
- Install a 12’ x 400’ floating dock supported by 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 and attached to shore by a 12’ x 12’ floating platform and 20’ x 6’ aluminum ramp
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/l-2021-0931publicationnotice.pdf or at https://dos.ny.gov/public-notice

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 applicant has proposed a compensatory wetland mitigation project within the same wetland complex. The mitigation project would occur at the Sleepy Hollow Treatment Site 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-2021-1116publicationnotice.pdf or at https://dos.ny.gov/public-notice

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.
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

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.

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. 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 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 Executive Orders 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