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**NEW YORK STATE**

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# **REGISTER**

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***INSIDE THIS ISSUE:***

- Regulations Governing the Recreational Fishing of Summer Flounder
- Surge and Flex Health Coordination System
- Hospital and Nursing Home Personal Protective Equipment (PPE) Requirements

**Executive Orders**

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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 October 9, 2022
- the 45-day period expires on September 24, 2022
- the 30-day period expires on September 9, 2022

**KATHY HOCHUL  
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SECRETARY OF STATE**

**NEW YORK STATE DEPARTMENT OF STATE**

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# NEW YORK STATE REGISTER

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## Be a part of the rule making process!

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

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

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

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

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

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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.

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

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

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- 2 / Jurisdictional Classification (P)
- 2 / Jurisdictional Classification (P)

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# RULE MAKING ACTIVITIES

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

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

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

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## New York State Bridge Authority

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

#### Amend the Authority's Rules in Relation to the Hours of Operation for Bridge Walkways and/or Bikeways

I.D. No. SBA-32-22-00020-P

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

**Proposed Action:** Amendment of section 205.4 of Title 21 NYCRR.

**Statutory authority:** Public Authorities Law, sections 528(2), 538(1); Vehicle and Traffic Law, section 1630

**Subject:** Amend the Authority's rules in relation to the hours of operation for bridge walkways and/or bikeways.

**Purpose:** To regulate certain Authority activities on bridge walkways and/or bikeways.

**Text of proposed rule:** Walkways and bikeways, where provided, shall be open for use each day at a minimum between dawn and dusk, *aside from any disruptions caused by weather, safety concerns, or maintenance-related activity. The Authority shall set by board resolution specific hours of operation at each bridge's walkway and/or bikeway based on the particular needs of each facility.*

**Text of proposed rule and any required statements and analyses may be obtained from:** Patricia J. Desnoyers, Thruway Authority, 200 Southern Blvd., Albany, NY 12201-0189, (518) 471-4237, email: patricia.desnoyers@thruway.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

##### 1. Statutory authority:

Public Authorities Law (PAL) section 538 subdivision 1 authorizes the New York State Bridge Authority (Authority) to make rules and regulations for the preservation and use of bridges under its jurisdiction. PAL section 528 subdivision 2 authorizes the Authority to make by-laws for the management and regulation of its affairs. Section 1630 of the Vehicle and Traffic Law authorizes the Authority to make rules and regulations to regulate traffic on any highway under its jurisdiction with respect to charging tolls, taxes, fees, licenses or permits for the use of the highway or any property under the Authority's jurisdiction.

##### 2. Legislative objectives:

The proposed rule will amend the Authority's regulations relating to the hours of operation for bridge walkways and/or bikeways. Currently, the Authority's regulations allow bridge walkways and/or bikeways, where provided, to be open for use each day between dawn and dusk. The proposed regulation will allow the Authority to expand and set specific hours of operation at each bridge's walkway and/or bikeway based on the unique needs of each facility.

##### 3. Needs and benefits:

The modifications are necessary to ensure the desired use of bridge walkways and/or bikeways for mobility and recreational purposes. The amendment will allow the Authority to expand the hours of operation to accommodate pedestrian and cyclist needs at each facility without sacrificing the current needs the public has come to expect.

##### 4. Costs:

a. Costs to regulated parties: The proposed rule will have no financial impact upon regulated parties.

b. Costs to the State, the Authority and local governments: This proposed rule will impose no costs on local governments.

##### 5. Local government mandates:

The proposed rule will not affect local governments.

##### 6. Paperwork:

Not applicable because the proposed rule is consistent with current practices.

##### 7. Duplication:

This proposed regulation does not duplicate or conflict with any State or Federal rule.

##### 8. Alternatives:

There were no significant alternatives to consider and a no action alternative was not considered.

##### 9. Federal Standards:

This rule does not exceed any Federal standards.

##### 10. Compliance schedule:

Anticipate immediate compliance will be readily achievable.

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

A Regulatory Flexibility Analysis for Small Business and Local Governments, a Rural Area Flexibility Analysis and a Job Impact Statement are not required for this rulemaking proposal because it will not adversely affect small business, local governments, rural areas or jobs.

This proposed rulemaking will ensure the desired use of bridge walkways and/or bikeways for mobility and recreational purposes. It will allow the Authority to expand and set specific hours of operation at each bridge's walkway and/or bikeway based on the unique needs of each facility.

Due to its narrow focus, this rule will not impose an adverse economic impact or reporting, record-keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

## Department of Civil Service

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

#### Jurisdictional Classification

**I.D. No.** CVS-32-22-00001-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 a position in the exempt class.

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Division of Veterans' Services," by adding thereto the position of Deputy Counsel.

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

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

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

#### Regulatory Impact Statement

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

#### Regulatory Flexibility Analysis

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

#### Rural Area Flexibility Analysis

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

#### Job Impact Statement

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

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

#### Jurisdictional Classification

**I.D. No.** CVS-32-22-00002-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 2 of Title 4 NYCRR.

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

**Subject:** Jurisdictional Classification.

**Purpose:** To delete a position from and 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 Department of Corrections and Community Supervision, by deleting therefrom the position of øSupervising Parole Officer (Special Services) (1), by increasing the number of positions of øAssistant Counsel from 9 to 10, øInmate Disciplinary Hearing Officer from 20 to 22, øPrincipal Hearing Officer (Inmate Discipline) from 1 to 2, and by adding thereto the position of øSupervising Parole Officer (1).

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

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

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

#### Regulatory Impact Statement

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

#### Regulatory Flexibility Analysis

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

#### Rural Area Flexibility Analysis

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

#### Job Impact Statement

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

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

#### Jurisdictional Classification

**I.D. No.** CVS-32-22-00003-P

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To 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 New York State Thruway Authority, by adding thereto the positions of Information Technology Specialist 3 (Information Security) (2).

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

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

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

#### Regulatory Impact Statement

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

#### Regulatory Flexibility Analysis

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

#### Rural Area Flexibility Analysis

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

#### Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously



printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

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

**Jurisdictional Classification**

**I.D. No.** CVS-32-22-00004-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Labor under the subheading "State Insurance Fund," by increasing the number of positions of Deputy Counsel from 2 to 5; and Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Labor under the subheading "State Insurance Fund," by adding thereto the positions of Data Analyst 1 (6), Data Analyst 2 (6), Data Analyst 3 (2) and Data Analyst 4 (1).

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

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

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

**Regulatory Impact Statement**

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

**Regulatory Flexibility Analysis**

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

**Rural Area Flexibility Analysis**

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

**Job Impact Statement**

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

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

**Jurisdictional Classification**

**I.D. No.** CVS-32-22-00005-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "Division of Criminal Justice Services," by increasing the number of positions of Criminal Justice Policy Analyst 2 from 1 to 2.

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

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

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

**Regulatory Impact Statement**

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

**Regulatory Flexibility Analysis**

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

**Rural Area Flexibility Analysis**

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

**Job Impact Statement**

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

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

**Jurisdictional Classification**

**I.D. No.** CVS-32-22-00006-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Office of General Services," by increasing the number of positions of Special Assistant from 22 to 23; and 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 General Services," by adding thereto the positions of Coordinator, Cultural & Language Access Services (1); Convention & Tourism Promotion Specialist 1; Convention & Tourism Promotion Specialist 2; Convention & Tourism Promotion Specialist 3 (1) and Data Analyst 2 (1).

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

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

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

**Regulatory Impact Statement**

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

**Regulatory Flexibility Analysis**

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

**Rural Area Flexibility Analysis**

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

**Job Impact Statement**

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

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

**Jurisdictional Classification**

**I.D. No.** CVS-32-22-00007-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**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 increasing the number of positions of Assistant Public Information Officer from 5 to 6 and Deputy Commissioner from 7 to 8; and Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Mental Hygiene under the subheading "Office for People with Developmental Disabilities," by adding thereto the positions of Peer Specialist (15).

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

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

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

**Regulatory Impact Statement**

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

**Regulatory Flexibility Analysis**

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

**Rural Area Flexibility Analysis**

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

**Job Impact Statement**

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

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

**Jurisdictional Classification**

**I.D. No.** CVS-32-22-00008-P

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

**Proposed Action:** Amendment of Appendix 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 Environmental Conservation, by increasing the number of positions of Associate Counsel from 15 to 17.

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

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

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

**Regulatory Impact Statement**

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

**Regulatory Flexibility Analysis**

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

**Rural Area Flexibility Analysis**

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

**Job Impact Statement**

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

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

**Jurisdictional Classification**

**I.D. No.** CVS-32-22-00009-P

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

**Proposed Action:** Amendment of 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 Department of Mental Hygiene under the subheading "Office of Mental Health," by increasing the number of positions of Equal Opportunity Specialist 2 from 1 to 4.

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

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

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

**Regulatory Impact Statement**

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

**Regulatory Flexibility Analysis**

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was

previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

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

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

#### **Job Impact Statement**

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

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

#### **Jurisdictional Classification**

**I.D. No.** CVS-32-22-00010-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "Office of Parks, Recreation and Historic Preservation," by increasing the number of positions of Physical Plant Manager from 1 to 2.

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

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

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

#### **Regulatory Impact Statement**

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

#### **Regulatory Flexibility Analysis**

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

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

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

#### **Job Impact Statement**

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

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

#### **Jurisdictional Classification**

**I.D. No.** CVS-32-22-00011-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Division of Homeland Security and Emergency Services," by increasing the number of positions of Associate Counsel from 1 to 2 and Special Assistant from 19 to 20; and Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "Division of Homeland Security and Emergency Services," by deleting therefrom the positions of Homeland Security Program Analyst 1 (69); by increasing the number of positions of Homeland Security Program Analyst 2 from 16 to 20, Homeland Security Program Analyst 3 from 6 to 8, Manager Information Technology Services 2 (Information Security) from 4 to 6 and by adding thereto the positions of Homeland Security Program Analyst 1.

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

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

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

#### **Regulatory Impact Statement**

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

#### **Regulatory Flexibility Analysis**

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

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

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

#### **Job Impact Statement**

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

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

#### **Jurisdictional Classification**

**I.D. No.** CVS-32-22-00012-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Audit and Control, by adding thereto the positions of Information Systems Auditors 1 (24), Information Systems Auditors 2 (7) and Information Systems Auditors 3 (3).

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

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

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

#### **Regulatory Impact Statement**

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was

previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

#### **Regulatory Flexibility Analysis**

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

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

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

#### **Job Impact Statement**

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

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

#### **Jurisdictional Classification**

**I.D. No.** CVS-32-22-00013-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Civil Service, by adding thereto the positions of Manager Testing Services (Psychometrician) (I) and Public Information Specialist 2 (Digital Content) (1).

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

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

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

#### **Regulatory Impact Statement**

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

#### **Regulatory Flexibility Analysis**

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

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

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

#### **Job Impact Statement**

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

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

#### **Jurisdictional Classification**

**I.D. No.** CVS-32-22-00014-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Taxation and Finance, by adding thereto the positions of Data Analyst 1 (29), Data Analyst 2 (7), Data Analyst 3 (5) and Data Analyst 4 (2).

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

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

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

#### **Regulatory Impact Statement**

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

#### **Regulatory Flexibility Analysis**

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

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

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

#### **Job Impact Statement**

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

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

#### **Jurisdictional Classification**

**I.D. No.** CVS-32-22-00015-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Office of Indigent Legal Services," by increasing the number of positions of Assistant Counsel from 15 to 19 and Confidential Legal Assistant from 3 to 4.

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

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

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

#### **Regulatory Impact Statement**

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

#### **Regulatory Flexibility Analysis**

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was

previously printed under a notice of proposed rule making, I.D. No. CVS-01-22-00025-P, Issue of January 5, 2022.

**Rural Area Flexibility Analysis**

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

**Job Impact Statement**

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

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

**Jurisdictional Classification**

**I.D. No.** CVS-32-22-00016-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of State, by adding thereto the position of Equal Opportunity Specialist 2 (1).

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

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

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

**Regulatory Impact Statement**

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

**Regulatory Flexibility Analysis**

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

**Rural Area Flexibility Analysis**

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

**Job Impact Statement**

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

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

**Jurisdictional Classification**

**I.D. No.** CVS-32-22-00017-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading “Office of Information Technology Services,” by adding thereto the position of Public Information Specialist 1 (Digital Content) (1).

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

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

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

**Regulatory Impact Statement**

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

**Regulatory Flexibility Analysis**

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

**Rural Area Flexibility Analysis**

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

**Job Impact Statement**

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

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

**Jurisdictional Classification**

**I.D. No.** CVS-32-22-00018-P

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading “Justice Center for the Protection of People with Special Needs,” by adding thereto the positions of Assistant Manager Information Services (4) and Manager Information Services (3); and Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading “Justice Center for the Protection of People with Special Needs,” by adding thereto the positions of Data Analyst 1 (4), Data Analyst 2 (4), Data Analyst 3 (2) and Data Analyst 4 (1).

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

**Data, views or arguments may be submitted to:** Eugene Sarfoh, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: vpublic.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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## State Commission of Correction

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### NOTICE OF ADOPTION

**Segregated Confinement**

**I.D. No.** CMC-15-22-00007-A

**Filing No.** 605

**Filing Date:** 2022-07-26

**Effective Date:** 2022-08-10

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

**Action taken:** Addition of sections 7001.1(f), 7005.2(c), Parts 7076 and 7077; amendment of sections 7003.3(j)(6), 7006.1, 7006.7(a), 7006.8, 7006.9(a)(5), 7017.1, 7028.2(d), 7075.1, 7075.2, 7075.3, 7075.4 and 7075.5 of Title 9 NYCRR.

**Statutory authority:** Correction Law, section 45(6) and (15)

**Subject:** Segregated confinement.

**Purpose:** Set minimum standards for the imposition of segregated confinement and the operation of RRUs in jails.

**Text or summary was published in** the April 13, 2022 issue of the Register, I.D. No. CMC-15-22-00007-EP.

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

**Text of rule and any required statements and analyses may be obtained from:** Deborah Slack-Bean, Associate Attorney, Commission of Correction, Alfred E. Smith State Office Building, 80 S. Swan Street, 12th Floor, Albany, New York 12210, (518) 485-2346, email: Deborah.Slack-Bean@scoc.ny.gov

**Initial Review of Rule**

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

**Assessment of Public Comment**

The New York State Commission of Correction (hereinafter "Commission") received formal comments from members of the public, an advocacy group, and an elected official.

One commenter suggested amending the definition of "special population," which includes any person "in the first eight (8) weeks of the post-partum recovery period after giving birth, or caring for a child in the facility." The commenter suggested amending the definition to account for any pregnancy outcome regardless of how the pregnancy ended, to eliminate any possible ambiguity for an individual who loses a child before birth. Given the numerous and precise requirements on the conditions, programming, duration and reporting of a local correctional facility's use of segregated confinement and operation of a residential rehabilitation unit contained in the Humane Alternatives to Long-Term Solitary Confinement (HALT) Act, and to avoid any confusion and inconsistencies between the Act and Commission's regulations, the Commission prefers to maintain the current definition of "special population," which is identical to the definition contained in the Act pursuant to section 2(33) of the Correction Law.

The same commenter suggested amending the 37 hours of hearing of-

ficer training required by 9 NYCRR section 7006.8(b) to align with the 37 hours and 30 minutes required by Correction Law section 137(6)(n). The Commission elects to maintain the required training at 37 hours, which is the total currently required by Correction Law section 137(6)(n).

Other commenters questioned the sufficiency of the regulations' definition of "violent felony act" for two separate reasons. First, the definition does not require, as set forth in HALT, that the act be "so heinous or destructive" that the individual poses a "significant risk of imminent serious physical injury." Secondly, the definition makes no mention that an individual's engagement in such an act on two occasions may constitute a listed exception to the HALT Act's general limit of segregated confinement of 20 days in any 60 day period.

Initially, the only requirement under the HALT Act that a violent felony act be "so heinous or destructive" that the individual poses a "significant risk of imminent serious physical injury" is to substantiate a determination to place an individual in segregated confinement beyond three consecutive days, or longer than six days in any thirty-day period, or in a residential rehabilitation unit pursuant to Correction Law section 137(6)(k)(ii). While not set forth in the definition of a "violent felony act," the amendment to 9 NYCRR section 7006.9(a)(5)(iii) does require a finding that the act "was so heinous or destructive that placement of the individual in general population housing creates a significant risk of imminent serious physical injury to staff or other incarcerated persons, and creates an unreasonable risk to the security of the facility" to warrant extended segregated confinement or placement in a residential rehabilitation unit. Similarly, the provision that an individual's engagement in a violent felony act on two occasions may constitute a listed exception to the HALT Act's general limit of segregated confinement of 20 days in any 60 day period is provided in the addition of 9 NYCRR section 7076.6(c). Consequently, the Commission does not find a reason to amend the definition of "violent felony act."

Commenters additionally suggested that the Commission's regulations should be modified to explicitly and clearly state "that administrative segregation and any segregation must comply with all of those requirements related to segregated confinement." As proposed, the Commission's regulations incorporate every time limitation, provision of programming, standard of review, etc. required by the HALT Act with regard to individuals placed in segregated confinement, namely confinement to a cell for more than 17 hours per day. At this time, the Commission does not find a benefit in adopting regulations which impose such facility requirements for the segregation of incarcerated individuals who are free to leave their cells more than seven hours per day.

Lastly, a commenter was concerned that 9 NYCRR section 7028.2(d) provides for a daily hour of exercise, but makes no mention of an entitlement to congregate programming, and that the definition of "segregation" does not apply to individuals confined to a housing unit designated for classification purposes. As the referenced exercise provision is an existing regulation contained under the Part controlling exercise only, it is unnecessary to provide any reference to congregate programming, which are controlled by Parts 7076 and 7077 of Title 9. Similarly, while individuals confined to a housing unit designated for classification purposes do not fall under the definition of "segregation," their confinement to a cell for more than seventeen hours a day, other than in a facility-wide emergency or for the purpose of providing medical or mental health treatment would still constitute "segregated confinement," and would invoke all the requirements and entitlements of the HALT Act and the Commission's regulations.

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## Division of Criminal Justice Services

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

**NYS Forensic Laboratory Accreditation Standards**

**I.D. No.** CJS-32-22-00028-P

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

**Proposed Action:** Amendment of section 6190.1 of Title 9 NYCRR.

**Statutory authority:** Executive Law, sections 837(13), 995-b(1) and 995-c(1)

**Subject:** NYS Forensic Laboratory Accreditation Standards.

**Purpose:** To add ISO/IEC 17020 as a standard.

**Text of proposed rule:** Section 6190.1(a)(7) of 9 NYCRR is amended to read as follows:

(7) The term ANAB refers to ANSI National Accreditation Board Current ANAB accreditation requirements, which are contained in the ISO/IEC 17025 [2017 “General Requirements for the competence of testing and calibration laboratories.”] or ISO 17020, as updated, and which can be obtained from ISO at www.iso.org or from the American National Standards Institute (ANSI) at www.ansi.org, and the ISO/IEC 17025:2017 Forensic Testing and Calibration Laboratories Accreditation Requirements, which]. The corresponding program documentation for either ISO/IEC 17025 or ISO/IEC 17020, as updated, may be obtained from ANAB at www.anab.org. These requirements may also be viewed at the Division of Criminal Justice Services, 80 South Swan Street, Albany, NY 12210.

**Text of proposed rule and any required statements and analyses may be obtained from:** Natasha Harvin-Locklear, Division of Criminal Justice Services, Alfred E. Smith Building, 80 South Swan Street, Albany, New York 12210, (518) 457-8413, email: dcjslegallrulemaking@dcjs.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**

1. Statutory authority: Executive Law §§ 837(13), 995-a and 995-b(1). The Commission on Forensic Science (Commission) is established pursuant to Executive Law § 995-a. Executive Law § 995-b(1) tasks the Commission with the development of minimum standards and a program of accreditation for all forensic laboratories in New York State.

Although it is technically an independent entity, the Commission has no staff or budget and relies on the Division of Criminal Justice Services (Division) for the staff, administrative assistance, and other resources necessary to carry out its powers and duties. Executive Law § 837(13) authorizes the Division to adopt, amend or rescind regulations “as may be necessary or convenient to the performance of the functions, powers and duties of the [D]ivision.”

2. Legislative objectives: The Legislature authorized the Commission to develop minimum standards and a program of accreditation for all forensic laboratories in New York State. Thus, the Legislature clearly intended that accreditation standards be established by the Commission.

3. Needs and benefits: The forensic laboratory accreditation program became effective in 1996. Since the inception of the program, the minimum standards and program of accreditation developed by the Commission pursuant to Executive Law section 995-b(1) have been promulgated by the Division in Part 6190 of Title 9 of the NYCRR.

Executive Law § 995-b requires forensic laboratories to obtain New York State accreditation. 9 NYCRR Part 6190 requires a forensic laboratory to be accredited by the ANSI National Accreditation Board (ANAB) in order to obtain New York State accreditation. Pursuant to 9 NYCRR § 6190.1(a)(7), ANAB accreditation requirements are contained in the ISO/IEC 17025.

Currently, the regulations only reference one accreditation standard - ISO/IEC 17025.

ANAB has accreditation programs for international standards ISO/IEC 17025 and ISO/IEC 17020. Both programs have the same Accreditation Manual (ANAB AR 3033). Both programs require inspection bodies or laboratories to have impartiality, risk assessment, training programs, proficiency testing, calibration, traceability, measurement uncertainty, documentation of processes, and complaints and appeals processes. The difference is how inspection and laboratory are defined. ISO/IEC 17020 (Conformity assessment - Requirements for the operation of various types of bodies performing inspection) defines inspection as the examination of a product, process, service, or installation or their design and determination of its conformity with specific requirements or, on the basis of professional judgement, with general requirements. ISO/IEC 17025 (General requirements for the competence of testing and calibration laboratories) defines laboratory as a body that performs one or more of the following activities: testing, calibration, sampling, associated with subsequent testing or calibration.

Effective September 1, 2021, Executive Law § 995 was amended to include a police agency examining latent fingerprints within the definition of forensic laboratory subject to oversight and accreditation by the Commission (Laws 2021, Ch. 209). Latent print units may be better suited under ISO/IEC 17020.

The Commission voted in favor of the revisions on December 3, 2021. As the administrative arm of the Commission, the Division intends to carry out its duty by adopting and promulgating the proposed regulations.

4. Costs: The accreditation costs (and potential savings) are undetermined, but the cost formula will be the same for 17020 and 17025, and will depend upon the number and type of disciplines, number of analysts, and annual maintenance fees.

The cost analysis is based on information from the accrediting body ANAB.

5. Local government mandates: There are no new mandates.

6. Paperwork: Any request for NYS accreditation must be made through an application to the Division in the form prescribed by the Division. Supporting documentation includes all documentation submitted to and received from ANAB, including documentation of ANAB accreditation.

7. Duplication: No other legal requirements duplicate, overlap, or conflict with the rule.

8. Alternatives: At its September 17, 2021, meeting, Commission discussed the removal of the law enforcement latent print exemption from the definition of forensic laboratory, and further discussed ISO/IEC standard 17020 as an appropriate standard for law enforcement laboratories performing latent print analysis. The Commission voted on December 3, 2021, to add ISO/IEC 17020. It was approved unanimously.

9. Federal standards: There are no federal standards.

10. Compliance schedule: Regulated parties are expected to be able to comply with the rule immediately upon Notice of Adoption.

**Regulatory Flexibility Analysis**

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not being submitted with this Proposed Rule Making because it is evident from the subject matter of the regulation that it will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments.

Executive Law § 995-b requires forensic laboratories to obtain New York State accreditation. 9 NYCRR Part 6190 requires a forensic laboratory to be accredited by the ANSI National Accreditation Board (ANAB) in order to obtain New York State accreditation. Pursuant to 9 NYCRR § 6190.1(a)(7), ANAB accreditation requirements are contained in the ISO/IEC 17025. The proposed rule merely allows for ISO/IEC 17020 as an additional standard.

**Rural Area Flexibility Analysis**

A Rural Area Flexibility Analysis is not being submitted with this Proposed Rule Making because it is evident from the subject matter of the regulation that it will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

Executive Law § 995-b requires forensic laboratories to obtain New York State accreditation. 9 NYCRR Part 6190 requires a forensic laboratory to be accredited by the ANSI National Accreditation Board (ANAB) in order to obtain New York State accreditation. Pursuant to 9 NYCRR § 6190.1(a)(7), ANAB accreditation requirements are contained in the ISO/IEC 17025. The proposed rule merely allows for ISO/IEC 17020 as an additional standard.

**Job Impact Statement**

A Job Impact Statement is not being submitted with this Proposed Rule Making because it is evident from the subject matter of the regulation that it will have no adverse impact on jobs or employment opportunities.

Executive Law § 995-b requires forensic laboratories to obtain New York State accreditation. 9 NYCRR Part 6190 requires a forensic laboratory to be accredited by the ANSI National Accreditation Board (ANAB) in order to obtain New York State accreditation. Pursuant to 9 NYCRR § 6190.1(a)(7), ANAB accreditation requirements are contained in the ISO/IEC 17025. The proposed rule merely allows for ISO/IEC 17020 as an additional standard.

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## Department of Economic Development

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### EMERGENCY/PROPOSED RULE MAKING

#### NO HEARING(S) SCHEDULED

**Digital Gaming Media Production Tax Credit Program**

**I.D. No.** EDV-32-22-00019-EP

**Filing No.** 604

**Filing Date:** 2022-07-25

**Effective Date:** 2022-07-25

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

**Proposed Action:** Addition of Part 300 to Title 5 NYCRR.

**Statutory authority:** L. 2022, ch. 59, part OO

**Finding of necessity for emergency rule:** Preservation of general welfare. **Specific reasons underlying the finding of necessity:** The Digital Gaming Media Production Credit Program was enacted to encourage, attract and grow the digital game development industry in New York State. The tax incentive will help offset some production costs associated with producing digital games in New York State including the high cost of wages for technology and design jobs and leasing costs. The economic benefit of this program will be to increase digital game investment from outside New York State (foreign and domestic), increase the number of jobs and studios within the industry and bolster the existing ecosystem of digital game development throughout the state; including within the key regions of Greater Rochester, the Capital Region, and New York City.

The \$25 million tax credit passed in the 2022 budget and will run from January 1, 2023 to December 31, 2027.

These regulations must be promulgated immediately so that the Department of Economic Development can launch the Program and begin accepting applications in time for eligible digital game development projects to submit an initial application if they intend to start incurring production costs on January 1, 2023, the date qualified costs start to become eligible.

**Subject:** Digital Gaming Media Production Tax Credit program.

**Purpose:** To create the administrative process for the program and conform to statute.

**Substance of emergency/proposed rule (Full text is posted at the following State website):** [esd.ny.gov](http://esd.ny.gov): The regulation contained in 5 NYCRR Part 300 which governs the newly created Digital Gaming Media Production Tax Credit program is summarized as follows:

The regulation begins by noting that a digital gaming media production entity engaged in qualified digital gaming media production shall be eligible for a 25% tax credit on qualified expenses for taxable years beginning on or after January 1, 2023 and before January 1, 2028. Furthermore, there is an additional 10% credit given for qualified digital gaming media production costs for a qualified digital gaming media production incurred and paid outside the metropolitan commuter transportation district in New York State.

In addition, the regulation clarifies that up to four million dollars in qualified digital gaming media production costs per production shall be used in the calculation of this credit and digital gaming media production costs may not include those costs used by the taxpayer or another taxpayer as the basis calculation of any other tax credit allowed under the Tax Law.

Next, the regulation lays out some key definitions including, but not limited to, "authorized applicant"; "certificate of conditional eligibility"; "certificate of tax credit"; "digital gaming media production costs"; "diversity impact data"; "diversity plan"; "diversity report"; "qualified digital gaming media production"; "qualified digital gaming media production entity"; and "qualified digital gaming media production costs."

The regulation then addresses the application process which is bifurcated into an initial and final application phase. An authorized applicant shall submit an initial application to the Department prior to it paying or incurring digital gaming media production costs on a qualified digital gaming media production but no sooner than ninety (90) days before the start date of their qualified digital gaming media production. The Department then reviews the initial application to determine whether it meets the eligibility criteria set forth in the regulation. After this review, the Department will notify the authorized applicant of its eligibility.

Upon completion of the project, a final application must be submitted to the Department. The Department shall approve or disapprove the final application based upon criteria set forth in the regulation. If the final application is approved, the Department shall issue a certificate of tax credit to the approved applicant. Under no circumstances may a single taxpayer receive more than one million five hundred thousand dollars in tax credits per year. If the final application is disapproved, the Department shall provide the applicant with a notice of disapproval and such applicant may appeal the decision.

After clarifying that the aggregate amount of tax credits allowed under this program in any taxable year is \$5 million, the regulation sets forth the criteria for evaluation of both initial and final applications. Such criteria contains requirements to submit both a diversity plan and diversity report to the Department as part of this application process.

Regarding record retention, the regulation states that applicants must maintain records, in paper or electronic form, of any qualified production costs used to calculate their potential or actual benefit(s) under this program for a minimum of three years from the date the applicant claims the tax credit.

The regulation next addresses an applicant's appeal process. It notes that if the authorized applicant's final application is disapproved by the Department, or if the approved applicant disagrees with the amount of the tax credit granted by the Department, the applicant has a right to appeal. Upon receipt of a timely letter of appeal, an independent hearing officer will be appointed by the Commissioner to handle the appeal. The independent

hearing officer shall make a report on the appeal to the Commissioner. The Commissioner or designee shall issue a final order within 60 days of the report.

Finally, the regulation concludes with a section on exchange of information with Department of Taxation and Finance and reporting requirements.

**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 October 22, 2022.

**Text of rule and any required statements and analyses may be obtained from:** Thomas P. Regan, Department of Economic Development, 625 Broadway, Albany NY 12245, (518) 292-5120, email: [thomas.regan@esd.ny.gov](mailto:thomas.regan@esd.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 5 of Part OO of Chapter 59 of the Laws of 2022 requires the Commissioner of the Department of Economic Development (the "Department") to promulgate regulations describing the application process, the due dates for such applications, the standards which shall be used to evaluate the applications, the documentation that will be provided to taxpayers by the Department of Economic Development, with respect to the digital gaming media production tax credit program to substantiate to the New York State Department of Taxation and Finance the amount of tax credits allocated to such taxpayers, under what conditions all or a portion of this tax credit may be revoked, and such other provisions as deemed necessary and appropriate.

##### LEGISLATIVE OBJECTIVES:

The proposed/emergency rule gives effect to the intention of the legislature to provide an economic development incentive to encourage, attract and grow the digital game development industry in New York State.

##### NEEDS AND BENEFITS:

The proposed/emergency rule is necessary in order to create the administrative procedures for the digital gaming media production tax credit program as further discussed below.

The program allows a digital gaming media production entity engaged in qualified digital gaming media production to receive a 25% tax credit on qualified expenses for taxable years beginning on or after January 1, 2023 and before January 1, 2028. Furthermore, there is an additional 10% credit given for qualified digital gaming media production costs for a qualified digital gaming media production incurred and paid outside the metropolitan commuter transportation district in New York State. The program is capped at \$25 million over five years.

The tax incentive will help offset some production costs associated with producing digital games in New York State including the high cost of wages for technology and design jobs and leasing costs. The economic benefit of this program will be to increase digital game investment from outside New York State (foreign and domestic), increase the number of jobs and studios within the industry and bolster the existing ecosystem of digital game development throughout the state; including within the key regions of Greater Rochester, the Capital Region, and New York City.

These regulations must be promulgated immediately so that the Department of Economic Development can launch the Program and begin accepting applications in time for eligible digital game development projects to submit an initial application if they intend to start incurring production costs on January 1, 2023, the date qualified costs start to become eligible.

##### COSTS:

I. Costs to private regulated parties (the business applicants): None. The proposed/emergency rule will not impose any additional costs to eligible business applicants.

II. Costs to the regulating agency for the implementation and continued administration of the rule: Minimal as costs to the agency will be absorbed by current agency budget.

III. Costs to the State government: \$25 million in tax credits over a five year period.

IV. Costs to local governments: None. The proposed/emergency rule will not impose any costs on local governments.

##### LOCAL GOVERNMENT MANDATES:

None. There are no local government mandates associated with this program.

##### PAPERWORK:

The rule amends the administrative process of a tax credit program. The rule entails certain paperwork burdens including materials to be submitted as part of applications for tax credits, additional documents the Commissioner may request from applicants as part of the evaluation of applications, and certain records that must be maintained by program participants for auditing purposes.



**DUPLICATION:**

The proposed/emergency rule adds the tax credit program in Part 300 of 5 NYCRR. Accordingly, there is no risk of duplication in the adoption of the proposed/emergency rule.

**ALTERNATIVES:**

No alternatives were considered with regard to creating a new rule in response to the statutory requirement.

**FEDERAL STANDARDS:**

There are no federal standards applicable to this program; it is purely a state program that offers tax benefits to digital gaming companies that meet certain threshold requirements. Therefore, the proposed/emergency rule does not exceed any federal standard.

**COMPLIANCE SCHEDULE:**

The affected agency (Department of Economic Development) and any applicants to digital gaming media production tax credit program will be able to achieve compliance with the regulation as soon as it is implemented.

**Regulatory Flexibility Analysis**

Participation in the Empire State Digital Gaming Media Production Credit Program is entirely at the discretion of qualifying business entities. Neither statute nor the proposed/emergency rule impose any obligation on any local government or business entity to participate in the program. The proposed/emergency rule does not impose any adverse economic impact or compliance requirements on small businesses or local governments. In fact, the rule may have a positive economic impact on small businesses.

Because it is evident from the nature of the proposed/emergency rule that it will have either no impact or a positive impact on small businesses and local government, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required and one has not been prepared.

**Rural Area Flexibility Analysis**

Under the Empire State Digital Gaming Media Production Credit Program, certain businesses in rural areas of New York State may be eligible to apply to participate in the program entirely at their discretion. Municipalities are not eligible to participate in the Program.

The rule does not impose any special reporting, record keeping or other compliance requirements on private entities in rural areas. Therefore, the rule will not have a substantial adverse economic impact on rural areas nor on the reporting, record keeping or other compliance requirements on public or private entities in such rural areas. Accordingly, a rural area flexibility analysis is not required and one has not been prepared.

**Job Impact Statement**

The proposed/emergency rule creates the administrative process for the Empire State Digital Gaming Media Production Credit Program. The program aims to incentivize businesses in the targeted area of digital media and gaming and will not have a substantial adverse impact on jobs and employment opportunities; rather, the program is intended to increase employment opportunities.

Because it is evident from the nature of the proposed/emergency rulemaking that it will have either no impact or a positive impact on job and employment opportunities, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

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

**Specific reasons underlying the finding of necessity:** This rule making is necessary to allow for an increase in the harvest of summer flounder for the 2022 recreational fishing season. The new regulations were developed in response to actions taken by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management Council (MAFMC) to increase the recreational harvest limit for summer flounder. The Department of Environmental Conservation is adopting these changes to maintain compliance with ASMFC and MAFMC management plans for summer flounder and to maximize recreational and economic benefits for New York’s summer flounder fishery.

The ASMFC Fishery Management Plan for summer flounder requires that New York’s regulations be consistent with management measures implemented by the State of Connecticut, which is in the same ASMFC management region as New York. Connecticut has already adopted these measures.

The management measures specified in this Notice of Emergency Adoption are already in effect. DEC originally submitted a Notice of Emergency Adoption and Proposed Rule Making to the Department of State on April 28, 2022 and the new regulations became effective that day. The public comment period for this rule ends on July 18, 2022. In order to be promulgated on time, the Notice of Adoption would have had to be filed on July 6, 2022, to allow 15 to 21 days to be published in the state register. Since the public comment period ends after this date, it is not possible to file the Notice of Adoption prior to the emergency rule’s expiration on July 27, 2022. This amendment is necessary for the State to maintain the current regulations and remain in compliance with Atlantic States Marine Fisheries Commission (ASMFC) until a Notice of Adoption, already in progress, can be published and adopted.

**Subject:** Regulations governing the recreational fishing of summer flounder.

**Purpose:** To revise regulations concerning the recreational harvest of summer flounder in New York State.

**Text of emergency rule:** Subdivision 40.1(f) is amended to read as follows:

The table entry for species “Summer flounder” is amended to read as follows:

40.1(f) Table A – Recreational Fishing.

Species	Open Season	Minimum Length	Possession Limit
Summer flounder	[May 4 – Sept. 30] May 1 – Oct. 9	[19”] 18.5” TL	4

**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-20-22-00001-EP, Issue of May 18, 2022. The emergency rule will expire September 22, 2022.

**Text of rule and any required statements and analyses may be obtained from:** Rachel Sysak, Department of Environmental Conservation, 123 Kings Park Blvd., Kings Park, NY 11754, (631) 444-0469, email: rachel.sysak@dec.ny.gov

**Additional matter required by statute:** Pursuant to Article 8 of the ECL, the State Environmental Quality Review Act, a Coastal Assessment Form and a Short Environmental Assessment Form with a negative declaration have been prepared, and are on file with the Department.

**Regulatory Impact Statement**

1. Statutory authority:

Environmental Conservation Law (ECL) §§ 11-0303, 13-0105, and 13-0340-b authorize the New York State Department of Environmental Conservation (DEC) to establish by regulation the open season, size, catch limits, possession and sale restrictions, and manner of taking for summer flounder.

2. Legislative objectives:

It is the objective of the above-cited legislation that DEC manages marine fisheries to optimize resource use for recreational harvesters in a manner that is consistent with marine fisheries conservation and management policies and interstate fishery management plans.

3. Needs and benefits:

The proposed regulations were developed in response to the Atlantic States Marine Fisheries Commission (ASMFC) and Mid-Atlantic Fishery Management Council (MAFMC) increasing the recreational harvest limit for summer flounder in 2022. The proposal addresses the increase to the recreational harvest limit for summer flounder by lowering the minimum size limit for summer flounder from 19 inches to 18.5 inches in length and extending the fishing season to add 3 days in May (May 1 – 3) and 9 days in October.

**Department of Environmental Conservation**

**EMERGENCY RULE MAKING**

**Regulations Governing the Recreational Fishing of Summer Flounder**

**I.D. No.** ENV-20-22-00001-E

**Filing No.** 603

**Filing Date:** 2022-07-25

**Effective Date:** 2022-07-25

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

**Action taken:** Amendment of Part 40 of Title 6 NYCRR.

**Statutory authority:** Environmental Conservation Law, sections 11-0303, 13-0105 and 13-0340-B

The ASMFC Fishery Management Plan for summer flounder requires that New York's regulations be consistent with management measures implemented by the State of Connecticut, which is in the same ASMFC management region as New York. Connecticut has already adopted these measures.

Emergency rule making is necessary for New York to increase harvest opportunities for summer flounder by the new opening date of the recreational fishing season on May 1, 2022. These changes will allow party and charter boat businesses to take advantage of the opportunity to offer additional summer flounder fishing trips. DEC is adopting these changes to maintain compliance with ASMFC and MAFMC management plans for summer flounder and to maximize recreational and economic benefits for New York's summer flounder fishery.

4. Costs:

There are no new costs to state and local governments from this action. DEC will incur limited costs associated with both the implementation and administration of these rules, including costs relating to notifying recreational fishers, party and charter boat operators, and other recreational fishing associated businesses of the new rules.

5. Local government mandates:

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

6. Paperwork:

None.

7. Duplication:

The amendment does not duplicate any state or federal requirement.

8. Alternatives:

New York State marine recreational fishers had an opportunity to comment on these new recreational fishing measures for summer flounder, including the measures proposed in this rulemaking, during the Marine Resource Advisory Council (MRAC) meeting on March 8, 2022. Alternative management measures, which included various combinations of possession limits, size limits, and seasons, were suggested and discussed. While some fishers questioned why measures could not be less restrictive, attendees generally favored the measures included in this rule making when compared to alternative options. The proposed regulations in this rule making were agreed to by consensus of MRAC members on March 8, 2022.

"No action" alternative: If New York were to not adopt these proposed regulations in 2022, New York anglers would be denied the potential benefits of increased recreational summer flounder fishing opportunities. This could result in a loss of potential revenue to for-hire and associated recreational fishing industries.

9. Federal standards:

The amendments to Part 40 comply with the ASMFC and MAFMC's Fishery Management Plans for summer flounder.

10. Compliance schedule:

These regulations are being adopted by emergency rule making and therefore will take effect immediately upon filing with the Department of State. Regulated parties will be notified of the changes to the regulations through publication in the State Register, appropriate news releases, and through the DEC's website.

**Regulatory Flexibility Analysis**

1. Effect of rule:

This rule making will implement new Atlantic States Marine Fisheries Commission (ASMFC) requirements for recreational summer flounder.

The proposed rules for summer flounder are less restrictive than regulations in place during 2021. In 2021, there were 504 licensed party and charter businesses. Retail and wholesale marine bait and tackle shops operating in New York State may also be affected by this rule making. Data available from the National Oceanic and Atmospheric Administration's 2021 Marine Recreational Information Program estimates that there were 1,961,448 recreational trips targeting summer flounder in New York during 2021. The proposed amendment increases the number of days recreational fishers can fish and decreases the size limit for summer flounder. This will create more recreational fishing opportunities for recreational fishers in New York and could result in an increase in revenue for bait and tackle shops, as well as some party and charter boat businesses.

2. Compliance requirements:

None.

3. Professional services:

None.

4. Compliance costs:

None.

5. Economic and technological feasibility:

The proposed regulations do not require any expenditure on the part of affected businesses to comply with the changes. The proposed regulations add 12 fishing days to the recreational summer flounder season and may increase the income of some party and charter boat businesses, marinas, and marine bait and tackle shops that depend upon the recreational summer flounder fisheries.

6. Minimizing adverse impact:

This rule making is necessary to provide New York summer flounder fishers the benefits of increased harvest opportunities by the start of the summer flounder season and to maintain New York's compliance with the increased summer flounder harvest limits established by the Atlantic States Marine Fisheries Commission (ASMFC). The proposed regulations were developed in response to the ASMFC and Mid-Atlantic Fishery Management Council (MAFMC) increasing the recreational harvest limit for summer flounder in 2022.

Ultimately, the maintenance of long-term sustainable fisheries will have a positive economic effect on the summer flounder fishery, including party and charter boat fisheries, as well as wholesale and retail bait and tackle shops and other support industries for recreational fisheries.

7. Small business and local government participation:

New York State marine recreational fishers had an opportunity to comment on these new recreational fishing measures for summer flounder, including the measures proposed in this rulemaking, during the Marine Resource Advisory Council (MRAC) Meeting on March 8, 2022. Alternative management measures, which included various combinations of possession limits, size limits, and seasons, were suggested and discussed. While some fishers questioned why measures could not be less restrictive, MRAC was in favor of the measures included in this rule making when compared to alternative options. The proposed regulations in this rule making were agreed to by consensus of the MRAC members on March 8, 2018.

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

Pursuant to the State Administrative Procedure Act § 202-b (SAPA), a cure period is not included in the rule because of the potential adverse impact on the resource. Cure periods for the illegal taking of fish or wildlife are neither desirable nor recommended. Immediate compliance is required to ensure that the general welfare of the public and the resource are both protected.

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

The Department of Environmental Conservation will conduct an initial review of the rule within three years as required by SAPA § 207(1)(b).

**Rural Area Flexibility Analysis**

The Department of Environmental Conservation (DEC) has determined that this rule will not impose any adverse impacts on rural areas. This rule making only affects the Marine and Coastal District of the State; there are no rural areas within the Marine and Coastal District. The summer flounder 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. DEC has determined that a Rural Area Flexibility Analysis is not required because no rural areas will be affected by the amendments to 6 NYCRR Part 40.

**Job Impact Statement**

1. Nature of impact:

This rule making will afford New York summer flounder fishers and the associated industry the benefits of increased harvest opportunities by amending Part 40 to: a) lower the minimum size limit for summer flounder from 19 inches to 18.5 inches in length; and b) extend the fishing season to add 3 days in May (May 1 – 3) and 9 days in October.

2. Categories and numbers affected:

In 2021, there were 504 licensed party and charter businesses. Retail and wholesale marine bait and tackle shops operating in New York State may also be affected by this rule making. Data available from the National Oceanic and Atmospheric Administration's (NOAA) 2021 Marine Recreational Information Program estimates that there were 1,961,448 recreational trips targeting summer flounder in New York during 2021. These statistics do not include federally permitted commercial vessels operating out of New York State. NOAA's 2017 report on The Economic Contribution of Marine Angler Expenditures on Durable Goods in the United States estimates that recreational angler expenditures contributed 5,739 jobs to the state's economy and \$473 million to the state's gross domestic product.

3. Regions of adverse impact:

The proposed regulation is less restrictive than rules in place for the 2021 fishing season and should not result in any adverse impacts.

4. Minimizing adverse impact:

The proposed regulation is less restrictive than rules in place for the 2021 fishing season and should not result in any adverse impacts jobs or employment opportunities.

5. Self-employment opportunities:

Party and charter boat businesses, bait and tackle shops, and marinas are, for the most part, small businesses, owned and often operated by a single owner. The recreational fishing industry is mostly self-employed.

This rule will likely have a positive effect upon businesses related to the recreational harvest of summer flounder by providing more opportunities to fish for summer flounder and increasing the chances of encountering a legal-size summer flounder by lowering the minimum size limit.

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

The department will conduct an initial review of the rule within three years as required by SAPA § 207(b).

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

**To Prohibit the Possession of Shortfin Mako**

**I.D. No.** ENV-32-22-00026-EP

**Filing No.** 606

**Filing Date:** 2022-07-26

**Effective Date:** 2022-07-26

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

**Proposed Action:** Amendment of Part 40 of Title 6 NYCRR.

**Statutory authority:** Environmental Conservation Law, sections 13-0305 and 13-0338(4)

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

**Specific reasons underlying the finding of necessity:** Shortfin mako shark are popular gamefish and support commercial fisheries because of their high-quality meat. Shortfin mako reach reproductive maturity later in life and have long reproductive cycles. The latest stock assessment of shortfin mako produced by the International Commission for the Conservation of Atlantic Tunas (ICCAT) found that this species is overfished, which means that the shortfin mako population is too low, and that the species is experiencing overfishing, which means that mortality resulting from commercial and recreational fishing activity is too high. ICCAT has determined that shortfin mako stocks will require rebuilding timeframes through 2070. In response, ICCAT and ASMFC have called for a prohibition on retention of shortfin mako in both commercial and recreational fisheries. On July 1, 2022, NOAA Fisheries adopted a prohibition of all retention of shortfin mako in federal waters. The prohibition took effect on July 5, 2022. New York must adopt a similar retention prohibition to protect shortfin mako in state waters and to remain in compliance with ASMFC. Failure to adopt these regulations on an emergency basis would allow harvest of shortfin mako in state waters to continue.

**Subject:** To prohibit the possession of shortfin mako.

**Purpose:** To protect shortfin mako sharks which are overfished and experiencing overfishing.

**Text of emergency/proposed rule:** Existing paragraph 40.7(c)(1) is amended to read as follows:

(1) It shall be unlawful for any recreational angler to take, or to possess on the waters of the marine and coastal district, as defined in ECL section 13-0103, or the shores thereof, or anywhere inland from such shores, any shark species other than the following: Atlantic sharpnose (*Rhizoprionodon terraenovae*); blacktip (*Carcharhinus limbatus*); blue (*Prionace glauca*); bonnethead (*Sphyrna tiburo*); bull (*Carcharhinus leucas*); common thresher (*Alopias vulpinus*); finetooth (*Carcharhinus isodon*); great hammerhead (*Sphyrna mokarran*); scalloped hammerhead (*Sphyrna lewini*); smooth hammerhead (*Sphyrna zygaena*); lemon (*Negaprion brevirostris*); nurse (*Ginglymostoma cirratum*); oceanic whitetip (*Carcharhinus longimanus*); porbeagle (*Lamna nasus*); [shortfin mako (*Isurus oxyrinchus*);] smooth dogfish (*Mustelus canis*); spiny dogfish (*Squalus acanthias*); spinner (*Carcharhinus brevipinna*); and tiger (*Galeocerdo cuvier*).

Existing subparagraph 40.7(c)(2)(iv) is repealed:

New clause 40.7(c)(6)(i)(‘d’) is adopted to read as follows:

(‘d’) *Possession of shortfin mako is prohibited.*

New clause 40.7(c)(6)(ii)(‘d’) is adopted to read as follows:

(‘d’) *Possession of shortfin mako is prohibited.*

Existing subparagraph 40.7(d)(4)(vii) is amended to read as follows:

(vii) Pelagic species: blue (*Prionace glauca*); common thresher (*Alopias vulpinus*); oceanic whitetip (*Carcharhinus longimanus*); porbeagle (*Lamna nasus*); shortfin mako (*Isurus oxyrinchus*) (*see paragraph (d)(17) of this section*).

New paragraph 40.7(d)(17) is adopted to read as follows:

(17) *Special regulations for shortfin mako: Possession of shortfin mako is prohibited.*

**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 October 23, 2022.

**Text of rule and any required statements and analyses may be obtained from:** Christopher Scott, Department of Environmental Conservation, 123 Kings Park Blvd., Kings Park, New York 11754, (631) 444-0429, email: christopher.scott@dec.ny.gov

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

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

**Additional matter required by statute:** Pursuant to Article 8 of the ECL, the State Environmental Quality Review Act, a Coastal Assessment Form and a Short Environmental Assessment Form with a negative declaration have been prepared, and are on file with the Department.

**Regulatory Impact Statement**

1. Statutory authority:

Environmental Conservation Law (ECL) § 13-0305 directs the Department of Environmental Conservation (DEC) to manage New York State’s marine fishery resources to preserve their long-term abundance for future generations. ECL § 13-0338(4) grants DEC authority to adopt regulations for sharks including: catch and possession limits, restrictions on the manner of taking and landing, and requirements on the amount and type of fishing effort and gear, provided that such regulations are consistent with Atlantic States Marine Fisheries Commission (ASMFC) and federal fishery management plans.

2. Legislative objectives:

It is the objective of the above-cited legislation that DEC regulates New York State’s shark fisheries to preserve long-term abundance for future generations by adopting catch and possession limits, restrictions on the manner of taking and landing, and gear requirements, provided that such regulations are consistent with ASMFC and federal fishery management plans.

3. Needs and benefits:

Shortfin mako shark are popular gamefish and support commercial fisheries because of their high-quality meat. Shortfin mako reach reproductive maturity later in life and have long reproductive cycles. The latest stock assessment of shortfin mako produced by the International Commission for the Conservation of Atlantic Tunas (ICCAT) found that this species is overfished, which means that the shortfin mako population is too low, and that the species is experiencing overfishing, which means that mortality resulting from commercial and recreational fishing activity is too high. ICCAT has determined that shortfin mako stocks will require rebuilding timeframes through 2070. In response, ICCAT and ASMFC have called for a prohibition on retention of shortfin mako in both commercial and recreational fisheries. On July 1, 2022, NOAA Fisheries adopted a prohibition of all retention of shortfin mako in federal waters. The prohibition took effect on July 5, 2022. New York must adopt a similar retention prohibition to protect shortfin mako in state waters and to remain in compliance with ASMFC. Failure to adopt these regulations on an emergency basis would allow harvest of shortfin mako in state waters to continue.

4. Costs:

There are no new costs to state and local governments from this action. DEC will incur limited costs associated with both the implementation and administration of these rules, including costs relating to notifying commercial and recreational fishers, party and charter boat operators, and other recreational fishing associated businesses of the new rules.

5. Local government mandates:

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

6. Paperwork:

Regulated parties are not expected to experience an increase in paperwork as a result of the proposed regulations.

7. Duplication:

The amendment does not duplicate any state or federal requirement.

8. Alternatives:

“No action” alternative: These amendments will ensure that New York maintains compliance and consistency with requirements of the ASMFC and NOAA Fisheries. “No action” alternative would allow for harvest of an already vulnerable species, and any harvest by New York could cause the United States to be out of compliance with the international management of shortfin mako.

9. Federal standards:

The amendments to Part 40 comply with the ASMFC and NOAA Fisheries Fishery Management Plans for shortfin mako.

10. Compliance schedule:

These regulations are being adopted by emergency rule making and therefore will take effect immediately upon filing with the Department of State. Regulated parties will be notified of the changes to the regulations through publication in the State Register, appropriate news releases, and through the DEC’s website.

**Regulatory Flexibility Analysis****1. Effect of rule:**

This rule making will implement new Atlantic States Marine Fisheries Commission (ASMFC) and NOAA Fisheries requirements banning retention of all shortfin mako (*Isurus oxyrinchus*).

NOAA Fisheries Highly Migratory Species (HMS) permits are needed to fish for and harvest shortfin mako shark from federal waters and to sell shortfin mako. There are two types of commercial permits: a limited access shark directed commercial fishing permit and a shark incidental commercial fishing permit. During 2021, only 3 – 4% of the HMS limited access shark permits were issued to NY residents.

Limited commercial data from state and federal trip reports indicate 5 to 15 individuals have reported harvesting shortfin mako in New York over the last five years. During 2020, NMFS most recent commercial landings data, New York (NY) commercial landings accounted for 5 percent of east coast United States (US) landings. In general, within the commercial fishery, shortfin mako is bycatch in fisheries which target swordfish and tuna. Dealer reports from New York State indicate that there were 6 different dealers which reported buying shortfin mako between 2017 – 2020. There were no dealer reports with shortfin mako in 2021. During this time, these dealers purchased 11,762 pounds of shortfin mako worth \$23,914.88, at an average price of \$2.05 per pound. These fishers and dealers will no longer be able to land, sell or buy shortfin mako in New York.

To fish in federal waters for shark, vessel owners must have a valid federal fishing permit for their vessel – either “HMS Angling” or “HMS Charter/Headboat”. During 2021, NY residents were issued 12% of the angling permits and 9% of the charter/party boat permits. In addition, to fish for sharks recreationally, permit holders need to apply for and receive a shark endorsement on their permit. Coastwide, 75 percent of the HMS charter/party boat permits had shark endorsements and only 57 percent of the angling permits had such endorsements. NMFS does not collect data on the NY percentage of endorsements.

There is limited recreational data on NY catch and effort from NOAA’s Large Pelagic Survey (LPS) on shortfin mako. Based on the data that is available, recreational catch from private and charter modes has been relatively stable over the last five years. From 2017 – 2021, the LPS estimates that NY recreational shark anglers had an average catch (i.e., those makos kept, released alive, and discarded dead) of 1,998 shortfin mako per year. NY catch represents 49% of all shortfin mako catch between Maine (ME) and Virginia (VA) during this time. NY recreational shark anglers harvested (i.e., those makos kept) an average of 484 shortfin mako per year in the same time period. NY harvest represents 58% of all shortfin mako harvest between ME and VA during this time. The LPS survey does not differentiate catch between state and federal waters, but it is likely that most of this catch is from federal waters because shortfin mako are rarely found in the shallower shelf waters of the NY Marine & Coastal District.

Shortfin mako has been one of the major shark species targeted in Atlantic pelagic shark tournaments. Based on NOAA Highly Migratory Species permit database, NY averaged 9 permitted pelagic shark tournaments from 2017 – 2021, which was 28% of all permitted Atlantic pelagic shark tournaments from ME to Florida (FL). All aspects of the NY recreational offshore shark fishing community will be impacted by this rule because they are generally targeting shortfin mako on their trips. Tournament anglers will likely shift to targeting other shark species, such as common thresher shark, or tournament organizers may opt to cancel their tournaments.

**2. Compliance requirements:**

Prohibition of possession of shortfin mako.

**3. Professional services:**

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

**4. Compliance costs:**

There are no new costs to state and local governments from this action. DEC will incur limited costs associated with both the implementation and administration of these rules, including costs relating to notifying commercial and recreational fishers, party and charter boat operators, and other recreational fishing associated businesses of the new rules. The proposed regulations do not require any expenditure on the part of affected businesses to comply with the changes.

**5. Economic and technological feasibility:**

The proposed regulations do not require any expenditure on the part of affected businesses to comply with the changes.

**6. Minimizing adverse impact:**

Shortfin mako shark are popular gamefish because of their high-quality meat. However, the latest stock assessment of shortfin mako produced by the International Commission for the Conservation of Atlantic Tunas (ICCAT) found that this species is overfished and requires rebuilding timeframes through 2070. Shortfin mako reach reproductive maturity later in life and have long reproductive cycles. In response, ICCAT and ASMFC

have called for a prohibition on retention of shortfin mako in both commercial and recreational fisheries. NOAA Fisheries adopted a prohibition of all retention of shortfin mako in federal waters which became effective on July 5, 2022. New York must adopt a similar retention prohibition to protect shortfin mako in state waters. Failure to adopt these regulations on an emergency basis would allow harvest of shortfin mako in state waters to continue.

**7. Small business and local government participation:**

NOAA Fisheries published the proposed rule for shortfin mako on April 11, 2022. NOAA Fisheries held a public hearing on this proposed rule on April 27, 2022. The public comment period closed on May 11, 2022. Banning retention of shortfin mako was discussed at the ASMFC Coastal Sharks Board meeting on May 4, 2022.

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

Pursuant to the State Administrative Procedure Act § 202-b (SAPA), a cure period is not included in the rule because of the potential adverse impact on the resource. Cure periods for the illegal taking of fish or wildlife are neither desirable nor recommended. Immediate compliance is required to ensure that the general welfare of the public and the resource are both protected.

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

The Department of Environmental Conservation will conduct an initial review of the rule within three years as required by SAPA § 207(1)(b).

**Rural Area Flexibility Analysis**

The Department of Environmental Conservation (DEC) has determined that this rule will not impose any adverse impacts on rural areas. This rule making only affects the Marine and Coastal District of the State; there are no rural areas within the Marine and Coastal District. The shortfin mako fishery is entirely located within the Marine and Coastal District and federal waters 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. DEC has determined that a Rural Area Flexibility Analysis is not required because no rural areas will be affected by the amendments to 6 NYCRR Part 40.

**Job Impact Statement**

A Job Impact Statement is not required because this rulemaking will have no substantial adverse impact on jobs and employment opportunities. The current possession limits for shortfin mako in New York (NY) are no more than one shark per recreational angler and no more than 36 sharks per commercial fisher. The proposed rulemaking will prohibit the possession of shortfin mako sharks in the NY Marine and Coastal District, consistent a recent prohibition on possession in federal waters adopted by National Oceanic and Atmospheric Administration (NOAA Fisheries) on July 5, 2022.

Shortfin mako are rarely found in the shallow shelf waters of the NY Marine & Coastal District and are more commonly caught in deeper federal waters. People who catch shortfin mako include recreational Atlantic pelagic shark tournament anglers that specifically target shortfin mako sharks and commercial fishers who retain shortfin mako as bycatch in fisheries which target swordfish and tuna.

Between 2017 and 2021 there were an average of nine permitted recreational Atlantic pelagic shark tournaments. While tournament participants are generally targeting shortfin mako on their trips, they will likely shift to targeting other shark species such as common thresher shark. Some tournament organizers may opt to cancel their tournaments all together.

NOAA Fisheries Highly Migratory Species (HMS) permits are needed to fish for and harvest shortfin mako shark from federal waters and to sell shortfin mako. There are two types of commercial permits: a limited access shark directed commercial fishing permit and a shark incidental commercial fishing permit. During 2021, only 3 – 4% of the HMS limited access shark permits were issued to NY residents. In addition, NOAA Fisheries issued 9 Atlantic shark dealer permits to NY residents. Limited commercial data from state and federal trip reports indicate 5 to 15 individuals have reported harvesting shortfin mako over the last five years. Commercial dealer reports from NY indicate that only six dealers reported buying shortfin mako between 2017 – 2020. No dealers reported buying shortfin mako in 2021. Due to the limited number of mako sharks caught and purchased commercially since 2017, the Department has determined that the proposed rulemaking will not have a significant adverse impact on commercial fishing jobs in NY.

It is evident from the nature of this rulemaking that it will have no significant adverse impact on jobs or employment opportunities. Accordingly, pursuant to SAPA § 207-a(2)(a) a Job Impact Statement is not required and is not submitted with this rulemaking.

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## Office of General Services

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### NOTICE OF ADOPTION

#### Charitable Contributions Through State Employees Federated Appeals

**I.D. No.** GNS-19-22-00026-A

**Filing No.** 611

**Filing Date:** 2022-07-26

**Effective Date:** 2022-08-10

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

**Action taken:** Amendment of Part 335 of Title 9 NYCRR.

**Statutory authority:** Executive Law, section 200; Finance Law, section 201(1)

**Subject:** Charitable Contributions Through State Employees Federated Appeals.

**Purpose:** To reflect efficiencies offered by modern business processes.

**Text or summary was published** in the May 11, 2022 issue of the Register, I.D. No. GNS-19-22-00026-P.

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

**Text of rule and any required statements and analyses may be obtained from:** Paula B. Hanlon, Esq., Office of General Services, 36th Floor Corning Tower, The Governor Nelson A. Rockefeller ESP, Albany, NY 12242, (518) 474-0571, email: paula.hanlon@ogs.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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## Department of Health

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### EMERGENCY RULE MAKING

#### Surge and Flex Health Coordination System

**I.D. No.** HLT-07-22-00011-E

**Filing No.** 602

**Filing Date:** 2022-07-22

**Effective Date:** 2022-07-22

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

**Action taken:** Addition of sections 1.2, 700.5 and Part 360; amendment of sections 400.1, 405.24 and 1001.6 of Title 10 NYCRR; amendment of sections 487.3, 488.3 and 490.3 of Title 18 NYCRR.

**Statutory authority:** Public Health Law, sections 225, 576, 2800, 2803, 4662; Social Services Law, section 461

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

**Specific reasons underlying the finding of necessity:** During a state disaster emergency with significant public health impact, and where compliance with certain regulations may prevent, hinder or delay action necessary to cope with the disaster, as has been the case with COVID-19, these proposed regulations will ensure that the State has the most efficient regulatory tools to facilitate the State's and regulated parties' response efforts to Surge and Flex the healthcare system statewide. Additionally, this authority will also ensure that the Department has the flexibility to impose additional requirements, where necessary, to ensure effective response to a declared state disaster emergency. Accordingly, these tools will help ensure the health and safety of patients and residents in New York State.

The Surge and Flex Health Care Coordination System was activated during the COVID-19 State disaster emergency which was declared by

Governor Cuomo under Executive Orders No. 202 through 202.111 (March 7, 2020 to June 15, 2021; see 9 NYCRR §§ 8.202 through 8.202.111), the State disaster emergency which was declared by Governor Hochul under Executive Orders No. 4 through 4.8 (September 27, 2021 to May 30, 2022; see 9 NYCRR §§ 9.4 through 9.4.8), and the State disaster emergency which was declared by Governor Hochul under Executive Orders No. 11 through 11.6 (November 26, 2021 to June 14, 2022; see 9 NYCRR §§ 9.11 through 9.11.6).

Of note, a Notice of Proposed Rule Making was published in the State Register on February 16, 2022, with a public comment period that ended on April 18, 2022. The Department intends these emergency regulations to be in effect only until such time as the Department can publish an Assessment of Public Comment and adopt a Final Rule, which would make the Proposed Rule permanent.

**Subject:** Surge and Flex Health Coordination System.

**Purpose:** Provides authority to the Commissioner to direct certain actions and waive certain regulations in an emergency.

**Substance of emergency rule (Full text is posted at the following State website: <https://regs.health.ny.gov/regulations/emergency>):** Although the Governor retains authority to issue Executive Orders to temporarily suspend or modify regulations pursuant to the Executive Law, these regulatory amendments provide an expedient and coherent plan to implement quickly the relevant temporary suspensions or modifications. The regulatory amendments permit the State Commissioner of Health or designee to take specific actions, as well as to temporarily suspend or modify certain regulatory provisions (or parts thereof) in Titles 10 and 18 of the NYCRR during a state disaster emergency, where such provisions are not required by statute or federal law. These amendments also permit the Commissioner to take certain actions, where consistent with any Executive Order (EO) issued by the Governor during a declared state disaster emergency. Examples include issuing directives to authorize and require clinical laboratories or hospitals to take certain actions consistent with any such EOs, as well as the temporary suspension or modification of additional regulatory provisions when the Governor temporarily suspends or modifies a controlling state statute.

The regulatory amendments also require hospitals to: develop disaster emergency response plans; maintain a 60-day supply of personal protective equipment (PPE); ensure that staff capable of working remotely are equipped and trained to do so; and report data as requested by the Commissioner.

**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-07-22-00011-P, Issue of February 16, 2022. The emergency rule will expire September 19, 2022.

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

#### Regulatory Impact Statement

Statutory Authority:

The authority for the promulgation of these regulations with respect to facilities subject to Article 28 of the Public Health Law (PHL) is contained in PHL sections 2800 and 2803(2). PHL Article 28 (Hospitals), section 2800, specifies: "Hospital and related services including health-related service of the highest quality, efficiently provided and properly utilized at a reasonable cost, are of vital concern to the public health. In order to provide for the protection and promotion of the health of the inhabitants of the state, pursuant to section three of article seventeen of the constitution, the department of health shall have the central, comprehensive responsibility for the development and administration of the state's policy with respect to hospital and related services, and all public and private institutions, whether state, county, municipal, incorporated or not incorporated, serving principally as facilities for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition or for the rendering of health-related service shall be subject to the provisions of this article." PHL section 2801 defines the term "hospital" as also including residential health care facilities (nursing homes) and diagnostic and treatment centers (D&TCs). PHL section 2803(2) 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 such health care facilities.

PHL section 4662 authorizes the Commissioner to issue regulations governing assisted living residences. Social Services Law (SSL) section 461(1) authorizes the Commissioner to promulgate regulations establishing standards applicable to adult care facilities. PHL section 576 authorizes the Commissioner to regulate clinical laboratories.

PHL section 225 authorizes the Public Health and Health Planning

Council (PHHPC) and the Commissioner to establish and amend the State Sanitary Code (SSC) provisions related to any matters affecting the security of life or health or the preservation and improvement of public health in the State of New York.

Upon the future declaration of any disaster emergency, any further authorization by the Governor pursuant to article 2-B of the Executive Law, if it should suspend any statutes which otherwise conflict with these regulations, will establish the immediate effectiveness of these provisions.

#### Legislative Objectives:

The objectives of PHL Article 28 include protecting the health of New York State residents by ensuring that they have access to safe, high-quality health services in medical facilities, while also protecting the health and safety of healthcare workers. Similarly, PHL Articles 36 and 40 ensure that the Department has the tools needed to achieve these goals in the home care and hospice spaces, and PHL section 4662 and SSL section 461 likewise ensure that the Department has appropriate regulatory authority with respect to assisted living residences and adult care facilities. PHL section 576 ensures that the Commissioner has appropriate regulatory authority over clinical laboratories. Finally, PHL section 225 ensures that the State Sanitary Code includes appropriate regulations in the areas of communicable disease control and environmental health, among others.

By permitting the Commissioner to temporarily suspend or modify regulatory provisions in each these areas, where not required by state statute or federal law, or where he is authorized by a gubernatorial Executive Order, these amendments provide crucial flexibility for this and future emergency response efforts.

#### Needs and Benefits:

During a state disaster emergency, Section 29-a of the Executive Law permits the Governor to, among other things, “temporarily suspend specific provisions of any statute, local law, ordinance, or orders, rules or regulations, or parts thereof, of any agency during a state disaster emergency, if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the disaster.”

Although the Governor retains authority to issue Executive Orders to temporarily suspend or modify regulations pursuant to the Executive Law, these proposed regulatory amendments would provide an expedient and coherent plan to implement quickly the relevant temporary suspensions or modifications. The proposed regulatory amendments would permit the State Commissioner of Health or designee to take specific actions, as well as to temporarily suspend or modify certain regulatory provisions (or parts thereof) in Titles 10 and 18 of the NYCRR during a state disaster emergency, where such provisions are not required by statute or federal law. These proposed amendments would also permit the Commissioner to take certain actions, where consistent with any Executive Order (EO) issued by the Governor during a declared state disaster emergency. Examples include issuing directives to authorize and require clinical laboratories or hospitals to take certain actions consistent with any such EOs, as well as the temporary suspension or modification of additional regulatory provisions when the Governor temporarily suspends or modifies a controlling state statute.

The proposed regulatory amendments would also require hospitals to: develop disaster emergency response plans; maintain a 60-day supply of personal protective equipment (PPE); ensure that staff capable of working remotely are equipped and trained to do so; and report data as requested by the Commissioner.

During a state disaster emergency with significant public health impact, and where compliance with certain regulations may prevent, hinder or delay action necessary to cope with the disaster, as is the case with COVID-19, this authority will ensure that the State has the most efficient regulatory tools to facilitate the State’s and regulated parties’ response efforts to Surge and Flex the healthcare system statewide. Additionally, this authority will also ensure that the Department has the flexibility to impose additional requirements, where necessary, to ensure effective response to a declared state disaster emergency. Accordingly, these tools will help ensure the health and safety of patients and residents in New York State.

#### Costs:

##### Costs to Regulated Parties:

As demonstrated during the COVID-19 pandemic emergency, significant provider costs, as well as local, regional and state costs, were incurred as a result of the need to respond to the demand for urgent healthcare and related services. These costs had significant impact throughout the state. It is anticipated there would be similar types of costs in a widespread emergency that would need to be addressed through both appropriate preparedness as well as within, and as part of, a coordinated response to a specific situation.

To the extent that additional requirements are imposed on regulated parties by these proposed regulatory amendments, most requirements would be in effect only for the duration of a declared state disaster emergency, with the hope of limiting costs to the extent possible.

##### Costs to Local Governments:

As demonstrated during the COVID-19 pandemic emergency, significant provider costs, as well as local, regional and state costs, were incurred as a result of the need to respond to the demand for urgent healthcare and related services. These costs had significant impact throughout the state. It is anticipated there would be similar types of costs in a widespread emergency that would need to be addressed through both appropriate preparedness as well as within and as part of a coordinated response to a specific situation.

To the extent additional requirements are imposed on local governments that operate facilities regulated by the Department, most requirements would be in effect only for the duration of a declared state disaster emergency, with the hope of limiting costs to the extent possible.

##### Cost to State Government:

The administration and oversight of these planning and response activities will be managed within the Department’s existing resources.

##### Paperwork:

It is not anticipated that the proposed regulatory amendments will impose any significant paperwork requirements. Although these proposed amendments require additional reporting, these reports can be submitted electronically using the current platforms that facilities are already using. Moreover, such reporting requirements would only be activated during a declared state disaster emergency, thereby limiting the burden.

##### Local Government Mandates:

Facilities operated by local governments will subject to the same requirements as any other regulated facility, as described above.

##### Duplication:

These proposed regulatory amendments do not duplicate state or federal rules.

##### Alternatives:

The alternative would be to not promulgate the regulation. However, this alternative was rejected, as the Department believes that these regulatory amendments are necessary to facilitate response to a state disaster emergency.

##### Federal Standards:

42 CFR 482.15 establishes emergency preparedness minimum standards in four core areas including emergency planning, development of applicable policies and procedures, communications plan, and training and testing. These proposed amendments would complement the federal regulation and further strengthen hospitals’ emergency preparedness and response programs.

##### Compliance Schedule:

These regulatory amendments will become effective upon filing with the Department of State.

#### **Regulatory Flexibility Analysis**

##### Effect of Rule:

The proposed regulatory amendments would primarily affect health care professionals, licensed health care facilities, permitted clinical laboratories, emergency medical service personnel, providers, and agencies, and pharmacies.

##### Compliance Requirements:

A significant portion of these regulatory amendments are designed to provide regulatory relief during a declared state disaster emergency. Where the regulatory amendments would impose requirements, most of them would only be applicable when there is a declared state disaster emergency. An example of a requirement that may be implemented during a declared state disaster emergency is reporting of data and inventory as requested by the Commissioner (i.e. medical supplies and equipment, as well as hospital bed capacity, bed utilization, patient demographics, etc.). There are certain ongoing requirements proposed by this regulatory amendments, which would apply regardless of whether there is a declared state disaster emergency, in which hospitals would be required to: (1) maintain minimum levels of PPE; (2) ensure work from home capabilities; and (3) develop disaster emergency response plans.

##### Professional Services:

It is not expected that any professional services will be required to comply with the proposed regulatory amendments.

##### Compliance Costs:

As demonstrated during the COVID-19 pandemic emergency, significant provider costs, as well as local, regional and state costs, were incurred as a result of the need to respond to the demand for urgent healthcare and related services. These costs had significant impact throughout the state. It is anticipated there would be similar types of costs in a widespread emergency that would need to be addressed through both appropriate preparedness as well as within and as part of a coordinated response to a specific situation.

To the extent additional requirements are imposed on small businesses and local governments by these proposed regulatory amendments, most requirements would only be in effect for the duration of a declared state disaster emergency, with the hope of limiting costs to the extent possible.

Ongoing costs requiring hospitals to maintain a minimum PPE supply and ensure work from home capabilities should have been addressed throughout the ongoing COVID-19 pandemic, thereby limiting costs of continued implementation. Ongoing costs related to hospital development of disaster emergency response plan will complement and build upon existing planning documents that hospitals are already required to have, which also limits costs.

**Economic and Technological Feasibility:**

There are no economic or technological impediments to the proposed regulatory amendments.

**Minimizing Adverse Impact:**

Although the proposed regulatory amendments impose some additional requirements on regulated parties, most of these requirements are only triggered during a declared state disaster emergency. Proposed amendments that would impose ongoing requirements would only apply to hospitals, and as noted above, will largely be a continuation of the efforts already being employed by these entities.

**Small Business and Local Government Participation:**

The Surge and Flex Health Care Coordination System was activated during the COVID-19 State disaster emergency which was first declared on March 7, 2020, and it has been used throughout the COVID-19 pandemic. The public has been permitted to comment at the public meetings during which the Public Health and Health Planning Council has approved this regulation on an emergency basis. A Notice of Proposed Rule Making was published in the State Register on February 16, 2022, with a public comment period that ended on April 18, 2022, and the Department will publish an Assessment of Public Comment before a Final Rule is adopted.

**Rural Area Flexibility Analysis**

**Types and Estimated Numbers of Rural Areas:**

Although this rule applies uniformly throughout the state, including rural areas, for the purposes of this Rural Area Flexibility Analysis (RAFA), "rural area" means areas of the state defined by Exec. Law § 481(7) (SAPA § 102(10)). Per Exec. Law § 481(7), rural areas are defined as "counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, and programs and such other entities or resources found therein. In counties of two hundred thousand or greater population 'rural areas' means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein." The following 43 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2010:

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

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

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

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

A significant portion of these regulatory amendments are designed to

provide regulatory relief during a declared state disaster emergency. Where the regulatory amendments would impose requirements, most of them would only be applicable when there is a declared state disaster emergency. An example of a requirement that may be implemented during a declared state disaster emergency is reporting of data and inventory as requested by the Commissioner (i.e. medical supplies and equipment, hospital bed capacity, bed utilization, patient demographics, etc.). There are certain ongoing requirements proposed by this regulatory amendments, regardless of whether there is a declared state disaster emergency, in which hospitals would be required to: (1) maintain minimum levels of PPE; (2) ensure work from home capabilities; and (3) develop disaster emergency response plans. This regulation provides that the Commissioner's directives shall be incremental and geographically tailored and targeted at the Statewide, regional, or community level, as dictated by infection rate data.

It is not expected that any professional services will be required to comply with the proposed regulatory amendments.

**Costs:**

As a large part of these regulatory amendments would give the State Commissioner of Health authority to temporarily suspend or modify certain regulations within Titles 10 and 18 during a state disaster emergency, these regulatory amendments are not expected to result in any significant costs to public and private entities in rural areas.

To the extent additional requirements are imposed on public and private entities in rural areas by these proposed regulatory amendments, such requirements would only be in effect for the duration of a declared state disaster emergency.

Lastly, per SAPA § 202-bb(3)(c), it is not anticipated that there will be any significant variation in cost for different types of public and private entities in rural areas.

**Economic and Technological Feasibility:**

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

**Minimizing Adverse Impact:**

Although the proposed regulatory amendments impose additional requirements on regulated parties, including those in rural areas, most of these requirements are only triggered during a declared state disaster emergency. Proposed amendments that would require disaster emergency preparedness planning on the part of regulated parties will complement and build upon existing state and federal planning requirements.

**Rural Area Participation:**

The Surge and Flex Health Care Coordination System was activated during the COVID-19 State disaster emergency which was first declared on March 7, 2020, and it has been used throughout the COVID-19 pandemic. The public has been permitted to comment at the public meetings during which the Public Health and Health Planning Council has approved this regulation on an emergency basis. A Notice of Proposed Rule Making was published in the State Register on February 16, 2022, with a public comment period that ended on April 18, 2022, and the Department will publish an Assessment of Public Comment before a Final Rule is adopted.

**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.

**EMERGENCY  
RULE MAKING**

**Hospital and Nursing Home Personal Protective Equipment (PPE) Requirements**

**I.D. No.** HLT-23-22-00001-E

**Filing No.** 601

**Filing Date:** 2022-07-22

**Effective Date:** 2022-07-22

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

**Action taken:** Amendment of sections 405.11 and 415.19 of Title 10 NYCRR.

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

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

**Specific reasons underlying the finding of necessity:** These regulations are needed on an emergency basis to ensure hospital and nursing home staff, as well as the patients and residents for whom they provide care, are adequately protected during the 2019 Coronavirus (COVID-19) or another communicable disease outbreak. These regulations are specifically meant

to address the lessons learned in New York State from 2020 to 2021 during the COVID-19 pandemic with respect to PPE. As stated in the declaration of the State disaster emergency in Executive Orders No. 11 through 11.6 (November 26, 2021, through June 14, 2022; see 9 NYCRR §§ 9.11 through 9.11.6), New York continues to experience high rates of COVID-19 transmission. A possible resurgence of COVID-19 or another communicable disease outbreak necessitates that hospitals and nursing homes continue to have an adequate supply of PPE.

New York State first identified COVID-19 cases on March 1, 2020 and thereafter became the national epicenter of the outbreak. However, as a result of global PPE shortages, many hospitals and nursing homes in New York State had difficulty obtaining adequate PPE necessary to care for their patients and residents. New York State provided general hospitals, nursing homes, and other medical facilities with PPE from the State's emergency stockpile from the beginning of the COVID-19 outbreak.

These regulations are needed on an emergency basis to ensure that hospitals and nursing homes Statewide do not again find themselves in need of PPE from the State's stockpile should another communicable disease outbreak occur, COVID-19 or otherwise. It is critically important that PPE, including masks, gloves, respirators, face shields and gowns, is readily available and used when needed, as hospital and nursing home staff must don all required PPE to safely provide care for patients and residents with communicable diseases, while ensuring that they themselves do not become infected with a communicable disease.

Based on the foregoing, the Department has made the determination that this emergency regulation is necessary to ensure that all general hospitals and nursing homes maintain a 60-day supply of PPE to ensure that sufficient PPE is available in the event of a resurgence of COVID-19 or another communicable disease outbreak.

**Subject:** Hospital and Nursing Home Personal Protective Equipment (PPE) Requirements.

**Purpose:** To ensure that all general hospitals and nursing homes maintain a 60-day supply of PPE during the COVID-19 emergency.

**Text of emergency rule:** Section 405.11 is amended by adding a new subdivision (g) as follows:

(g)(1) *The hospital shall possess and maintain a supply of all necessary items of personal protective equipment (PPE) sufficient to protect health care personnel, consistent with federal Centers for Disease Control and Prevention guidance, for at least 60 days, by August 31, 2021.*

(2) *The 60-day stockpile requirement set forth in paragraph (1) of this subdivision shall be determined by the Department as follows for each type of required PPE:*

(i) *for single gloves, fifteen percent, multiplied by the number of the hospital's staffed beds as determined by the Department, multiplied by 550;*

(ii) *for gowns, fifteen percent, multiplied by the number of the hospital's staffed beds as determined by the Department, multiplied by 41;*

(iii) *for surgical masks, fifteen percent, multiplied by the number of the hospital's staffed beds as determined by the Department, multiplied by 21; and*

(iv) *for N95 respirator masks, fifteen percent, multiplied by the number of the hospital's staffed beds as determined by the Department, multiplied by 9.6.*

(3) *The Commissioner shall have discretion to increase the stockpile requirement set forth in paragraph (1) of this subdivision from 60 days to 90 days where there is a State or local public health emergency declared pursuant to Section 24 or 28 of the Executive Law. Hospitals shall possess and maintain the necessary 90-day stockpile of PPE by the deadline set forth by the Commissioner.*

(4) *In order to maximize the shelf life of stockpiled inventory, providers should follow the appropriate storage conditions as outlined by manufacturers and inventory should be rotated through regular usage and replace what has been used in order to ensure a consistent readiness level, and expired products should be disposed of when their expiration date has passed. Expired products shall not be used to comply with the stockpile requirement set forth in paragraph (1) of this subdivision.*

(5) *Failure to possess and maintain the required supply of PPE may result in the revocation, limitation, or suspension of the hospital's license; provided, however, that no such revocation, limitation, or suspension shall be ordered unless the Department has provided the hospital with a fourteen day grace period, solely for a hospital's first violation of this section, to achieve compliance with the requirement set forth herein.*

Section 415.19 is amended by adding a new subdivision (f) as follows:

(f)(1) *The nursing home shall possess and maintain a supply of all necessary items of personal protective equipment (PPE) sufficient to protect health care personnel, consistent with federal Centers for Disease Control and Prevention guidance, for at least 60 days, by August 31, 2021.*

(2) *The 60-day stockpile requirement set forth in paragraph (1) of this subdivision shall be determined by the Department as follows for each type of required PPE:*

(i) *for single gloves, the applicable positivity rate, multiplied by the number of certified nursing home beds as indicated on the nursing home's operating certificate, multiplied by 24;*

(ii) *for gowns, the applicable positivity rate, multiplied by the number of certified nursing home beds as indicated on the nursing home's operating certificate, multiplied by 3;*

(iii) *for surgical masks, the applicable positivity rate, multiplied by the number of certified nursing home beds as indicated on the nursing home's operating certificate, multiplied by 1.5; and*

(iv) *for N95 respirator masks, the applicable positivity rate, multiplied by the number of certified nursing home beds as indicated on the nursing home's operating certificate, multiplied by 1.4.*

(v) *For the purposes of this paragraph, the term "applicable positivity rate" shall mean the greater of the following positivity rates:*

(a) *The nursing home's average COVID-19 positivity rate, based on reports made to the Department, during the period April 26, 2020 through May 20, 2020; or*

(b) *The nursing home's average COVID-19 positivity rate, based on reports made to the Department, during the period January 3, 2021 through January 31, 2021; or*

(c) *20.15 percent, representing the highest Regional Economic Development Council average COVID-19 positivity rate, as reported to the Department, during the periods April 26, 2020 through May 20, 2020 and January 3, 2021 through January 31, 2021.*

(3) *In order to maximize the shelf life of stockpiled inventory, providers should follow the appropriate storage conditions as outlined by manufacturers and inventory should be rotated through regular usage and replace what has been used in order to ensure a consistent readiness level, and expired products should be disposed of when their expiration date has passed. Expired products shall not be used to comply with the stockpile requirement set forth in paragraph (1) of this subdivision.*

(4) *Failure to possess and maintain the required supply of PPE may result in the revocation, limitation, or suspension of the nursing home's license; provided, however, that no such revocation, limitation, or suspension shall be ordered unless the Department has provided the nursing home with a fourteen day grace period, solely for a nursing home's first violation of this section, to achieve compliance with the requirement set forth herein.*

**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-23-22-00001-P, Issue of June 8, 2022. The emergency rule will expire September 19, 2022.

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

#### **Regulatory Impact Statement**

##### **Statutory Authority:**

Section 2803 of the Public Health Law (PHL) authorizes the promulgation of such regulations as may be necessary to implement the purposes and provisions of PHL Article 28, including the establishment of minimum standards governing the operation of health care facilities, including hospitals and nursing homes.

##### **Legislative Objectives:**

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

##### **Needs and Benefits:**

The 2019 Coronavirus (COVID-19) is a disease that causes mild to severe respiratory symptoms, including fever, cough, and difficulty breathing. People infected with COVID-19 have had symptoms ranging from those that are mild (like a common cold) to severe pneumonia that requires medical care in a general hospital and can be fatal, with a disproportionate risk of severe illness for older adults and/or those who have serious underlying medical health conditions.

On January 30, 2020, the World Health Organization (WHO) designated the COVID-19 outbreak as a Public Health Emergency of International Concern. On a national level, the Secretary of Health and Human Services determined on January 31, 2020 that as a result of confirmed cases of COVID-19 in the United States, a public health emergency existed and had existed since January 27, 2020, nationwide. Thereafter, the situation rapidly evolved throughout the world, with many countries, including the United States, quickly progressing from the identification of travel-associated cases to person-to-person transmission among close contacts of travel-associated cases, and finally to widespread community transmission of COVID-19.

In order for hospital and nursing home staff to safely provide care for



COVID-19 positive patients and residents, or patients and residents infected with another communicable disease, while ensuring that they themselves do not become infected with COVID-19 or any other communicable disease, it is critically important that personal protective equipment (PPE), including masks, gloves, respirators, face shields and gowns, is readily available and are used. Therefore, as a result of global PPE shortages at the outset of the State of Emergency, New York State provided general hospitals, nursing homes, and other medical facilities with PPE from the State's emergency stockpile from the beginning of the COVID-19 outbreak. However, hospitals and nursing homes must ensure sufficient PPE stockpiles exist for any future communicable disease outbreaks to ensure each facility is adequately prepared to protect its staff and patients or residents, without needing to rely on the State's emergency stockpile.

Based on the foregoing, the Department has made the determination that this emergency regulation is necessary to ensure that all general hospitals and nursing homes maintain a 60-day supply of PPE to ensure that sufficient PPE is available in the event of a continuation or resurgence of the COVID-19 outbreak or another communicable disease outbreak.

**Costs:**

**Costs to Regulated Parties:**

The purpose of this regulation is to require general hospitals and nursing homes to maintain adequate stockpiles of PPE. The initial cost to facilities as they establish stockpiles of PPE will vary depending on the number of staff working at each facility. However, the Department anticipates that hospitals and nursing homes will routinely use stockpiled PPE as part of their routine operations; while facilities must maintain the requisite stockpile at all times in the event of an emergency need, facilities are expected to rotate through their stockpiles routinely to ensure the PPE does not expire and is replaced with new PPE, thereby helping to balance facility expenditures over time. Further, in the event of an emergency need, hospitals and nursing homes are expected to tap into their stockpiles; as such, hospitals and nursing homes will ultimately use equipment which would have been purchased had a stockpile not existed, thereby mitigating overall costs. Moreover, nursing homes are statutorily obligated to maintain or contract to have at least a two-month supply of PPE pursuant to Public Health Law section 2803(12). As such, this regulation imposes no long-term additional costs to regulated parties.

**Costs to Local and State Governments:**

This regulation will not impact local or State governments unless they operate a general hospital or nursing home, in which case costs will be the same as costs for private entities.

**Costs to the Department of Health:**

This regulation will not result in any additional operational costs to the Department of Health.

**Paperwork:**

This regulation imposes no addition paperwork.

**Local Government Mandates:**

General hospitals and nursing homes operated by local governments will be affected and will be subject to the same requirements as any other general hospital licensed under PHL Article 28.

**Duplication:**

These regulations do not duplicate any State or federal rules.

**Alternatives:**

The Department believes that promulgation of this regulation is the most effective means of ensuring that general hospitals and nursing homes have adequate stockpiles of PPE necessary to protect hospital staff from communicable diseases, compared to any alternate course of action.

**Federal Standards:**

No federal standards apply to stockpiling of such equipment at hospitals.

**Compliance Schedule:**

The regulations will become effective upon filing with the Department of State. These regulations are expected to be proposed for permanent adoption at a future meeting of the Public Health and Health Planning Council.

**Regulatory Flexibility Analysis**

**Effect of Rule:**

This regulation will not impact local governments or small businesses unless they operate a general hospital or a nursing home. Currently there are five general hospitals in New York that employ less than 100 staff and qualify as small businesses, and there are 79 nursing homes in New York qualify as small businesses given that they employ less than 100 staff.

**Compliance Requirements:**

These regulations require all general hospitals and nursing homes to purchase and maintain adequate stockpiles of PPE, including but not limited to masks, respirators, face shields and gowns.

**Professional Services:**

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

**Compliance Costs:**

The purpose of this regulation is to require general hospitals and nursing homes to maintain adequate stockpiles of PPE. The initial cost to facilities as they establish stockpiles of PPE will vary depending on the number of staff working at each covered facility. However, the Department anticipates that hospitals and nursing homes will routinely use stockpiled PPE as part of their routine operations; while facilities must maintain the requisite stockpile at all times in the event of an emergency need, facilities are expected to rotate through their stockpiles routinely to ensure the PPE does not expire and is replaced with new PPE, thereby helping to balance facility expenditures over time. Further, in the event of an emergency need, hospitals and nursing homes are expected to tap into their stockpiles; as such, hospitals and nursing homes will ultimately use equipment which would have been purchased had a stockpile not existed, thereby mitigating overall costs. Moreover, nursing homes are statutorily obligated to maintain or contract to have at least a two-month supply of PPE pursuant to Public Health Law section 2803(12). As such, this regulation imposes no long-term additional costs to regulated parties.

**Economic and Technological Feasibility:**

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

**Minimizing Adverse Impact:**

The Department anticipates that any adverse impacts will be minimal, as both hospitals and nursing homes have already mobilized their stockpiling efforts since early 2020, when the spread of the COVID-19 virus was first recognized in New York State, including through two surges of the COVID-19 pandemic. As such, the continuance of these stockpiling requirements is not expected to create any additional adverse impact on hospitals or nursing homes. Moreover, for nursing homes, these PPE regulations are consistent with the existing directive in Public Health Law section 2803(12) to maintain a two-month PPE supply.

**Small Business and Local Government Participation:**

Small business and local governments were not directly consulted given the urgent need to ensure hospital patients and nursing home residents are adequately protected in the event of a resurgence of COVID-19 or another communicable disease outbreak. However, the Department plans to issue an advisory to hospital CEOs and nursing home administrators alerting them to the anticipated proposed rulemaking on these regulations and opportunity to submit public comments.

**Rural Area Flexibility Analysis**

**Types and Estimated Numbers of Rural Areas:**

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

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

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

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

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

There are 47 general hospitals located in rural areas as well as several licensed nursing homes.

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

These regulations require all general hospitals and nursing homes, including those in rural areas, to purchase and maintain adequate stockpiles of PPE, including but not limited to masks, respirators, face shields and gowns.

Costs:

The purpose of this regulation is to require general hospitals and nursing homes to maintain adequate stockpiles of PPE. The initial cost to facilities as they establish stockpiles of PPE will vary depending on the number of staff working at each facility. However, the Department anticipates that hospitals and nursing homes will routinely use stockpiled PPE as part of their routine operations; while facilities must maintain the requisite stockpile at all times in the event of an emergency need, facilities are expected to rotate through their stockpiles routinely to ensure the PPE does not expire and is replaced with new PPE, thereby helping to balance facility expenditures over time. Further, in the event of an emergency need, hospitals and nursing homes are expected to tap into their stockpiles; as such, hospitals and nursing homes will ultimately use equipment which would have been purchased had a stockpile not existed, thereby mitigating overall costs. Moreover, nursing homes are statutorily obligated to maintain or contract to have at least a two-month supply of PPE pursuant to Public Health Law section 2803(12). Therefore, this regulation imposes no long-term additional costs to regulated parties.

Economic and Technological Feasibility:

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

Minimizing Adverse Impact:

The Department anticipates that any adverse impacts will be minimal, as both hospitals and nursing homes have already mobilized their stockpiling efforts since early 2020, when the spread of the COVID-19 virus was first recognized in New York State, including through two surges of the COVID-19 pandemic. As such, the continuance of these stockpiling requirements is not expected to create any additional adverse impact on hospitals or nursing homes. Moreover, for nursing homes, these PPE regulations are consistent with the existing directive in Public Health Law section 2803(12) to maintain a two-month PPE supply.

Rural Area Participation:

Parties representing rural areas were not directly consulted given the urgent need to ensure hospital patients and nursing home residents are adequately protected in the event of a resurgence of COVID-19 or another communicable disease outbreak. However, the Department plans to issue an advisory to hospital CEOs and nursing home administrators alerting them to the anticipated proposed rulemaking and opportunity to submit public comments.

#### Job Impact Statement

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

## EMERGENCY RULE MAKING

### COVID-19 Vaccinations of Nursing Home and Adult Care Facility Residents and Personnel

I.D. No. HLT-23-22-00002-E

Filing No. 600

Filing Date: 2022-07-22

Effective Date: 2022-07-22

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

**Action taken:** Addition of Subpart 66-4 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 201, 206, 2803; Social Services Law, sections 461 and 461-e

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

**Specific reasons underlying the finding of necessity:** As stated in the declaration of the State disaster emergency in Executive Orders No. 11 through 11.6 (November 26, 2021, through June 14, 2022; see 9 NYCRR §§ 9.11 through 9.11.6), New York continues to experience high rates of COVID-19 transmission. The Omicron variant is known to be highly transmissible, and it necessitates that nursing home and adult care facility residents are vaccinated for optimal protection.

New York State data show that unvaccinated individuals continue to be more likely to be diagnosed with COVID-19 compared to vaccinated individuals. In fact, those who are unvaccinated have over 10 times the risk of being hospitalized with COVID-19 compared with vaccinated individuals. Many nursing home and adult care facility residents remain unvaccinated or have not received all recommended doses of the COVID-19 vaccine, and new residents continue to enter nursing homes every day. As such, the potential for COVID-19 introduction or re-introduction to this vulnerable population remains a risk and the need for protecting their health and safety a top high priority.

The COVID-19 vaccines are safe and effective. They offer the benefit of helping to reduce the number of COVID-19 infections, including the Delta and Omicron variants, which is a critical component to protecting public health. Booster doses of the COVID-19 vaccine are important to maximize protection against infection. Certain settings, such as healthcare facilities and congregate care settings, pose increased challenges and urgency for controlling the spread of this disease because of the vulnerable patient and resident populations that they serve. Personnel in such settings who have not received all recommended doses of the COVID-19 vaccine, including boosters, have an unacceptably high risk of both acquiring COVID-19 and transmitting the virus to colleagues and/or vulnerable patients or residents, exacerbating staffing shortages, and causing an unacceptably high risk of complications.

Based on the foregoing, the Department has made the determination that this emergency regulation is necessary to best protect the residents of New York's nursing homes and ACFs.

**Subject:** COVID-19 Vaccinations of Nursing Home and Adult Care Facility Residents and Personnel.

**Purpose:** To require nursing homes and adult care facilities to conduct ongoing COVID-19 vaccinations of their residents and personnel.

**Text of emergency rule:** A new Subpart 66-4, titled COVID-19 Nursing Home and Adult Care Facility Vaccination Program, is added to read as follows:

#### 66-4.1. Requirements for Nursing Homes

(a) Every nursing home regulated pursuant to Part 415 of this Title shall offer all consenting, unvaccinated existing personnel and residents an opportunity to receive the first or any recommended next or booster dose of the COVID-19 vaccine.

(b) The operator and administrator of every nursing home regulated pursuant to Part 415 of this Title must ensure that all new personnel, including employees and contract staff, and every new resident and resident readmitted to the facility has an opportunity to receive the first or any recommended next or booster dose of the COVID-19 vaccine within fourteen days of having been hired by or admitted or readmitted to such facility, as applicable.

(c) The requirement to ensure that all new and current personnel and residents have an opportunity to receive the COVID-19 vaccination, as set forth in subdivisions (a) and (b) of this section, shall include, but not be limited to:

(1) Posting conspicuous signage throughout the facility, including at points of entry and exit and each residential hallway, reminding personnel and residents that the facility offers COVID-19 vaccination; and

(2) Providing all personnel and residents who decline to be vaccinated a written affirmation for their signature, which indicates that they were offered the opportunity for a COVID-19 vaccination but declined. Such affirmation must state that the signatory is aware that, if they later decide to be vaccinated for COVID-19, it is their responsibility to request vaccination from the facility. The facility shall maintain signed affirmations on file at the facility and make such forms available at the request of the Department.

(d) Nursing homes must comply with the requirements for vaccination of personnel in 10 NYCRR § 415.19(a)(5).

#### 66-4.2. Requirements for Adult Care Facilities

(a) The operator and administrator of every adult care facility regulated pursuant to Parts 487, 488 and 490 of Title 18 of the NYCRR and Part 1001 of this Title shall make diligent efforts to arrange for all consenting, unvaccinated existing personnel and residents to register for a vaccine appointment and an appointment to receive any recommended booster, and shall document attempts to schedule and methods used to schedule the vaccine in the individual's personnel file or case management notes, as applicable.

(b) The operator and administrator of every adult care facility regulated

pursuant to Parts 487, 488 and 490 of Title 18 of the NYCRR and Part 1001 of this Title must arrange for the COVID-19 vaccination, including the first or any recommended next or booster dose, of all new personnel, including employees and contract staff, and every new resident and resident readmitted to the facility. The requirement to arrange for COVID-19 vaccination of such personnel and residents shall include, but not be limited to:

(1) For residents:

(i) during the pre-admission screening process, and in no event after the first day of admission or readmission, the adult care facility shall screen the prospective or newly-admitted or readmitted resident for COVID-19 vaccine eligibility, including whether any first doses of the vaccine were previously administered, and whether the resident is interested in obtaining the COVID-19 vaccine, including a recommended booster. Such information shall be documented with the resident's pre-admission screening information and, if admitted, retained in the resident's case management records; and

(ii) within seven days of admission or readmission, the facility shall make diligent efforts to schedule all consenting and eligible new or readmitted residents for the COVID-19 vaccination, including a recommended booster. The facility must document attempts to schedule and methods used to schedule the vaccine appointment in the resident's case management notes.

(2) For personnel:

(i) during the pre-employment screening process, the facility shall solicit information from the prospective personnel regarding their vaccination status, including whether any first doses of the vaccine were previously administered, and whether the prospective personnel is interested in obtaining the COVID-19 vaccine. Such information must be documented with the personnel's pre-employment screening information and, if hired, retained in the personnel file; provided, however, that nothing in this paragraph shall be construed to require an adult care facility to make any hiring determination based upon the prospective personnel's COVID-19 vaccination status, history, or interest in COVID-19 vaccination; and

(ii) within seven days of hiring new personnel, the facility shall make diligent efforts to schedule all consenting and eligible new personnel for the COVID-19 vaccination. The facility must document attempts to schedule and methods used to schedule the vaccine appointment in the individual's personnel file.

(iii) Adult care facilities must comply with the requirements for vaccination of personnel in 18 NYCRR §§ 487.9(a)(18), 488.9(a)(14), 490.9(a)(15), and 10 NYCRR § 1001.11(q)(5), as applicable.

(c) The facility shall further provide all current and new personnel and residents who decline to be vaccinated a written affirmation for their signature, which indicates that they were offered the opportunity for the facility to arrange for a COVID-19 vaccination, but declined. Such affirmation must state that the signatory is aware that, if they later decide to be vaccinated for COVID-19, it is their responsibility to request the facility arrange for their vaccination. The facility shall maintain signed affirmations on file at the facility and make such forms available at the request of the Department.

66-4.3. Penalties.

(a) A violation of any provision of this Subpart shall be subject to penalties in accordance with sections 12 and 12-b of the Public Health Law.

(b) For adult care facilities, failure to arrange for the vaccination of every facility resident and personnel as set forth in section 66-4.2 of this Part constitutes a "failure in systemic practices and procedures" under Social Services Law 460-d(7)(b)(2)(iii) and pursuant to 18 NYCRR 486.5(a)(4)(v).

(c) In addition to any monetary penalties or referral for criminal investigation to appropriate entities, the Department shall be empowered to immediately take custody and control of such vaccine at a nursing home and re-allocate to another provider.

**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-23-22-00002-P, Issue of June 8, 2022. The emergency rule will expire September 19, 2022.

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

**Regulatory Impact Statement**

Statutory Authority:

The statutory authority is provided under sections 201, 206, and 2803 of the Public Health Law (PHL) and sections 461 and 461-e of the Social Services Law (SSL).

PHL § 201 authorizes the New York State Department of Health (Department) to control and promote the control of communicable diseases

to reduce their spread. Likewise, PHL § 206 authorizes the Commissioner of Health to take cognizance of the interests of health and life of the people of the state, and of all matters pertaining thereto and exercise the functions, powers and duties of the department prescribed by law, including control of communicable diseases.

PHL § 2803 authorizes the promulgation of such regulations as may be necessary to implement the purposes and provisions of PHL Article 28, including the establishment of minimum standards governing the operation of health care facilities.

SSL § 461 requires the Department to promulgate regulations establishing general standards applicable to Adult Care Facilities (ACF). SSL § 461-e authorizes the Department to promulgate regulations to require adult care facilities to maintain certain records with respect to the facilities residents and the operation of the facility.

Legislative Objectives:

The legislative objectives of PHL §§ 201 and 206 are to protect the health and life of the people of the State of New York, including by controlling the spread of communicable diseases. The legislative objectives of PHL Article 28, including PHL § 2803, include the efficient provision and proper utilization of health services of the highest quality. The legislative objective of SSL § 461 is to promote the health and well-being of residents of adult care facilities. Collectively, the legislative purpose of these statutes is to protect the residents of New York's long-term care facilities by providing safe, efficient, and adequate care.

Needs and Benefits:

These regulations are necessary to prevent the spread of COVID-19 in nursing homes and adult care facilities and to help ensure the health and life of residents of nursing homes and ACFs by requiring such congregate care facilities to offer or arrange for consenting residents and personnel to receive the COVID-19 vaccine. This requirement will help ensure residents are less likely to suffer a COVID-related death or severe illness and that fewer staff test positive for COVID-19. To date, there are an approximate 8,200 (9%) nursing home and 1,100 (4%) adult care facility residents that remain unvaccinated. As such, the potential for COVID-19 introduction or re-introduction to this vulnerable population remains a risk and the need for protecting their health and safety a top high priority.

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. Given the disproportionate adverse health impacts of COVID-19 for older adults and those with comorbidities, many of whom reside in New York's nursing homes and ACFs, it is imperative that nursing homes and ACFs facilitate the prompt vaccination of its residents. Moreover, in order to ensure that nursing home and ACF personnel can safely provide resident care, it is critically important that nursing homes offer continued COVID-19 vaccinations on-site for their current and new personnel and that ACFs arrange for their current and new personnel to receive the COVID-19 vaccine at an off-site location, such as a pharmacy.

Based on the foregoing, the Department has made the determination that this emergency regulation is necessary to best protect the residents of New York's nursing homes and ACFs.

Costs:

Costs to Regulated Parties:

The purpose of this regulation is to require nursing homes and ACFs to promptly coordinate the COVID-19 vaccination of their residents and personnel. For nursing homes, costs are expected to be minimal given that the COVID-19 vaccine is provided free of charge, and Medicare reimbursement is available to help Medicare-enrolled nursing homes cover administrative costs; specifically, pursuant to April 2, 2021 guidance from the Centers for Medicare & Medicaid Services (CMS), "starting on March 15, 2021, for single dose COVID-19 vaccines, Medicare pays approximately \$40 for its administration. Starting on March 15, 2021, for COVID-19 vaccines requiring multiple doses, Medicare pays approximately \$40 for each dose in the series." Nursing homes will need in some circumstances to absorb the administrative costs associated with reporting doses of vaccine administered to the appropriate vaccine registry when not reported by an outside vendor or pharmacy provider.

For ACFs, costs to facilities are minimal to none, as ACFs will be responsible for arranging vaccinations at off-site locations, such as a local pharmacy. Many ACFs have vehicles which can be used for necessary transport, but there may be minimal costs associated with transportation, particularly if the distance to the vaccination site is great and/or if the ACF does not readily have access to a vehicle.

Costs to Local and State Governments:

This regulation will not impact local or State governments unless they operate a nursing home or ACF, in which case costs will be the same as costs for private entities. Currently, there are 21 nursing homes operated by local governments (counties and municipalities) and 6 nursing homes

operated by the State. Additionally, there are currently two adult care facilities operated by county governments.

**Costs to the Department of Health:**

This regulation will not result in any additional operational costs to the Department of Health.

**Paperwork:**

This regulation imposes no additional paperwork. Although the regulation requires recordkeeping by facilities, including documentation in personnel files and resident clinical or case management records, these records must already be maintained by facilities.

**Local Government Mandates:**

Nursing homes and ACFs operated by local governments will be affected and will be subject to the same requirements as any other nursing home licensed under PHL Article 28 or ACF licensed under SSL Article 7, Title 2.

**Duplication:**

These regulations do not duplicate any State or federal rules.

**Alternatives:**

The Department believes that promulgation of this regulation is the most effective means of ensuring that nursing homes and ACFs adequately ensure their residents and personnel are vaccinated against COVID-19. Accordingly, the alternative of not issuing these regulations was rejected.

**Federal Standards:**

No federal standards apply.

**Compliance Schedule:**

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

**Regulatory Flexibility Analysis**

**Effect of Rule:**

This regulation will not impact local governments or small businesses unless they operate a nursing home or ACF. Currently, there are 21 nursing homes operated by local governments (counties and municipalities) and 6 nursing homes operated by the State. Additionally, there are currently two ACFs operated by county governments (Chenango and Warren Counties).

Additionally, to date, 79 nursing homes in New York qualify as small businesses given that they have 100 or fewer employees. There are also 483 ACFs that have 100 or fewer employees and therefore qualify as small businesses.

**Compliance Requirements:**

This regulation primarily requires nursing homes and ACFs to promptly coordinate the COVID-19 vaccination of their residents and personnel. Specifically, nursing homes will be required to offer ongoing COVID-19 vaccinations at the facility, and ACFs will be responsible for arranging vaccinations at off-site locations, such as State-run vaccination sites or a local pharmacy. The regulation also requires facilities to provide all current and new personnel and residents who decline to be vaccinated a written affirmation for their signature, which indicates that they were offered the opportunity for the facility to arrange for or offer, as applicable, a COVID-19 vaccination, but they declined. Further, nursing homes are required to post conspicuous signage throughout the facility reminding personnel and residents that the facility offers COVID-19 vaccinations.

**Professional Services:**

No professional services are required by this regulation. However, nursing homes may choose to partner with a pharmacy to offer COVID-19 vaccinations for personnel and residents of the facility, rather than receiving and administering the vaccine directly.

**Compliance Costs:**

This regulation requires nursing homes and ACFs to promptly coordinate the COVID-19 vaccination of their residents and personnel. Specifically, nursing homes will be required to offer ongoing COVID-19 vaccinations at the facility, and ACFs will be responsible for arranging vaccinations at off-site locations, such as a local pharmacy. For nursing homes, costs are expected to be minimal given that the COVID-19 vaccine is provided free of charge, and Medicare reimbursement is available to help Medicare-enrolled nursing homes cover administrative costs; specifically, pursuant to April 2, 2021 guidance from the Centers for Medicare & Medicaid Services (CMS), "starting on March 15, 2021, for single dose COVID-19 vaccines, Medicare pays approximately \$40 for its administration. Starting on March 15, 2021, for COVID-19 vaccines requiring multiple doses, Medicare pays approximately \$40 for each dose in the series." Nursing homes will need in some circumstances to absorb the administrative costs associated with reporting doses of vaccine administered to the appropriate vaccine registry when not reported by an outside vendor or pharmacy provider.

For ACFs, costs to facilities are minimal to none, as ACFs will be responsible for arranging vaccinations at off-site locations, such as a local pharmacy. Many ACFs have vehicles which can be used for necessary transport, but there may be minimal costs associated with transportation particularly if the distance to the vaccination site is great and/or if the ACF does not readily have access to a vehicle.

**Economic and Technological Feasibility:**

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

**Minimizing Adverse Impact:**

This regulation is consistent with the existing responsibilities nursing homes and ACFs have to maintain the health and safety of residents, ensure sufficient staffing levels, and ensure staff are free from communicable diseases. Therefore, any adverse impacts are expected to be minimal and are outweighed by the regulation's health and safety benefits to residents and staff.

**Small Business and Local Government Participation:**

Due to the urgent need to ensure ACF and NH staff and residents are vaccinated as soon as possible given the seriousness of COVID-19 if contracted, particularly by older adults or persons with comorbidities, small business and local governments were not directly consulted. However, the Department will notify such entities of the existence of these regulations and the opportunity to submit comments or questions to the Department.

**Cure Period:**

This regulation does not include a cure period given the serious threat the COVID-19 virus causes to all New Yorkers, particularly those residing in nursing homes and adult care facilities, considering such residents' age and comorbidities. As detailed more fully within the regulations, nursing homes and adult care facilities will have 14 and 7 days, respectively, to offer vaccinations to residents and staff. The Department finds these 14- and 7-day periods to comply with the regulatory requirements are sufficient to ensure facilities can establish or revise their vaccination policies and procedures, while balancing the urgent need to protect facility residents and personnel from this dangerous disease.

**Rural Area Flexibility Analysis**

**Types and Estimated Numbers of Rural Areas:**

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

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

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

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

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

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

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

This regulation imposes no additional paperwork. Although the regulation requires recordkeeping by facilities, including documentation in personnel files and resident clinical or case management records, these records must already be maintained by facilities. Additionally, no professional services are required by this regulation. However, nursing homes may choose to partner with a pharmacy to offer COVID-19 vaccinations for personnel and residents of the facility, rather than receiving and administering the vaccine directly.

**Costs:**

This regulation requires nursing homes and ACFs to promptly coordinate the COVID-19 vaccination of their residents and personnel. Specifically, nursing homes will be required to offer ongoing COVID-19 vaccinations at the facility, and ACFs will be responsible for arranging vaccinations at off-site locations, such as a local pharmacy. For nursing homes, costs are expected to be minimal given that the COVID-19 vaccine is provided free of charge, and Medicare reimbursement is available to help Medicare-enrolled nursing homes cover administrative costs; specifically, pursuant to April 2, 2021 guidance from the Centers for Medicare & Medicaid Services (CMS), "starting on March 15, 2021, for single dose COVID-19 vaccines, Medicare pays approximately \$40 for its administration. Starting on March 15, 2021, for COVID-19 vaccines requiring multiple doses, Medicare pays approximately \$40 for each dose in the series." Nursing homes will need in some circumstances to absorb the administrative costs associated with reporting doses of vaccine administered to the appropriate vaccine registry when not reported by an outside vendor or pharmacy provider.

For ACFs, costs to facilities are minimal to none, as ACFs will be responsible for arranging vaccinations at off-site locations, such as a local pharmacy. Many ACFs have vehicles which can be used for necessary transport, but there may be minimal costs associated with transportation particularly if the distance to the vaccination site is great and/or if the ACF does not readily have access to a vehicle.

**Economic and Technological Feasibility:**

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

**Minimizing Adverse Impact:**

This regulation is consistent with the existing responsibilities nursing homes and ACFs have to maintain the health and safety of residents, ensure sufficient staffing levels, and ensure staff are free from communicable diseases. Therefore, any adverse impacts are expected to be minimal and are outweighed by the regulation's health and safety benefits to residents and staff.

**Rural Area Participation:**

Due to the urgent need to ensure ACF and NH staff and residents are vaccinated as soon as possible given the seriousness of the COVID-19 virus on this population, facilities located in rural areas were not directly consulted. However, the Department will notify covered entities located in rural areas of the existence of these regulations and the opportunity to submit comments or questions to the Department.

**Job Impact Statement**

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

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

**Nursing Home Minimum Direct Resident Care Spending**

**I.D. No.** HLT-46-21-00005-RP

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

**Proposed Action:** Addition of section 415.34 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2828

**Subject:** Nursing Home Minimum Direct Resident Care Spending.

**Purpose:** Every RHCf shall spend a minimum of 70% of revenue on direct resident care and 40% of revenue on resident-facing staffing.

**Text of revised rule:** Pursuant to the authority vested in the Commissioner of Health by Section 2828 of the Public Health Law, Part 415 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) is hereby amended by adding a new Section 415.34, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

*415.34. Minimum Direct Resident Care Spending.*

(a) *Purpose.* This Section sets forth the requirements of the minimum direct resident care spending law set forth in Section 2828 of the Public Health Law and applies to all residential health care facilities licensed pursuant to this Part, except as provided in subdivision (c) of this Section.

(b) *Definitions.* The definitions of this Section shall have the same meaning as those terms set forth in subdivision (2) of Section 2828 of the Public Health Law. Additionally, the following terms shall have the following meanings:

(1) "Contracted out" shall mean services provided by registered professional nurses, licensed practical nurses, or certified nurse aides who provide services in a residential health care facility through contractual or other employment agreement, whether such agreement is entered into by the individual practitioner or by an employment agency on behalf of the individual practitioner. Such agreement may be oral or in writing.

(2) "Direct resident care" shall mean the following cost centers in the residential health care facility cost report:

(i) nonrevenue Support Services - Plant Operation & Maintenance, Laundry and Linen, Housekeeping, Patient Food Service, Nursing Administration, Activities Program, Nonphysician Education, Medical Education, Medical Director's Office, Housing, Social Service, Transportation;

(ii) ancillary Services - Laboratory Services, Electrocardiology, Electroencephalography, Radiology, Inhalation Therapy, Podiatry, Dental, Psychiatric, Physical Therapy, Occupational Therapy, Speech/Hearing Therapy, Pharmacy, Central Services Supply, Medical Staff Services provided by licensed or certified professionals including and without limitation Registered Nurses, Licensed Practical Nurses, and Certified Nursing Assistant; and

(iii) program Services - Residential Health Care Facility, Pediatric, Traumatic Brain Injury (TBI), Autoimmune Deficiency Syndrome (AIDS), Long Term Ventilator, Respite, Behavioral Intervention, Neurodegenerative, Adult Care Facility, Intermediate Care Facilities, Independent Living, Outpatient Clinics, Adult Day Health Care, Home Health Care, Meals on Wheels, Barber & Beauty Shop, and Other similar program services that directly address the physical conditions of residents. Direct resident care does not include, at a minimum and without limitation, administrative costs (other than nurse administration), capital costs, debt service, taxes (other than sales taxes or payroll taxes), capital depreciation, rent and leases, and fiscal services.

(3) "Resident-facing staffing" shall mean all staffing expenses in the ancillary and program services categories on Exhibit H of the residential health care facility cost reports.

(4) "Revenue" shall mean the total operating revenue from or on behalf of residents of the residential health care facility, government payers, or third-party payers, to pay for a resident's occupancy of the residential health care facility, resident care, and the operation of the residential health care facility as reported in the residential health care facility cost reports submitted to the Department; provided, however, that revenue shall exclude:

(i) the average increase in the capital portion of the Medicaid reimbursement rate from the prior three years;

(ii) funding received as reimbursement for the assessment under Public Health Law section 2807 d(2)(b)(vi), as reconciled pursuant to Public Health Law section 2807 d(10)(c);

(iii) the capital per diem portion of the reimbursement rate for nursing homes; provided, however, that such exclusion shall not apply:

(a) for nursing homes that have an overall one-, two-, or three-star rating assigned pursuant to the inspection rating system of the U.S. Centers for Medicare and Medicaid Services (CMS rating); or

(b) to any amount of the capital per diem portion of the reimbursement rate that is attributable to a capital expenditure made to a corporation, other entity, or individual, with a common or familial ownership to the operator or the facility as reported under Public Health Law section 2803 x(1); and

(iv) any grant funds from the federal government for reimbursement of COVID-19 pandemic-related expenses, including, but not limited to, funds received from the federal emergency management agency or health resources and services administration.

(c) *Applicability.*

(1) For the purposes of this Section, residential health care facilities shall not include:

(i) facilities that are authorized by the Department to primarily care for medically fragile children or young adults, people with HIV/AIDS, persons requiring behavioral intervention, or persons requiring neurodegenerative services. For the purposes of this subparagraph, a facility shall be considered to primarily care for such specialized populations if at least 51 percent of certified beds are designated for persons with such specialty health care needs; or

(ii) continuing care retirement communities licensed pursuant to Article 46 or 46-A of the Public Health Law;

(iii) a facility may apply to the Commissioner for a waiver of applicability of this Section on the basis of providing specialty care services if such facility primarily provides care to a specialized population other than one listed in subparagraph (i) of this paragraph. Such application shall detail what specialty services the facility provides, the percentage of the resident population needing such specialty services, and whether any other residential health care facilities licensed by the Department provide such specialty services. The Commissioner shall have discretion to approve or reject applications submitted pursuant to this subparagraph, and shall provide the facility with the basis for the Commissioner's determination within a reasonable timeframe upon receipt of a complete application. Factors the Commissioner will assess in determining whether to grant or deny a waiver application based on provision of services to a specialty population include, but are not limited to, the following:

(a) the number of other residential health care facilities licensed by the Department that provide the services identified by the facility as specialized services;

(b) whether a majority of current facility residents have special health care needs as identified by the facility; and

(c) the unique training or licensing required of facility staff to provide services to the identified specialized population;

(iv) in the event a facility no longer provides care for a specialty population, as identified under subparagraphs (i) and (iii) of this paragraph, the facility shall comply with this Section by January first of the first year following the date on which the facility ceased operating as a specialty residential health care facility, as determined by the Commissioner.

(2) **Additional Waivers.** A facility may apply to the Commissioner for a waiver of applicability of this Section on the basis of unexpected or exceptional circumstances that prevented compliance. Such application shall detail the specific unexpected or exceptional circumstance experienced by the facility; when the facility first learned of such circumstances; why the facility could not have anticipated such circumstances arising; actions the facility took to address such circumstances; expenses incurred as a result of addressing such circumstances; when the facility expects such circumstances to be resolved; and what preventive steps the facility is taking to ensure that such circumstances do not unexpectedly arise in the future. The Commissioner shall have discretion to approve or reject applications submitted pursuant to this paragraph, and shall provide the facility with the basis for the Commissioner's determination within a reasonable timeframe upon receipt of a complete application. Factors the Commissioner will assess in determining whether to grant or deny a waiver application based on unexpected or exceptional circumstances include, but are not limited to, the following:

(i) whether the facility should have anticipated such events occurring;

(ii) whether any other residential health care facilities licensed by the Department experienced similar circumstances but have not applied for a waiver under this paragraph;

(iii) whether the facility has implemented sufficient policies and procedures to ensure such events do not recur.

(d) **Minimum Spending Requirements.** By January 1, 2022, residential health care facilities shall comply with the following minimum expenditures:

(1) 70 percent of revenue shall be spent on direct resident care; and

(2) 40 percent of revenue shall be spent on resident-facing staffing;

(i) All amounts spent on resident-facing staffing shall be included as a part of amounts spent on direct resident care; and

(ii) 15 percent of costs associated with resident-facing staffing that are contracted out by a facility for services provided by registered professional nurses, licensed practical nurses, or certified nurse aides shall be deducted from the calculation of the amount spent on resident-facing staffing and direct resident care.

(3) For the purposes of assessing whether a facility has met the minimum spending requirements, a facility may apply to the Commissioner to have certain revenues and expenses excluded from the calculation of the facility's total revenue and total expenditures, where the facility has satisfactorily demonstrated to the Commissioner that such revenues and expenses were incurred due to the following circumstances:

(i) a natural disaster, where a federal, State, or local declaration of emergency has been issued; or

(ii) the facility has received extraordinary, non-recurring revenue which, in the discretion of the Commissioner, does not accurately reflect operating revenue for the purposes of this rule, including but not limited to revenue received through insurance or legal settlements.

(e) **Recoupment.**

(1) A residential health care facility shall be subject to recoupment for excessive total operating revenue if:

(i) the facility's total operating revenue exceeds total operating and non-operating expenses by more than five percent of total operating revenue; or

(ii) the facility fails to spend the minimum amount necessary to comply with the minimum spending standards for resident-facing staffing or direct resident care, as set forth in subdivision (d) of this Section, as calculated on an annual basis, or for 2022, on a pro-rata basis for April 1, 2022 through December 31, 2022.

(2) **Remission of excess revenue.**

(i) The Department shall issue a notice of noncompliance to a facility subject to recoupment for excessive total operating revenue, which indicates the amount to be remitted based on the amount of excess revenue or the difference between the minimum spending requirement and the actual amount of spending on resident-facing staffing or direct care staffing, as applicable, as well as acceptable forms of payment.

(ii) Upon receipt of a notice of noncompliance pursuant to subparagraph (i), the facility shall remit the total amount indicated in the notice of noncompliance by November first in the year following the year in which the expenses are incurred.

(3) **Penalties.**

(i) Failure to remit the total required fee by the due date may result in adverse action by the Department, including but not limited to: bringing suit in a court of competent jurisdiction, taking deductions or offsets from payments made pursuant to the Medicaid program, and imposition of penalties pursuant to Section 12 of the Public Health Law.

(ii) Recouped funds shall be deposited by the Department into the Nursing Home Quality Pool, pursuant to Section 2808(2-c)(d) of the Public Health Law.

(f) **Residential Health Care Facility Cost Reports.**

(1) The Department shall, no less frequently than annually, audit the residential health care facilities' cost reports for compliance in accordance with this Section.

(2) If a facility did not report data in the 2019 residential health care facility cost report, they must promptly provide the Department with data on the facility's direct resident care and resident facing staffing expenses in accordance with this Section and Section 2828 of the Public Health Law. This data must be submitted with a written certification by the operator, officer, or public official responsible for the operation of the facility, in a form and format determined acceptable by the Department, attesting that all data reported by the facility is complete and accurate. If the data is not submitted within a reasonable timeframe, as determined by the Department, the Department shall use the previous available cost report data applicable to such facility.

**Revised rule compared with proposed rule:** Substantive revisions were made in section 415.34(b)(4) and (e)(1)(ii).

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

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

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

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

Statutory Authority:

The statutory authority is provided under section 2828 of the Public Health Law (PHL), which directs the Department of Health (Department) to promulgate regulations governing the disposition of revenue in excess of expenses permitted under PHL § 2828 for residential health care facilities. Specifically, PHL § 2828 directs that, as of January 1, 2022, every residential health care facility shall spend a minimum of 70 percent of revenue on direct resident care and 40 percent of revenue on resident-facing staffing, wherein amounts spent on resident-facing staffing are included in the amount spent on direct resident care.

Laws of 2022, Chapter 57, Part M, § 1, amended the definition of "revenue" in PHL § 2828.

In general, PHL § 2828 provides that remission of excess revenue is calculated on an annual basis. Laws of 2022, Chapter 57, Part M, § 4, provides that in 2022, the remission of excess revenue shall be on a pro-rata basis for only that portion of the year during which the failure of a residential health care facility to spend a minimum of seventy percent of revenue on direct resident care, and forty percent of revenue on resident-facing staffing, may be held to be a violation of the Public Health Law, i.e., April 1, 2022, through December 31, 2022, the portion of 2022 after Executive Order 4.4 expired. See 9 NYCRR § 9.4.4, which was in effect from January 1, 2022, through March 31, 2022.

Legislative Objectives:

The legislative objective of PHL § 2828 is to ensure that residential health care facilities spend a majority of their revenue on direct resident care (70 percent), with 40 percent of such expenses focused on paying for resident-facing staffing. The goal of these minimum spending requirements is to help ensure a high quality of resident care.

Needs and Benefits:

These regulations are necessary to implement the statutory directive of PHL § 2828. Specifically, pursuant to the statute, the regulations (1) set forth how facilities that fail to meet the statutory minimum spending requirements must pay the State, (2) provide exceptions from the minimum spending requirements for residential health care facilities that serve certain specialized populations, (3) set forth factors the Department will use to determine whether to waive the spending requirements for facilities unable to comply due to “unexpected or exceptional circumstances that prevented compliance,” and (4) provide factors the Department will use to determine whether to exclude extraordinary revenues and capital expenses from the calculations to determine whether a facility has met its minimum spending requirements.

Requiring nursing homes to spend an appropriate amount of revenue on the direct care of residents and resident-facing staffing will reduce errors, complications, and adverse resident care incidents. It will also improve the safety and quality of life for all long-term care residents in New York State.

#### Costs:

##### Costs to Regulated Parties:

The purpose of this regulation is to implement PHL § 2828, which requires residential health care facilities to spend a certain percentage of revenue (70 percent) on direct resident care, with 40 percent of such revenue focused on resident-facing staffing. Residential health care facilities are not necessarily required to expend additional resources to meet these minimum spending requirements, but rather may appropriately manage expenditures to balance overall expenditures to meet the minimum spending thresholds. While the Department anticipates that costs will be borne by residential health facilities, and that those costs may create financial challenges for some organizations, compliance with these minimum spending requirements is mandated by statute (PHL § 2828), and as such these regulatory amendments are necessary. Moreover, any recouped funds from residential health care facilities that fail to comply with PHL § 2828 will be deposited into the Nursing Home Quality Pool to benefit high-quality residential health care facilities, thereby helping to offset any costs for high-performing facilities while also encouraging the provision of quality resident care.

##### Costs to Local and State Governments:

This regulation will not impact local or State governments unless they operate a residential health care facility, in which case the costs will be the same as for privately-operated facilities. Currently, there are 21 residential health care facilities operated by local governments (counties and municipalities) and 6 residential health care facilities operated by the State.

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

This regulation will not result in any additional operational costs to the Department of Health.

##### Paperwork:

This regulation generally imposes no additional paperwork requirements. Although facilities will be required to submit revenue and expense information through an annual cost report submitted to the Department, such cost reports are current required pursuant to PHL §§ 2805-e and 2808-b. If a facility has not submitted a cost report for 2019, the regulation requires the expense and revenue data to instead be submitted with a written certification by the operator, officer, or public official responsible for the operation of the facility, in a form and format determined acceptable by the Department, attesting that all data reported by the facility is complete and accurate. Although this data form would be a new requirement, because it is merely a temporary measure to substitute for a missing 2019 cost report, the Department does not anticipate that this requirement will be unduly burdensome for the residential health care facilities subject to this new paperwork requirement.

##### Local Government Mandates:

Residential health care facilities operated by local governments will be affected and will be subject to the same requirements as any other residential health care facility licensed under PHL Article 28.

##### Duplication:

These regulations do not duplicate any State or federal rules.

##### Alternatives:

These regulations are mandated pursuant to PHL § 2828. Accordingly, the alternative of not issuing these regulations was rejected.

##### Federal Standards:

No federal standards apply.

##### Compliance Schedule:

The regulations will become effective upon publication of a Notice of Adoption in the New York State Register.

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

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

### **Assessment of Public Comment**

**Comment:** The Department received many comments stating that the Medicaid rate must be updated and increased.

**Response:** Medicaid rate adjustments are contemplated annually as a part of the State budget making process. In the SFY23 budget a 1% Medicaid rate increase was included for all providers, including nursing homes. However, increasing Medicaid rates is outside the scope of the regulations. The Department made no changes to the regulation in response to this comment.

**Comment:** The Department received a comment from the Long-Term Community Care Coalition urging the Department to concisely define, and limit, the situation in which an operator can apply for a waiver in order to eliminate waivers as much as possible. They indicated the Department should specify a range of meaningful penalties for non-compliance, including stepped up penalties for failure to comply. Finally, the Department should require facilities to provide fully auditable, annual consolidated financial reports, including data from all operating entities that provide services and supplies, and rental or real estate or other property in the cost reporting, in order to get the best picture of a facility's revenue. They would like New York to follow the lead of other states and make this information public on the Department website.

**Response:** The Commissioner will assess waiver applications as specified in the regulation. The remittance of excess revenue is a sufficient penalty to encourage compliance. The nursing home cost reports that are used to determine compliance are annual audited financial reports. The Department made no changes to the regulation in response to this comment.

**Comment:** The Department received a comment from AARP that indicated that a 70% revenue requirement did not go far enough to achieve quality of care. Further, they expressed that the waivers to these provisions are broader than what was intended under the statute. They suggested the Department should require facilities to provide fully auditable, annual consolidated financial reports, including data from all operating entities that provide services and supplies as well as rental or real estate or other property in the cost reporting. Finally, they indicated that the Department follow the lead of other states and make this information available publicly on the Department's website.

**Response:** The minimum direct care spending requirements are specified in the statute, thus changing the spending requirements is outside the scope of this regulation pursuant to the State Administrative Procedures Act. The Commissioner will assess waiver applications as specified in the regulations. The remittance of excess revenue is a sufficient penalty to encourage compliance. The nursing home cost reports that are used to determine compliance are annual audited financial reports but are not posted publicly. The Department made no changes to the regulation in response to this comment.

**Comment:** The Department received a comment from the New York State Nurses Association indicating the proposed exemptions are overly broad. They indicated that the 51% threshold, which would be used to determine that the nursing home “primarily” serves specialized populations, is too low, and that it is not consistent with the Statute.

**Response:** The Department estimates that using 51% to determine that the nursing home primarily serves specialized populations would result in the exclusion of only 13 nursing homes at the time of the response, and therefore the Department believes that there is no need to increase the percentage. The Department made no changes to the regulation in response to this comment.

**Comment:** The Department received a comment from the Center for Elder Law and Justice requesting clarification of the definition of “contracted out” and asking how the provision will be enforced in regard to “oral agreements.” They also indicated that it is important that all revenue sources are included in the calculation of “revenue,” and that a failure to include Medicaid would leave out a major source of profit. They asked the Department to better define specialty services and populations and expressed the belief that certain nursing homes could potentially exploit “loopholes” to claim that they primarily care for specialty populations. In regard to waivers, they indicated that no provisions exist to notify residents, staff, and others of such waiver applications, and they believed that waiver applications should include public comments with a 30-day notice for such comments to be submitted. They would like the reasons for waivers to be made public. They also broadly indicated that the 70/40 construct did not go far enough to achieve the statute's purpose.

**Response:** Nursing homes specifically report spending for contracted staff in the cost reports, which is how the Department will determine spending for contracted staff. Revenue from all payers, including Medicaid with categorical exemptions, is included in operating revenue. Specialty populations are non-RHCF patients, as defined in the cost report. The statute requires that for any granted waivers, the Department alerts the Office of Long-Term Care Ombudsman and the chairs of the Senate and Assembly health committees and posts them on the Department's website.

The Department made no changes to the regulation in response to this comment.

Comment: The Department received a comment from the Healthcare Association of New York State asking for further definition of revenue and expenses. They indicated that the Department should avoid penalizing or discouraging nursing homes from receiving capital related revenue (grants/Medicaid Capital rate, add-ons, etc.), and would like to encourage capital improvements. Additionally, they asked to clarify the reporting requirements, due to structural differences in Residential Health Care Facility Cost Reports (i.e., Hospital-based nursing homes file an RHCF 2 while nonhospital nursing homes uses an RHCF-4) with variances between the two. They want to work with the Department for a new template for RHCFs to ensure uniformity in reporting.

Response: This comment was addressed in part by the 2022-23 budget (Laws of 2022, Chapter 57, Part M, which amended PHL § 2828). The regulation now reflects changes in PHL § 2828 that adjust the definition of revenue to exclude reimbursement for non-operating expenses, including capital cost reimbursement for high quality nursing homes. The existing definitions for revenue and expense are specified in the cost reports and do not change. Additional guidance will be provided for hospital-based nursing homes. The Department made no other changes to the regulation in response to this comment.

Comment: The Department received a comment from the Greater New York Hospital Association recommending that the Department establish a separate quality pool funded by remitted penalties and limit the distribution to nursing homes that meet the minimum requirements (i.e., the distribution should only be available to those nursing homes compliant with the statute and regulations). They believe that the penalties will not deter non-complaint homes, because such homes could receive the penalty money back via the quality pool. They recommended the Department to establish a new standardized data collection template for hospital-based nursing homes (RHCF-2/RHCF-4). Additionally, they would like emergency relief funds to be carved out of the definition of "revenue" (such funding is nonrecurring, can take years to receive, etc.). Finally, they indicated that the current definition of total operating expenses as proposed includes plant operation and maintenance costs that should be eliminated from the definition, as it serves as a disincentive to improve.

Response: This comment was addressed in part by the 2022-23 budget (Laws of 2022, Chapter 57, Part M, which amended PHL § 2828). The regulation now reflects changes in PHL 2828 that adjust the definition of revenue to exclude reimbursement for non-operating expenses, including pandemic related emergency relief funds received from the federal government and capital cost reimbursement for high quality nursing homes. Additional guidance will be provided for hospital-based nursing homes. The Department already has the authority to decide methodology for allocations from the Nursing Home Quality Pool (upon approval from the Centers for Medicare & Medicaid Services), and such a modification would be outside of the scope of these regulations. The Department made no other changes to the regulation in response to this comment.

Comment: A comment was received asking if conforming changes will be made to the regulation to address the 2022-23 budget (Laws of 2022, Chapter 57, Part M) which amended PHL § 2828.

Response: Laws of 2022, Chapter 57, Part M, § 1, amended the definition of "revenue" in PHL § 2828. In addition, PHL § 2828 provides that remission of excess revenue is calculated on an annual basis. Laws of 2022, Chapter 57, Part M, § 4, provides that in 2022, the remission of excess revenue shall be on a pro-rata basis for only that portion of the year during which the failure of a residential health care facility to spend a minimum of seventy percent of revenue on direct resident care, and forty percent of revenue on resident-facing staffing, may be held to be a violation of the Public Health Law, i.e., April 1, 2022, through December 31, 2022, the portion of 2022 after Executive Order 4.4 expired. See 9 NYCRR § 9.4.4, which was in effect from January 1, 2022, through March 31, 2022. In the Final Rule, conforming changes have been made to the regulation.

## REVISED RULE MAKING NO HEARING(S) SCHEDULED

### Minimum Staffing Requirements for Nursing Homes

I.D. No. HLT-46-21-00007-RP

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

**Proposed Action:** Amendment of sections 415.2 and 415.13 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 2803 and 2895-b

**Subject:** Minimum Staffing Requirements for Nursing Homes.

**Purpose:** Requiring minimum staffing levels for nursing homes.

**Text of revised rule:** Subdivision (h) of section 415.2 is amended to read as follows:

(h) Nurse aide (see section [415.13(c)(1)] 415.13(d)(1) of this Part).

Section 415.13, and the title thereof, are amended to read as follows:

Section 415.13 Nursing Services and Minimum Nursing Staff Requirements.

(a) *Staffing standards.* The facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care. The facility shall further assure that staffing levels enable each resident to receive[s] treatments, medications, diets and other health services in accordance with individual care plans. At a minimum, the facility shall ensure its daily nursing staff levels comply with paragraph (2) of subdivision (b) of this Section; provided, however, that compliance with paragraph (2) of subdivision (b) of this Section shall not serve as a defense where the facility has failed to provide sufficient nursing care to residents in accordance with their resident assessment and individual plans of care, or the facility failed to ensure residents received ordered treatments, medications, diets or other health services consistent with the residents' individual plans of care and in accordance with federal and State law and regulations.

[(a)] (b) Sufficient staff.

(1) The facility shall provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:

(i) registered professional nurses or licensed practical nurses;

(ii) certified nurse aides, meaning any person included in the nursing home nurse aide registry pursuant to Section 2803-j of the Public Health Law; and

(iii) other nursing personnel.

(2) *Minimum Nursing Staff Requirements.* At a minimum, the facility shall employ certified nurse aides, registered professional nurses, licensed practical nurses, or nurse aides sufficient to maintain the following daily staffing hours per resident:

(i) From January first, two thousand twenty-two through December thirty-first, two thousand twenty-two, the facility shall maintain daily average staffing hours equal to 3.5 hours of care per resident per day by a certified nurse aide, registered professional nurse, licensed practical nurse, or nurse aide. Out of such 3.5 hours, no less than 2.2 hours of care per resident per day shall be provided by a certified nurse aide or a nurse aide, and no less than 1.1 hours of care per resident per day shall be provided by a registered professional nurse or licensed practical nurses.

(ii) Beginning January first, two thousand twenty-three and thereafter, every nursing home shall maintain daily average staffing hours equal to 3.5 hours of care per resident per day by a certified nurse aide, registered professional nurse, or licensed practical nurse. Out of such 3.5 hours, no less than 2.2 hours of care per resident per day shall be provided by a certified nurse aide, and no less than 1.1 hours of care per resident per day shall be provided by a registered professional nurse or licensed practical nurse.

[(2)] (3) The facility shall designate a registered professional nurse or licensed practical nurse to serve as a charge nurse on each tour of duty who is responsible for the supervision of total nursing activities in the facility. Alternatively, as necessitated by resident care needs, the facility may designate one charge nurse for each tour of duty on each resident care unit or on proximate nursing care units in the facility provided that each nursing care unit in the facility is under the supervision of a charge nurse.

[(b)] (c) Registered professional nurse.

(1) The facility shall use the services of a registered professional nurse for at least 8 consecutive hours a day, 7 days a week, or more often as necessary to comply with the minimum staffing requirements set forth in paragraph (2) of subdivision (b) of this Section.

\* \* \*

[(c)] (d) Nurse aide.

(1) For the purpose of this section and section 415.26(d) of this Part, nurse aide shall mean any person [who provides direct personal resident care and services including, but not limited to, safety, comfort, personal hygiene or resident protection services, for compensation, under the supervision of a registered professional nurse or licensed practical nurse in the facility] who is included in the nurse aide hour component of the federal Centers for Medicare and Medicaid Services payroll based journal for long-term care facilities but has not yet been certified as a certified nurse aide, including individuals who are in the first four months of employment and who are receiving training in a Department-approved nurse aide training and competency evaluation program and are providing nursing or nursing-related services for which they have been trained and are under the supervision of a licensed or registered nurse, or individuals, other than a licensed professional, who have been approved



by the Department to administer medications to residents. For the purposes of this section and section 415.26(d) of this Part, a nurse aide does not include volunteers or [except for] those individuals who furnish services to residents only as feeding assistants as defined in Section [415.13(d)] 415.13(e) of this Part. Certification of such nurse aide shall be in accordance with the provisions of section 415.26(d) of this Part.

\* \* \*

[(d)] (e) Feeding Assistant.

\* \* \*

(f) Non-Compliance with Staffing Standards.

(1) Compliance with the minimum nursing staff requirements set forth in paragraph (2) of subdivision (b) of this Section shall be determined on a quarterly basis, as determined by the Department, by comparing the daily average of the number of hours provided per resident, per day, using the most recent data available from the federal Centers for Medicare and Medicaid Services payroll based journal and the facility's average daily census on a daily basis.

(i) The Department shall initially determine whether a facility is compliant or non-compliant with the minimum nursing staff requirements by conducting the following three assessments:

(a) Assessing whether the total daily staffing hours provided per resident by nurse aides (only from January first, two thousand twenty-two through December thirty-first, two thousand twenty-two), certified nurse aides, licensed practical nurses, or registered nurses fell below 3.5 hours of care per resident on average over the course of the quarter; and

(b) Assessing whether at least 2.2 hours of care per resident per day was provided by a certified nurse aide or a nurse aide (only from January first, two thousand twenty-two through December thirty-first, two thousand twenty-two) on average over the course of the quarter; and

(c) Assessing whether at least 1.1 hours of care per resident per day was provided by a registered professional nurse or licensed practical nurse on average over the course of the quarter.

(ii) A facility that, on average over the course of the quarter, fell below the hourly requirements set forth in clauses (a) through (c) of subparagraph (i) will be considered non-compliant for the purposes of this Section. Any facility that the Department finds non-compliant shall have progressive penalties assessed based upon the number of days per quarter in which the daily staffing hours provided per resident fell below the minimum hourly requirements set forth in paragraph (2) of subdivision (b) of this Section.

(iii) For the purposes of determining compliance, an individual shall not be counted while performing administrative services, as defined in the Centers for Medicare and Medicaid Services payroll based journal for long-term care facilities. Further, individuals who are attending training, either onsite or offsite, and are not available to perform their primary job duties shall not be counted for purposes of determining compliance with the minimum daily staffing hours.

(2) Penalties.

(i) The Department shall impose a penalty of up to two thousand (2,000) dollars per day for each day in a quarter that a facility fails to comply with the minimum nursing staff requirements set forth in paragraph (2) of subdivision (b) of this Section, unless mitigating or aggravating factors exist.

(ii) Mitigating Factors. The Department may reduce penalties in a quarter that a facility is non-compliant, if the Department determines, in its sole discretion, that any of the following mitigating circumstances existed during the period of non-compliance:

(a) Extraordinary circumstances faced the facility. For the purposes of this clause, extraordinary circumstances shall mean that the facility experienced a natural disaster; a national emergency affecting the facility has been officially declared; a State or municipal emergency affecting the facility has been declared pursuant to Article 2-B of the Executive Law; or the facility experienced a catastrophic event that caused physical damage to the facility or impaired the ability of facility personnel to access the facility. Provided, however, that the facility must first demonstrate, to the satisfaction of the Department, that such extraordinary circumstances could not have been prevented or mitigated through effective implementation of the facility's pandemic emergency plan, prepared pursuant to Section 2803(12) of the Public Health Law, and that the facility complied with the disaster and emergency preparedness requirements set forth in Section 415.26(f) of this Part; or

(b) An acute labor supply shortage of nurse aides, certified nurse aides, licensed practical nurses, or registered nurses exists in the Metropolitan and Nonmetropolitan Area in which the facility is located, as such areas are defined by the federal Bureau of Labor Statistics.

(1) For the purposes of determining whether a facility was located in an area experiencing an acute labor supply shortage during the period of non-compliance, the Commissioner shall issue a determination on a quarterly basis as to whether an acute labor supply shortage of nurse aides, certified nurse aides, licensed practical nurses, or registered nurses exists in any Metropolitan or Nonmetropolitan Area of New York State. Such determination shall be made in consultation with the New York State Department of Labor and shall take into account job availability metrics developed by the New York State Department of Labor, which may include but is not limited to the list of job openings in New York State.

(2) The fact that the facility is located in an area experiencing an acute labor supply shortage pursuant to this clause shall not serve as a mitigating factor unless the facility has demonstrated, to the satisfaction of the Department, reasonable attempts to procure sufficient staffing during the period of non-compliance, notwithstanding the acute labor supply shortage. Reasonable attempts may include, but not be limited to, incentivizing new personnel through increased wage and benefit offers and searching for personnel outside of the Metropolitan and Nonmetropolitan Area in which the facility is located;

(3) The fact that the facility is located in an area experiencing an acute labor supply shortage pursuant to this clause shall not serve as a mitigating factor unless the facility has demonstrated, to the satisfaction of the Department, that it has taken steps over the course of the quarter to ensure resident health and safety notwithstanding any labor supply shortage, including but not limited to discontinuing admissions or transferring residents to another appropriate facility; or

(c) A verifiable union dispute exists between the facility and nurse aides, certified nurse aides, licensed practical nurses, or registered nurses employed or contracted by such facility, resulting in a labor shortage at the facility.

(g) Eligibility for Funding to Comply with Minimum Nursing Staff Requirements.

The Department shall determine which nursing homes are anticipated to be in compliance with Section 2828 of the Public Health Law based on the most current, available Residential Health Care Facility cost report data, or such other source of cost information as the Department shall identify. Pursuant to methodology set forth in the current Medicaid State Plan Amendment, the Department shall determine whether such nursing homes must expend additional funds to comply with this Section, beyond any costs necessary to comply with Section 2828 of the Public Health Law. Any such nursing home that the Department finds will be required to expend additional funds to comply with this Section shall be eligible to receive from the Department additional funds, subject to availability from the New York State Division of the Budget, to hire nursing staff necessary to achieve the minimum nursing staff requirements set forth in paragraph (2) of subdivision (b) of this Section.

**Revised rule compared with proposed rule:** Substantive revisions were made in section 415.13(f)(2)(ii) and (b)(3).

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

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

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

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

Changes made to the last published rule do not necessitate revision to the previously published RIS.

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

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

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

**Comment:** The Department received many comments stating that the Medicaid reimbursement rates for nursing homes must be updated and increased.

**Response:** Medicaid rate adjustments are contemplated annually as a part of the State budget making process. In the SFY23 budget a 1% Medicaid rate increase was included for all providers, including nursing homes. However, increasing Medicaid rates is outside the scope of this regulation. No changes to the regulation have been made in response to these comments.

**Comment:** The Department received a comment from the Long Term Community Care Coalition strongly urging the Department to increase

penalties, with a recommendation to set the figure at \$10,000 per day with the discretion to mitigate based on enumerated factors, but to be no less than \$5,000 per day. In addition, the commenter indicated that minimum staffing levels mandated under the new law fall sharply below appropriate clinical care, with 4.1 staffing hours being the desired threshold based on a 2001 federal study. Finally, the commenter pointed to the purpose of the law being to meet staffing standards every day, and the regulation would be based on quarterly averages.

Response: The fiscal penalty is sufficient to encourage compliance. Nursing homes must meet the minimum staffing level outlined in the statute, but they may exceed it where clinically necessary. The statute provides that compliance shall be determined quarterly, and a quarterly average test is a fair and effective method to determine compliance. No changes to the regulation have been made in response to this comment.

Comment: The Department received a comment from the American Association of Retired Persons (AARP) indicating they oppose the quarterly requirements proposed and would prefer the staffing level to be at least a baseline of 4.1 staff hours – based on a 2001 federal study. The commenter expressed concern that providers could use an average to meet the 3.5 hour requirement, which could put them in compliance despite not meeting the 3.5 hour requirement on particular days. The commenter also advocated for removing the Executive Order that temporarily suspended implementation of the law.

Response: Nursing homes must meet the minimum staffing level outlined in the statute, but they may exceed it where clinically necessary. Public Health Law (PHL) § 2895-b(2)(a) provides that compliance shall be determined quarterly, and a quarterly average test is a fair and effective method to determine compliance. The comment related to the Executive Order is outside the scope of the regulations, but it is noted that the Executive Order referred to has expired. No changes to the regulation have been made in response to this comment.

Comment: The Department received a comment from the New York State Nurses Association that indicated compliance with staffing levels should be measured on a daily basis – not quarterly, with the worry that regulated entities could potentially arrange their staffing to meet the 3.5-hour requirement, when in reality some days would not meet that exact threshold.

Response: PHL § 2895-b(2)(a) provides that compliance shall be determined quarterly, and a quarterly average test is a fair and effective method to determine compliance. No changes to the regulation have been made in response to this comment.

Comment: The Department received a comment from the Center for Elder Law and Justice that indicated support for the lack of a defense for facilities that have failed to provide sufficient nursing care to residents in relation to resident care plans. However, they believe this should include internal procedures to automatically investigate a facility under these circumstances. They also indicated that a “24 hour basis” should be used instead of a “daily basis” to prevent vagueness of the definition of “daily.” They also indicated that it should be made clear when a nursing home is required to ensure sufficient RN staff above and beyond the 3.5 staff ratio.

Response: Nursing homes must meet the minimum staffing level outlined in the statute, but they may exceed it where clinically necessary. The data source used for determining compliance, the Payroll Based Journal, is gathered by the federal Centers for Medicare and Medicaid Services (CMS). The Department’s use of the term “daily” in regulations will have no impact on their reporting. No changes to the regulation have been made in response to this comment.

Comment: The Department received a comment from the Statewide Senior Action Council that indicated penalties for non-compliance should be assessed on a daily, not quarterly, basis. The commenter emphasized that mitigation waivers should look at prevention of staffing turnover, with steps taken to retain the workforce – not just new-hires. They indicated preference for the posting of safe staffing standards and ratios in a conspicuous public space in each nursing home. Finally, the commenter suggested that waiver requests by nursing homes be subject to a 30-day public comment and posted on the Department’s website.

Response: PHL § 2895-b(2)(a) provides that compliance shall be determined quarterly, and a quarterly average test is a fair and effective method to determine compliance. The proposed mitigation waivers and required public posting are sufficient to address conditions affecting compliance. The regulations require that the nursing home must post information regarding nurse staffing at the facility. No changes to the regulation have been made in response to this comment.

Comment: Comments were received from Greater New York Hospital Association and the Healthcare Association of New York State suggesting that the regulation be amended to permit the Department to impose penalties of \$0 for non-compliance if there are mitigating factors that prevent compliance. The commenters urged the Department to reduce all penalties for all nursing homes found in acute workforce shortage areas across the board, and not on an individual nursing home basis.

Response: Facilities must provide proof of the mitigating circumstance on an individual basis. Under the proposed rule, the Department was required to impose a minimum \$300 per day penalty even if a facility proved mitigating circumstances. In response to these comments, the regulation has been amended to remove the minimum \$300 per day penalty to provide the Department greater discretion in assessing penalties.

Comment: The Department received a comment from the Greater New York Hospital Association indicating that additional funding must be made available in the State budget to assist nursing homes in funding additional staff. They also sought clarification on how “progressive penalties” for multiple violations will be calculated.

Response: Additional funding for additional staff is outside the scope of the regulations. The Department will be developing internal processes for assessment of progressive penalties, pursuant to PHL §§ 12 and 206(4), and this regulation. No changes to the regulation have been made in response to this comment.

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## Public Service Commission

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

#### Proposed Transfer of Facilities and Real Property Interests Associated with an Electric Corporation

I.D. No. PSC-32-22-00021-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 Number Three Wind, LLC seeking authorization to transfer certain facilities and real property interests to Niagara Mohawk Power Corporation d/b/a National Grid.

**Statutory authority:** Public Service Law, sections 2(12), (13), 5(1)(b), 5-b, 64, 65, 66 and 70

**Subject:** Proposed transfer of facilities and real property interests associated with an electric corporation.

**Purpose:** Consideration of whether the proposed transfer is in the public interest.

**Substance of proposed rule:** The Public Service Commission (Commission) is considering a petition filed by Number Three Wind, LLC (NTW) on July 25, 2022, which seeks authority for NTW to transfer certain facilities and real property interests associated with the interconnection of a wind generation project in Lewis County, New York, to Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) pursuant to Section 70 of the Public Service Law (PSL).

According to the petition, NTW currently is developing the Number Three Wind Farm (the Project) in Lewis County, New York. The petition states that, pursuant to an interconnection agreement between NTW, National Grid, and the New York Independent System Operator, Inc. (NYISO), NTW assumed responsibility for designing, procuring, and constructing various interconnection upgrade facilities, and for acquiring fee and easement interests in various real property, to allow the Project to interconnect to an existing transmission line owned by National Grid. The interconnection agreement further requires NTW to transfer ownership of such facilities and real property interests to National Grid, who would operate them in conjunction with the overall operational control responsibilities of the NYISO. The petition seeks Commission authorization for NTW to transfer such facilities and interests to National Grid, which would be effectuated pursuant to the terms of an Asset Purchase Agreement and a Real Property Purchase and Sale Agreement by and between NTW and National Grid. The petition asserts that NTW is an electric corporation subject to lightened regulation like NTW, and approval of the transfer pursuant to PSL § 70 should be granted because it is in the public interest. According to the petition, construction and operation of the Project has already been found to be in the public interest, and no financial or other harm to the public will result from the transfer.

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](http://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-E-0433SP1)

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

**Establishment of the Regulatory Regime Applicable to a Wind Electric Generating Facility**

**I.D. No.** PSC-32-22-00022-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 Baron Winds II LLC for a lightened regulatory regime regarding a 242 MW wind electric generating facility in Steuben County, New York.

**Statutory authority:** Public Service Law, sections 2(12), (13), 5(1)(b), 64-69, 69-a, 70-72, 72-a, 105-114, 114-a, 115, 117, 118, 119-b and 119-c

**Subject:** Establishment of the regulatory regime applicable to a wind electric generating facility.

**Purpose:** To ensure appropriate regulation of a new electric corporation.

**Substance of proposed rule:** The Public Service Commission (Commission) is considering a petition filed by Baron Winds II LLC (Baron Winds) on July 6, 2022, requesting a lightened regulatory regime in connection with its ownership, construction, and operation of part of an approximately 242 MW wind electric generating facility being developed in Steuben County, New York.

Baron Winds requests an order providing that it will be regulated as an electric corporation under a lightened regulatory regime consistent with that imposed on the owners-operators of other competitive wholesale generators. Baron Winds also seeks a Certificate of Public Convenience and Necessity pursuant to Section 68 of the Public Service Law.

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](http://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-E-0400SP1)

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

**Bioenergy Generation in New York**

**I.D. No.** PSC-32-22-00023-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 ReEnergy Holdings LLC requesting that the Commission commence a proceeding to compensate bioenergy generation for the environmental benefits it provides the State.

**Statutory authority:** Public Service Law, sections 4(1), 5(1), (2), 66(2), 66-p; New York Energy Law, section 6-104(5)(b)

**Subject:** Bioenergy generation in New York.

**Purpose:** To consider compensation for bioenergy generation.

**Substance of proposed rule:** The Public Service Commission (Commission) is considering a petition filed on July 20, 2022 by ReEnergy Holdings LLC (ReEnergy) requesting that the Commission commence a proceeding to compensate bioenergy generation for the environmental benefits it provides the State. ReEnergy proposes that such compensation could take the form of a new tier under the Clean Energy Standard, or a dedicated incentive to keep existing, strategic biomass facilities operating and generating the environmental attributes.

ReEnergy asserts that without such compensation, bioenergy facilities may ultimately cease operations. Specifically, ReEnergy asserts that unless the Commission implements a program to compensate bioenergy facilities, ReEnergy will be forced to cease operations at the ReEnergy Black River facility at Fort Drum (Black River Facility) when its current Main Tier contract for the sale of renewable energy certificates with the New York State Energy Research and Development Authority terminates in May 2023. If the Black River Facility ceases operations, ReEnergy continues, it will likely be replaced with fossil fuel-fired generation. According to ReEnergy, closure of the Black River Facility's would result in the direct loss of 31 jobs for workers at the generation facility, and would negatively impact the regional economy of the North Country, where biomass generation plays a necessary, supportive role in the forest products industry. ReEnergy asserts that the Black River Facility contributes approximately \$25 million into the North Country's economy annually, supports more than 300 direct and indirect jobs, and is thus a significant economic driver in a region where such economic hubs are much needed, serving as an important end-market for forest and sawmill residues.

Finally, ReEnergy asserts that firm resources such as bioenergy complement high penetrations of intermittent renewables and reduce electric system costs. ReEnergy argues that policymakers and energy modelers in New York State and nationally believe that clean, dispatchable resources such as bioenergy facilities are necessary to a transitioning energy mix that will depend mainly on intermittent solar and wind generation.

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](http://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.

(15-E-0302SP54)

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

**Proposed Transfer of Real Property Interests Associated with an Electric Corporation**

**I.D. No.** PSC-32-22-00024-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 Flint Mine Solar, LLC, DESRI Flint Mine Land Holdings, L.L.C., and DESRI Flint Mine Development, L.L.C. seeking authorization to transfer real property interests.

**Statutory authority:** Public Service Law, sections 2(12), (13), 5(1)(b), 5-b, 64, 65, 66 and 70

**Subject:** Proposed transfer of real property interests associated with an electric corporation.

**Purpose:** Consideration of whether the proposed transfer is in the public interest.

**Substance of proposed rule:** The Public Service Commission (Commission) is considering a petition filed by Flint Mine Solar, LLC (Flint Mine), DESRI Flint Mine Land Holdings, L.L.C. (Land Holdings), and DESRI Flint Mine Development, L.L.C. on July 1, 2022, which seeks authority for Flint Mine to transfer certain real property interests to Land Holdings pursuant to section 70 of the Public Service Law.

The petition states that Flint Mine currently holds real property, lease or easement rights, and/or options to acquire such interests, in relation to Flint Mine's development of a 100 megawatt solar generation project in Greene County, New York (Facility). As proposed in the petition, Flint Mine and Land Holdings would enter into one or more transactions pursuant to which Flint Mine would sell, assign, or otherwise transfer some or all of those real property interests to Land Holdings.

Concurrently, Land Holdings and Flint Mine would enter into recorded lease, sublease or easement agreements, or options to enter such agreements, which would provide Flint Mine with the real property rights necessary to construct, own, and operate the Facility. The petitioners argue that the proposed transaction does not create any potential for ratepayer harm, and is in the public interest.

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](http://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](mailto: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](mailto: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-0372SP1)

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

**Petition to Submeter Electricity**

**I.D. No.** PSC-32-22-00025-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 66 State Street Partners, LP to submeter electricity at 66 State Street, Albany, New York.

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

**Subject:** Petition to submeter electricity.

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

**Substance of proposed rule:** The Commission is considering the petition filed by 66 State Street Partners, LP (Owner) on July 1, 2022, seeking authority to submeter electricity at a new, market-rate rental building located at 66 State Street, Albany, NY, 12207, located in the service territory of Niagara Mohawk Power Corporation d/b/a National Grid (National Grid).

In the petition, the Owner requests authorization to take electric service from National Grid and then distribute and meter that electricity to its tenants. Once approved by the Commission, submetering of electricity to residents is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://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](mailto: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](mailto: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-0371SP1)

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

**Use of Preferred Name and Pronouns**

**I.D. No.** PSC-32-22-00027-P

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

**Proposed Action:** Amendment of Parts 11, 14 and 609 of Title 16 NYCRR.

**Statutory authority:** Public Service Law, sections 31-a, 89-b(12); General Business Law, section 399-zzzzz

**Subject:** Use of preferred name and pronouns.

**Purpose:** To provide residential applicants and customers of utilities the option to use their preferred name and/or pronouns.

**Text of proposed rule:** NEW § 11.34 Use of Preferred Name and Pronouns  
16 NYCRR § 11.34 Use of Preferred Name and Pronouns

(a) A utility and municipality shall establish a written procedure for applicants and customers of residential service to request the use of their preferred name or preferred pronouns in all written or oral communications between the utility or municipality and the applicant or customer.

(b) If the applicant or customer's preferred name differs from their current legal name, the utility or municipality may require the applicant or customer to provide reasonable proof of identity using their legal name for purposes consistent with this part.

(c) The documentation provided to the utility or municipality used to verify the applicant or customer's legal name shall be used solely to verify the applicant or customer's identity or for other purposes required by law.

(d) No utility or municipality shall willfully or repeatedly fail to use an applicant's or customer's preferred name and/or preferred pronouns after being clearly informed of the preferred name and/or preferred pronouns.

(e) No utility or municipality shall require an applicant or customer to specify their sexual orientation or gender identity or expression in order to use their preferred name and/or preferred pronouns.

(f) Enforcement of these provisions shall be adjudicated under the Consumer Complaint Procedures set forth in Part 12 of these regulations.

*The utility and municipality shall maintain any and all records of an applicant or customer's request to use their preferred name and/or preferred pronoun.*

**NEW 14.21 Use of Preferred Name and Pronouns**

**16 NYCRR § 14.21 Use of Preferred Name and Pronouns**

*(a) A utility shall establish a written procedure for applicants and customers of residential services to request the use of their preferred name and/or preferred pronouns in all written or oral communications between the utility and the applicant or customer.*

*(b) If the applicant or customer's preferred name differs from their current legal name, the utility may require the applicant or customer to provide reasonable proof of identity using their legal name for purposes consistent with this part.*

*(c) The documentation provided to the utility used to verify the applicant or customer's legal name shall be used solely to verify the applicant or customer's identity or for other purposes required by law.*

*(d) No utility shall willfully or repeatedly fail to use an applicant or customer's preferred name and/or preferred pronouns after being clearly informed of the preferred name and/or preferred pronouns.*

*(e) No utility shall require an applicant or customer to specify their sexual orientation or gender identity or expression in order to use their preferred name and/or preferred pronouns.*

*(f) Enforcement of these provisions shall be provided for in the Consumer Complaint Procedures under Part 12 of these regulations. The utility shall maintain any and all records of an applicant or customer's request for the use of their preferred name and/or preferred pronouns and shall have the burden of proof in all consumer complaints.*

**NEW 609.18 Use of Preferred Name and Pronoun**

**16 NYCRR 609.18 Use of Preferred Name and Pronoun**

*(a) For the purposes of this section, "telephone service provider" is defined as any telephone corporation subject to the jurisdiction of the commission by virtue of article 5 of the Public Service Law that provides voice service utilizing any technology.*

*(b) A telephone service provider shall establish a written procedure for applicants and customers of residential telephone voice services to request the use of their preferred name and/or preferred pronouns in all written or oral communications between the service provider and the applicant or customer.*

*(c) If the applicant or customer's preferred name differs from their current legal name, the telephone service provider may require the applicant or customer to provide reasonable proof of identity using their legal name for purposes consistent with this part.*

*(d) The documentation provided to the telephone service provider used to verify the applicant or customer's legal name shall be used solely to verify the applicant or customer's identity or for other purposes required by law.*

*(e) No telephone service provider shall willfully or repeatedly fail to use an applicant or customer's preferred name and/or preferred pronouns after being clearly informed of the preferred name and/or preferred pronouns.*

*(f) No telephone service provider shall require an applicant or customer to specify their sexual orientation or gender identity or expression in order to use their preferred name and/or preferred pronouns.*

*(g) Enforcement of these provisions shall be adjudicated under the Consumer Complaint Procedures under Part 12 of these regulations. The telephone service provider shall maintain any and all records of an applicant or customer's request for the use of their preferred name and/or preferred pronouns. The telephone service provider shall have the burden of proof in all consumer complaints.*

**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.state.ny.us/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**

**Statutory Authority:**

Public Service Law (PSL) Articles 2, 4-b, and 5 assign to the Public Service Commission (Commission) jurisdiction, supervision, powers, and duties over residential gas, electric and steam corporations, water-works corporations, municipal electric and gas utilities and telephone corporations in the State. On November 16, 2021, PSL Sections 31-a, 89-b (12), and General Business Law (GBL) Section 399-zzzzz were amended by Chapter 630 of the Laws of 2021 to require that every utility corporation, municipality, water-works corporation, and telephone service provider

(service providers) give applicants for residential service and residential customers the option to request the use of a preferred name and/or preferred pronouns in all written or oral communications. The amendments to the PSL and GBL also provide that if an applicant or customer's preferred name differs from their current legal name, the service providers may require the applicant or customer to offer reasonable proof of identity using their legal name. The amendments prohibit all service providers from willfully and repeatedly failing to use an applicant or customer's preferred name and/or preferred pronouns after clearly being informed by the individual. Further, the amendments prohibit all service providers from requiring an applicant or customer to specify their sexual orientation, gender identity or expression in order to use their preferred name and/or preferred pronouns.

**Legislative Objectives:**

The objectives of both the statutes and the regulations are to ensure applicants for residential service and residential customers of service providers are offered a convenient option to request the use of a preferred name and/or preferred pronouns for all written or oral communication between the service provider and the individual applicant or customer. The proposed amendments to 16 NYCRR Part 11, 14, and 609 meet these objectives because the amendments align with the required provisions of the statute and provide an enforcement mechanism.

**Needs and Benefits:**

The proposed regulatory changes are necessary to align the Commission's consumer protection regulations with the enacted state statutes. The Commission implements its residential consumer protections for residential electricity, gas, steam, telephone, and water customers through 16 NYCRR Parts 11, 14, and 609. The proposed rules would comply with the requirements of PSL Sections 31-a, 89-b(12), and GBL 399-zzzzz regarding the use of preferred name and pronouns by applicants for residential service and residential customers of the service providers. The enforcement of any failure to comply with the statutes and regulatory amendments will be investigated and adjudicated in compliance with the Commission's consumer compliant process contained in 16 NYCRR Part 12. Therefore, the Commission proposes these consumer protection rules in furtherance of its service provider oversight responsibilities under the PSL and GBL.

**Costs:**

**Costs to Private Regulated Parties:**

Any prudently incurred cost associated with the proposed rules may be recovered by gas and electric utility corporations through rate proceedings.

**Costs to Local Government:**

There are no anticipated added costs to local governments. A municipality that provides electricity or gas service to residential customers may recover prudently incurred costs associated with the proposed rules through rate proceedings.

Costs to the Public Service Commission or the Department of Public Service:

There are no anticipated added costs to the Commission or Department.

**Costs to Other State Agencies:**

There are no known or identifiable costs to other State agencies or offices of State government.

**Local Government Mandates:**

A municipality that provides electricity and/or gas service to residential customers will be required to comply with the regulations, which are required by PSL Sections 31-a, 89-b(12), and General Business Law (GBL) Section 399-zzzzz.

**Paperwork:**

All service providers subject to this rule will be required to provide existing customers and applicants for service a convenient option to request the use of a preferred name and/or pronouns in all written or oral communications. All service providers will also be required to file a detailed implementation plan with the Commission regarding their mechanism for allowing customers to request the use of a preferred name and/or pronouns. All service providers, at a minimum, will be required to update relevant public facing customer service materials and billing systems to accomplish the purpose of the statute.

**Duplication:**

The purpose of the new regulations is to align them with enacted state statutes. There are no relevant state regulations that duplicate, overlap, or conflict with the proposed revisions.

**Alternatives:**

There is a "no action alternative," but such an alternative is not preferable as it would result in the Commission being out of compliance with state statutes.

**Federal Standards:**

There are no similar standards of the Federal government applicable to the relevant service providers.

**Compliance Schedule:**

The proposed revisions would be effective upon publication of a Notice of Adoption in the New York State Register.

**Regulatory Flexibility Analysis**

1. Effect of rule: The proposed rules require that every utility corporation, municipality, water-works corporation, and telephone service provider (service providers) provide applicants for residential service and residential customers with an option to request the use of a preferred name and/or preferred pronouns in all written or oral communications.

2. Compliance requirements: There are no additional burdens on service providers to increase reporting requirements resulting from the proposed rules.

3. Professional services: There are no professional services that a small business or local government is likely to need to comply with the rules.

4. Compliance costs: There are no expected costs to service providers to comply with the proposed rules. To the extent that service providers incur any costs to comply with the proposed rules, those service providers subject to Public Service Commission (PSC) rate setting jurisdiction may recover just and reasonable costs through rate proceedings.

5. Economic and technological feasibility: The proposed rule does not require any specialized technology for compliance.

6. Minimizing adverse impact: No known adverse impacts exist.

7. Small business and local government participation: Small businesses are not affected by the proposed rules. Local governments may only be affected by the rule to the extent that a municipality provides regulated electricity and natural gas service to residential customers.

8. Cure period: No cure period is included in the proposed rule. Department of Public Service's Office of Consumer Service staff will investigate complaints from residential customers about a service provider's failure to comply with the proposed rules.

**Rural Area Flexibility Analysis**

1. Types and estimated numbers of rural areas: The rules apply to the entire State of New York (State), including all rural areas of the State.

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rules apply to utility corporations, municipalities, water-works corporations and telephone service providers that provide electricity, natural gas, steam, telephone or water service to residential customers (service providers). The rules neither require nor specify any greater reporting, record keeping or compliance requirements in rural areas than in any other area of the State.

3. Costs: The rules apply only to service providers and will create no added costs specific or germane to rural areas.

4. Minimizing adverse impact: No adverse impacts are anticipated from the rules.

5. Rural area participation: Service providers that serve residential customers who reside in rural areas and rural community leaders will be notified of the proposed rulemaking and invited to participate in the stakeholder process. Furthermore, the Public Service Commission will accept public comments in response to the Notice of Proposed Rulemaking and will summarize and respond to the comments that are received.

6. Initial review of the rule, pursuant to SAPA § 207: Not applicable.

**Job Impact Statement**

The Department of Public Service projects that there will be no adverse impact on jobs or employment opportunities in the State of New York (State) because of this proposed rule change. The proposed amendments to 16 NYCRR Parts 11, 14, and 609 are necessary for the implementation of Public Service Law Sections 31-a, 89-b and General Business Law 399-zzzzz as amended by Chapter 630 of the Laws of 2021. Every utility corporation and municipality that provides residential electricity, natural gas, telephone, steam or water service and is subject to the jurisdiction of the Public Service Commission shall be required to incorporate into their existing business practices the use by applicants for residential service and residential customers of their preferred name and/or preferred pronoun.

No further steps were needed to ascertain these facts, and none were taken. As apparent from the nature and purpose of this proposed rule change, a full Job Impact Statement is not required and therefore one has not been prepared.

(22-M-0430SP1)

**HEARINGS SCHEDULED  
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
<b>Agriculture and Markets, Department of</b>		
AAM-24-22-00012-P .....	Holding and movement of captive cervids	Teleconference—August 25, 2022, 11:00 a.m. The telephone number to call in is (518) 549-0500 and the access code is 37265540.
<b>Environmental Conservation, Department of</b>		
ENV-23-22-00007-P .....	Prohibition of glyphosate use by State departments, State agencies, and public benefit corporations on State property	Electronic Webinar—August 17, 2022, 1:00 p.m.  Instructions on how to “join” the hearing webinar and provide an oral statement will be published on the department’s proposed regulations webpage for 6 NYCRR Part 325 by June 8, 2022. The proposed regulations webpage for 6 NYCRR Part 325 may be accessed at: <a href="https://www.dec.ny.gov/regulations/125410.html">https://www.dec.ny.gov/regulations/125410.html</a>  Persons who wish to receive the instructions by mail or telephone may call the department at (518) 402-9003. Please provide your first and last name, address, and telephone number and reference the Part 325 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 August 5, 2022. The written request must be addressed to ALJ Timothy MacPherson, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to: ALJ Timothy MacPherson at <a href="mailto:ohms@dec.ny.gov">ohms@dec.ny.gov</a>
ENV-28-22-00011-P .....	Forest Tax Law	Electronic Webinar—September 13, 2022, 1:00 p.m.  Electronic Webinar—September 13, 2022, 6:00 p.m.  Instructions on how to “join” the hearing webinar and provide an oral statement will be published on the department’s proposed regulations webpage for 6 NYCRR Part 199 by July 13, 2022. The proposed regulations webpage for 6 NYCRR Part 199 may be accessed at: <a href="https://www.dec.ny.gov/regulations/proproregulations.html">https://www.dec.ny.gov/regulations/proproregulations.html</a>  Persons who wish to receive the instructions by mail or telephone may call the department at (518) 402-9003. Please provide your first and last name, address and telephone number and reference the Part 199 public comment period.

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 August 23, 2022. The written request must be addressed to ALJ Richard Sherman, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or e-mailed to: ALJ Sherman at ohms@dec.ny.gov

**Liquor Authority, State**

LQR-26-22-00001-P ..... Ensuring smaller retailers are not unlawfully discriminated against through the charging of exorbitant split case fees

80 S. Swan St., Albany, NY—September 14, 2022, 10:00 a.m.

**Public Service Commission**

PSC-31-22-00005-P ..... Proposed major rate increase in NYSEG’s electric delivery revenues of approximately \$274 million (or 16.8% in total revenues)

Teleconference—November 2, 2022 and continuing daily as needed, 10:30 a.m. (Evidentiary Hearing)\*

\*On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, public notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 22-E-0317.

PSC-31-22-00006-P ..... Proposed major rate increase in NYSEG’s gas delivery revenues of approximately \$43.4 million (or 9.8% in total revenues)

Teleconference — November 2, 2022 and continuing daily as needed, 10:30 a.m. (Evidentiary Hearing)\*

\*On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, public notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 22-G-0318.

PSC-31-22-00007-P ..... Proposed major rate increase in RG&E’s gas delivery revenues of approximately \$37.7 million (or 9.7% in total revenues)

Teleconference — November 2, 2022 and continuing daily as needed, 10:30 a.m. (Evidentiary Hearing)\*

\*On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, public notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 22-G-0320.

PSC-31-22-00009-P ..... Proposed major rate increase in RG&E’s electric delivery revenues of approximately \$93.8 million (or 11.3% in total revenues)

Teleconference — November 2, 2022 and continuing daily as needed, 10:30 a.m. (Evidentiary Hearing)\*

\*On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, public notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 22-E-0319.

**State, Department of**

DOS-29-22-00004-P ..... Updates to educational standards

Department of State, 123 William St., 2nd Fl., New York, NY—September 21, 2022, 11:00 a.m.



**ACTION PENDING INDEX**

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

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

For additional information concerning any of the proposals

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

Agency code	Issue number	Year published	Serial number	Action Code
<b>AAM</b>	<b>01</b>	<b>12</b>	<b>0001</b>	<b>P</b>

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
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**AGRICULTURE AND MARKETS, DEPARTMENT OF**

AAM-24-22-00002-P	06/15/23	Voluntary Program for the Production of Virus-Tested Plant Materials	To implement procedures to better enable certification and sale of virus-tested materials
AAM-24-22-00012-P	08/25/23	Holding and movement of captive cervids	To ensure that captive cervids are held and moved in a manner designed to prevent disease and to be properly treated if disease
AAM-26-22-00004-P	06/29/23	Golden Nematode ( <i>Globodera Rostochiensis</i> ) Quarantine	To lift the Golden Nematode quarantine in portions of the Town of Southold in Suffolk County and make technical corrections

**ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF**

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
ASA-11-22-00003-P	03/16/23	Patient rights in OASAS programs	Establish patient rights and provider obligations regarding patient rights in OASAS programs
ASA-11-22-00004-P	03/16/23	Substance use disorder residential services	Requirements for substance use disorder residential services
ASA-11-22-00005-P	03/16/23	Substance use disorder withdrawal and stabilization services	Requirements for providers of substance use disorder withdrawal and stabilization services
ASA-11-22-00006-P	03/16/23	Residential services	Requirements for the delivery of residential services
ASA-11-22-00007-P	03/16/23	General provisions applicable to all programs certified, funded or otherwise authorized by OASAS	General provisions applicable to all programs certified, funded or otherwise authorized by OASAS
ASA-11-22-00008-P	03/16/23	Substance use disorder residential rehabilitation services for youth	To establish standards for substance use disorder residential rehabilitation services for youth

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF</b>			
ASA-11-22-00009-P	03/16/23	Substance use disorder inpatient rehabilitation	Requirements for substance use disorder inpatient rehabilitation services
ASA-11-22-00010-P	03/16/23	General service standards for substance use disorder outpatient programs	General service standards for substance use disorder outpatient programs
ASA-11-22-00011-P	03/16/23	Incident reporting in oasas certified, licensed, funded, or operated services	Incident reporting in oasas certified, licensed, funded, or operated services
ASA-12-22-00005-P	03/23/23	Designated Services	To add new Adolescent Program Endorsement and new Ancillary Withdrawal Designation
<b>AUDIT AND CONTROL, DEPARTMENT OF</b>			
AAC-25-22-00002-P	06/22/23	To expand the hierarchy of persons authorized to establish an ABLE Account on behalf of an eligible individual	To conform to federal regulations
<b>BRIDGE AUTHORITY, NEW YORK STATE</b>			
SBA-32-22-00020-P	08/10/23	Amend the Authority's rules in relation to the hours of operation for bridge walkways and/or bikeways.	To regulate certain Authority activities on bridge walkways and/or bikeways.
<b>CANNABIS MANAGEMENT, OFFICE OF</b>			
OCM-46-21-00010-RP	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
OCM-10-22-00017-RP	03/09/23	Part 113 - Medical Cannabis	The proposed rule established the framework for the medical cannabis program in New York State
OCM-24-22-00013-P	06/15/23	Packaging, Labeling, Marketing and Advertising of Adult-Use Cannabis	Establishing parameters for the packaging, labeling, marketing, and advertising of adult-use cannabis products, creating requirements for protecting the health and safety of consumers, and preventing targeting cannabis products to youth
OCM-24-22-00014-P	06/15/23	Permitting and regulating Cannabis Laboratories	Regulating and permitting laboratories, analyzing adult-use and medical cannabis, providing results to the Office and licensees, and aiding in the determination that cannabis products reflect potency and meet limits for contaminants
<b>CHILDREN AND FAMILY SERVICES, OFFICE OF</b>			
CFS-52-21-00003-EP	12/29/22	To establish minimum standards to control the spread of COVID-19 at residential congregate programs	To establish minimum standards to control the spread of COVID-19 at residential congregate programs
CFS-23-22-00003-P	06/08/23	Exclusion of certain pre-K and kindergarten child day care providers from the definition of "child day care"	To exclude certain pre-K and kindergarten programs operated by public school districts from the definition of "child day care"

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-13-22-00015-P	03/30/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-13-22-00016-P	03/30/23	Jurisdictional Classification	To delete a position from and to classify a position in the exempt class
CVS-13-22-00017-P	03/30/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-13-22-00018-P	03/30/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-22-00019-P	03/30/23	Jurisdictional Classification	To add a subheading and classify positions in the non-competitive class
CVS-13-22-00020-P	03/30/23	Jurisdictional Classification	To classify positions in the exempt class and to classify a position in the non-competitive class
CVS-13-22-00021-P	03/30/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-22-00022-P	03/30/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-19-22-00001-P	05/11/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-19-22-00002-P	05/11/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-19-22-00003-P	05/11/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-19-22-00004-P	05/11/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-19-22-00005-P	05/11/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-19-22-00006-P	05/11/23	Jurisdictional Classification	To classify a position in the exempt class
CVS-19-22-00007-P	05/11/23	Jurisdictional Classification	To delete a position from the exempt class and to delete positions from and classify positions in the non-competitive class
CVS-19-22-00008-P	05/11/23	Jurisdictional Classification	To classify a position in the exempt class
CVS-19-22-00009-P	05/11/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-19-22-00010-P	05/11/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-19-22-00011-P	05/11/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-19-22-00012-P	05/11/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-19-22-00013-P	05/11/23	Jurisdictional Classification	To classify positions in the non-competitive class

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<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-19-22-00014-P	05/11/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-19-22-00015-P	05/11/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-23-22-00008-P	06/08/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-23-22-00009-P	06/08/23	Jurisdictional Classification	To classify a position in the exempt class
CVS-23-22-00010-P	06/08/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-23-22-00011-P	06/08/23	Jurisdictional Classification	To classify a position in the exempt class
CVS-23-22-00012-P	06/08/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-23-22-00013-P	06/08/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-23-22-00014-P	06/08/23	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-23-22-00015-P	06/08/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-23-22-00016-P	06/08/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-23-22-00017-P	06/08/23	Jurisdictional Classification	To delete positions from and to classify positions in the non-competitive class
CVS-23-22-00018-P	06/08/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-23-22-00019-P	06/08/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-23-22-00020-P	06/08/23	Jurisdictional Classification	To classify positions in the exempt class
CVS-28-22-00001-P	07/13/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-28-22-00002-P	07/13/23	Jurisdictional Classification	To classify a position in the exempt class.
CVS-28-22-00003-P	07/13/23	Jurisdictional Classification	To classify a position in the exempt class.
CVS-28-22-00004-P	07/13/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-28-22-00005-P	07/13/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-28-22-00006-P	07/13/23	Jurisdictional Classification	To classify positions in the exempt class and to classify a position in the non-competitive class
CVS-32-22-00001-P	08/10/23	Jurisdictional Classification	To classify a position in the exempt class.
CVS-32-22-00002-P	08/10/23	Jurisdictional Classification	To delete a position from and to classify positions in the non-competitive class
CVS-32-22-00003-P	08/10/23	Jurisdictional Classification	To classify positions in the non-competitive class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-32-22-00004-P	08/10/23	Jurisdictional Classification	To classify positions in the exempt class and the non-competitive classes
CVS-32-22-00005-P	08/10/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-32-22-00006-P	08/10/23	Jurisdictional Classification	To classify a position in the exempt class and to classify positions in the non-competitive class
CVS-32-22-00007-P	08/10/23	Jurisdictional Classification	To classify positions in the exempt class and the non-competitive classes
CVS-32-22-00008-P	08/10/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-32-22-00009-P	08/10/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-32-22-00010-P	08/10/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-32-22-00011-P	08/10/23	Jurisdictional Classification	To classify positions in the exempt class and to delete positions from and to classify positions the non-competitive class
CVS-32-22-00012-P	08/10/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-32-22-00013-P	08/10/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-32-22-00014-P	08/10/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-32-22-00015-P	08/10/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-32-22-00016-P	08/10/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-32-22-00017-P	08/10/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-32-22-00018-P	08/10/23	Jurisdictional Classification	To classify positions in the exempt class and the non-competitive classes
<b>CORRECTION, STATE COMMISSION OF</b>			
CMC-34-21-00001-P	08/25/22	Jail staffing requirements	To provide county governments and the City of New York an increased role and flexibility in determining officer staffing levels
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-08-22-00007-EP	02/23/23	Disposition for violations of the conditions of release	To bring Board regulations into compliance with recent amendments to the Executive Law
CCS-14-22-00010-P	04/06/23	Incarcerated Individual Correspondence Program	To further clarify facility mail processing procedures

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-16-22-00003-EP	04/20/23	Definitions, Standards of Incarcerated Individual Behavior, Special Housing Units, and Institutional Programs	To revise regulations to be in compliance with the new HALT legislation and applicable laws
CCS-31-22-00002-P	08/03/23	Privileged Correspondence	To update law changes regarding correspondence from CANY
<b>CRIMINAL JUSTICE SERVICES, DIVISION OF</b>			
CJS-42-21-00004-EP	10/20/22	Professional Policing Standards	Implementation of the "New York State Professional Policing Act of 2021"
CJS-32-22-00028-P	08/10/23	NYS Forensic Laboratory Accreditation Standards	To add ISO/IEC 17020 as a standard.
<b>ECONOMIC DEVELOPMENT, DEPARTMENT OF</b>			
EDV-45-21-00001-P	11/10/22	Commercial Production Credit Program	Update regulations to include a third party verification process for application submissions
EDV-22-22-00003-P	06/01/23	Restaurant Return-to-Work Tax Credit Program	To add the additional administrative process for the additional restaurant return-to-work tax credit
EDV-24-22-00011-EP	06/15/23	New York City Musical and Theatrical Tax Credit program	To update the administrative process for the program and conform to statute
EDV-25-22-00003-EP	06/22/23	COVID-19 Capital Costs Tax Credit program	To create the administrative process for the program
EDV-32-22-00019-EP	08/10/23	Digital Gaming Media Production Tax Credit program	To create the administrative process for the program and conform to statute
<b>EDUCATION DEPARTMENT</b>			
EDU-48-21-00008-P	02/17/23	Special education impartial hearing officers and the special education due process system procedures	To address volume of special education due process complaints in the New York City due process system
EDU-09-22-00015-RP	03/02/23	Literacy (All Grades) certificate	Establishes the Literacy (All Grades) certificate
EDU-13-22-00025-P	03/30/23	Substantially Equivalent Instruction for Nonpublic School Students	Provide guidance to local school authorities to assist them in fulfilling their responsibilities under the Compulsory Ed Law
EDU-13-22-00029-P	06/15/23	Special education due process system procedures	To address the rotational selection process for assignment of IHOs to due process complaints; clarify language regarding IHO findings of fact and decisions; and address how IHOs must handle conflicts of interest
EDU-17-22-00005-P	04/27/23	Continuing education (CE) requirements for psychologists, social workers and mental health practitioners	To require such professionals to complete three CE credits on issues related to maintaining appropriate professional boundaries
EDU-17-22-00007-P	04/27/23	Remote instruction and its delivery under emergency conditions	Permits districts to provide remote instruction if they would otherwise close due to an emergency and count such instructional days towards minimum requirements, define remote instruction and require public schools to plan for providing remote instruction

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>EDUCATION DEPARTMENT</b>			
EDU-17-22-00010-P	04/27/23	State Aid for Public Library Systems, School Library Systems and Reference and Research Library Resource Councils	To align the Commissioner's regulations with Chapters 563 and 322 of the Laws of 2021
EDU-22-22-00004-EP	06/01/23	Incidental teaching and substitute teaching flexibilities	To extend flexibilities for incidental teaching and substitute teaching
EDU-22-22-00005-P	06/01/23	Business and Marketing Content Specialty Test Safety Net	To create a safety net for the business and marketing content specialty test
EDU-22-22-00006-P	06/01/23	Education, examination, and experience requirements for licensure in the profession of public accountancy	To modernize the education, experience and examination standards for CPAs
EDU-22-22-00007-P	06/01/23	Unprofessional Conduct in the practice of veterinary medicine	To establish unprofessional conduct for multi veterinarian and solo veterinarian practices
EDU-22-22-00008-P	06/01/23	Instruction provided to students in a home, hospital, or institutional setting other than a school (homebound instruction)	To provide clarity as to the circumstances under which homebound instruction may be requested and delivered
EDU-22-22-00009-P	06/01/23	Implementing the Dominic Murray Sudden Cardiac Arrest Prevention Act	To implement the Dominic Murray Sudden Cardiac Arrest Prevention Act
EDU-22-22-00010-EP	06/01/23	Special appeal to earn diplomas with a lower score on a Regents examination in the 2021-22 or 2022-23 school years	To permit students to appeal a lower score on a Regents examination in the 2021-22 or 2022-23 school years to earn diplomas
EDU-22-22-00011-P	06/01/23	Session days and time spent in assessments	To define session days and to count time spent in assessments toward the minimum instructional hour requirement
EDU-22-22-00012-P	06/01/23	Students with Disabilities Certificate	To establish the Students with Disabilities (All Grades) certificate, revise registration requirements for Students with Disabilities (Birth-Grade 2) programs and requirements for extensions to teach certain subjects to students with disabilities
EDU-26-22-00011-EP	06/29/23	Regents Examination in United States History and Government (Framework) for June 2022, August 2022, and January 2023	Provide flexibility so that students can meet the diploma requirements of the Regents Examination in US History
EDU-26-22-00012-EP	06/29/23	Providing flexibility regarding the administration of Regents examinations in mathematics and science in certain grades	To secure a waiver extension from the U.S. Department of Education of certain ESSA requirements by providing flexibility to schools and districts for administering Regents examinations in mathematics to grade 6 students and in science to grade 7 students
EDU-26-22-00013-EP	06/29/23	Requirements for the issuing of a special determination to graduate with a local diploma	To provide regulatory flexibility for students to graduate with a local diploma
EDU-26-22-00014-EP	06/29/23	Use of restricted local infiltration anesthesia/nitrus oxide analgesia by dental hygienists	To align the Commissioner's regulations with Chapter 198 of the Laws of 2022, permitting dental hygienists to use local infiltration and nitrus oxide anesthetic modalities
EDU-26-22-00015-P	06/29/23	Implementation timeline for the Computer Science Statement of Continued Eligibility (SOCE)	To extend the implementation timelines for the Computer Science SOCE in response to the COVID-19 pandemic

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>EDUCATION DEPARTMENT</b>			
EDU-26-22-00016-EP	06/29/23	Standards for school building leader (SBL)preparation programs, definition of “leadership standards” for Annual Professional Performance Reviews, and safety net for the School Building Leader Assessment	To extend the date when SBL preparation programs must align with the new Professional Standards in Educational Leaders standards, revise the definition of leadership standards and change the deadline for the School Building Leader Assessment safety net
EDU-26-22-00017-P	06/29/23	Computer science being considered a career and technical education (CTE) subject	To add computer science under the umbrella of CTE subjects
EDU-26-22-00018-EP	06/29/23	Requirements for school districts to issue diplomas to eligible students confined in certain facilities	To implement Chapter 754 of the Laws of 2021, as amended by Chapter 26 of the Laws of 2022
EDU-30-22-00010-EP	07/27/23	Mental health practitioners’ diagnosis privilege	To implement Chapter 230 of the Laws of 2022 relating to mental health practitioners’ diagnosis privilege
<b>ELECTIONS, STATE BOARD OF</b>			
SBE-33-21-00010-RP	11/16/22	Public Campaign Finance Program	Implementation of the Public Campaign Finance Program
SBE-39-21-00003-RP	09/29/22	Required Debates for Statewide Candidates Participating in the Public Campaign Finance Program	Outlines Debate Requirements for Statewide Candidates Participating in the Public Campaign Finance Program
SBE-46-21-00001-RP	11/17/22	Public Campaign Finance Board’s Enforcement Procedure	Relates to how the Public Campaign Finance Board will enforce the public campaign finance provisions of the Election Law
SBE-16-22-00004-EP	04/20/23	Providing deadlines for entering voter history and providing list of affidavit voters	To conform regulatory provisions to canvassing provisions provided for by amendments to Election Law Section 9-209
SBE-16-22-00005-EP	04/20/23	Removing gender matching from the comparison of voter registration records against the records of the Dept of Motor Vehicles	To ensure that voter matches can occur as provided for by law as a result of Chapter 158 of Laws of 2021
SBE-30-22-00004-EP	07/27/23	Providing conforming signature collection requirements in regulation to conform with statute	To conform regulatory provisions to statutory provisions related to signature requirements
SBE-30-22-00005-EP	07/27/23	Providing revised deadline for designation of poll sites and new thresholds for number of early voting sites required	To conform regulatory provisions to canvassing provisions provided for by chapter 781 of Laws of 2021
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
*ENV-24-21-00008-P	08/17/22	Petroleum Bulk Storage (PBS)	To amend the PBS regulations, 6 NYCRR Part 613
*ENV-24-21-00009-P	08/17/22	Chemical Bulk Storage (CBS)	To repeal existing 6 NYCRR Parts 596, 598, 599 and replace with new Part 598; and amend existing Part 597; for the CBS program
ENV-37-21-00004-P	09/15/22	Deer Hunting	This rulemaking will allow counties to annually, by county law, “opt-out” of the late bow and/or muzzleloader deer seasons



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<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
ENV-51-21-00003-P	04/07/23	Environmental Remediation Programs	To amend 6 NYCRR Part 375, Environmental Remediation Programs
ENV-14-22-00005-P	04/06/23	Amendments to New York State spring turkey hunting regulations	To increase hunting opportunities in Wildlife Management Unit 1C and to modernize allowable take methods
ENV-20-22-00001-EP	05/18/23	Regulations governing recreational fishing of summer flounder	To revise regulations concerning the recreational harvest of summer flounder in New York State
ENV-20-22-00003-P	07/19/23	Solid Waste Management Regulations	Amend the rules that implement the solid waste program in New York State to incorporate changes in law and implementation
ENV-22-22-00016-P	06/01/23	SPDES Incorporation by Reference	Update SPDES Incorporation by Reference
ENV-23-22-00007-P	08/17/23	Prohibition of glyphosate use by state departments, state agencies, and public benefit corporations on state property	Prohibit the use of glyphosate by state agencies, state departments, public benefit corporations unless exempted
ENV-27-22-00006-EP	07/06/23	Regulations governing recreational fishing of scup and black sea bass	To reduce the recreational harvest of scup and black sea bass in New York
ENV-28-22-00010-EP	07/13/23	Sanitary Condition of Shellfish Lands	To reclassify underwater shellfish lands to protect public health and general welfare.
ENV-28-22-00011-P	09/13/23	Forest Tax Law	Improving and sustainably managing New York's forest resources and lessening the administrative burden on participants/DEC staff
ENV-29-22-00001-P	07/20/23	Special licenses and permits; Marine Resources licenses and permits - Uniform Procedures.	Update regulations to reflect the reestablishment of the Division of Marine Resources and creation of new licenses and permits.
ENV-31-22-00001-EP	08/03/23	Peekamoose Valley Riparian Corridor	Protect public health, safety and general welfare and natural resources on the Peekamoose Valley Riparian Corridor
ENV-32-22-00026-EP	08/10/23	To prohibit the possession of shortfin mako	To protect shortfin mako sharks which are overfished and experiencing overfishing
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
DFS-42-21-00011-P	10/20/22	Disclosure requirements for certain providers of commercial financing transactions	To provide new disclosure rules for small business financings
DFS-44-21-00015-P	11/03/22	Compliance With Community Reinvestment Act Requirements	To provide new rules concerning data collection on extension of credit to women-owned and minority-owned businesses

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
DFS-47-21-00006-P	11/24/22	Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure	To hold insurers, plans and HMOs responsible for inaccurate provider directory information and replies to insureds' inquiries
DFS-50-21-00016-P	12/15/22	Debt Collection by Third-Party Debt Collectors and Debt Buyers	To clarify and modify standards for debt collection practices in New York
DFS-11-22-00001-P	03/16/23	Separate Accounts and Separate Account Contracts	To establish standards for separate accounts and separate account contracts
DFS-21-22-00002-P	05/25/23	Agent Training Allowance Subsidies for Certain Life Insurance and Annuity Business	To increase the maximum training allowance to reflect inflation
DFS-23-22-00004-P	06/08/23	Registration of Pharmacy Benefit Managers	To establish regulations for the registration and first annual report of pharmacy benefit managers
DFS-23-22-00005-P	06/08/23	Pharmacy Benefits Bureau	To establish the Pharmacy Benefits Bureau and revise the rules for the Drug Accountability Board
DFS-24-22-00010-P	06/15/23	Licensed Cashers of Checks; Fees	To change the maximum fee that may be charged by licensed check cashers and remove an automatic inflation adjustment
<b>GAMING COMMISSION, NEW YORK STATE</b>			
SGC-29-22-00010-P	07/20/23	Comprehensive regulations for interactive fantasy sports	To regulate interactive fantasy sports in New York.
SGC-30-22-00011-P	07/27/23	Licensing requirements for jockey's agent.	To align occupational licensing requirements with potential to perform role and align with model rules.
SGC-30-22-00012-P	07/27/23	Jockey equipment weighing rules for Thoroughbred racing	To enhance the integrity and safety of Thoroughbred racing
<b>HEALTH, DEPARTMENT OF</b>			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
HLT-46-21-00005-RP	11/17/22	Nursing Home Minimum Direct Resident Care Spending	Every RHCf shall spend a minimum of 70% of revenue on direct resident care and 40% of revenue on resident-facing staffing
HLT-46-21-00007-RP	11/17/22	Minimum Staffing Requirements for Nursing Homes	Requiring minimum staffing levels for nursing homes
HLT-50-21-00002-EP	12/15/22	Investigation of Communicable Disease; Isolation and Quarantine	Control of communicable disease
HLT-50-21-00003-EP	12/15/22	Face Coverings for COVID-19 Prevention	To control and promote the control of communicable diseases to reduce their spread
HLT-50-21-00004-EP	12/15/22	Personal Caregiving and Compassionate Caregiving Visitors in Nursing Homes (NH's) and Adult Care Facilities (ACF's)	To require NH's & ACF's to establish policies & procedures relating to personal caregiving & compassionate caregiving visitors

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
HLT-07-22-00010-P	02/16/23	Clinical Staffing in General Hospitals	Requires general hospitals to have clinical staffing committees and create clinical staffing plans
HLT-07-22-00011-P	02/16/23	Surge and Flex Health Coordination System	Provides authority to the Commissioner to direct certain actions and waive certain regulations in an emergency
HLT-10-22-00009-P	03/09/23	Updated Retention Standards for Adult Care Facilities	To ensure admission and retention standards for adult care facilities are consistent with the Americans with Disabilities Act
HLT-12-22-00001-P	03/23/23	Clinical Laboratories and Blood Banks	To allow for remote supervision and updates to provide concordance with NYSED law for qualifications of technical personnel
HLT-12-22-00002-P	03/23/23	Reporting of Acute HIV Infection	To require clinicians to report any case of acute HIV within 24 hours of diagnoses
HLT-12-22-00003-P	03/23/23	Telehealth Services	To ensure continuity of care of telehealth services provided to Medicaid enrollees
HLT-23-22-00001-P	06/08/23	Hospital and Nursing Home Personal Protective Equipment (PPE) Requirements	To ensure that all general hospitals and nursing homes maintain a 60-day supply of PPE during the COVID-19 emergency
HLT-23-22-00002-P	06/08/23	COVID-19 Vaccinations of Nursing Home and Adult Care Facility Residents and Personnel	To require nursing homes and adult care facilities to conduct ongoing COVID-19 vaccinations of their residents and personnel
HLT-26-22-00003-P	06/29/23	Repeal of Limits on Administrative Expenses and Executive Compensation	Repeal of Limits on Administrative Expenses and Executive Compensation
HLT-29-22-00003-P	07/20/23	Public Water Systems	Correct typographical errors&inconsistencies with the CFRs to obtain primacy enforcement authority under Safe Drinking Water Act
<b>HUMAN RIGHTS, DIVISION OF</b>			
HRT-21-22-00001-P	05/25/23	Required notice to Public housing program or assistance recipients regarding housing discrimination based on source of income	To comply with the requirements of Executive Law section 170-e
<b>LABOR, DEPARTMENT OF</b>			
LAB-34-21-00002-EP	11/17/22	New York Health and Essential Rights Act (NY HERO Act)	Airborne Infectious Disease Exposure Prevention Standard
LAB-51-21-00007-P	02/09/23	Workplace Safety Committees	To comply with Labor Law 27-d(8) which requires that the Department adopt regulations
<b>LAW, DEPARTMENT OF</b>			
LAW-49-21-00016-P	12/08/22	Charities regulatory framework and the use of gendered pronouns therein	Removal of all references to gender pronouns and replacing them with the neutral pronoun, "they" or "their"

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>LIQUOR AUTHORITY, STATE</b>			
LQR-26-22-00001-P	09/14/23	Ensuring smaller retailers are not unlawfully discriminated against through the charging of exorbitant split case fees	To ensure smaller retailers are not unlawfully discriminated against through the charging of exorbitant split case fees
<b>LONG ISLAND POWER AUTHORITY</b>			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment
*LPA-37-18-00018-P	exempt	The treatment of energy storage in the Authority's Tariff for Electric Service	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap
*LPA-09-20-00010-P	exempt	To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory	To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets
*LPA-28-20-00033-EP	exempt	LIPA's late payment charges, reconnection charges, and low-income customer discount enrollment	To allow waiver of late payment and reconnection charges and extend the grace period for re-enrolling in customer bill discounts
*LPA-37-20-00013-EP	exempt	The terms of deferred payment agreements available to LIPA's commercial customers	To expand eligibility for and ease the terms of deferred payment agreements for LIPA's commercial customers
*LPA-12-21-00011-P	exempt	LIPA's Long Island Choice (retail choice) tariff	To simplify and improve Long Island Choice based on stakeholder collaborative input
LPA-17-22-00011-P	06/27/23	Access to records and fees collected under the Freedom of Information Law	To make necessary technical updates and to conform with FOIL regarding collection of fees
LPA-17-22-00012-P	exempt	COVID-19 arrears forgiveness and low-income customer discount eligibility	To implement an arrears forgiveness program and expand low-income customer discount eligibility
LPA-17-22-00013-P	exempt	Time-of-use rate options for commercial customers	To offer a new TOU rate option for commercial customers that is aligned with industry best practices
LPA-17-22-00014-P	exempt	LIPA's delivery service adjustment cost recovery rider	To ensure recovery of T&D property tax expenses consistent with the LIPA Reform Act, at the lowest cost to LIPA customers

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>LONG ISLAND POWER AUTHORITY</b>			
LPA-17-22-00015-P	..... exempt	The start date of LIPA's smart meter opt-out fee	To update the start date of the smart meter opt-out fee due to early completion of the smart meter rollout
<b>MEDICAID INSPECTOR GENERAL, OFFICE OF</b>			
MED-28-22-00016-P	..... 07/13/23	Medicaid Program Fraud, Waste and Abuse Prevention	To establish requirements for providers to detect and prevent fraud, waste and abuse in the Medicaid Program.
<b>MENTAL HEALTH, OFFICE OF</b>			
OMH-40-21-00007-EP	..... 10/06/22	COVID-19 Masking Program	To implement a COVID-19 mask program
OMH-43-21-00002-ERP	..... 10/27/22	COVID-19 Vaccination Program	To implement a COVID-19 vaccination program in OMH Operated or Licensed Hospitals
OMH-48-21-00003-ERP	..... 12/01/22	Telehealth Expansion	To establish regulations regarding the expansion of telehealth
OMH-23-22-00021-P	..... 06/08/23	Relating to the certification, operation and reimbursement of clinic treatment programs serving adults and children	To align such program with the State Plan Amendment
<b>METROPOLITAN TRANSPORTATION AGENCY</b>			
MTA-16-22-00008-EP	..... 04/20/23	Requiring mask wearing when mandated for indoor facilities and conveyances of the MTA & ts affiliates and subsidiaries	To safeguard the public health and safety by adding a rule requiring the use of masks in facilities & conveyances when mandated
<b>NIAGARA FALLS WATER BOARD</b>			
*NFW-04-13-00004-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
NFW-49-21-00010-EP	..... 12/08/22	Adoption of Rates, Fees, and Charges	To pay for increased costs necessary to operate, maintain, and manage the system, and to meet covenants with the bondholders
<b>OGDENSBURG BRIDGE AND PORT AUTHORITY</b>			
*OBA-33-18-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
*OBA-07-19-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
<b>PARKS, RECREATION AND HISTORIC PRESERVATION, OFFICE OF</b>			
PKR-30-22-00001-P	..... 07/27/23	Listing of state parks, parkways, recreation facilities and historic sites (facilities) and address/contact updates	To update the listing of state parks, parkways, recreation facilities and historic sites and the address/contact information

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR</b>			
PDD-37-21-00001-P	09/15/22	Certified Residential Opportunities	To provide equity in opportunities for certified residential opportunities
PDD-40-21-00002-EP	10/06/22	Mandatory Face Coverings in OPWDD Certified Services	To protect public health
PDD-43-21-00003-ERP	10/27/22	COVID-19 vaccines	To require vaccinations in certain OPWDD settings
PDD-07-22-00004-EP	02/16/23	Certification of the Facility Class Known as Individualized Residential Alternative	To increase IRA capacity in cases of emergent circumstances
PDD-07-22-00005-EP	02/16/23	General Purpose	To increase IRA capacity in cases of emergent circumstances
PDD-10-22-00010-EP	03/09/23	Training Flexibilities	To provide flexibility in training requirements
PDD-26-22-00005-P	06/29/23	Gender Identity and Expression	To ensure people are treated with dignity and respect

**POWER AUTHORITY OF THE STATE OF NEW YORK**

*PAS-01-10-00010-P	exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
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**PUBLIC EMPLOYMENT RELATIONS BOARD**

PRB-30-22-00003-P	07/27/23	Rules and regulations to effectuate the purposes of the State Employment Relations Act (Labor Law art. 20)	To enact procedures for the Farm Laborers Fair Laborers Practice Act, which amended the State Employment Relations Act
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**PUBLIC SERVICE COMMISSION**

*PSC-09-99-00012-P	exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	..... exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	..... exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	..... exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	..... exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Vernon and TW Telecom of New York L.P.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and TW Telecom of New York L.P.
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*PSC-34-09-00017-P	..... exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	..... exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	..... exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	..... exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	..... exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	..... exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-36-10-00010-P	..... exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	..... exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	..... exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York



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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*PSC-23-12-00007-P	..... exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	..... exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	..... exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	..... exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements
*PSC-45-12-00008-P	..... exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	..... exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	..... exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	..... exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*PSC-08-13-00014-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	..... exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	..... exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC
*PSC-28-13-00017-P	..... exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	..... exempt	To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices	To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices
*PSC-32-13-00012-P	..... exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island
*PSC-45-13-00022-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	..... exempt	Conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates	Consideration of conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*PSC-51-13-00011-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC)	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s)
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000	To consider allowing Knolls Water Company to enter into a long-term loan agreement
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	..... exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00008-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	..... exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	..... exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures	To improve gas safety performance
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator	To consider waiver of RG&E's tariffed definition of emergency generator
*PSC-26-14-00020-P	..... exempt	New electric utility backup service tariffs and standards for interconnection may be adopted	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established	To balance the need for the information necessary to support a robust market with customer privacy concerns
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets	To consider the Comcast and Charter transfer of systems, franchise and assets
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive, Albany, NY
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*PSC-36-14-00009-P	..... exempt	Modification to the Commission's Electric Safety Standards	To consider revisions to the Commission's Electric Safety Standards
*PSC-38-14-00003-P	..... exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison's low income program to include Medicaid recipients	Whether to expand Con Edison's low income program to include Medicaid recipients
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*PSC-40-14-00008-P	..... exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers
*PSC-40-14-00009-P	..... exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1
*PSC-40-14-00011-P	..... exempt	Late Payment Charge	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-40-14-00015-P	..... exempt	Late Payment Charge	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff’s electric outage investigation report for MNRR, New Haven Line	To consider the recommendations contained in Staff’s electric outage investigation report for MNRR, New Haven Line
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company’s request for State Universal Service Fund disbursements
*PSC-08-15-00010-P	..... exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program	To grant, deny, or modify URAC Rate Consultants’ request that National Grid cease its summary billing program
*PSC-10-15-00007-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.’s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	..... exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*PSC-13-15-00024-P	..... exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking’s request to recover a shortfall in earnings
*PSC-13-15-00026-P	..... exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*PSC-13-15-00027-P	..... exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison’s Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison’s Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project	To approve the development of a Community Solar Demonstration Project
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program	To consider approval of remote net metering of a demonstration community net metering program
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project	To consider approval of remote net metering of a Community Solar Demonstration Project
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*PSC-40-15-00014-P	..... exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	..... exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements
*PSC-44-15-00028-P	..... exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation	Consider Whitepaper on Implementing Lightened Ratemaking Regulation
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016	Consider the proposed retirement of Huntley Units 67 and 68
*PSC-50-15-00006-P	..... exempt	The reduction of rates	To consider the reduction of rates charged by Independent Water Works, Inc.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic
*PSC-06-16-00013-P	..... exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs
*PSC-06-16-00014-P	..... exempt	MEGA's proposed demonstration CCA program	To consider MEGA's proposed demonstration CCA program
*PSC-14-16-00008-P	..... exempt	Resetting retail markets for ESCO mass market customers	To ensure consumer protections with respect to residential and small non-residential ESCO customers
*PSC-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-18-16-00014-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-18-16-00015-P	..... exempt	Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process	To ensure consumer protections for ESCO customers
*PSC-18-16-00016-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-18-16-00018-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-20-16-00008-P	..... exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP)	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP)
*PSC-20-16-00010-P	..... exempt	Deferral and recovery of incremental expense	To consider deferring costs of conducting leak survey and repairs for subsequent recovery
*PSC-20-16-00011-P	..... exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-24-16-00009-P	..... exempt	Petition to submeter gas service	To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY
*PSC-25-16-00009-P	..... exempt	To delay Companies' third-party assessments of customer personally identifiable information until 2018	To extend the time period between the Companies' third-party assessments of customer personally identifiable information
*PSC-25-16-00025-P	..... exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel
*PSC-25-16-00026-P	..... exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications
*PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework	To determine appropriate rules for and calculation of the distributed generation reliability credit
*PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs	To consider participation of NYPA customers in surcharge-funded clean energy programs
*PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks	To evaluate proposed methodologies of benefit-cost evaluation
*PSC-33-16-00001-EP	..... exempt	Use of escrow funds for repairs	To authorize the use of escrow account funds for repairs
*PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges
*PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service	To consider the recovery of costs for installation of electric service
*PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP)	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements
*PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	..... exempt	Implementation of the four EAMs	To consider the implementation of EAMs for RG&E

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-02-17-00012-P	..... exempt	Implementation of the four EAMs	To consider the implementation of EAMs for NYSEG
*PSC-18-17-00024-P	..... exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist
*PSC-18-17-00026-P	..... exempt	Revisions to the Dynamic Load Management surcharge	To consider revisions to the Dynamic Load Management surcharge
*PSC-19-17-00004-P	..... exempt	NYAW's request to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2016	Consideration of NYAW's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2016
*PSC-20-17-00008-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles	To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel
*PSC-20-17-00010-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel
*PSC-21-17-00013-P	..... exempt	The establishment and implementation of Earnings Adjustment Mechanisms	To consider the establishment and implementation of Earnings Adjustment Mechanisms
*PSC-21-17-00018-P	..... exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement
*PSC-22-17-00004-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry	Improved data access
*PSC-26-17-00005-P	..... exempt	Notice of Intent to submeter electricity	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York
*PSC-34-17-00011-P	..... exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver
*PSC-37-17-00005-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-39-17-00011-P	..... exempt	Whether to direct New York State Electric & Gas to complete electric facility upgrades at no charge to Hanehan	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan
*PSC-42-17-00010-P	..... exempt	Petition for rehearing of negative revenue adjustment and contents of annual Performance Report	To consider NFGD's petition for rehearing
*PSC-48-17-00015-P	..... exempt	Low Income customer options for affordable water bills	To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs
*PSC-50-17-00017-P	..... exempt	New Wave Energy Corp.'s petition for rehearing	To consider the petition for rehearing filed by New Wave Energy Corp.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-50-17-00018-P	..... exempt	Application of the Public Service Law to DER suppliers	To determine the appropriate regulatory framework for DER suppliers
*PSC-50-17-00019-P	..... exempt	Transfer of utility property	To consider the transfer of utility property
*PSC-50-17-00021-P	..... exempt	Disposition of tax refunds and other related matters	To consider the disposition of tax refunds and other related matters
*PSC-51-17-00011-P	..... exempt	Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project	To consider Con Edison's petition for the recovery of costs for implementing the JFK Project
*PSC-04-18-00005-P	..... exempt	Notice of intent to submeter electricity	To consider the notice of intent of Montante/Morgan Gates Circle LLC to submeter electricity
*PSC-05-18-00004-P	..... exempt	Lexington Power's ZEC compliance obligation	To promote and maintain renewable and zero-emission electric energy resources
*PSC-06-18-00012-P	..... exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria
*PSC-06-18-00017-P	..... exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity
*PSC-07-18-00015-P	..... exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades	To consider AEC's petition requesting resolution of their billing dispute with National Grid
*PSC-11-18-00004-P	..... exempt	New York State Lifeline Program	To consider TracFone's petition seeking approval to participate in Lifeline
*PSC-13-18-00015-P	..... exempt	Eligibility of an ESCO to market to and enroll residential customers	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension
*PSC-13-18-00023-P	..... exempt	Reconciliation of property taxes	To consider NYAW's request to reconcile property taxes
*PSC-14-18-00006-P	..... exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment	To ensure that consumer bills are based on accurate measurements of gas usage
*PSC-18-18-00009-P	..... exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	..... exempt	Whether to impose consequences on Aspirtly for its non-compliance with Commission requirements	To ensure the provision of safe and adequate energy service at just and reasonable rates
*PSC-24-18-00013-P	..... exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements	To promote and maintain renewable and zero-emission electric energy resources
*PSC-28-18-00011-P	..... exempt	Storm Hardening Collaborative Report	To ensure safe and adequate gas service

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-29-18-00008-P	..... exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	..... exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00015-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and energy efficiency protections are in place
*PSC-34-18-00016-P	..... exempt	Deferral of pre-staging and mobilization storm costs	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs
*PSC-35-18-00003-P	..... exempt	Con Edison's 2018 DSIP and BCA Handbook Update	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00005-P	..... exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers
*PSC-35-18-00006-P	..... exempt	National Grid's 2018 DSIP and BCA Handbook Update	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00008-P	..... exempt	Central Hudson's 2018 DSIP and BCA Handbook Update	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00010-P	..... exempt	O&R's 2018 DSIP and BCA Handbook Update	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider
*PSC-39-18-00005-P	..... exempt	Participation in New York State Lifeline Program	To encourage enhanced services for low-income customers
*PSC-40-18-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018
*PSC-42-18-00011-P	..... exempt	Voluntary residential beneficial electrification rate design	To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers
*PSC-42-18-00013-P	..... exempt	Petition for clarification and rehearing of the Smart Solutions Program Order	To address the increased demand for natural gas in the Con Edison's service territory and the limited pipeline capacity
*PSC-44-18-00016-P	..... exempt	Petition for approval of gas metering equipment	To ensure that customer bills are based on accurate measurements of gas usage
*PSC-45-18-00005-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
*PSC-01-19-00013-P	..... exempt	Order of the Commission related to caller ID unblocking	To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County
*PSC-03-19-00002-P	..... exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings	To reduce damage to underground utility facilities by requiring certain training and approving training curricula

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-04-19-00004-P	..... exempt	Con Edison's petition for the Gas Innovation Program and associated budget	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals
*PSC-04-19-00011-P	..... exempt	Update of revenue targets	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues
*PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects
*PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements	To insure the provision of safe and adequate energy service at just and reasonable rates
*PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program	To encourage enhanced services for low-income customers
*PSC-09-19-00010-P	..... exempt	Non-pipeline alternatives report recommendations	To consider the terms and conditions applicable to gas service
*PSC-12-19-00004-P	..... exempt	To test innovative pricing proposals on an opt-out basis	To provide pricing structures that deliver benefits to customers and promote beneficial electrification technologies
*PSC-13-19-00010-P	..... exempt	New Commission requirements for gas company operator qualification programs	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities
*PSC-19-19-00013-P	..... exempt	Proposed merger of three water utilities into one corporation	To determine if the proposed merger is in the public interest
*PSC-20-19-00008-P	..... exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases
*PSC-20-19-00010-P	..... exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
*PSC-31-19-00013-P	..... exempt	Implementation of Statewide Energy Benchmarking	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-32-19-00012-P	..... exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources
*PSC-38-19-00002-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-39-19-00018-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-41-19-00003-P	..... exempt	A voluntary residential three-part rate that would include fixed, usage and demand charges	To provide qualifying residential customers with an optional three-part rate
*PSC-46-19-00008-P	..... exempt	Wappingers Falls Hydroelectric LLC's facility located in Wappingers Falls, New York	To promote and maintain renewable electric energy resources



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-46-19-00010-P	..... exempt	To test innovative rate designs on an opt-out basis	To implement alternative innovative rate designs intended to assess customer behaviors in response to price signals
*PSC-08-20-00003-P	..... exempt	PSC regulation 16 NYCRR §§ 86.3(a)(2) and 86.3(b)(2)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-10-20-00003-P	..... exempt	The Commission's statewide low-income discount policy	To consider modifications to certain conditions regarding utility low-income discount programs
*PSC-12-20-00008-P	..... exempt	Delivery rates of Conring Natural Gas Corporation	Whether to postpone the implementation of a change in rates that would otherwise become effective on June 1, 2020
*PSC-15-20-00011-P	..... exempt	To modify the terms and conditions under which gas utilities provide service to electric generators	To provide clarity and uniformity to the provision of gas service to electric generators
*PSC-16-20-00004-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by Central Hudson
*PSC-18-20-00015-P	..... exempt	Participation of Eligible Telecommunications Carriers (ETCs) in New York State Lifeline Program	Commission will consider each petition filed by an ETCs seeking approval to participate in the NYS Lifeline program
*PSC-19-20-00004-P	..... exempt	Clarification of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether energy service companies should be permitted to bank RECs to satisfy their renewable energy requirements
*PSC-19-20-00005-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation	To provide cost recovery for new DLM programs and prevent double compensation to participating customers
*PSC-19-20-00009-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation	To consider revisions to P.S.C. No. 10 - Electricity, and P.S.C. No. 12 - Electricity
*PSC-25-20-00010-P	..... exempt	Whitepaper regarding energy service company financial assurance requirements	To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies
*PSC-25-20-00016-P	..... exempt	Modifications to the Low-Income Affordability program	To address the economic impacts of the COVID-19 pandemic
*PSC-27-20-00003-P	..... exempt	To make the uniform statewide customer satisfaction survey permanent	To encourage consumer protections and safe and adequate service
*PSC-28-20-00022-P	..... exempt	Compensation of distributed energy resources	To ensure just and reasonable rates, including compensation, for distributed energy resources
*PSC-28-20-00034-P	..... exempt	Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act	To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals
*PSC-34-20-00005-P	..... exempt	Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers	To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory
*PSC-38-20-00004-P	..... exempt	The annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-42-20-00008-P	..... exempt	Availability of gas leak information to the public safety officials.	Facilitate availability of gas leak information to public safety officials by gas corporations
*PSC-45-20-00003-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-46-20-00005-P	..... exempt	The recommendations of the DPS Staff report to improve Hudson Valley Water's service	To determine if approving the DPS Staff's recommendations is in the public interest
*PSC-48-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether Chief Energy Power, LLC should be permitted to offer green gas products to mass market customers
*PSC-48-20-00007-P	..... exempt	Tariff modifications to change National Fuel Gas Distribution Corporation's Monthly Gas Supply Charge provisions	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-51-20-00009-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether petitioner should be permitted to offer its "Energy Savings Program" to mass market customers
*PSC-51-20-00014-P	..... exempt	Electric system needs and compensation for distributed energy resources	To ensure safe and adequate service and just and reasonable rates, including compensation, for distributed energy resources
*PSC-01-21-00004-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether petitioner should be permitted to offer its Home Warranty product to mass market customers
*PSC-02-21-00006-P	..... exempt	Disposition of a sales tax refund received by New York American Water, Inc	To determine the disposition of tax refunds and other related matters
*PSC-04-21-00016-P	..... exempt	Request for a waiver	To consider whether good cause exists to support a waiver of the Commission's Test Period Policy Statement
*PSC-06-21-00009-P	..... exempt	Disposition of a property tax refund received by New York American Water, Inc.	To determine the disposition of tax refunds and other related matters
*PSC-09-21-00005-P	..... exempt	Utility capital expenditure proposal	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-13-21-00016-P	..... exempt	Revised distribution strategies and reallocation of remaining funding	To ensure the appropriate use of funding reserved for gas safety programs
*PSC-16-21-00007-P	..... exempt	Accounting-related rules for utilities implementing the Integrated Energy Data Resource	To consider cost recovery of capital expenditures and budget allocations of costs between affiliated companies
*PSC-17-21-00005-P	..... exempt	Submetering equipment	To consider use of submetering equipment and if it is in the public interest
*PSC-17-21-00006-P	..... exempt	Community Choice Aggregation and Community Distributed Generation	To consider permitting opt-out Community Distributed Generation to be offered as the sole product in an aggregation
*PSC-17-21-00007-P	..... exempt	Utility studies of climate change vulnerabilities	To assess the need for utilities to conduct distinct studies of their climate change vulnerabilities

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-18-21-00004-P	..... exempt	Community Choice Aggregation programs	To modify and improve Community Choice Aggregation programs in New York State
*PSC-18-21-00006-P	..... exempt	Community Choice Aggregation renewable products	To consider waiving the locational and delivery requirements for RECs purchased to support renewable CCA products
*PSC-18-21-00008-P	..... exempt	RG&E's Economic Development Programs and exemption from funding limits	To consider RG&E to grant up to \$5.25 million in ED funding to Project Block to the benefit of ratepayers
*PSC-19-21-00008-P	..... exempt	Community Choice Aggregation (CCA) and Community Distributed Generation (CDG)	To consider permitting Upstate Power, LLC to serve as a CCA administrator offering an opt-out CDG focused program
*PSC-20-21-00004-P	..... exempt	Regulatory approvals in connection with a 437 MW electric generating facility	To ensure appropriate regulatory review, oversight, and action, consistent with the public interest
*PSC-21-21-00012-P	..... exempt	Petition for the use of gas metering equipment	To ensure that consumer bills are based on accurate measurements of gas usage
*PSC-21-21-00015-P	..... exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-21-21-00019-P	..... exempt	Utility capital expenditure proposal	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-25-21-00005-P	..... exempt	Transfer of Penelec assets and franchise rights	To consider the transfer of utility assets and franchise to be in Waverly ratepayer and public interest
*PSC-26-21-00011-P	..... exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-28-21-00012-P	..... exempt	Transfer of ownership interests in a 55 megawatt natural gas-fired cogeneration facility located in North Tonawanda, NY	To address the proposed transfer and any matters within the public interest
*PSC-28-21-00013-P	..... exempt	Elimination of internal audits of wholesale performance metrics	To consider Verizon New York Inc.'s petition to eliminate requirements for certain internal audits
*PSC-29-21-00004-P	..... exempt	Exemptions from utility standby rates for efficient combined heat and power projects	To determine whether utility standby rate exemptions should be continued
*PSC-29-21-00009-P	..... exempt	Proposed pilot program to use AMI to disconnect electric service to customers during gas system emergencies	To study the efficacy of using AMI to disconnect electric service during gas system emergencies
*PSC-30-21-00006-P	..... exempt	NYSERDA proposal regarding Clean Energy Standard backstop collection processes	To ensure that NYSERDA has sufficient funds to make timely payments to generators pursuant to the Clean Energy Standard
PSC-32-21-00002-P	..... exempt	The prohibition on ESCO service to low-income customers	To consider whether Icon Energy, LLC d/b/a Source Power Company should be granted a waiver to serve low-income customers
PSC-32-21-00003-P	..... exempt	Exemptions from utility standby rates for certain designated or environmentally advantageous technologies	To harmonize standby rate exemptions statewide

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-34-21-00004-P	..... exempt	CDG subscriber eligibility requirements	To consider modifications to the CDG program eligibility requirements for certain Standby Service customers
PSC-35-21-00009-P	..... exempt	To modify the terms and conditions under which gas utilities provide service to electric generators	To provide clarity and uniformity to the provision of gas service to electric generators in New York State
PSC-36-21-00006-P	..... exempt	The Westchester Power Program	To consider integration of Opt-out Community Distributed Generation into the Westchester Power program
PSC-36-21-00007-P	..... exempt	Pension settlement payout losses incurred in 2020	Consideration of NYAW's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2020
PSC-37-21-00009-P	..... exempt	Procedures necessary to implement Tax Law Section 187-q	To establish procedures by which eligible utility-taxpayers can have the amounts of certain waived customer arrears certified
PSC-37-21-00010-P	..... exempt	Zero emitting electric generating facilities that are not renewable energy systems	To consider modifications to the Clean Energy Standard
PSC-37-21-00011-P	..... exempt	Green Button Connect implementation	To consider the proposed Green Button Connect User Agreement and Green Button Connect Onboarding Process document
PSC-37-21-00012-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether Catalyst should be permitted to offer its Community Distributed Generation product to mass market customers
PSC-37-21-00014-P	..... exempt	Consideration of Time Warner Cable Information Services (New York)'s Revised Implementation Plan and audit recommendations	To ensure that recommendations issued in a management and operations audit are appropriately addressed and implemented
PSC-38-21-00006-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
PSC-38-21-00007-P	..... exempt	Electric metering equipment	To consider use of electric submeter and ensure that consumer bills will be based on accurate measurements of electric usage
PSC-39-21-00007-P	..... exempt	The proposed alternative method of account identification	To facilitate secure customer data exchanges between the utility or provider and energy service entities
PSC-40-21-00017-P	..... exempt	The Commission's Order Adopting Utility Energy Registry Modifications	To determine if the Commission committed errors of law or fact in its Order, or if new facts warrant a different result
PSC-44-21-00010-P	..... exempt	Petition to enter a long term loan agreement and to institute a surcharge for recovery	To determine if the issuance of long term debt and a surcharge mechanism for recovery is in the public interest
PSC-44-21-00012-P	..... exempt	Disposition of a New York State tax refund	To determine the disposition of a tax refund obtained by New York American Water Company, Inc.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-44-21-00014-P	..... exempt	Development of distribution and local transmission in accordance with the AREGCB Act	To support distribution and local transmission investments necessary to achieve the the State's climate goals
PSC-46-21-00014-P	..... exempt	Waiver of tariff rules and a related Commission regulation	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest
PSC-47-21-00003-P	..... exempt	Utility processes for customers to consent to sharing data with third parties and how consent options will be communicated	To develop standardized consent requirements that will increase customer familiarity with appropriate data sharing and access
PSC-47-21-00005-P	..... exempt	Utility processes for customers to consent to sharing data with third parties and how consent options will be communicated	To develop standardized consent requirements that will increase customer familiarity with appropriate data sharing and access
PSC-48-21-00007-P	..... exempt	Verizon's Performance Assurance Plan	To consider whether to retire the Performance Assurance Plan
PSC-50-21-00005-P	..... exempt	Notice of intent to submeter electricity and request for waiver	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-50-21-00006-P	..... exempt	Implementation of the Host Community Benefit Program	To consider the proposed administration and implementation related to disbursement of customer bill credits
PSC-50-21-00008-P	..... exempt	Implementation of the Host Community Benefit Program	To consider the proposed administration and implementation related to disbursement of customer bill credits
PSC-50-21-00011-P	..... exempt	Implementation of the Host Community Benefit Program	To consider the proposed administration and implementation related to disbursement of customer bill credits
PSC-50-21-00012-P	..... exempt	Implementation of the Host Community Benefit Program	To consider the proposed administration and implementation related to disbursement of customer bill credits
PSC-52-21-00006-P	..... exempt	Proposed tariff revisions to the Companies firm demand response programs for the 2021-2022 season	To effectuate more efficient firm gas demand response programs to gain operational efficiency and shave peak demand
PSC-01-22-00013-P	..... exempt	Interconnection costs	To consider a petition requesting relief from interconnection costs assigned by the interconnecting utility
PSC-01-22-00015-P	..... exempt	Petition to enter into a lease agreement and impose a surcharge	To consider entry into a lease agreement and to impose a surcharge
PSC-01-22-00017-P	..... exempt	Establishment of the regulatory regime applicable to a renewable natural gas project	To ensure appropriate regulation of a new gas corporation
PSC-02-22-00004-P	..... exempt	Electric system needs and compensation for distributed energy resources	To ensure safe and adequate service and just and reasonable rates, including compensation, for distributed energy resources
PSC-03-22-00004-P	..... exempt	Proposal by electric utilities on a coordinated electric grid planning process	To support distribution and local transmission investments necessary to achieve the the State's clean energy and climate goals

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-04-22-00004-P	..... exempt	Extension of the State Universal Service Fund	To continue to provide universal service at a reasonable rate in certain service territories
PSC-04-22-00005-P	..... exempt	Petition to continue development and recover the costs of 23 local transmission projects	To ensure safe and adequate service at just and reasonable rates and to support the State's clean energy and climate goals
PSC-05-22-00001-P	..... exempt	Green gas products	To consider an extension of the waiver permitting energy service companies to serve existing customers on green gas products
PSC-05-22-00004-P	..... exempt	Initial Tariff Schedule	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-05-22-00005-P	..... exempt	Disposition of a garbage and refuse tax refund	To determine the disposition of tax refunds and other related matters
PSC-06-22-00009-P	..... exempt	Waiver of tariff rules and a related Commission regulation	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest
PSC-10-22-00014-P	..... exempt	Amendments to Outdoor Gas Lighting tariff provisions	To eliminate the outdated provisions concerning the use of natural gas for decorative outdoor lighting
PSC-10-22-00016-P	..... exempt	Amendments to Outdoor Gas Lighting tariff provisions	To eliminate the outdated provisions concerning the use of natural gas for decorative outdoor lighting
PSC-11-22-00012-P	..... exempt	Policies, budgets, and targets to support space and water heating electrification programs	To consider revised budgets and targets for Con Edison's New York Clean Heat Program
PSC-12-22-00006-P	..... exempt	Electric metering equipment	To consider use of electric metering equipment and ensure consumer bills are based on accurate measurements of electric usage
PSC-12-22-00007-P	..... exempt	Expanded Solar For All Program for low-income customers	To consider the appropriate design of an opt-out community solar program for low-income customers
PSC-12-22-00010-P	..... exempt	Proposed major rate increase in Liberty SLG's gas revenues	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-13-22-00006-P	..... exempt	Proposed major rate increase in Con Edison's delivery revenues of approximately \$500 million (or 18.2% in total revenues)	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-13-22-00009-P	..... exempt	Proposed major rate increase in Con Edison's delivery revenues of approximately \$1.2 billion (or 11.2% in total revenues)	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-13-22-00011-P	..... exempt	Positive revenue adjustments associated with emergency response, damage prevention and leak management for 2020	To consider a rehearing petition
PSC-13-22-00014-P	..... exempt	Petition to develop and construct local transmission projects and to allocate and defer associated costs	To ensure safe and adequate service at just and reasonable rates and to support the State's clean energy and climate goals

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-14-22-00008-P	..... exempt	An opt-out community distributed generation program	To establish the program rules for offering community distributed generation on and opt-out basis in New York State
PSC-15-22-00003-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-15-22-00004-P	..... exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-15-22-00005-P	..... exempt	Transfer of street lighting facilities	To consider the transfer of street lighting facilities to the Town of Walkill
PSC-18-22-00002-P	..... exempt	NYSEG and RG&E's petition for a waiver of its 2021 customer service quality performance	To determine if NYSEG and RG&E's petition for waiver is in the public interest
PSC-18-22-00004-P	..... exempt	Utility-owned ESR participation in the New York Independent System Operator, Inc. (NYISO) administered wholesale markets	To consider if Con Edison should use an ESR in NYISO markets, and whether any conditions are appropriate for such use
PSC-18-22-00005-P	..... exempt	Agreement for the provision of water service and waivers	To consider whether the terms of a service agreement and requested waivers are in the public interest
PSC-18-22-00007-P	..... exempt	Extension of deadline	Whether it is in the public interest to extend the deadline to allow the developer more time to energize residential units
PSC-19-22-00021-P	..... exempt	Brooklyn Clean Energy Hub and cost recovery	To meet the Climate Leadership and Community Protection Act's goal of 9,000 megawatts of offshore wind generation
PSC-19-22-00022-P	..... exempt	Modification of Con Edison's electric tariff	To either eliminate or waive a provision of the Standby Service Offset Tariff
PSC-19-22-00023-P	..... exempt	Utility-owned ESR participation in the New York Independent System Operator, Inc. (NYISO) administered wholesale markets	To consider if O&R should use an ESR in NYISO markets, and whether any conditions are appropriate for such use
PSC-19-22-00024-P	..... exempt	Transfer of street lighting facilities	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction
PSC-19-22-00025-P	..... exempt	Application of PSL provisions to Xerox as an electric corporation and water-works corporation	To consider whether Xerox should be exempt from PSL provisions, including requirements for full reports and keeping accounts
PSC-20-22-00004-P	..... exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-20-22-00005-P	..... exempt	Proposed tariff amendment to eliminate references to mercury vapor lamps and to add LED lamps	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-20-22-00006-P	..... exempt	Electric metering equipment	To consider use of electric meter and ensure that consumer bills will be based on accurate measurements of electric usage
PSC-20-22-00007-P	..... exempt	A debt financing arrangement with respect to a proposed electric transmission project	To consider the requested financing arrangement, and if approved, what regulatory conditions should apply

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<b>PUBLIC SERVICE COMMISSION</b>			
PSC-20-22-00008-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-20-22-00009-P	..... exempt	Modify lease of utility property	To determine whether to authorize the extension and amendment of the lease of the Volney-Marcy transmission line
PSC-20-22-00010-P	..... exempt	Waiver of 16 NYCRR Sections 86.3(a)(1), 86.3(a)(2), 86.3(b)(2), 86.4(b)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
PSC-20-22-00011-P	..... exempt	Establishment of the regulatory regime applicable to a wind electric generating facility	To ensure appropriate regulation of a new electric corporation
PSC-20-22-00012-P	..... exempt	Electric metering equipment	To consider use of electric submeter and ensure that consumer bills will be based on accurate measurements of electric usage
PSC-21-22-00005-P	..... exempt	To implement the non-pipe alternative factor to recover the costs of approved alternative infrastructure projects	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-21-22-00006-P	..... exempt	Joint petition for a transfer of certain real and personal property	To consider the transfer of certain real and personal property from O&R to Transco
PSC-21-22-00007-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether Atlantic Energy, LLC should be permitted to offer its LED Lighting product to mass market customers
PSC-21-22-00008-P	..... exempt	Cybersecurity requirements	Modify the framework to ensure the protection of utility systems and customer data from cyber events
PSC-21-22-00009-P	..... exempt	Initial Tariff Schedule, P.S.C. No. 1 - Water and waiver of rate setting authority	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-21-22-00010-P	..... exempt	Transfer of control of cable television franchises and systems	To consider whether the transfer of control of cable franchises is in the public interest
PSC-21-22-00011-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether Atlantic Energy, LLC should be permitted to offer its Smart Home Program product to mass market customers
PSC-22-22-00001-EP	..... exempt	Amendment of Con Edison's electric tariff to reduce the likelihood of extreme and sudden price volatility	To protect electric customers from extreme and sudden commodity price volatility
PSC-22-22-00013-P	..... exempt	National Grid' s proposed gas demand response program	To determine if National Grid's proposed gas demand response program is in the public interest
PSC-22-22-00014-P	..... exempt	Amendments to the Standardized Interconnection Requirements	To consider changes to accommodate the interconnection of distributed energy resources by governmental entities
PSC-22-22-00015-P	..... exempt	Proposal to make an adjustment to its URD surcharge	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-22-22-00017-P	06/01/23	Transfer of street lighting facilities	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction
PSC-23-22-00022-P	exempt	Transfer of Arbor Hills' assets and a rate proposal regarding investments made by Liberty in the Arbor Hills system	To determine if the transfer of Arbor Hills' assets and a rate proposal is in the public interest
PSC-23-22-00023-P	exempt	16 NYCRR Article VII waiver	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
PSC-23-22-00024-P	exempt	Minor rate filing	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-24-22-00004-P	exempt	Waiver of tariff rules and a related Commission regulation	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest
PSC-24-22-00005-P	exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-24-22-00006-P	exempt	The replacement of existing cellular antennas on a transmission tower	Whether authorizing the petition is in the public interest
PSC-24-22-00007-P	exempt	St. Lawrence Gas' petition for a waiver of its 2021 service quality performance	To determine if St. Lawrence Gas' petition for waiver is in the public interest
PSC-24-22-00008-P	exempt	Waiver of tariff rules and a related Commission regulation	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest
PSC-24-22-00009-P	exempt	The replacement of existing cellular antennas on a transmission tower	Whether authorizing the petition is in the public interest
PSC-25-22-00004-P	exempt	Electric metering equipment	To ensure that consumer bills are based on accurate measurements of electric usage
PSC-25-22-00005-P	exempt	Notice of intent to submeter electricity and waiver request	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-25-22-00006-P	exempt	The financial impacts of the COVID-19 pandemic	To consider measures to provide relief to those financially impacted by the COVID-19 pandemic
PSC-25-22-00007-P	exempt	Notice of intent to submeter electricity and waiver request	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-26-22-00008-P	exempt	Compensation under the Value of Distributed Energy Resources tariff	To consider compensation mechanisms for legacy baseline hydroelectric and other renewable energy resources
PSC-26-22-00009-P	exempt	Minor rate filing	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-26-22-00010-P	exempt	Notice of intent to submeter electricity and request for waiver	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-27-22-00004-P	..... exempt	Establishment of the regulatory regime applicable to a solar electric generating facility	To ensure appropriate regulation of a new electric corporation
PSC-27-22-00005-P	..... exempt	Proposed revisions to the Companies' firm gas demand response programs for the 2022 - 2023 Winter season and going forward	To determine whether to authorize the Companies' proposed modifications to their firm gas demand response programs
PSC-28-22-00007-EP	..... 07/13/23	Modify lease of utility property.	To determine whether to authorize the extension and amendment of the lease of the Volney-Marcy transmission line.
PSC-28-22-00012-P	..... exempt	Transfer of real property.	To determine whether to authorize the transfer of real property.
PSC-28-22-00013-P	..... exempt	Tariff modifications to create a new surcredit and housekeeping changes.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-28-22-00014-P	..... exempt	A debt financing arrangement with respect to an electric transmission line under development.	To review the proposed financing and consider whether it is within the public interest.
PSC-28-22-00015-P	..... exempt	Conditions for mitigating potential vertical market power risk.	To reconsider conditions imposed on the ownership of transmission and generation assets to mitigate vertical market power risk.
PSC-29-22-00005-P	..... exempt	Notice of intent to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-29-22-00006-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-29-22-00007-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-29-22-00008-P	..... exempt	The replacement of existing cellular antennas on a transmission tower.	Whether authorizing the petition is in the public interest.
PSC-29-22-00009-P	..... exempt	Area code overlay as relief of the exhausting 716 area code.	To ensure performance in accordance with applicable telecommunications laws, regulations and standards and the public interest.
PSC-30-22-00008-P	..... exempt	Green gas products.	To consider whether the proposed green gas products should be offered to mass-market customers by ESCOs.
PSC-30-22-00009-P	..... exempt	Establishment of the regulatory regime applicable to a battery storage project.	To ensure appropriate regulation of an electric corporation.
PSC-31-22-00003-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-31-22-00004-P	..... exempt	Joint petition for an order authorizing the transfer of certain real and personal property.	To consider the transfer of certain real and personal property from Con Edison to Transco.
PSC-31-22-00005-P	..... exempt	Proposed major rate increase in NYSEG's electric delivery revenues of approximately \$274 million (or 16.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-31-22-00006-P	..... exempt	Proposed major rate increase in NYSEG's gas delivery revenues of approximately \$43.4 million (or 9.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-22-00007-P	..... exempt	Proposed major rate increase in RG&E's gas delivery revenues of approximately \$37.7 million (or 9.7% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-22-00008-P	..... exempt	Pension settlement payout losses incurred in 2021.	Consideration of Liberty's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2021.
PSC-31-22-00009-P	..... exempt	Proposed major rate increase in RG&E's electric delivery revenues of approximately \$93.8 million (or 11.3% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-32-22-00021-P	..... exempt	The proposed transfer of facilities and real property interests associated with an electric corporation.	Consideration of whether the proposed transfer is in the public interest.
PSC-32-22-00022-P	..... exempt	Establishment of the regulatory regime applicable to a wind electric generating facility.	To ensure appropriate regulation of a new electric corporation.
PSC-32-22-00023-P	..... exempt	Bioenergy generation in New York.	To consider compensation for bioenergy generation.
PSC-32-22-00024-P	..... exempt	The proposed transfer of real property interests associated with an electric corporation.	Consideration of whether the proposed transfer is in the public interest.
PSC-32-22-00025-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-32-22-00027-P	..... 08/10/23	Use of preferred name and pronouns.	To provide residential applicants and customers of utilities the option to use their preferred name and/or pronouns.
<b>STATE, DEPARTMENT OF</b>			
DOS-28-22-00009-P	..... 07/13/23	Definition of a "Qualifying 501(c)(4) entity" for the purposes of Part 146 of Title 19 of NYCRR	To correct a technical error regarding Charitable and Non-Charitable Non-Profit Organization Filings with this Department
DOS-29-22-00004-P	..... 09/21/23	Updates to educational standards.	Conform existing regulations to changes required relating to fair housing education.
DOS-30-22-00002-EP	..... 07/27/23	Eligible professions for the purchase, sale and delivery of body armor	Establish criteria for professions requiring the use of body armor and processes for body armor purchase, sale or delivery
DOS-30-22-00007-P	..... 07/27/23	Notaries public	To set standards relating to the performance of notarial acts, including electronic notarial acts
<b>STATE UNIVERSITY OF NEW YORK</b>			
SUN-21-22-00003-EP	..... 05/25/23	State basic financial assistance for the operating expenses of community colleges under the programs of SUNY and CUNY	To modify limitations formula for basic State financial assistance and modify the funding floor

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>TAXATION AND FINANCE, DEPARTMENT OF</b>			
*TAF-46-20-00003-P	..... exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period January 1, 2021 through March 31, 2021
TAF-20-22-00013-P	..... exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period July 1, 2022 through September 30, 2022
TAF-23-22-00006-P	..... 06/08/23	Designation of a records appeals officer to decide appeals from departmental responses to requests for public access to records	To provide for greater flexibility in designating a records appeals officer to decide appeals under FOIL
<b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>			
TDA-01-22-00001-EP	..... 01/05/23	2019 Novel Coronavirus (COVID-19) masking requirements in congregate shelters	Protect the well-being of shelter staff and persons staying in congregate shelters
TDA-21-22-00004-P	..... 05/25/23	Unclaimed support funds	To amend the state regulation concerning unclaimed support funds to reflect federal and recently-enacted State statutory requirements
<b>TRANSPORTATION, DEPARTMENT OF</b>			
TRN-18-22-00001-P	..... 05/04/23	Regulation of commercial motor carriers in New York State	To repeal or modify obsolete provisions, make technical changes, and implement non-discretionary statutory provisions
<b>VICTIM SERVICES, OFFICE OF</b>			
OVS-31-22-00010-P	..... 08/03/23	Office of Victim Services direct reimbursement to medical providers for services to sexual assault survivors	To ensure OVS' related regulations reflected the current law and to provide guidance to the medical providers
OVS-31-22-00011-P	..... 08/03/23	Office of Victim Services reimbursement for items of essential personal property	To define and establish reasonable reimbursement amounts for items of EPP related to welfare
<b>WORKERS' COMPENSATION BOARD</b>			
WCB-09-22-00002-P	..... 03/02/23	Intraoperative Neurophysiological Monitoring	To define IOM and clarify that remote IOM is prohibited except in very limited circumstances
WCB-20-22-00002-EP	..... 05/18/23	Sacroiliac joint (SIJ) fusion and peripheral nerve stimulation	To add SIJ fusion and peripheral nerve stim to the list of Special Services requiring prior authorization to conform to the MTGs
WCB-26-22-00002-P	..... 06/29/23	Pharmacy networks	To require carriers to notify pharmacies when there is a network

# SECURITIES OFFERINGS

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## STATE NOTICES

Published pursuant to provisions of General Business Law  
[Art. 23-A, § 359-e(2)]

## DEALERS; BROKERS

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4M REI Fund II, LLC  
1011 16th Ave. S, Nashville, TN 37212  
*State or country in which incorporated* — Delaware

ALPS Distributors, Inc.  
1345 Avenue of the Americas, 32nd Fl., New York, NY 10105  
*State or country in which incorporated* — Delaware

Amundi  
91-93 Blvd. Pasteur, 75015 Paris, France  
*State or country in which incorporated* — France

Bellwood Road Investment Partners LLC  
3843 W. Chester Pike, Newtown Square, PA 19073  
*State or country in which incorporated* — Pennsylvania

BIF II - Brook Coinvest, LLC  
320 Broad St., Suite 600, Charleston, SC 29401  
*State or country in which incorporated* — Delaware limited liability  
company

Crossing JV LLC  
751 Arbor Way, Suite 210, Blue Bell, PA 19422  
*State or country in which incorporated* — Delaware

CX EOS Orlando, DST  
4890 W. Kennedy Blvd., Suite 200, Tampa, FL 33609  
*State or country in which incorporated* — Delaware

CX Lively Indigo Run, DST  
4890 W. Kennedy Blvd., Suite 200, Tampa, FL 33609  
*State or country in which incorporated* — Delaware

Dothan 5, LLC  
267 Kentland Blvd., Gaithersburg, MD 20878  
*State or country in which incorporated* — Alabama

Guilford Road Investment Partners LLC  
3843 W. Chester Pike, Newtown Square, PA 19073  
*State or country in which incorporated* — Pennsylvania

inland Securities Corporation  
2901 Butterfield Rd., Oak Brook, IL 60523  
*State or country in which incorporated* — Delaware

Joy Park JV LLC  
751 Arbor Way, Suite 210, Blue Bell, PA 19422  
*State or country in which incorporated* — Delaware

Park 23 PCC, LLC  
1004 Dominion Hill Dr., Cary, NC 27519  
*State or country in which incorporated* — Alabama

PIMCO Investments LLC  
1633 Broadway, New York, NY 10019  
*State or country in which incorporated* — Massachusetts

Piper Road Investment Partners LLC  
3843 W. Chester Pike, Newtown Square, PA 19073  
*State or country in which incorporated* — Pennsylvania

UMB Distribution Services, LLC  
818 A1A Hwy., Ponte Vedra Beach, FL 32082  
*State or country in which incorporated* — Delaware

Vivo Living Jacksonville, LLC  
16150 SW Upper Boones Ferry Rd., Portland, OR 97224  
*State or country in which incorporated* — Delaware

Walden Mutual Bank  
66 N. Main St., Concord, NH 03301  
*State or country in which incorporated* — New Hampshire



# ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

## SEALED BIDS

ABATE  
ACM  
Auburn Correctional Facility  
Auburn, Cayuga County

Sealed bids for Project No. M3135-C, comprising a contract for Construction Work, Abate ACM, Basement, Building 1, Auburn Correctional Facility, 135 State Street, Auburn (Cayuga 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, August 31, 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 \$23,600 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 \$500,000 and \$1,000,000 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 Jessica Cook, Jessica Hoffman, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <https://ogs.ny.gov/ACPL/>

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

XX 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 237 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 August 17, 2022 at Auburn CF-OGS Field Office, 29 W. Garden St., Auburn, 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 Brad Young (607-425-3366) 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 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. 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: 3% 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 docu-

ments 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](mailto: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](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By OGS - Design & Construction Group



# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

## PUBLIC NOTICE

### Division of Criminal Justice Services

Pursuant to the Federal program requirements for the Edward Byrne Memorial Justice Assistance Grant (JAG) FY 2022 program solicitation, the NYS Division of Criminal Justice Services (Division) hereby gives notice regarding New York State's application for such funding:

On August 1, 2022, the Division will submit a funding application requesting New York State's federal fiscal year (FFY) 2022 award of \$9,231,239 appropriated under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. The application generally describes the proposed program activities for the four-year grant period and the types of programs for which funding will be used.

This application is required to be made available for a 30-day period for public review and comment. The application will be available on the Division's website, and requests for copies may be made via e-mail to: [funding@dcjs.ny.gov](mailto:funding@dcjs.ny.gov). Requests may also be made in writing or by calling the Division offices during regular business hours. If a paper copy of the application is requested, a payment of \$0.25 per page will be due to the Division in accordance with Public Officer Law § 87.

*For further information, contact:* Division of Criminal Justice Services, Office of Program Development and Funding, Yvonne Turner, Director, 80 S. Swan St., Albany, NY 12210, (518) 457-8462, [funding@dcjs.ny.gov](mailto:funding@dcjs.ny.gov)

## 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.

2022-0367 Matter of Joanne and Mark Lotter located at 301 Walter Street, Village of Freedonia (County of Chautauqua), NY, for a variance concerning barrier around a swimming pool Requirements. (Board Variance).

## 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.

2022-0402 Matter of Nancy Harty, 10 Humphrey Lane, Blue Point, NY 11715, for a variance concerning safety requirements, including height under a girder. Involved is an existing dwelling located at 10 Humphrey Lane, Blue Point, Town of Brookhaven, NY 11715, County of Suffolk, State of New York.

2022-0408 Matter of Richard Trpicovsky Expediting, Richard Trpicovsky, 173 N. Main Street, #152, Sayville, NY 11782, for a variance concerning safety requirements, including height under a girder. Involved is an existing dwelling located at 226 Brook Street, Oakdale, Town of Islip, NY 11769, County of Suffolk, State of New York.

## PUBLIC NOTICE

### Department of State Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2022-0406 in the Matter of Construction Expediting Inc., 134 Route 59, Suite 201, Suffern, NY 10901, for a variance concerning safety requirements, including aerial apparatus access road. Involved is a multi family dwelling located at 242 Blauvelt Road, Town of Ramapo, NY 10952, County of Rockland, State of New York.

2022-0407 in the Matter of Aaron M. Schwartz, 346 S. Wall Street, Kingston, NY 12401, for a variance concerning safety requirements, including ceiling height. Involved is a one-family dwelling located at 346 S. Wall Street, City of Kingston, NY 12401, County of Ulster, State of New York.

2022-0409 in the Matter of CT Basement Systems, Daniel Medina,

33 Progress Avenue, Seymour, CT 06483, for a variance concerning safety requirements, including ceiling height and stair width. Involved is a one family dwelling located at 146 Seventh Avenue, Village of Pelham, Ny 10803, County of Westchester, State of New York.

### **PUBLIC NOTICE**

#### **Department of State Uniform Code Variance/Appeal Petitions**

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2022-0415 in the Matter of Michael and Michaela Cummings, 54 Monarch Drive, Newburgh, NY 12550, for a variance concerning safety requirements, including a pool fence. Involved is a one family dwelling located at 54 Monarch Drive, Town of Newburgh, NY 12550, County of Orange, State of New York.

2022-0416 in the Matter of Patrice Wellington, 107 Sickles Avenue, New Rochelle, NY 10801, for a variance concerning safety requirements, including ceiling height. Involved is a one family dwelling located at 107 Sickles Avenue, City of New Rochelle, NY 10801, County of Westchester, State of New York.

# EXECUTIVE ORDERS

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## **Executive Order No. 3.10: Continuing the Declaration of Disaster Emergency.**

WHEREAS, pursuant to Executive Order 211, issued July 6, 2021, a statewide disaster was declared across the State due to gun violence;

NOW, THEREFORE, I, KATHY HOCHUL, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Article 2-B of the Executive Law, York, do hereby extend the state disaster emergency as set forth in Executive Order 211, as continued in Executive Order 3.9, and continue the terms, conditions, and suspensions contained in Executive Order 211, until August 19, 2022.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twentieth day of July in the year two thousand twenty-two

*BY THE GOVERNOR*

/S/ Kathy Hochul

/s/ Karen Persichilli Keogh

*Secretary to the Governor*

## **Executive Order No. 11.8: Declaring a Disaster Emergency in the State of New York.**

WHEREAS, New York continues to experience COVID-19 transmission, with the rate of new COVID-19 hospital admissions remaining at over 100 new admissions a day;

WHEREAS, the SARS-CoV-2 variant known as Omicron, determined a variant of concern by the World Health Organization and the Centers for Disease Control and Prevention, is known to be highly-transmissible and to necessitate that persons have additional doses of vaccines for optimal protection;

WHEREAS, the state must pursue a coordinated approach to ensure hospital capacity statewide is able to meet regional needs;

WHEREAS, the State government must support the municipalities and counties in their efforts to facilitate and administer vaccinations and tests for COVID-19, and to prevent the virus from continuing to spread at such rates;

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 the Laws of New York State, do hereby continue the state disaster emergency as set forth in Executive Order 11, and continue the suspensions and modifications of law contained in Executive Order 11 and its successors, through August 13, 2022.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this fourteenth day of July in the year two thousand twenty-two

*BY THE GOVERNOR*

/S/ Kathy Hochul

/s/ Karen Persichilli Keogh

*Secretary to the Governor*

