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**NEW YORK STATE**

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**REGISTER**

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

***For notices published in this issue:***

- the 60-day period expires on January 15, 2023
- the 45-day period expires on December 31, 2022
- the 30-day period expires on December 16, 2022

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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.

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

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

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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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## Office of Children and Family Services

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### EMERGENCY RULE MAKING

#### Updates Provisions to Reflect the Enacted Budget Regarding Child Care Assistance Rates and Work Requirements

**I.D. No.** CFS-37-22-00003-E

**Filing No.** 899

**Filing Date:** 2022-10-27

**Effective Date:** 2022-10-27

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

**Action taken:** Amendment of sections 415.2 and 415.9 of Title 18 NYCRR.

**Statutory authority:** Social Services Law, sections 20(3)(d), 34(3)(f), 410-u, 410-w(1)(d), 410-x(4); L. 2022, ch. 53

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

**Specific reasons underlying the finding of necessity:** The adoption of these regulations on an emergency basis is necessary to protect the health, safety and welfare of families and children receiving subsidized child care in New York State. Federal statute, section 658E(c)(4)(A) of the Child Care and Development Block Grant Act, and federal regulation, 45 CFR § 98.45(a), require that the State establish payment rates for federally-funded child care subsidies that are sufficient to ensure equal access for eligible children.

The market rates that are being replaced are based on a survey conducted

in 2018 and as a result, continuing to maintain the existing rates could result in subsidized families losing equal access for eligible children to child care arrangements, or being unable to find appropriate child care. This rulemaking also codifies the recent revision to Social Services Law that expands access to child care assistance by removing the work requirement for those receiving such assistance to attend a post-secondary education program.

**Subject:** Updates provisions to reflect the enacted budget regarding child care assistance rates and work requirements.

**Purpose:** To update provisions on child care assistance funded under the NYS Child Care Block Grant and Social Services Block Grant.

**Text of emergency rule:** Subparagraph (iv) of paragraph (3) of subdivision (a) of section 415.2 of Title 18 NYCRR is amended to read as follows:

(iv) a family is receiving public assistance or has income up to 200 percent of the State income standard and child care services are needed for the child's caretaker to attend a two- year program other than one with a specific vocational sequence leading to an associate's degree or a certificate of completion, or a four year college or university program leading to a bachelor's degree provided:

(a) the program is reasonably expected to improve the earning capacity of the caretaker; *and*

[(b) the caretaker is and continues to participate in non-subsidized employment whereby the caretaker works at least 17 1/2 hours per week and earns wages at a level equal to or greater than the minimum amount required under Federal and State Labor Law while pursuing the course of study; and]

[(c)](b) the caretaker can demonstrate his or her ability to successfully complete the course of study;

Subdivisions (a) through (i) of section 415.9 of Title 18 NYCRR are amended to read as follows:

A social services district has the option to apply the weekly or daily rate, except as provided below, when care is provided for 30 or more hours per week on five or less days. When care is provided for less than 30 hours per week, the daily[, ] or part-day [or hourly ] rates must be applied, as applicable.

(a)...

(b)...

(c) Part-day rates must be applied when the child care services are provided for [at least three but ]less than six hours per day. [Part-day rates also must be applied for children who are attending pre-kindergarten, kindergarten or higher grade and who are provided care before and/or after school for less than three hours per day by day care centers or school-age child care programs that do not charge on an hourly basis.

(d) With the exception noted in subdivision (c) of this section, the hourly rates in this section must be applied when child care services are provided for less than three hours per day.

(e)](d) ....

[(f)](e) ....

[(g) The rate of payment for child care services provided to a child determined to have special needs is the actual cost of care up to the statewide limit of the highest weekly, daily, part-day or hourly market rate for child care services in the State, as applicable, based on the amount of time the child care services are provided per week regardless of the type of child care provider used or the age of the child.

(h)](f) ....

[(i)](g) ....

Subdivisions (j) and (k) of section 415.9 of Title 18 NYCRR are repealed and replaced as follows:

(h) Establishment of market rates.

(1) The Office will establish local market rates for child care services for each social services district set forth by the type of provider, the age of the child and the amount of time the child care services are provided per week.

(2) There are two market rates for informal child care, a standard

market rate and an enhanced market rate. The standard market rate for informal child care will be 65 percent of the applicable registered family day care market rate. The enhanced market rate for informal child care will be 70 percent of the applicable registered family day care market rate. The enhanced market rate will apply to those informal child care providers who have provided notice to, and have been verified by, the applicable enrollment agency as having completed 10 or more hours of training annually in the areas set forth in section 390-a(3)(b) of the Social Services Law. This 10 or more hours of training must be in addition to the training requirements in section 415.13 of this Part. A social services district has the option, if it so chooses in the child care portion of its Child and Family Services Plan, to increase the enhanced market rate for informal child care providers to up to 75 percent of the applicable registered family day care market rate.

(3) The social services district must use the most recent market rates established by the Office when calculating payments for child care services. The market rates are established by the Office at no less than the eightieth percentile of the most recent market-related survey.

(4) The market rate for child care services provided to a child determined to have special needs, pursuant to subdivision 415.1(c) of this Part, is a percentage specified by the office applied to the rates set under paragraph 415.9(h)(3) of this Part. The special needs rate will only be applied if the parent demonstrates the special needs of the child require child care related services of a type or amount beyond that which is generally required by children of similar age, and the total cost of providing child care services exceeds the rates set in paragraph 415.9(h)(3) of this Part.

(i) When a social services district pays for child care services provided by an eligible provider located in another district, the applicable market rate is the rate for the district in which the child care provider is located.

*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. CFS-37-22-00003-EP, Issue of September 14, 2022. The emergency rule will expire December 25, 2022.

*Text of rule and any required statements and analyses may be obtained from:* Lisa Vasnani, Office of Children and Family Services, 52 Washington Street, Rensselaer, NY 12144, (518) 474-8310, email: regcomments@ocfs.ny.gov

#### **Regulatory Impact Statement**

##### **1. Statutory authority:**

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Commissioner of the Office of Children and Family Services (Office) to establish rules, regulations, and policies to carry out the Office's powers and duties under the SSL.

Section 34(3)(f) of SSL authorizes the Commissioner of the Office to establish regulations for the administration of public assistance and care within the state.

Section 410-u of the SSL establishes the New York State Child Care Block Grant.

Section 410-w(1)(d) of the SSL governs eligibility for low-income families attending post secondary educational programs.

Section 410-x(4) of the SSL requires the Office to establish, in regulation, the applicable market-related payment rates for payments made under the New York Child Care Block Grant. Such rates must be sufficient to ensure equal access for eligible children to comparable child care assistance to children whose parents are not eligible to receive child care assistance.

Chapter 53 of the Laws of 2022 requires that the market rate for child care assistance payments be increased to the eightieth percentile. Chapter 56 of the Laws of 2022 requires the elimination of work requirements for persons also attending higher education.

42 U.S.C. § 9858c(c)(4)(A) and federal regulation, 45 CFR § 98.45(a) require that the state establish payment rates for federally funded child care assistance that are sufficient to ensure such equal access to care that is provided to children whose parents/caretakers are not eligible to receive assistance under federal or state programs.

Federal regulation 45 CFR § 98.45(f)(2)(i) requires that payment rates be based on a local market survey conducted no earlier than two years prior to the effective date of the currently approved state plan for the Child Care and Development Fund (CCDF).

Federal regulation 45 CFR § 98.45(l)(3)(i) requires that payment practices reflect generally accepted payment practices of child care providers that serve children who do not receive CCDF subsidies, including paying on a part-time or full-time basis, rather than paying for hours of service or smaller increments of time.

##### **2. Legislative objectives:**

This rule implements statutory requirements pursuant to the New York State Fiscal Year 2022-2023 Enacted Budget (Chapters 56 and 53 of the Laws of 2022) related to increasing the market rate to the eightieth

percentile. The intent is to have child care assistance payment rates that reflect market conditions and that are adequate to enable families in receipt of child care assistance to access child care services comparable to other families not in receipt of a child care subsidy. Further eliminating hourly rate ensures compliance with 45 CFR § 98.45(l)(3)(i) which requires payment on a full-time or part-time basis, rather than paying for smaller increments of time.

This rule also removes the 17.5-hour per week work requirement for families receiving child care assistance while pursuing post-secondary education in accordance with SSL 410-w(1)(d) as amended by Chapter 56 of the Laws of 2022. This will allow further flexibility for social services districts. Additionally, the removal of this requirement will allow parents to focus on their educational goals, which will promote greater self-sufficiency.

##### **3. Needs and benefits:**

This rule is necessary to comply with Chapter 53 of the Laws of 2022, which requires that the market rate for child care assistance payments be increased to the eightieth percentile. Increasing the market rate for child care assistance will aid in stabilizing the child care market, and allow families in receipt of child care assistance access to care comparable to families not in receipt of child care assistance.

The state is required under federal regulation 45 CFR § 98.45(f)(2)(i) to adjust child care payment rates with each new State Plan based on a current survey of providers. The State Plan for the period October 1, 2021, through September 30, 2024, has been conditionally approved by the federal government. These regulations are needed to adjust existing rates that were established based on a survey completed in 2018. A more recent survey of providers was conducted by OCFS in 2022. Prior to conducting the 2022 survey, the composition of the county cluster groups was reassessed using the 2018 market rate survey data. No changes were made to the county cluster groups from 2018. The data was analyzed to establish market rates for child care subsidy at the 80th percentile of the prices reported by providers on the 2022 market rate survey, conducted by the OCFS Human Service Call Center. The reported rates were clustered into five distinct groupings of counties based on similarities in rates among the counties in each group. The rates established for each cluster of counties are based on the prices that were reported in the survey. Adjustments to the child care assistance program market rates reflect the market place and provide access comparable to the access of families not receiving a child care subsidy, which is required by federal and state law.

This rule is also necessary to comply with SSL 410-w(1)(d) as amended by Chapter 56 of the Laws of 2022 which removes the 17.5-hour per week work requirement for families receiving child care assistance while pursuing post-secondary education. Removal of this requirement can lead to greater success in the completion of a degree program for those families in receipt of child care assistance and would lead to more opportunities for such families to obtain long term employment in the communities in which they reside.

This rule is additionally necessary to remove hourly rates in accordance with 45 CFR § 98.45(l)(3)(i) which requires payment on a full-time or part-time basis, rather than paying for smaller increments of time. With this amendment, a social service district will have the ability to apply a weekly, daily, or part-day rate as applicable. The definition of part-day rate will be amended to apply when child care assistance is provided for less than six hours per day.

Finally, this rule is necessary to amend the rate of payment for child care assistance provided to a child determined to have special needs. This amendment is necessary to ensure equity of practice, so that all families benefit equally from the policy. This will also allow approval for a special needs rate to be associated with the child, rather than with a specific provider. This will decrease the documentation burden on providers, as they will no longer be required to submit specific documentation to demonstrate their increased cost of providing child care services for a child with special needs.

##### **4. Costs:**

Under section 410-v(2) of the SSL, the state is responsible for reimbursing social services districts for seventy-five percent (75%) of the costs of providing subsidized child care services to public assistance recipients, and social services districts are responsible for the other twenty-five percent (25%) of such costs. The state is responsible for reimbursing social services districts for one hundred percent (100%) of the costs of providing child care services to other eligible low-income families. The state reimbursement for these child care services is made from the state and/or federal funds allocated to the New York State Child Care Block Grant and is limited on an annual basis in each social services district to that district's New York State Child Care Block Grant allocation for that year.

Under the New York State Budget for SFY 2022-2023, social services districts will receive allocations totaling \$894.6 million in federal and state funds under the New York State Child Care Block Grant. These allocations are in addition to \$548.8 million in available rollover of unspent



funds from SFY 2020-21 and \$609 million in federal pandemic funding, which will support subsidy expansion in both SFY 2022-23 and SFY 2023-24. Social services districts have the option to transfer a portion of their Flexible Fund for Family Services allocations to the New York State Child Care Block Grant to supplement their Block Grant allocations. Social services districts may use block grant funds to serve the optional category of eligible individuals set forth in these regulations.

The special needs rate will be provided as a percentage set forth by the office that is applied to the rates set forth under 18 NYCRR 415.9(h)(3). State reimbursement to localities will be consistent with the reimbursement described above. It is unknown what the cumulative cost will be as the special needs rate, as it currently is structured, is underutilized.

The removal of hourly rates will increase spending in limited circumstances. The hourly rate is currently only utilized in situations where care is provided to a child for less than three hours per day and less than 30 hours per week, or when care is provided for more than 12, but less than 15 hours per day. The part-day rate is already utilized when care is provided before or after school for less than three hours per day by day care centers or school-aged child care centers that do not charge on an hourly basis. Additionally, hourly rates are not used in calculating fiscal estimates and are not utilized by New York City.

#### 5. Local government mandates:

Social services districts will be required to make payments for subsidized child care services as authorized in regulation. Social services districts will need to review cases to determine whether the payments reflect applicable market rate. Payment adjustments will have to be made, as appropriate.

#### 6. Paperwork:

Social services districts will need to process any required payment adjustments after conducting the necessary case reviews.

Districts that elect to provide child care assistance for a caretaker in receipt of temporary assistance or that has income up to 200 percent to participate in a two-year college or four-year college program that leads to a degree must review and, if necessary, amend their Child and Family Services Plan to reflect the removal of the 17.5-hour work requirement.

#### 7. Duplication:

The new requirements do not duplicate any existing state or federal requirements.

#### 8. Federal standards:

The regulations are consistent with applicable federal regulations, 45 CFR § 98.45(a) and (f)(2)(i) which require that the state establish payment rates that are sufficient to ensure equal access to comparable care received by unsubsidized families, and be based on a survey of providers. 45 CFR § 98.45(1)(3)(i) requires that payment practices reflect generally accepted payment practices of child care providers that serve children who do not receive CCDF subsidies, including paying on a part-time or full-time basis rather than paying for hours of service or smaller increments of time.

#### 9. Compliance schedule:

These provisions must be effective on June 1, 2022.

#### 10. Alternative approaches:

No alternative approaches were considered since federal regulation requires that payment rates be based on a local market rate survey.

### **Regulatory Flexibility Analysis**

#### 1. Effect of Rule:

There are approximately 15,000 licensed/registered child care programs, 2,100 permitted group day care programs, and 6,000 enrolled legally exempt child care programs in New York State, and 58 social services districts affected by this rule.

#### 2. Compliance requirements:

All 58 social services districts will be required to continue making payments for child care assistance based on the applicable market rates. Social services districts will need to review all cases to determine whether the payments reflect the applicable market rate increases and changes to the special needs rate. Payment adjustments will have to be made, as appropriate.

Districts that elect to provide child care assistance for a caretaker in receipt of temporary assistance or that has income up to 200 percent of the state income standard to participate in a two-year college or four-year college program that leads to a degree must review and, if necessary, amend their Child and Family Services Plan to reflect the removal of the 17.5-hour work requirement.

#### 3. Professional services:

Neither social services districts nor child care providers should have to hire additional professional staff in order to implement these regulations.

#### 4. Compliance costs:

Under section 410-v(2) of the Social Services Law, the state is responsible for reimbursing social services districts for seventy-five percent (75%) of the costs of providing subsidized child care services to public assistance recipients; social services districts are responsible for the other twenty-five percent (25%) of such costs. In addition, the state is

responsible for reimbursing social services districts for one hundred percent (100%) of the costs of providing child care services to other eligible low-income families. The state reimbursement for these child care services is made from the state and/or federal funds allocated to the New York State Child Care Block Grant, and is limited in each district to that district's New York State Child Care Block Grant allocation for that year.

Under the State Budget for SFY 2022-2023, social services districts will receive allocations totaling \$894.6 million in federal and state funds under the New York State Child Care Block Grant. These allocations are in addition to \$548.8 million in available rollover of unspent funds from SFY 2020-21 and \$609 million in federal pandemic funding, which will support subsidy expansion in both SFY 2022-23 and SFY 2023-24. Social services districts have the option to transfer a portion of their Flexible Fund for Family Services allocations to the New York State Child Care Block Grant to supplement their Block Grant allocations.

The special needs rate will be provided as a percentage set forth by the office that is applied to the rates set forth under 18 NYCRR 415.9(h)(3). State reimbursement to localities will be consistent with the reimbursement described above. It is unknown what the cumulative cost will be as the special needs rate, as it currently is structured, is underutilized.

The removal of hourly rates will increase spending in limited circumstances. The hourly rate is currently only utilized in situations where care is provided to a child for less than three hours per day and less than 30 hours per week, or when care is provided for more than 12, but less than 15 hours per day. The part-day rate is already utilized when care is provided before or after school for less than three hours per day by day care centers or school-aged child care centers that do not charge on an hourly basis.

#### 5. Economic and technological feasibility:

The child care providers and social services districts affected by the regulations have the economic and technological ability to comply with the regulations.

#### 6. Minimizing adverse impact:

OCFS believes there will be minimal adverse impact associated with implementing this rule. The market rates were developed in accordance with federal guidelines for conducting a market rate survey of child care providers, using standard statistical methodology, to minimize adverse impact. Approximately 4,500 licensed and registered child care providers (including New York City permitted group day care programs) completed the survey. Prior to conducting the 2022 survey, the composition of the county cluster groups was reassessed using the 2018 market rate survey data. No changes were made to the county cluster groups from 2018. The data was analyzed to establish market rates for child care subsidy at the 80th percentile of the prices reported by providers on the 2022 market rate survey. The reported rates were clustered into five distinct groupings of counties based on similarities in rates among the counties in each group. The rates established for each cluster of counties are based on the prices that were reported in the survey. Adjustments to the child care assistance program market rates reflect the market place and provide access comparable to the access of families not receiving a child care subsidy.

Adjustments to the child care assistance market rates reflect the current child care market place. These rate adjustments provide comparable access for families receiving child care assistance to those families not receiving child care assistance, as required by federal and state laws. The adjustments in the market rates will enable social services districts to provide temporary assistance (TA) recipients and low-income families receiving subsidized child care services with access to child care providers. This will enable temporary assistance and low-income families to work, thereby reducing the number of families in need of TA. It also should assist the districts in meeting their federal participation rates for TA recipients because there should be a reduction in the number of TA recipients who are excused from work activities due to a lack of child care.

The standard rates for informal child care providers are sixty-five percent (65%) of the applicable rates for registered family day care. This differential reflects the higher costs associated with meeting the higher regulatory standards to become a registered family day care provider. The enhanced rates for informal child care providers are seventy percent (70%) of the applicable rates for registered family day care. The additional five percent (5%) provides an incentive to informal child care providers to pursue a minimum of 10 hours of approved training. Additionally, the regulation allows local social services districts, which so choose in their Child and Family Services Plans, to increase the enhanced rate up to seventy-five percent (75%) of the applicable registered family day care rate.

The rates for legally exempt group child care are seventy-five percent (75%) of the rates for day care centers. This differential reflects the higher costs associated with meeting the higher regulatory standards to become a licensed day care center. Additionally, the regulation allows local social services districts, which so choose in their Child and Family Services

Plans, to establish one or two enhanced rates for eligible legally exempt group child care programs, each of which may be up to eighty-one percent (81%) of the applicable day care center rate.

Removal of the hourly rates for child care assistance will provide social services districts with the ability to apply a weekly, daily, or part-day rate, as applicable. The definition of part-day rate will be amended to apply when child care assistance is provided for less than six hours per day. The number of cases that will be affected by the removal of the hourly rate will be minimal. By removing the hourly rate within regulation, OCFS will become compliant with federal regulation 45 CFR § 98.45(1)(3)(i) that requires payment practices reflect generally-accepted payment practices of child care providers that serve children who do not receive Child Care Development Fund subsidies, including paying on a part-time or full-time basis, rather than paying for hours of service or smaller increments of time.

The amendment to the rate of payment for child care assistance provided to a child determined to have special needs will provide families receiving child care assistance with greater access to child care services. This rate is a percentage specified by the office that is applied to the rates set forth under 18 NYCRR 415.9(h)(3). The parent must demonstrate that the special needs of the child result in an additional child care-related service beyond what is generally required by children of a similar age and the total cost of providing child care services exceeds the applicable market rate. Recently, OCFS has conducted numerous calls with local districts where several districts have indicated that the providers in their communities are not willing to provide care for children with special needs who are receiving child care assistance. With these changes to the rate of payment for children determined to be special needs and amending the requirements to allow for the parent and/or caretaker to submit documentation with the provider, a provider may be more willing to provide care for this population and will allow for greater access to child care services for these children. This amendment will more closely associate the special needs rate with the child, rather than with a specific provider.

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

In accordance with federal regulatory requirements, OCFS conducted a market rate survey of licensed/registered child care providers from across the state, in all modalities of care, and serving children of different ages. Prior to conducting the survey, a letter was sent to all regulated child care providers to inform them that they might be contacted to participate in the market rate survey. A copy of the survey questions was also sent so that providers could prepare responses. The Human Services Call Center conducted the survey by telephone and online, on behalf of OCFS. Surveys were conducted in English and in Spanish, as needed, with resources available to assist providers in other languages, if needed, as well. Rate data was collected from approximately 4,500 providers and that information formed the basis for the updated market rates.

OCFS has also conducted district calls with social services districts where many district staff vocalized support of new market rates and the need for a modification on how the special needs rate is applied to child care assistance cases. OCFS will provide guidance, technical assistance, and outreach to those that are impacted by this rule. Specifically, OCFS will assist social services districts that need to update their Child and Family Services Plan to reflect the removal of the 17.5-hour work requirement listed in Appendix L. OCFS will send notice of this rule via email to all child care programs for which it has valid email addresses and post this information on the OCFS child care website. This will include the contact information of someone in OCFS to answer questions on this rule and the email address of the regulations' mailbox (regcomments@ocfs.ny.gov) to provide public comments

#### Rural Area Flexibility Analysis

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

The regulations will affect the 44 social services districts located in rural areas of the state and the child care providers located in those social services districts.

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

The regulations will not result in any new reporting or recordkeeping requirements for social services districts. Social services districts will be required to make payments for child care assistance based on the new market rates. Social services districts will need to review cases to determine if the payments reflect the appropriate market rate. The removal of hourly rates will simplify payment processes for districts. Additionally, changing the special needs rate to a percentage set forth by the office that is applied to the rates set forth under 18 NYCRR 415.9(h)(3), will decrease the documentation burden on providers, as they will no longer be required to submit specific documentation to demonstrate their increase cost of providing child care services for a child with special needs. Further, the removal of the caretaker work requirement while attending a two-year college or four-year college program that leads to a degree will reduce recordkeeping requirements for social services districts and families. Nei-

ther social services districts nor child care providers should have to hire additional professional staff in order to implement these regulations.

##### 3. Costs:

The Office of Children and Family Services (OCFS) does not anticipate any disproportionate cost to local social services districts in rural areas of the state as a result of this rule.

Under section 410-v(2) of the Social Services Law, the state is responsible for reimbursing social services districts for seventy-five percent (75%) of the costs of providing subsidized child care services to public assistance recipients and social services districts are responsible for the other twenty-five percent (25%) of such costs. The state is responsible for reimbursing social services districts for one hundred percent (100%) of the costs of providing child care services to other eligible low-income families. The state reimbursement for these child care services is made from the state and/or federal funds allocated to the New York State Child Care Block Grant and is limited on an annual basis in each social services district to that social services district's New York State Child Care Block Grant allocation for that year.

Under the New York State Enacted Budget for State Fiscal Year 2022-2023, social services districts will receive allocations totaling \$894.6 million in federal and state funds under the New York State Child Care Block Grant. These allocations are in addition to \$548.8 million in available rollover of unspent funds from SFY 2020-21 and \$609 million in federal pandemic funding which will support subsidy expansion in both SFY 2022-23 and SFY 2023-24. Social services districts have the option to transfer a portion of their Flexible Fund for Family Services allocations to the New York State Child Care Block Grant to supplement their New York State Child Care Block Grant allocations.

The special needs rate will be provided as an additional percentage above the applicable market rate as determined by OCFS. State reimbursement to localities will be consistent with the reimbursement described above. It is unknown what the cumulative cost will be as the special needs rate as it currently is structured is underutilized.

The removal of hourly rates will increase spending in limited circumstances. The hourly rate is currently only utilized in situations where care is provided to a child for less than three hours per day and less than 30 hours per week, or when care is provided for more than 12, but less than 15 hours per day. The part-day rate is already utilized when care is provided before or after school for less than three hours per day by day care centers or school-aged child care centers that do not charge on an hourly basis.

##### 4. Minimizing adverse impact:

OCFS does not anticipate any disproportionate adverse impact to local social services districts in rural areas of the state as a result of this rule. OCFS does not anticipate any adverse impact to providers in rural areas of the state as a result of this rule.

The market rates were developed in accordance with federal guidelines for conducting a market rate survey of child care providers, using standard statistical methodology, to minimize adverse impact. Approximately 4,500 licensed and registered child care providers (including New York City permitted group day care programs) completed the survey. The data was analyzed to establish the market rates at the 80th percentile of the prices reported by providers on the survey. The market rates are different for each of five distinct groupings of counties that were created based on similarities in rates among the counties in each group. The rates established for each cluster of counties are based on the actual costs of care that were reported in the survey. Adjustments to the child care market rates reflect changes in the market place and provide access for families receiving child care assistance comparable to those families not receiving child care assistance.

Adjustments to the child care market rates reflect the results of a survey of providers that was conducted from September 2021 to March 2022. These rate adjustments reflect the marketplace and provide comparable access for families receiving child care assistance as for those families not receiving child care assistance, as is required by federal and state laws.

##### 5. Rural area participation:

Federal regulation 45 CFR § 98.45(f)(2)(i) requires that payment rates be based on a local market survey conducted no earlier than two years prior to the effective date of the currently approved State Plan for the Child Care and Development Fund. In accordance with federal regulatory requirements, OCFS conducted a market rate survey of licensed/registered child care providers from across the state, in all modalities of care, and serving children of different ages. Prior to conducting the survey, a letter was sent to all regulated child care providers to inform them that they might be contacted to participate in the market rate survey. A copy of the survey questions was also sent so that providers could prepare responses. The Human Services Call Center conducted the survey by telephone and online, on behalf of OCFS. Surveys were conducted in English and in Spanish, as needed, with resources available to assist providers in other languages, if needed, as well. Rate data was collected from approximately

4,500 providers and that information formed the basis for the updated market rates.

**Job Impact Statement**

**1. Nature of Impact:**

The New York State Office of Children and Family Services (OCFS) does not anticipate that this rule will have a negative impact on employment opportunities in any region of the state. Increasing the market rate for child care assistance will aid in stabilizing the child care market, thus allowing for the retention and creation of jobs in the child care sector. This rule also removes the requirement that a parent or caretaker receiving child care assistance to attend post-secondary education programs work a minimum of 17.5 hours per week. OCFS does not anticipate that this rule will have a negative impact on employment opportunities in any region of the state. This change will provide more opportunity for community employment growth when the child care assistance recipient has obtained a degree and is entering the workforce.

**2. Categories and Numbers Affected:**

It is estimated that there are approximately 15,000 licensed/registered child care programs, 2,100 permitted group day care programs, and 6,000 enrolled legally exempt child care programs in New York State, and 58 social services districts.

**3. Regions of Adverse Impact:**

This rule applies to licensed/registered and enrolled legally exempt child care programs, and social services districts. There are no regions where this rule will have a disproportionate adverse impact on employment opportunities.

**4. Minimizing Adverse Impact:**

OCFS does not anticipate an adverse impact.

**Assessment of Public Comment**

On August 29, 2022, OCFS readopted the emergency regulations amending Part 415 without changes and filed a Notice of proposed rulemaking. OCFS is readopting this emergency rulemaking for a third time, effective October 27, 2022, to allow for the completion of the public comment period. OCFS will assess any additional comments at that time.

The Office has responded in detail to all comments in its Assessment of Public Comment. The following is organized into major subject areas addressed by the public comment and the Office's responses thereto.

Comments were received from 12 sources; New York City Administration for Children's Services (ACS), Empire State Campaign for Child Care (ESCCC), Citizen Action of New York (CANY), Committee for Hispanic Children and Families (CHCF), Day Care Council of New York (DCCNY), Early Care & Learning Council (ECLC), The Schuyler Center for Analysis and Advocacy (SCAA), United Neighborhood Houses (UNH), ECE On the Move, Adirondack Birth to Three Alliance, Colleen Locke, and Robert G. Frawley.

Regarding the need to demonstrate an increased cost of care to increase child care assistance payments:

ECLC, ESCCC, DCCNY, CHCF, CANY, ECE On the Move, SCAA, and UNH encouraged OCFS to require local social services districts to automatically increase provider rates without requiring each provider to make an independent showing of the cost of care and to make rate increases applicable to all providers. They argue that demonstrating cost of care to apply for a higher reimbursement rate has proven to be an unnecessary administrative burden for both providers and administrators. The commentators stated that the requirement that each provider make an individualized showing of their cost of care impacts equity as it serves as a disincentive for providers to serve private pay families as well as families in receipt of child care assistance.

ACS urged OCFS to amend the regulations to permit local districts the discretion to offer a universal increase in provider rates without requiring a determination of the cost of care for the reasons outlined above.

Adirondack Birth to Three Alliance, Colleen Locke, and Robert G. Frawley opposed child care assistance payments being linked to what providers charge private pay families. Instead, it was recommended that private pay rates and assistance rates function independently of one another.

No changes have been made to the emergency regulations in response to these comments. The purpose of establishing child care market rates for the child care assistance program is to provide families receiving a child care assistance with access to child care services that are comparable to families not eligible for child care assistance. Child care assistance maximum payment rates are a reflection of the child care market and are not intended to guide what a provider should charge. Rather they indicate the maximum amount that local social services districts can be reimbursed for child care assistance expenditures. The local district is required to pay the cost of care, up to, but not in excess of, the applicable child care market rate.

Regarding changes to the special needs rate in § 415.9(h)(4) DCCNY, ESCCC, ECLC, UNH, SCAA, ECE On The Move, ACS,

CANY support the change in the determination of the special needs rate at § 415.9(h)(4) by removing cost of care from the determination and reducing the administrative burden placed on providers.

No changes have been made to the emergency regulations in response to these comments.

Regarding changes to the market rate percentile

UNH, ECLC, SCAA, ECE On The Move, ACS, CANY, CHCF, DCCNY, ESCCC support the increases the child care provider reimbursement rates to the 80th percentile of the new market rate survey.

No changes have been made to the emergency regulations in response to these comments.

Comments outside of the scope of the Notice of Proposed Rule Making ESCCC, CANY, CHCF, SCAA, and ECLC recommend:

OCFS publicize this expanded assistance using new and creative methods. Additionally, CHCF identified that families will need to be reached in ways that are culturally and linguistically responsive and supportive towards access.

No changes have been made to the emergency regulations in response to this comment. However, please note that OCFS and local districts are working to publicize this and other changes to the Child Care Assistance Program and agree with the recommendation.

ESCCC, CANY, CHCF, SCAA, and ECLC recommend Governor Hochul sign and swiftly implement A.1029 (Lunsford)/S.9029 (Ramos), which would permit districts to authorize families to receive child care assistance for up to 24 months between eligibility determinations. Additionally, they encourage Governor Hochul to sign and swiftly implement A.7661 (Hevesi)/S.6655-A (Brisport), which would decouple child care assistance from the parent or caretaker's work hours.

This recommendation is outside the scope of this regulatory package. No changes have been made to the emergency regulations in response to this recommendation.

ESCCC, CANY, CHCF, SCAA, ECLC, DCCNY, UNH and ACS recommended amendments to 18 NYCRR § 415.1(o)(1)(i) and (ii) to eliminate the requirement to earn wages at a level equal to or greater than the minimum amount required under Federal and State Labor Law for the type of employment. Additionally, they expressed strong support for regulatory amendments regarding changes to the increasing eligibility from 200% to 300% of the state income standard, provided the family income does not exceed 85% of the state median income at § 415.2.

To the extent this recommendation is outside the scope of this regulatory package, no changes have been made to the emergency regulations in response to this recommendation.

UNH recommends OCFS set the differential rate at 15% across all local social service districts; to assure providers serving the most vulnerable children have access to the highest rate possible.

The special needs rate is set at 15% across districts, separate from regulatory differential rates. Differential rates are outside the scope of this regulatory package. No changes have been made to the emergency regulations in response to this recommendation.

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## Department of Civil Service

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### NOTICE OF ADOPTION

**Jurisdictional Classification**

**I.D. No.** CVS-32-22-00001-A

**Filing No.** 898

**Filing Date:** 2022-10-27

**Effective Date:** 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00001-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION****Jurisdictional Classification**

**I.D. No.** CVS-32-22-00002-A

**Filing No.** 885

**Filing Date:** 2022-10-27

**Effective Date:** 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00002-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION****Jurisdictional Classification**

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

**Filing No.** 884

**Filing Date:** 2022-10-27

**Effective Date:** 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00003-P.

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

**Text of 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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION****Jurisdictional Classification**

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

**Filing No.** 891

**Filing Date:** 2022-10-27

**Effective Date:** 2022-11-16

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

**Action taken:** 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 and non-competitive classes.

**Text or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00004-P.

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

**Text of 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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION****Jurisdictional Classification**

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

**Filing No.** 894

**Filing Date:** 2022-10-27

**Effective Date:** 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00005-P.

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

**Text of 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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION****Jurisdictional Classification**

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

**Filing No.** 887

**Filing Date:** 2022-10-27

**Effective Date:** 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00006-P.

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

**Text of 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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION****Jurisdictional Classification**

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

**Filing No.** 886

**Filing Date:** 2022-10-27

**Effective Date:** 2022-11-16

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

**Action taken:** 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 and non-competitive classes.  
**Text or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00007-P.  
**Final rule as compared with last published rule:** No changes.  
**Text of rule and any required statements and analyses may be obtained from:** Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov  
**Assessment of Public Comment**  
 The agency received no public comment.

**NOTICE OF ADOPTION**

**Jurisdictional Classification**  
**I.D. No.** CVS-32-22-00008-A  
**Filing No.** 895  
**Filing Date:** 2022-10-27  
**Effective Date:** 2022-11-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:  
**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00008-P.  
**Final rule as compared with last published rule:** No changes.  
**Text of 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  
**Assessment of Public Comment**  
 The agency received no public comment.

**NOTICE OF ADOPTION**

**Jurisdictional Classification**  
**I.D. No.** CVS-32-22-00009-A  
**Filing No.** 897  
**Filing Date:** 2022-10-27  
**Effective Date:** 2022-11-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:  
**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00009-P.  
**Final rule as compared with last published rule:** No changes.  
**Text of 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  
**Assessment of Public Comment**  
 The agency received no public comment.

**NOTICE OF ADOPTION**

**Jurisdictional Classification**  
**I.D. No.** CVS-32-22-00010-A  
**Filing No.** 888  
**Filing Date:** 2022-10-27  
**Effective Date:** 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00010-P.  
**Final rule as compared with last published rule:** No changes.  
**Text of rule and any required statements and analyses may be obtained from:** Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: commops@cs.ny.gov  
**Assessment of Public Comment**  
 The agency received no public comment.

**NOTICE OF ADOPTION**

**Jurisdictional Classification**  
**I.D. No.** CVS-32-22-00011-A  
**Filing No.** 889  
**Filing Date:** 2022-10-27  
**Effective Date:** 2022-11-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:  
**Action taken:** 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 add positions to the non-competitive class.  
**Text or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00011-P.  
**Final rule as compared with last published rule:** No changes.  
**Text of 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  
**Assessment of Public Comment**  
 The agency received no public comment.

**NOTICE OF ADOPTION**

**Jurisdictional Classification**  
**I.D. No.** CVS-32-22-00012-A  
**Filing No.** 890  
**Filing Date:** 2022-10-27  
**Effective Date:** 2022-11-16

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:  
**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00012-P.  
**Final rule as compared with last published rule:** No changes.  
**Text of 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  
**Assessment of Public Comment**  
 The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

I.D. No. CVS-32-22-00013-A

Filing No. 893

Filing Date: 2022-10-27

Effective Date: 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00013-P.

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

**Text of 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

## Assessment of Public Comment

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

I.D. No. CVS-32-22-00014-A

Filing No. 883

Filing Date: 2022-10-27

Effective Date: 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00014-P.

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

**Text of 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

## Assessment of Public Comment

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

I.D. No. CVS-32-22-00015-A

Filing No. 900

Filing Date: 2022-10-27

Effective Date: 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00015-P.

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

**Text of 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

## Assessment of Public Comment

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

I.D. No. CVS-32-22-00016-A

Filing No. 892

Filing Date: 2022-10-27

Effective Date: 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00016-P.

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

**Text of 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

## Assessment of Public Comment

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

I.D. No. CVS-32-22-00017-A

Filing No. 882

Filing Date: 2022-10-27

Effective Date: 2022-11-16

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

**Action taken:** 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 or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00017-P.

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

**Text of 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

## Assessment of Public Comment

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

I.D. No. CVS-32-22-00018-A

Filing No. 896

Filing Date: 2022-10-27

Effective Date: 2022-11-16

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

**Action taken:** 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 and non-competitive classes.

**Text or summary was published** in the August 10, 2022 issue of the Register, I.D. No. CVS-32-22-00018-P.

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

*Text of 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

**Assessment of Public Comment**

The agency received no public comment.

## Department of Corrections and Community Supervision

### EMERGENCY RULE MAKING

#### Definitions, Standards of Incarcerated Individual Behavior, Special Housing Units, and Institutional Programs

**I.D. No.** CCS-16-22-00003-E

**Filing No.** 880

**Filing Date:** 2022-10-27

**Effective Date:** 2022-10-27

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

**Action taken:** Amendment of sections 1.5, 251-1.6—251-1.7, 251-2.2, 251-4.1, 253.7, 254.7, 270.2, 300.2, 301.1, 301.3, 302.1, 304.3-304.4, 724.2-5; repeal of sections 250.2, 251-1.5, 251-2.1, 251-4.2, 301.4, 301.5, 301.6, 301.7, 304.2(b)-(f); addition of sections 251-5.2—251-5.4, 304.1(c) and 304.7(h) to Title 7 NYCRR.

**Statutory authority:** Correction Law, section 70

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

**Specific reasons underlying the finding of necessity:** The implementation of the HALT Act which takes effect on March 31, 2022. The adoption of the regulations is necessary for the general welfare of incarcerated individuals who are subject to discipline for violating an institutional rule. Effective March 31, 2022, the time individuals are permitted to be placed in segregated housing is severely limited and requires out-of-cell time. HALT requires the creation of new housing units – Residential Rehabilitation Units (RRUs) where individuals are placed after segregated confinement. With the creation of RRUs, the Act requires the implementation of three hours of out-of-cell congregate programming focusing on the behavior that caused them to be in segregated confinement and recreation. In addition, changes are required regarding restraining individuals and certain privileges, such as property and jobs on the units. The time individuals can spend in an RRU is also limited. The new disciplinary hearing process provides shortened deadlines and the opportunity for incarcerated individuals to request representation at their hearings by either attorneys, paralegals, law school students, and other incarcerated individuals. Significant changes in the operation processes are needed to meet the shortened deadlines and the creation of criteria for those representing incarcerated individuals at a hearing.

**Subject:** Definitions, Standards of Incarcerated Individual Behavior, Special Housing Units, and Institutional Programs.

**Purpose:** To revise regulations to be in compliance with the new HALT legislation and applicable laws.

**Substance of emergency rule (Full text is posted at the following State website: <https://doccs.ny.gov/rules-regulations>):** The Department of Corrections and Community Supervision is amending, repealing, and adding several sections in 7 NYCRR Chapter I, Part I; Chapter V, Parts 250-254; Chapter VI, Parts 300-304; and Chapter VIII, Part 724. Revisions have been made to make the regulations compliant with the new HALT legislation regarding the removal of keeplock and limiting the use of segregated confinement for incarcerated individuals to 15 days and other applicable laws. Some revisions are non-substantive and are being made to improve punctuation and grammar. A summary of the substantive amendments are as follows:

The term “inmates” was replaced with “incarcerated individuals” or appropriate variations thereof throughout the regulations.

The following Sections/subdivisions have been repealed and subdivisions renumbered:

- Section 1.5(x) is repealed.
- Section 250.2 is repealed.

- Section 251-1.5 is repealed.
- Section 251-1.6, subdivisions (c), (d), and (e) are repealed.
- Subdivision (f) is renumbered subdivision (c).
- Section 251-2.1 is repealed.
- Section 251-2.2, subdivisions (b), (c), (d), (e), and (f) are repealed.
- Section 251-4.2 is repealed.
- Section 251-5.1, Subdivision (c) is repealed.
- Section 724.2, Subdivision (b) is repealed.
- Section 724.3, Subdivision (a) Paragraphs (4), (5), (6), and (8) are repealed.
- Section 724.3, Subdivision (a) Paragraph (7) was renumbered to (4).
- Section 724.3, Subdivision (b) Paragraph (8) is repealed.
- Section 724.3, Subdivisions (c), (d), (e), and (f) are repealed.
- Section 724.3, Subdivision (g) Paragraphs (2), (3), and (4) are repealed.
- Section 724.3, Subdivision (h) Paragraph (2) is repealed.
- Section 724.3, Subdivision (i) Paragraph (2) is repealed.
- Section 724.3, Subdivision (j) Paragraphs (1) and (2) are repealed.
- Section 724.3, Subdivisions (g), (h), (i), and (j) are renumbered to Subdivisions (c), (d), (e), and (f) accordingly.
- Section 724.4 Subdivision (a) Paragraphs (1), (2), (3), (4), and (5) are repealed.
- Section 724.4 Subdivision (b) Paragraphs (1), (2), (3), and (4) are repealed.
- Section 724.5, Subdivisions (b) and (c) of are repealed.
- Section 301.3, Subdivision (b) is repealed.
- Section 301.4 is repealed.
- Section 301.5 is repealed.
- Section 301.6 is repealed.
- Section 301.7 is repealed.
- Section 304.2, Subdivisions (b), (c), (d), (e), and (f) are repealed.
- Section 304.3, Subdivision (d) is repealed.
- Section 304.4, Subdivision (e) is repealed.
- Amend Section 1.5 to revise the following subdivisions: Section 1.5(f) removes “persons committed for failure to pay a fine”, Section 1.5(u) adds “21 years of age or younger and 55 years of age or older”, Section 1.5(v) removes the mention of keeplock and adds language regarding limiting cell confinement for incarcerated individuals except due to facility wide emergency or to provide medical or mental health treatment, Section 1.5(w) removes ‘placement in a special housing unit or a residential rehabilitation unit.’”
- Amend Section 251-1.6. Incarcerated individuals in special populations are not to be placed in segregated confinement for any length of time and incarcerated individuals being confined to a cell or room may not be confined for longer than 17 hours unless approval is granted by the superintendent and deputy commissioner for correctional facilities, in which case time may be extended up to 48 hours.
- Amend Section 251-2.2 to be titled Misbehavior Report Review. A review officer will review all misbehavior reports that have not yet been reviewed at least once on each shift and will review the status of each incarcerated individual confined pursuant to the reports within 17 hours of the individual’s confinement.
- Amend Section 251-4.1 to Employee Assistance which addresses incarcerated individuals requesting employee assistance when a misbehavior report has been issued against them.
- Amend Section 251-5.1. Incarcerated individuals placed in segregated confinement pending a superintendent’s hearing, the hearing shall be completed within five days of placement unless the individual requests a postponement for the purposes of seeking employee assistance and/or representation. Requests to postpone the hearing must be submitted by the charged individual to the hearing officer, in person, at the individual’s first appearance before the hearing officer. Failure to appear will result in the waiver of any postponement request and the hearing will be held in the charged individual’s absence. Postponement requests will not be accepted by escorting officers or other departmental staff.
- Add new Section 251-5.2. Representation. Defines who is permitted to represent an incarcerated individual that is placed in segregated confinement pending a disciplinary hearing or superintendent’s hearing.
- Add Section 251-5.3. Notice of Outside Representation. The attorney, law student, or paralegal must contact the facility by email, providing notice of representation, written certification such representative meets all departmental requirements for such representation, and a publicly listed business phone number where they can be reached by the hearing officer at scheduled date and time of the hearing at least two business days before the scheduled hearing.
- Add Section 251-5.4. Outside Representative Requests. Outside representatives may make one written request for postponement for rescheduling or additional employee assistance requests, provided that such request is submitted by email with the notice of outside representation and reasonably describes the assistance sought. Reasonable postponement requests may be granted dependent upon the scheduling needs of the facil-

ity; however, such postponements may not exceed 14 calendar days from the charged initial placement in segregated confinement.

Amend Section 253.7. Upon affirming a charge, a hearing officer may impose one or more penalties to include counsel and/or reprimand, and non-confinement sanction in accordance with departmental directive 4932, loss of visiting privileges, restitution for loss of intentional damage to property, the imposition of one work task per day other than regular work assignments, and forfeiture of money confiscated as contraband.

Amend Section 254.7. Where the incarcerated individual admits the charges or where the hearing officer affirms the charges on the basis of evidence, the hearing officer may impose one or more penalties to include counsel and/or reprimand, and non-confinement sanction in accordance with departmental directive 4932, loss of visiting privileges, restitution for loss of intentional damage to property, the imposition of one work task per day other than regular work assignments, forfeiture of money confiscated as contraband, segregated confinement for a specified period of time, and loss of specified period of good behavior allowance subject to restoration upon substantial completion of the incarcerated individual's rehabilitation plan. Upon conclusion of the hearing a mandatory disciplinary surcharge in accordance with departmental directive 4932 shall be assessed automatically against the incarcerated individual.

Amend Section 724.3, Subdivision (a). Articles received in a package must comply with departmental directives concerning packages and personal property limits. Articles received that are not for the incarcerated individual's personal use, which cause the recipient to exceed the number of allowable packages, weight limits, or in-cell limits, or which otherwise violate departmental directives will not be allowed and will be disposed of in accordance with departmental directives.

Amend Section 724.3, Subdivision (b). (1) Packages shall be searched thoroughly to ensure that all articles conform to regulations and departmental directives. Paragraph (5) added that any items which could be utilized to assist or affect an escape or undermine the safety and security and/or practices consistent with the department's mission; or which is an approved item but has been altered from its original intent and/or purpose to the list of what could be considered contraband. Paragraph (6) clarifies that articles not permitted (other than contraband) will be disposed of in accordance with departmental directive. Paragraph (7) now states articles shall not be altered or modified by the manufacturer or vendor, except for removal of external radio antennas.

Amend Section 724.3. Newly renumbered subdivision (c) states all articles received shall be recorded in accordance with departmental directive.

Amend Section 724.3. Newly renumbered subdivision (d) states packages received for an incarcerated individual serving a disciplinary disposition which includes "loss of package privileges" will be handled in accordance with departmental directive.

Amend Section 724.3. Newly renumbered subdivision (f) states packages received for incarcerated individuals transferred or temporarily absent from the facility shall be handled in accordance with departmental directives.

Amend Section 724.4. Subdivision (a) states certain articles cannot be approved department-wide because of programmatic and physical plant characteristics of individual facilities. In order that those locations which can accommodate special articles are not governed by those which cannot, each facility shall consider the issuance of "local permits" in accordance with departmental directives.

Amend Section 724.4. Subdivision (b) states each superintendent is required to maintain a current list of all approved local permits.

Amend Section 724.5. Listing of approved items and disposal procedures. The department shall maintain a departmental directive concerning the receipt of packages, including a detailed listing of items approved for receipt by incarcerated individuals through facility package rooms, and policy for the disposal of disallowed packages and items, which shall be available to incarcerated individuals in all facility libraries, posted in all facility package rooms and visiting rooms, and posted on the department's website.

Amend Section 300.2. Subdivision (b) states a special housing unit, in maximum security facilities as well as in designated medium security facilities, shall consist of single- or double-occupancy cells grouped so as to provide separation from the general population, and may be used to house incarcerated individuals confined to such units pursuant to Part 301 of this Title.

Amend Section 301.1 Purpose. No incarcerated individual may be placed in segregated confinement (SHU) for longer than necessary and for no more than 15 consecutive days or 20 total days in any 60-day period, except where a specific act constitutes a violent felony act, if occurring more than once in a 60-day period, the incarcerated individual may serve an additional 15 consecutive days but must spend at least 15-days in a Residential Rehabilitation Unit (RRU) in between each placement in SHU. Incarcerated individuals will be transferred or moved to an RRU if they have additional confinement time after completing 15-days in SHU.

Amend Section 301.3. Subdivision (a). Detention admissions may be used in the case of an incarcerated individual who is awaiting initial appearance before or determination of a superintendent's hearing, if a security supervisor, with written approval of the superintendent or designee, reasonably believes the person fits the criteria for segregated confinement in paragraph (ii) of paragraph (k) of section one hundred thirty-seven of the Correction Law. Subdivision (c) is renumbered subdivision (b) and newly renumbered subdivision (b) states in the case of any detention admission, if a misbehavior report has been issued, the provisions of section 251-2.2 of this Title shall be applicable. Pursuant to Part 251-1.6 (b) of this title, the facility's deputy superintendent of security or a watch commander shall review the detention admission incarcerated individual's status at least once every 24 hours.

Amend Section 302.1. Subdivision (i), paragraph (2). An incarcerated individual shall be permitted to make at least one personal phone call within twenty-four hours of placement in segregated confinement, and at weekly intervals thereafter for the duration of such confinement, except when doing so would create an unacceptable risk to the safety and security of incarcerated individuals or staff. Emergency and legal telephone calls are permitted, as approved by the superintendent. Paragraph (3) states no packages may be received at any time by an incarcerated individual in an SHU except in accordance with departmental directive 4933.

Amend Section 304.1. Add new subdivision (c). Incarcerated individuals in segregated confinement shall be offered out-of-cell programming at least four hours per day, including at least one hour for recreation. However, if an incarcerated individual commits a specific act while housed in a SHU and poses a significant risk, their participation in certain programs may be restricted but they must still be provided with at least 4 hours out-of-cell time daily, of which 2 hours are therapeutic programming and 2 hours of recreation.

Amend Section 304.7. Add new subdivision (h). Incarcerated individuals may utilize law library tablets in accordance with departmental directive 4933.

*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. CCS-16-22-00003-EP, Issue of April 20, 2022. The emergency rule will expire December 25, 2022.

*Text of rule and any required statements and analyses may be obtained from:* Cathy Sheehan, Acting Deputy Commissioner and Counsel, Department of Corrections and Community Supervision, 1220 Washington Avenue, Harriman State Campus, Albany, NY 12226-2050, (518) 457-4951, email: Rules@DOCCS.ny.gov

#### **Regulatory Impact Statement**

##### **1. Statutory Authority:**

On March 18, 2021, the HALT legislation was passed with an effective date of March 31, 2022, which made significant changes to Article 6, Section 137, of the Correction Law relating to the hearing process, housing, and rules concerning incarcerated individual discipline.

Article 6, section 112, subdivision 1 of the Correction Law provides the commissioner of corrections and community supervision with the superintendence, management and control of the correctional facilities in the department and of the incarcerated individuals confined therein, and of all matters relating to the government, discipline, policing, contracts and fiscal concerns thereof. In this regard, the commissioner is authorized to make rules and regulations for the government, housing and discipline for each correctional facility and to cause such rules and regulations to be recorded by the superintendent of each facility.

##### **2. Legislative Objectives:**

To decrease the use and improve the conditions of segregated housing at State Correctional Facilities by limiting the time an incarcerated individual may spend in segregated confinement, end the segregated confinement of vulnerable populations, restrict the criteria that can result in such confinement, and create more humane and effective alternatives to such confinement.

##### **3. Needs and Benefits:**

To implement the HALT Law, the Department needs to amend its regulations related to segregated confinement consistent with the changes to the correction law in the areas of housing, hearing process, and rules relating to incarcerated individual discipline and operational processes. The anticipated benefits include fulfilling the legislature's objective to reduce the use and improve the conditions of segregated housing at State Correctional Facilities and offering programming that addresses the behavior that was the catalyst for a person being placed in segregated confinement.

##### **4. Costs:**

(a) This proposed rulemaking imposes no costs on any local agency.  
(b) As the proposed rulemaking does not apply to private parties, no costs are imposed on private parties.

(c) DOCCS is appropriated \$45,280,000 in the Executive Budget for



the Fiscal Year 2022-2023 for costs associated with the implementation of HALT.

5. Local Government Mandates:

This rulemaking imposes no program, service, duty or responsibility on any county, city, town, village, school district, or other special district. It applies only to NYS DOCCS.

6. Paperwork:

The HALT Law adds a reporting requirement that DOCCS will conspicuously publish reports on its website on the first day of each month of the total number of incarcerated individuals in segregated housing or residential rehabilitation units, and in a step-down unit, which will be broken into demographics. Also, DOCCS will publish semi-annual and annual cumulative reports compiling the information from the monthly reports.

7. Duplication:

There is no overlap or conflict with any other legal requirements of the State or Federal government.

8. Alternatives:

As this proposal is necessary to implement the statutory changes in the HALT Law, and the existing regulations are inconsistent with such changes, there is no viable alternative.

9. Federal Standards:

There are no federal standards that apply to the proposed rulemaking.

10. Compliance Schedule:

Compliance will be achieved immediately upon filing of the emergency adoption inclusive of any dates contained in the regulations.

**Regulatory Flexibility Analysis**

A Regulatory Flexibility Analysis is not required for this proposal since it will not impose any adverse economic impact or reporting, record keeping or other compliance requirements on small businesses or local governments. This proposal amends Departmental regulations relating to the administration of Special Housing Units in New York State Correctional Facilities consistent with the “Humane Alternatives to Long-Term Solitary Confinement” (HALT) Act, which was signed into law in March 2021.

**Rural Area Flexibility Analysis**

A Rural Area Flexibility Analysis is not being submitted with this notice since the proposed rule will have no impact upon rural areas, nor does the proposed rule impose any reporting, recordkeeping or other compliance requirements upon rural areas. This proposal amends Departmental regulations relating to the administration of Special Housing Units in New York State Correctional Facilities consistent with the “Humane Alternatives to Long-Term Solitary Confinement” (HALT) Act, which was signed into law in March 2021.

**Job Impact Statement**

A Job Impact Statement is not being submitted with this notice, for the proposed rule will have no adverse impact upon jobs or employment opportunities, nor does the proposed rule impose any reporting, recordkeeping or other compliance requirements upon employers. This proposal amends Departmental regulations relating to the administration of Special Housing Units in New York State Correctional Facilities consistent with the “Humane Alternatives to Long-Term Solitary Confinement” (HALT) Act, which was signed into law in March 2021.

**Assessment of Public Comment**

The agency received no public comment since publication of the last assessment of public comment.

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

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

**Subject:** Sanitary Condition of Shellfish Lands.

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

**Text or summary was published** in the July 13, 2022 issue of the Register, I.D. No. ENV-28-22-00010-EP.

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

**Text of rule and any required statements and analyses may be obtained from:** Kevin Ryan, NYS Department of Environmental Conservation, 123 Kings Park Boulevard (Nissequogue River State Park), Kings Park, NY 11754, (631) 444-0461, email: Kevin.Ryan@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.

**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.

**PROPOSED RULE MAKING HEARING(S) SCHEDULED**

**Chemical Bulk Storage (CBS)**

**I.D. No.** ENV-46-22-00004-P

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

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

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

**Subject:** Chemical Bulk Storage (CBS).

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

**Public hearing(s) will be held at:** 3:00 p.m., Jan. 18, 2023 via Webinar.

Department of Environmental Conservation (DEC) will hold a public comment hearing on proposed regulations 6 NYCRR Parts 597, 598, and 613 at: 3:00 p.m. on January 18, 2023, via electronic webinar. These regulations were proposed regulations and previously noticed in the NYS Register, Vol XLIII, Issue 24 on June 16, 2021. They are being re-noticed to comply with regulatory timelines. Comments received during the 6/4/21 – 12/6/21 comment period have been recorded and will be included in the response to comments.

Instructions on how to “Join” the hearing webinar and provide an oral statement will be published on the Department’s proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 by November 18, 2022. The proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 may be accessed at: <https://www.dec.ny.gov/regulations/propregulations.html>

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

Interpreter services shall be made available to deaf persons, and translator services shall be made available to persons with limited English proficiency, at no charge for either service, upon written request. Requests must be submitted no later than January 8, 2023, and directed to the NYSDEC Office of Communication Services, either by mail (address: NYSDEC, Office of Communication Services, 625 Broadway, 4th Floor, Albany, New York 12233-4500), or by e-mail ([language@dec.ny.gov](mailto:language@dec.ny.gov)).

All comments received during the 6/16/21 – 12/6/21 comment period have been recorded and will be included in the response to comments. Additional comments will be received until 5:00 p.m. on January 24, 2023. Comments may be entered during the hearing, e-mailed to [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov), or mailed to NYS DEC, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233, Attn: Jenn Dawson. Please include “Comments on Proposed Part 613” or “Comments on Proposed Parts 597/598” in the subject or memo line of the correspondence.

**Department of Environmental Conservation**

**NOTICE OF ADOPTION**

**Sanitary Condition of Shellfish Lands**

**I.D. No.** ENV-28-22-00010-A

**Filing No.** 927

**Filing Date:** 2022-11-03

**Effective Date:** 2022-11-16

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

Additional hearing or rulemaking questions can be directed to Jenn Dawson at [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov).

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

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

**Substance of proposed rule (Full text is posted at the following State website: <https://www.dec.ny.gov/regulations/proproregulations.html>):** 6 NYCRR Part 596, Hazardous Substance Bulk Storage Facility Registration

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

Addition of:

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

Amendments to:

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

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

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

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

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

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

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

Restructuring

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

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

Subpart 598-1 – General Provisions

Subpart 598-2 – Underground Storage Tank Systems

Subpart 598-3 – Aboveground Storage Tank Systems

Subpart 598-4 – Storage of Hazardous Substances in Containers

Subpart 598-5 – Delivery Prohibition

Subpart 598-6 – Release Response and Corrective Action

The Express Terms are summarized below.

Subpart 598-1: General Provisions

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

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

Some definitions that are central to the implementation of the CBS

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

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

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

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

Subpart 598-2: Underground Storage Tank Systems

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

Subpart 598-3: Aboveground Storage Tank Systems

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

Subpart 598-4: Storage of Hazardous Substances in Containers

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

Subpart 598-5: Delivery Prohibition

Subpart 598-5 contains the requirements concerning delivery prohibition which are within existing 598.13. The provisions of this Subpart establish the circumstances and process for imposing a delivery prohibition, required notifications, and the process for termination of a delivery prohibition. Delivery prohibition language has been clarified and reorganized so it more closely resembles the format of Part 613. This includes clarifying which violations trigger Tier 1 conditions (grounds for immediate delivery prohibition) and which violations trigger Tier 2 conditions (grounds for delivery prohibition if violation is not remedied within 30 days).

Subpart 598-6: Release Response and Corrective Action

Subpart 598-6 are the release response and corrective action requirements which are within existing 598.14. This Subpart contains the following requirements: initial spill response; abatement measures and site checks; initial site characterization; free product removal; investigations

for soil and groundwater cleanup; corrective action plans; and public participation. The language has been reorganized and updated so it is consistent with Part 613 and the 40 CFR 280. Additionally, this Subpart clarifies that release response and corrective action also applies to spills and releases from containers.

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

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

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

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

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

#### 1. STATUTORY AUTHORITY

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

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

#### 2. LEGISLATIVE OBJECTIVES

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

#### 3. NEEDS AND BENEFITS

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

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

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

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

#### 4. COSTS

Costs to Regulated Parties

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

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

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

#### Costs to DEC, State and Local Governments

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

#### 5. LOCAL GOVERNMENT MANDATES

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

#### 6. PAPERWORK

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

#### 7. DUPLICATION

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

#### 8. ALTERNATIVES

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

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

DEC's second alternative will adopt the structure of 40 CFR Part 280

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

#### 9. FEDERAL STANDARDS

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

#### 10. COMPLIANCE SCHEDULE

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

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

#### 11. INITIAL REVIEW OF RULE

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

### *Regulatory Flexibility Analysis*

#### 1. EFFECT OF RULE

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

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

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

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

#### 2. COMPLIANCE REQUIREMENTS

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

#### 3. PROFESSIONAL SERVICES

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

#### 4. COMPLIANCE COSTS

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

periodic retesting for Class A and B Operators will now be required every five years so Operators remain trained/informed of their responsibilities and relevant regulations, and the possibility of spills occurring can be significantly reduced.

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

#### 5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

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

#### 6. MINIMIZING ADVERSE IMPACT

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

#### 7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

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

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

#### 8. CURE PERIOD OR OTHER OPPORTUNITY FOR AMELIORATIVE ACTION

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

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

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

#### 9. INITIAL REVIEW OF THE RULE

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

### *Rural Area Flexibility Analysis*

#### 1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS

For purposes of this Rural Area Flexibility Analysis (RAFA), "rural area" means those portions of the state so defined by Executive Law section 481(7), SAPA section 102(10). Under Executive Law section 481(7), rural areas are defined as "counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, programs and such other entities or resources as are found therein. In counties of two hundred thousand or greater population, 'rural areas' means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein." There are 44 counties in the State that have populations of less than 200,000 people and 71 towns in non-rural counties where the population densities are less than 150 people per square mile. The proposed repeal of Parts 596, 598, 599, addition of the new Part 598, and amendments to Part 597 will apply statewide; therefore, they apply to all rural areas of New York State (State).

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

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

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

### 3. COSTS

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

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

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

### 4. MINIMIZING ADVERSE IMPACT

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

### 5. RURAL AREA PARTICIPATION

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

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

### 6. INITIAL REVIEW OF THE RULE

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

### Job Impact Statement

A job impact statement is 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.

## PROPOSED RULE MAKING HEARING(S) SCHEDULED

### Petroleum Bulk Storage (PBS)

I.D. No. ENV-46-22-00005-P

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

**Proposed Action:** Amendment of Part 613 of Title 6 NYCRR.

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

**Subject:** Petroleum Bulk Storage (PBS).

**Purpose:** To amend the PBS regulations, 6 NYCRR Part 613.

**Public hearing(s) will be held at:** 3:00 p.m., Jan. 18, 2023 via Webinar.

Department of Environmental Conservation (DEC) will hold a public comment hearing on proposed regulations 6 NYCRR Parts 597, 598, and 613 at: 3:00 p.m. on January 18, 2023, via electronic webinar. These regulations were proposed regulations and previously noticed in the NYS Register, Vol XLIII, Issue 24 on June 16, 2021. They are being re-noticed to comply with regulatory timelines. Comments received during the 6/4/21 – 12/6/21 comment period have been recorded and will be included in the response to comments.

Instructions on how to "Join" the hearing webinar and provide an oral statement will be published on the Department's proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 by November 18, 2022. The proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 may be accessed at: <https://www.dec.ny.gov/regulations/proregulations.html>

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

Interpreter services shall be made available to deaf persons, and translator services shall be made available to persons with limited English proficiency, at no charge for either service, upon written request. Requests must be submitted no later than January 8, 2023, and directed to the NYSDEC Office of Communication Services, either by mail (address: NYSDEC, Office of Communication Services, 625 Broadway, 4th Floor, Albany, New York 12233-4500), or by e-mail ([language@dec.ny.gov](mailto:language@dec.ny.gov)).

All comments received during the 6/16/21 – 12/6/21 comment period have been recorded and will be included in the response to comments. Additional comments will be received until 5:00 p.m. on January 24, 2023. Comments may be entered during the hearing, e-mailed to [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov), or mailed to NYS DEC, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233, Attn: Jenn Dawson. Please include "Comments on Proposed Part 613" or "Comments on Proposed Parts 597/598" in the subject or memo line of the correspondence.

Additional hearing or rulemaking questions can be directed to Jenn Dawson at [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov).

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

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

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

These amendments will:

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

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

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

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

The Express Terms are summarized below.

#### Subpart 613-1: General Provisions

Subpart 613-1 contains provisions covering the purpose of the rule, applicability, definitions, recordkeeping requirements, and standards incorporated by reference. This Subpart also contains provisions concerning access to records and facilities, preemption and approval of local laws or ordinances, variances, registration, tank system maintenance and use of equivalent technology, enforcement and severability, future climate risk, and financial responsibility.

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

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

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

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

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

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

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

#### Subpart 613-4: AST Systems

Subpart 613-4 addresses aboveground storage tank (AST) systems. Like Subpart 613-3, it has a structure that reflects Subpart 613-2. The substantive provisions are markedly different from Subparts 613-2 and 613-3 because the technologies and practices applicable to AST systems are dif-

ferent from those applicable to UST systems. This Subpart contains requirements for: design, construction, and equipment specifications; general installation, operation, and maintenance practices; (ten-year) inspections and leak detection; spill reporting, investigation, and confirmation; and tank system closure.

#### Subpart 613-5: Hydrant Systems

New Subpart 613-5 (Hydrant Systems) has been created to help hydrant system owners/operators understand the requirements applicable to their tank systems, given the increased risk associated with such massive tank systems. Hydrant systems are tank systems that fuel aircraft, watercraft, or rail vehicles and characteristically operate under high pressure through large diameter piping, often terminating into one or more hydrants (or fill stands). This Subpart is structured specifically as a regulatory waypoint that directs the reader to pertinent requirements in Subparts 613-2, 613-3 and 613-4, as hydrant systems are often made up of multiple types of tanks (where most tank systems only consist of one type). For example, smaller, underground tanks used as reserve jet fuel storage (located closer to fill stands) may be manifolded with field-constructed aboveground tanks situated away from the runway at an airport. Thus, Subpart 613-5 will point to Subparts 613-2 or 613-3 for the USTs, and to Subpart 613-4 for ASTs.

#### Subpart 613-6: Delivery Prohibition

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

#### Subpart 613-7: Release Response and Corrective Action

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

#### Subpart 613-8: Financial Responsibility

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

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

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

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

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

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

#### 1. STATUTORY AUTHORITY

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

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

#### 2. LEGISLATIVE OBJECTIVES

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

### 3. NEEDS AND BENEFITS

This rule making is principally aimed at harmonizing the existing State requirements (currently established at 6 NYCRR Part 613) with the federal requirements (found at 40 CFR Parts 280 and 302) so that State and federal regulatory requirements are more consistent. This includes walkthrough inspection requirements, periodic inspection/testing requirements for various equipment, new UST system requirements for hydrant systems and field-constructed tanks, as well as financial responsibility requirements, which are from the 2015 amendments to 40 CFR Part 280. In addition, DEC is proposing to incorporate (by reference) current technology standards and standards of practice for newly installed tank systems and clarify certain existing regulatory requirements. DEC does not intend to establish any new requirements concerning the bulk storage of petroleum that will change the manner in which the subject facilities operate under existing industry practices and applicable federal and State laws and regulations.

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

### 4. COSTS

#### Costs to Regulated Parties

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

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

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

#### Costs to DEC, State and Local Governments

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

### 5. LOCAL GOVERNMENT MANDATES

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

### 6. PAPERWORK

The proposed amendments contain no substantive changes to existing reporting and recordkeeping requirements, apart from adding those that are already required by 40 CFR Part 280. Record retention limits are for

three years, five years, until the next test/inspection, or for the life of the tank system. Facilities are also required to retain records on Operator Training. In most cases, paperwork may be submitted and maintained in electronic format.

### 7. DUPLICATION

The proposed rulemaking is not intended to duplicate, overlap, or conflict with any other State or federal requirements. The main goal of this rule making is to reduce duplication. The proposed rule represents a harmonization of existing State PBS and federal UST program requirements. The existing State PBS and federal UST programs regulate the same tank systems in somewhat different ways and are not completely consistent with respect to the terminology used. Those differences will be reduced with the promulgation of amendments to Part 613. New requirements that are in 40 CFR Part 280 (effective October 13, 2015) have been incorporated, as appropriate, into Part 613.

### 8. ALTERNATIVES

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

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

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

### 9. FEDERAL STANDARDS

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

### 10. COMPLIANCE SCHEDULE

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

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

### 11. INITIAL REVIEW OF RULE

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

### *Regulatory Flexibility Analysis*

#### 1. EFFECT OF RULE

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

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

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

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

#### 2. COMPLIANCE REQUIREMENTS

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

#### 3. PROFESSIONAL SERVICES

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

#### 4. COMPLIANCE COSTS

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

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

#### 5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

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

#### 6. MINIMIZING ADVERSE IMPACT

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

#### 7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

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

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

DEC will ensure public notice and input on proposed amendments to Part 613 by issuing public notices in the State Register and DEC's Environmental Notice Bulletin; holding a comment period of at least 60 days; conducting public hearings; and most likely scheduling webinars

and public meetings during the comment period. Interested parties, including small businesses and local governments, will have the opportunity to submit written comments and participate in the public hearings, as well as any webinars and public meetings that are held. DEC will also post relevant rule making documents on their website for public access.

#### 8. CURE PERIOD OR OTHER OPPORTUNITY FOR AMELIORATIVE ACTION

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

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

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

#### 9. INITIAL REVIEW OF THE RULE

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

#### Rural Area Flexibility Analysis

##### 1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS

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

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

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

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

##### 3. COSTS

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

Costs will be incurred by facilities subject to new federal requirements (2015 amendments to 40 CFR Part 280) pertaining to tank systems subject to Subpart 613-2. These include: partial requirements for certain newly regulated wastewater treatment tank systems; testing/inspection/monitoring and repair requirements associated with fill port catch basins,



containment sumps, overflow prevention equipment, and leak detection equipment; walkthrough inspection requirements; compatibility requirements for stored biofuel blends with either greater than ten percent ethanol (E10) or 20 percent biodiesel (B20); and financial responsibility requirements (among others). Note that these new federal requirements, which have been in effect since October 13, 2018, did not have counterparts in previous versions of Part 613 and the costs associated with these new requirements have already been incurred.

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

**4. MINIMIZING ADVERSE IMPACT**

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

**5. RURAL AREA PARTICIPATION**

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

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

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

**6. INITIAL REVIEW OF THE RULE**

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

**Job Impact Statement**

A job impact statement is 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.

tion of public health, safety, or general welfare. In this case, compliance with SAPA for filing of this regulation on a non-emergency basis, including the requirement for a period of time for public comment, cannot be met because to do so would be detrimental to the health and safety of the general public.

As stated in the declaration of the State disaster emergency in Executive Orders No. 20 through 20.1 (July 29, 2022, through September 27, 2022), New York continues to experience one of the highest rates of monkeypox transmission in the country. New York State outside New York City has had 307 diagnosed cases as of September 21, 2022, and New York City has 3480 diagnosed cases as of September 18, 2022. Furthermore, as stated in the declaration of the State disaster emergency Executive Order 21, a polio outbreak has affected multiple counties in the State of New York, with one paralytic case and detections of genetically related virus in four counties, indicating circulation and transmission of the virus likely in hundreds of people. Additionally, New York continues to experience high rates of COVID-19 transmission as well. The constant threat of a possible resurgence of COVID-19 or another communicable disease outbreak alongside the recent outbreaks of monkeypox and polio necessitate the adoption of these regulatory amendments on an emergency basis. The emergency regulations are needed to continue requiring clinical laboratories to report all test results, including negative and indeterminate results, for communicable diseases such as monkeypox, polio and COVID-19; mandate hospitals to report syndromic surveillance data; and permit the Commissioner to direct hospitals to take patients during a disease outbreak such as monkeypox, polio and COVID-19.

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

**Subject:** Investigation of Communicable Disease.

**Purpose:** Control of communicable disease.

**Text of emergency rule:** Section 2.6 is repealed and replaced as follows:

*2.6 Investigations and Response Activities.*

(a) *Except where other procedures are specifically provided in law, every local health authority, either personally or through a qualified representative, shall immediately upon receiving a report of a case, suspected case, outbreak, or unusual disease, investigate the circumstances of such report at any and all public and private places in which the local health authority has reason to believe, based on epidemiological or other relevant information available, that such places are associated with such disease. Such investigations and response activities shall, consistent with any direction that the State Commissioner of Health may issue:*

- (1) *Verify the existence of a disease or condition;*
- (2) *Ascertain the source of the disease-causing agent or condition;*
- (3) *Identify unreported cases;*

(4) *Locate and evaluate contacts of cases and suspected cases, as well as those reasonably expected to have been exposed to the disease;*

(5) *Collect and submit, or cause to be collected or submitted, for laboratory examination such specimens as may furnish necessary or appropriate information for determining the source of disease, or to assist with diagnosis; and furnish or cause to be furnished with such specimens pertinent data on forms prescribed by the State Commissioner of Health, including but not limited to the history of cases, physical findings and details of the epidemiological investigation;*

(6) *With the training or assistance of the State Department of Health, examine the processes, structures, conditions, machines, apparatus, devices, equipment, records, and material within such places that may be relevant to the investigation of disease or condition;*

(7) *Instruct a responsible member of a household or entity, as applicable, to implement appropriate actions to prevent further spread of a disease; and*

(8) *Take any other steps to reduce morbidity and mortality that the local health authority determines to be appropriate.*

(b) *When a case or suspected case of a disease, condition, outbreak, or unusual disease occurs in any business, organization, institution, or private home, the person in charge of the business, organization, institution or the home owner, as well as any individuals or entities required to report pursuant to sections 2.10 and 2.12 of this Part, shall cooperate with the State Department of Health and local health authorities in the investigation of such disease, condition, outbreak, or unusual disease.*

(c) *Investigation Updates and Reports.*

(1) *Upon request of the State Department of Health, the local health authority shall submit updates and reports on outbreak investigations to the State Department of Health. The content, timeframe, and manner of*

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## Department of Health

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### EMERGENCY RULE MAKING

**Investigation of Communicable Disease**

**I.D. No.** HLT-46-22-00001-E

**Filing No.** 874

**Filing Date:** 2022-10-26

**Effective Date:** 2022-10-26

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

**Action taken:** Amendment of section 405.3; and addition of section 58-1.14 to Title 10 NYCRR.

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

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

**Specific reasons underlying the finding of necessity:** Where compliance with routine administrative procedures would be contrary to public interest, the State Administrative Procedure Act (SAPA) § 202(6) empowers state agencies to adopt emergency regulations necessary for the preserva-

submission of such updates shall be determined by the State Department of Health.

(2) The local health authority shall complete investigation reports of outbreaks within 30 days of the conclusion of the investigation in a manner prescribed by the State Commissioner of Health, unless the State Commissioner of Health prescribes a different time period.

(d) Commissioner authority to lead investigation and response activities.

(1) The State Commissioner of Health may elect to lead investigation and response activities where:

(i) Residents of multiple jurisdictions within the State are affected by an outbreak of a reportable disease, condition, or unusual disease; or

(ii) Residents in a jurisdiction or jurisdictions within the State and in another state or states are affected by an outbreak of a reportable disease, condition, or unusual disease; or

(iii) An outbreak of an unusual disease or a reportable disease or condition involves a single jurisdiction with the high potential for statewide impact.

(2) Where the State Commissioner of Health elects to lead investigation and response activities pursuant to paragraph (1) of this subdivision, local health authorities shall take all reasonable steps to assist in such investigation and response, including supply of personnel, equipment or information. Provided further that the local health authority shall take any such action as the State Commissioner of Health deems appropriate and that is within the jurisdiction of the local health authority. Any continued investigation or response by the local health authority shall be solely pursuant to the direction of the State Commissioner of Health, and the State Commissioner of Health shall have access to any investigative materials which were heretofore created by the local health authority.

Paragraph (1) of subdivision (d) of section 405.3 is amended, paragraph (12) is renumbered paragraph (13), and a new paragraph (12) is added, to read as follows:

(d) Records and reports. Any information, records or documents provided to the department shall be subject to the applicable provisions of the Public Health Law, Mental Hygiene Law, Education Law, and the Public Officers Law in relation to disclosure. The hospital shall maintain and furnish to the Department of Health, immediately upon written request, copies of all documents, including but not limited to:

\* \* \*

(11) written minutes of each committee's proceedings. These minutes shall include at least the following:

(i) attendance;

(ii) date and duration of the meeting;

(iii) synopsis of issues discussed and actions or recommendations made; [and]

(12) whenever the commissioner determines that there exists an outbreak of a highly contagious communicable disease pursuant to Part 2 of this Title or other public health emergency, such syndromic and disease surveillance data as the commissioner deems appropriate, which the hospital shall submit in the manner and form determined by the commissioner; and

(13) any record required to be kept by the provisions of this Part.

\* \* \*

Section 405.3 is amended by adding a new subdivision (g) as follows:

(g) Whenever the commissioner determines that there exists an outbreak of a highly contagious communicable disease pursuant to Part 2 of this Title or other public health emergency, the commissioner may direct general hospitals, as defined in Article 28 of the public health law, and consistent with the federal Emergency Medical Treatment and Labor Act (EMTALA), to accept patients pursuant to such procedures and conditions as the commissioner may determine appropriate.

New section 58-1.14 is added to read as follows:

Section 58-1.14 Reporting of certain communicable diseases.

(a) The commissioner shall designate those communicable diseases, as defined by section 2.1 of the Sanitary Code, that require prompt action, and shall make available on the Department's website a list of such communicable diseases.

(b) Laboratories performing tests for screening, diagnosis or monitoring of communicable diseases requiring prompt action pursuant to subdivision (a) of this section, for New York State residents and/or New York State health care providers, shall:

(i) immediately report to the commissioner all positive results for such communicable diseases in a manner and format as prescribed by the commissioner; and

(ii) report all results, including positive, negative and indeterminate results, to the commissioner in a time and manner consistent with Public Health Law § 576-c.

**This notice is intended** to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires January 23, 2023.

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

#### Regulatory Impact Statement

##### Statutory Authority:

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

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

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

##### Legislative Objectives:

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

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

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

##### Needs and Benefits:

These regulations update, clarify and strengthen the Department's authority as well as that of local health departments to take specific actions to monitor the spread of disease, including actions related to investigation and response to a disease outbreak.

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

##### Part 2 Amendments:

- Repeal and replace current section 2.6, related to investigations, to clarify existing local health department authority.

- Sets forth specific actions that local health departments must take to investigate a case, suspected case, outbreak, or unusual disease.

- Requires individuals and entities subject to a public health investigation to cooperate with the Department and local health departments.

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

- Codify in regulation the requirement that local health departments send reports to the Department during an outbreak.

##### Part 405 Amendments

- Mandates hospitals to report syndromic surveillance data during an outbreak of a highly contagious communicable disease.

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

##### Part 58 Amendments

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

**Costs:**

**Costs to Regulated Parties:**

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

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

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

**Costs to Local and State Governments:**

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

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

**Paperwork:**

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

**Local Government Mandates:**

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

**Duplication:**

There is no duplication in existing State or federal law.

**Alternatives:**

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

**Federal Standards:**

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

**Compliance Schedule:**

These emergency regulations will become effective upon filing with the Department of State and will expire, unless renewed, 90 days from the date of filing. As the COVID-19 pandemic is consistently and rapidly changing, it is not possible to determine the expected duration of need at this point in time. The Department will continuously evaluate the expected duration of these emergency regulations throughout the aforementioned 90-day effective period in making determinations on the need for continuing this regulation on an emergency basis or issuing a notice of proposed rulemaking for permanent adoption. This notice does not constitute a notice of proposed or revised rule making for permanent adoption.

**Regulatory Flexibility Analysis**

**Effect of Rule:**

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

**Compliance Requirements:**

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

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

**Professional Services:**

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

**Compliance Costs:**

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

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

**Economic and Technological Feasibility:**

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

**Minimizing Adverse Impact:**

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

**Small Business and Local Government Participation:**

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

**Rural Area Flexibility Analysis**

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

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

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

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

Genesee County	Rensselaer County	Yates County
	Schenectady County	

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

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

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

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

Costs:

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

Economic and Technological Feasibility:

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

Minimizing Adverse Impact:

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

Rural Area Participation:

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

**Job Impact Statement**

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

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

**Repeal of Zika Action Plan; Performance Standards**

**I.D. No.** HLT-46-22-00003-P

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

**Proposed Action:** This is a consensus rule making to repeal section 40-2.24 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 602, 603 and 619

**Subject:** Repeal of Zika Action Plan; Performance Standards.

**Purpose:** To repeal regulatory provisions which are no longer applicable.

**Text of proposed rule:** Pursuant to the authority vested in the Commissioner of Health by sections 602, 603 and 619 of the Public Health Law, Section 40-2.24 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York is repealed, in its entirety.

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

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

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

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

**Consensus Rule Making Determination**

Statutory Authority:

Public Health Law (PHL) sections 602, 603 and 619 authorize the Commissioner to promulgate rules and regulations to effectuate the provisions and purposes of the State Aid program under article 6 of the PHL.

Basis:

This amendment repeals regulatory provisions which are no longer applicable. Surveillance and control work by the local health departments for arthropod-borne diseases communicable to humans, including ZIKA, can be found in Title 10 of the New York Codes, Rules and Regulations (NYCRR) Part 44.30 and the New York State General Public Health Work Arthropod-borne Disease Guidance Document. Therefore 10 NYCRR § 40-2.24 is no longer necessary and no person is likely to object to its repeal.

**Job Impact Statement**

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed Repeal of Section 40-2.24, that it will not have a substantial adverse impact on jobs and employment opportunities and removes legislative burden to the local health departments. New York State Association of County Health Officials (NYSACHO) is in favor of this repeal.

**Office of Mental Health**

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

**Administrative Compensation**

**I.D. No.** OMH-46-22-00012-P

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

**Proposed Action:** This is a consensus rule making to repeal Part 513 of Title 14 NYCRR.

**Statutory authority:** Mental Hygiene Law, sections 7.09, 7.15(a), (b), 31.04, 31.05(a), 41.03, 41.15, 41.18, 41.44, 43.02; Not-for-Profit Corporation Law, section 508

**Subject:** Administrative Compensation.

**Purpose:** To Repeal Part 513 as Executive Order 38 has sunset.

**Text of proposed rule:** Part 513 of Title 14 NYCRR is repealed.

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

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

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

**Consensus Rule Making Determination**

The Office of Mental Health (OMH) is proposing a rule to update state regulations consistent with the repeal, cancellation and revocation of Executive Order (EO) No. 38, signed by Governor Andrew M. Cuomo on January 18, 2012, in its entirety pursuant to EO No. 6, signed by Governor Kathy Hochul on October 8, 2021. Specifically, OMH proposes to repeal Part 413 of Title 14 of the NYCRR, pertaining to "Limits on Administrative Expenses and Executive Compensation." Because the regulatory purpose of OMH's Part 413 regulations was to implement the limits on administrative expenses and executive compensation set forth in EO No. 38, now that this EO has been repealed, cancelled and revoked in its entirety, its implementing regulations as contained in Part 413 of Title 14 NYCRR must also be repealed. The proposed rule will help eliminate any confusion and render the state regulations consistent with the repeal, cancellation and revocation of EO No. 38 as effectuated by Governor Hochul's EO No. 6.

OMH does not anticipate that any person will object to the proposed regulatory amendments contained in this consensus rule since the rule would render the state regulations consistent with Governor Hochul's EO No. 6 as discussed above.

**Job Impact Statement**

Job Impact Statement for the repeal of Part 513 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 employ-

ment opportunities. This regulation repeals Title 14 NYCRR Part 513 which is required under Executive Order 38. As Executive Order 38 is not being continued, this part of the NYCRR is no longer necessary.

Executive order 38 required limits on administrative costs and executive compensation for certain individuals or entities that receive state funds or state authorized payments. The repeal will not result in costs, including staffing costs, or new compliance requirements for providers and consequently, the repeal will not have a substantial impact on jobs or employment opportunities in New York State.

## Office for People with Developmental Disabilities

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

#### Family Care Homes for People With Developmental Disabilities

I.D. No. PDD-46-22-00002-P

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

**Proposed Action:** Amendment of Part 687 of Title 14 NYCRR.

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

**Subject:** Family Care Homes for People With Developmental Disabilities.

**Purpose:** To clarify terminology and limit the number of individuals residing in family care homes.

**Text of proposed rule:** Existing title of Part 687 is amended to read as follows:

PART 687. Family Care Homes For [People] *Individuals With Intellectual and/or Developmental Disabilities*

- Existing section 687.1 is amended to read as follows:

(a) This Part shall apply to all *state sponsored and agency sponsored* family care homes (see section 687.99 of this Part) operating or to be operated under an operating certificate (see section 687.99 of this Part) obtained from the Office for People With Developmental Disabilities (hereinafter referred to as OPWDD; see section 687.99 of this Part).

(b) *This Part sets forth specific minimum requirements with which an OPWDD certified family care home must comply. This is in addition to any other regulations issued by OPWDD and designated as applicable to family care homes and/or their sponsoring agencies (see section 687.99 of this Part).*

- Existing subdivisions 687.2(a), (b), (e) are amended to read as follows:

(a) The family care program (see section [687.11] 687.99 of this Part) has been developed to make it possible for a certified family care provider to care for an individual or individuals in the provider's own home, thus providing a family-oriented, home-like environment.

(b) Family care placement is available, *in accordance with processes established by OPWDD*, to those individuals with *intellectual and/or developmental disabilities* who do not need residential care and treatment in a more restrictive, structured setting, but who are unable to function adequately in their own homes[;] or for whom the family-oriented environment is more appropriate than other available community settings or independent community living arrangements.

(e) Exceptions to the provisions of this Part, other than statutory requirements, may be made by the commissioner (see section [687.11] 687.99 of this Part) when it is determined that an exception is necessary and in the best interest of an individual(s) and is consistent with the health, safety and welfare of the individual(s).

- Existing subdivision 687.3(b) is amended to read as follows:

(b) Section 131-o of the Social Services Law sets forth [the] *certain applicable* requirements for the maintenance of personal allowance accounts (see section [687.11] 687.99 of this Part *and Part 633 of this Title*) for individuals residing in family care homes who receive State-supplemented SSI.

- Existing paragraph 687.4(a)(8) is amended to read as follows:

(8) The certified capacity (see section [687.11] 687.99 of this Part) of the family care home shall be stated on the operating certificate[,] and shall not be exceeded.

- Existing paragraph 687.4(b)(11) is amended to read as follows:

(11) Except as provided in paragraph ([10]12) of this subdivision, no

family care home shall be issued an operating certificate for the purpose of providing suitable care therein to more than [six persons] *four individuals receiving services*.

- Existing paragraph 687.4(b)(12) is amended to read as follows:

(12) Any provider of services providing family care to [more than six] *five or more individuals* [persons on July 1, 1975] *on the effective date of this regulation* [shall] *may be recertified* [issued an operating certificate for] *as a family care home* [effective April 1, 1977,] *at the provider's approved capacity on the date of recertification* pursuant to the provisions of this Part, provided that such [person] *provider* fulfills all requirements of this Part except for the number of *individuals receiving services* [persons in care, and that such person agrees to provide family care to no more than 10 persons on and after April 1, 1977]. *In such cases, upon the discharge or death of an individual residing in the home, the certified capacity of the home will be reduced, on each occasion, until the capacity is reduced to a maximum of four.*

- Existing subparagraph 687.4(c)(1)(iii) is amended to read as follows:

(iii) the adequacy of arrangements made with other providers of services for the provision of health, habilitation, day *services* [programs], education, [sheltered workshop,] transportation or other services as may be necessary and appropriate to meet the needs of individuals who will reside in the family care home;

- Existing subdivision 687.5(f) is amended to read as follows:

(f) The commissioner may impose a fine upon a finding that the holder of the certificate has failed to comply with the terms of the operating certificate or with the provisions of any applicable statute, rule or regulation. The maximum amount of fine shall be \$1,000 *per day or \$15,000 per violation*. Such penalty may be recovered by an action brought by the commissioner in any court of competent jurisdiction. Such penalty may be released or compromised by the commissioner before the matter has been referred to the Attorney General. Any such penalty may be released or compromised, and any action commenced to recover the same may be settled or discontinued by the Attorney General with the consent of the commissioner.

- A new subdivision 687.5(g) is added to read as follows:

(g) *Any notice of suspension, revocation, or limitation of an operating certificate, or notice of intent to take such action, must also be addressed and sent to the executive director of an agency sponsored family care program.*

- Existing subdivisions 687.6(a), (b), (c), (d) are amended to read as follows:

(a) In the event that the holder of an operating certificate for a family care home wishes to cease the operation or conduct of any of the activities, as defined in this Part, for which such certificate has been issued[;], wishes to transfer ownership or possession of the premises in which such activities are being conducted[;] or elects not to apply to OPWDD for recertification upon the expiration of any current period of certification, it shall be the duty of the family care provider to give OPWDD *and the sponsoring agency* written notice of such intention not less than 60 days prior to the intended effective date of such transaction.

(b) Such notice shall set forth a detailed plan developed in conjunction with OPWDD *and the sponsoring agency* which makes provision for the safe and orderly transfer of each individual served by the family care provider into a program of services appropriate to each individual's ongoing needs.

(c) The family care provider shall not cease to provide any such services to any individual under any of the circumstances described in this section until the notice and plan required hereby are received, reviewed and approved by *the sponsoring agency and OPWDD, with OPWDD having final authority to approve.*

(d) For the purposes of this section, the requirement of prior notice and continuous provision of programs and services by the family care provider shall not apply to those situations and changes in circumstances directly affecting the family care provider that are not reasonably foreseeable at the time of occurrence, including but not limited to death or other sudden incapacitating disability or infirmity. Written notice shall be given to OPWDD *and the sponsoring agency* as soon as reasonably possible thereafter, in the manner set forth within this section.

- Existing subdivision 687.7(c) is amended to read as follows:

(c) OPWDD shall have the power to conduct investigations into the operations of any person(s) or entity which holds an operating certificate issued by the commissioner, into the operation of any family care home issued an operating certificate by the commissioner, and into the operations related to the provision of services regulated by this Part of any person(s) or entity providing a family care home for [one or more unrelated persons] *individuals with intellectual and/or developmental disabilities. OPWDD may designate a sponsoring agency to conduct such investigations.*

- Existing subdivision 687.8(g) is amended to read as follows:

(g) A family care provider shall [maintain the] *comply with the family care* [policy] *manual policies and updates to such* [subsequent] policies

promulgated [and distributed] by OPWDD [so as to be current and accessible]. The purpose of the [policy] manual is to enable a family care provider to have access to guidelines for the day-to-day operation of the family care home and information as to the family care provider's relationship with OPWDD. [The policy manual shall not be construed as the basis for determining compliance for certification purposes.] *The sponsoring agency must ensure every family care provider is aware of and has access to the family care manual.*

- Existing paragraph 687.8(h)(2) is amended to read as follows: (2) personal requirements and incidental needs of the individuals;
- Existing subparagraph 687.8(h)(3)(i) is amended to read as follows:

(i) A family care provider shall maintain an individual's personal allowance account [for individuals receiving State-supplemented SSI,] in conformance with the requirements set forth in the Social Services Law and Part 633 of this Title.

- Existing paragraph 687.8(p)(1) is amended to read as follows:

(1) The family care provider shall request that the sponsoring agency [request] *obtain* background checks prior to or when such party begins to reside in the family care home or reaches the age of 18 years. The requested background checks include:

- Existing paragraph 687.8(p)(3) is deleted and reserved.
- Existing paragraph 687.8(p)(4) is amended to read as follows:

(4) The [family care provider] *sponsoring agency* shall ensure the provision of all required statements/information/fingerprints no later than five business days after the subject party becomes a resident or attains the age of 18 years.

- Existing section 687.9 is deleted and replaced to read as follows: 687.9 *Family Care Respite and Use of Substitute Providers.*

*A family care program substitute provider is a party approved by a sponsoring agency to provide non-waiver respite services to individuals receiving family care services when a family care provider is temporarily not available to provide services. The approval and provision of these respite services must be in accordance with the process established by OPWDD.*

- A new subdivision 687.11(c) is added to read as follows:

(c) *The application must be made in accordance with admission processes established by OPWDD.*

Existing subdivision 687.99(a) is deleted and subdivisions (b) through (i) are re-lettered to be (a) through (h).

- A new subdivision 687.99(i) is added to read as follows:

(i) *Sponsoring Agency.*

*An agency that provides oversight of OPWDD certified family care homes and the delivery of services to individuals therein. An agency is approved to be a sponsoring agency of OPWDD certified family care homes upon execution and approval of the written agreement between OPWDD and the agency, provided that it is and remains a provider of services under the Home and Community Based Services (HCBS) comprehensive waiver operated by OPWDD and complies with all of the provisions of the agreement. A family care home may be sponsored by a Developmental Disabilities State Operations Office ("state sponsored") or a voluntary agency ("agency sponsored").*

**Text of proposed rule and any required statements and analyses may be obtained from:** Mary Beth Babcock, Office for People With Developmental Disabilities, 44 Holland Avenue, 3rd Floor, Albany, NY 12209, (518) 474-7000, email: rau.unit@opwdd.ny.gov

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

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

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

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

#### Regulatory Impact Statement

##### 1. Statutory Authority:

a. The Office for People With Developmental Disabilities (OPWDD) has the statutory responsibility to provide and encourage the provision of appropriate programs, supports, and services in the areas of care, treatment, habilitation, rehabilitation, and other education and training of persons with intellectual and developmental disabilities, as stated in the New York State (NYS) Mental Hygiene Law (MHL) Section 13.07.

b. OPWDD has the statutory authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the NYS MHL Section 13.09(b).

c. OPWDD has the statutory authority to adopt regulations concerned with the operation of programs and the provision of services, as stated in the NYS MHL Section 16.00. The regulation also ensures compliance by OPWDD certified and operated residences with the proper provision of services.

d. OPWDD has the statutory authority to provide for the oversight of facilities and providers of services holding operating certificates, as stated in the NYS MHL Section 16.11.

2. Legislative Objectives: The proposed regulations further legislative objectives embodied in MHL sections 13.07, 13.09(b), and 16.00. The proposed regulation amends Title 14 NYCRR Part 687 in order to clarify the roles and responsibilities of the Sponsoring Agency and the Substitute Provider as well as better support those with developmental disabilities by offering smaller settings, by changing the certified capacity to a maximum of four. These amendments will help OPWDD oversee current family care providers and ensure individuals in family care receive quality services.

3. Needs and Benefits: The proposed regulation amends Part 687 of Title 14 NYCRR in order better support those with developmental disabilities by offering smaller settings, by reducing the certified capacity to a maximum of 4 as well as to clarify the roles and responsibilities of the Sponsoring Agency and Substitute Provider. This regulation is being proposed to lower the maximum number of individuals residing in a family care home in addition to providing clear definitions. OPWDD as a certifier of providers is required to ensure that individuals receiving services are properly cared for. Lowering the maximum capacity for individuals will make a difference in the quality of life each individual receives.

##### 4. Costs:

a. Costs to the Agency and to the State and its Local Governments:

There is no anticipated impact on Medicaid expenditures as a result of the proposed regulations, as the entities that provide these services will only be providing such services to individual's already receiving Medicaid, in accordance with existing OPWDD policies and processes.

These regulations will not have any fiscal impact on local governments, as the contribution of local governments to Medicaid has been capped. Chapter 58 of the Laws of 2005 placed a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

There are no anticipated costs to OPWDD in its role as a provider of services to comply with the new requirements.

b. Costs to Private Regulated Parties: There will not be any anticipated costs to regulated providers to comply with the proposed regulations. The regulation is amended to clarify the roles and responsibilities of the Sponsoring Agency and the Substitute Provider as well as better support those with developmental disabilities by offering smaller settings, by changing the certified capacity to a maximum of four.

5. Local Government Mandates: This rule would not apply to local government units. There are no new requirements imposed by the rule on any other county, city, town, village; or school, fire, or other special district.

6. Paperwork: Providers will not experience an increase in paperwork as a result of the proposed regulations.

7. Duplication: The proposed regulations do not duplicate any existing State or Federal requirements on this topic.

8. Alternatives: OPWDD did not consider any other alternatives to the proposed regulations. These changes clarify the roles and responsibilities of the Sponsoring Agency and the Substitute Provider as well as better support those with developmental disabilities by offering smaller settings, by changing the certified capacity to a maximum of four.

9. Federal Standards: The proposed amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance Schedule: Following the comment period OPWDD plans to adopt the regulation as permanent. OPWDD expects that providers will be in compliance with the proposed requirements at the time of their effective date(s).

#### Regulatory Flexibility Analysis

The proposed regulation amends Title 14 NYCRR Part 687 in order to clarify the roles and responsibilities of the Sponsoring Agency and the Substitute Provider as well as better support those with developmental disabilities by offering smaller settings, by changing the certified capacity to a maximum of four.

The regulation will not result in new compliance requirements or additional professional services for providers. There is also no additional paperwork required by the amendment. The regulation simply adds clarity to terms that were not previously defined and lowers the number of residents that can reside in a family care home. A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses and/or local governments.

#### Rural Area Flexibility Analysis

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

capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed regulation.

The proposed regulation amends Part 687 of Title 14 NYCRR in order to clarify the roles and responsibilities of the Sponsoring Agency and the Substitute Provider as well as better support those with developmental disabilities by offering smaller settings, by changing the certified capacity to a maximum of four. The regulation will not result in an adverse impact on rural communities because the regulation applies to all family care providers who are certified by OPWDD. The proposed regulation will not result in costs for regulated parties. Therefore, the amendments will not have any adverse effects on providers in rural areas and local governments.

**Job Impact Statement**

A Job Impact Statement for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on jobs and/or employment opportunities.

The proposed regulation amends Part 687 of Title 14 NYCRR in order to clarify the roles and responsibilities of the Sponsoring Agency and the Substitute Provider as well as better support those with developmental disabilities by offering smaller settings by changing the certified capacity to a maximum of four. The regulation will not result in new compliance requirements for providers. The regulation is designed to clarify terminology that was not previously defined and provide better care to individuals residing in family care homes. Thus, the regulation will not have a substantial impact on jobs or employment opportunities in New York State.

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## Public Service Commission

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

**Public Service Law Regulations 16 NYCRR sections 86.3(a)(1), (2), (b)(2) and 86.4(b)**

**I.D. No.** PSC-46-22-00006-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 Anbaric Development Partners, LLC for waiver of certain provisions of 16 NYCRR regarding requirements for applications under PSL Article VII for Certificates of Environmental Compatibility and Public Need.

**Statutory authority:** Public Service Law, sections 4 and 122

**Subject:** Public Service Commission Regulations 16 NYCRR sections 86.3(a)(1), (2), (b)(2) and 86.4(b).

**Purpose:** To consider a waiver of certain regulations relating to the content of an application for transmission line siting.

**Substance of proposed rule:** The Public Service Commission (Commission) is considering a motion filed by Anbaric Development Partners, LLC (Anbaric) on September 30, 2022, seeking waiver of Commission regulations 16 NYCRR §§ 86.3(a)(1), 86.3(a)(2), 86.3(b)(2) and 86.4(b), all of which pertain to mapping requirements of applications filed pursuant to Public Service Law (PSL) Article VII. On or before December 31, 2022, Anbaric intends to file a PSL Article VII application with the Commission for a Certificate of Environmental Compatibility and Public Need authorizing it to construct, own and operate the Hera Power Link (Project), a proposed transmission system that will connect one or more offshore wind generators to Consolidated Edison Company of New York’s transmission system at either its Gowanus Substation or its proposed Clean Energy Hub, both located in Brooklyn, New York.

Specifically, 16 NYCRR § 86.3(a)(1) requires that Anbaric submit detailed New York State Department of Transportation (NYSDOT) topographic maps showing: (i) the proposed right-of-way with a five-mile buffer on either side of the proposed facility location; (ii) where construction of the proposed facility would involve permanent changes to existing vegetation, topography or man-made structures; and (iii) any known historical, geologic, archaeologic or scenic area, including parks and untouched wilderness, within three miles of the right-of-way. Anbaric requests Commission approval to alternatively provide topographical maps prepared by the National Geospatial Program of the United States Geological Survey (USGS maps) and electronic navigational charts prepared by the United States Depart-

ment of Commerce, National Oceanic and Atmospheric Administration (NOAA), and other reliable mapping sources where required. According to Anbaric, such maps and charts will provide the depictions required by the Commission’s regulations, will be at the same scale as the NYSDOT maps, are consistent with the Commission’s regulatory requirements for underground and submarine transmission facilities, and will adequately identify the location of the proposed facility and any potentially affected resources of the type described in the regulations.

16 NYCRR § 86.3(a)(2) requires that Anbaric submit NYSDOT topographical maps at a scale of 1:250,000 showing: (i) the location, length and capacity of the proposed facility, and of any existing facility related to the proposed facility; (ii) the location and function of any structure to be built on, or adjacent to, the right-of-way; (iii) the location and designation of each point of interconnection between an existing and proposed facility; and (iv) nearby, crossing or connecting rights-of-way or facilities of other utilities. Anbaric requests approval to substitute the required NYSDOT maps with USGS maps, which it maintains will adequately depict the relationship of the proposed facility to the respective interconnected electric systems. In addition, Anbaric proposes to depict “rights-of-way or facilities of other utilities” only to the extent such information is available from reasonably accessible sources.

16 NYCRR § 86.3(b)(2) requires that Anbaric submit various aerial photographs of the project area that were taken within six months of the date its application is filed. Anbaric requests waiver of the temporal requirement and proposes to submit a combination of aerial orthophotographs taken in June 2018 (NYC DOITT) and March 2020 (New York City 2020, Esri) or more current orthophotographs to the extent they become available through public or commercial sources. Anbaric states that, upon request, it will attest that the photographs submitted with the application adequately reflect current conditions of the area surrounding the proposed facility.

Finally, 16 NYCRR § 86.4(b)(2) requires that Anbaric submit NYSDOT maps reflecting any alternative routes considered. Anbaric requests approval to substitute the required NYSDOT maps with USGS maps and NOAA electronic navigational charts, which it maintains will adequately depict the alternative routes considered.

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-T-0547SP1)

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

**Petition to Submeter Electricity**

**I.D. No.** PSC-46-22-00007-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 Archer Towers Phase I Development LLC to submeter electricity at 92-33 Guy R Brewer Boulevard, Queens, New York, and request for waiver of the requirement of an energy audit pursuant to 16 NYCRR § 96.5(k)(3).

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

**Subject:** Petition to submeter electricity.

**Purpose:** To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.

**Substance of proposed rule:** The Commission is considering the petition filed by Archer Tower Phase I Development LLC (Owner) on October 13, 2022, seeking authority to submeter electricity at a new rental building with both fair-market and affordable units, located at 92-33 Guy R Brewer Boulevard, Queens, New York, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison). The Commission is also considering the Owner's request for waiver of 16 NYCRR § 96.5(k)(3), the requirement to conduct an energy audit.

In the petition, the Owner requests authorization to take electric service from Con Edison and then distribute and meter that electricity to its tenants. The Owner also requests waiver of 16 NYCRR § 96.5(k)(3), which requires proof that an energy audit has been conducted when 20 percent or more of the residents receive income-based housing assistance. The Owner states that because the building is new construction and is therefore subject to the New York City Energy Conservation Code (NYCECC), which sets energy-efficiency standards for new construction, the Commission should waive the energy audit requirements of 16 NYCRR § 96.5(k)(3). Once approved by the Commission, submetering of electricity to residential 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-0570SP1)

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

#### Agreement for the Provision of Water Service and Waivers

**I.D. No.** PSC-46-22-00008-P

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

**Proposed Action:** The Commission is considering the petition of Saratoga Water Services, Inc. for a water supply agreement for service and a request for waivers of certain tariff provisions and Commission rules to provide water service to Juncta, LLC.

**Statutory authority:** Public Service Law, sections 4(1) and 89-b

**Subject:** Agreement for the provision of water service and waivers.

**Purpose:** To consider whether the terms of a service agreement and requested waivers are in the public interest.

**Substance of proposed rule:** The Commission is considering the petition (Petition) filed by Saratoga Water Services, Inc. (Saratoga) for a waiver of provisions of its existing tariff and Commission regulations in 16 NYCRR Parts 501 and 502. Saratoga seeks the waivers in order to provide water service to Juncta, LLC (Juncta) on non-tariff terms. Additionally, Juncta is located outside Saratoga's "service territory" as defined by the Department of Environmental Conservation (DEC). Saratoga notes in its petition that it would also need permission from DEC to provide service to Juncta.

Saratoga seeks to provide service to Juncta under the terms of an

"Agreement for the Provision of Water Service" (Agreement), dated August 8, 2022, which is inconsistent with Saratoga's existing tariff and Commission regulations. Under the terms of the Agreement, Juncta would pay for the entire cost of extending Saratoga's infrastructure to provide service without receiving potential refunds of that cost. Saratoga seeks waiver of 16 NYCRR § 501.9, which requires that main extension agreements be in compliance with the Commission's regulations and water-work's tariff. Saratoga asserts that this waiver is necessary on the grounds that the Agreement would technically be inconsistent with the Commission's regulations that restrict service to customers located within the company's service territory, and as Juncta is outside Saratoga's service area, Saratoga requests a waiver to avoid ambiguity. Saratoga also seeks a waiver of 16 NYCRR § 501.10, which requires water companies to receive permission from DEC to extend their service territory before seeking a waiver of tariff requirements from the Commission.

The petition requests an Order (a) approving the terms and conditions of the Agreement as being in the public interest, (b) determining that the provision of water service by Saratoga, in accordance with the terms set forth in the Agreement, is in the public interest, (c) waiving Saratoga's tariff provisions to the extent they are inconsistent with the Agreement, and (d) waiving the applicability of 16 NYCRR § 501, including § 501.10, and § 502 to the extent they are inconsistent with the Agreement.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](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-W-0504SP1)

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

#### Public Service Commission Regulations 16 NYCRR Section 86.3(a)(2) and (b)(2)

**I.D. No.** PSC-46-22-00009-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 Clean Path LLC and NYPA for waiver of certain provisions of 16 NYCRR regarding requirements for applications under PSL Article VII for Certificates of Environmental Compatibility and Public Need.

**Statutory authority:** Public Service Law, sections 4 and 122

**Subject:** Public Service Commission Regulations 16 NYCRR section 86.3(a)(2) and (b)(2).

**Purpose:** To consider a waiver of certain regulations relating to the content of an application for transmission line siting.

**Substance of proposed rule:** The Public Service Commission (Commission) is considering a motion filed by Clean Path LLC and New York Power Authority (Applicants) on October 11, 2022, seeking waiver of Commission regulations 16 NYCRR §§ 86.3(a)(2) and 86.3(b)(2), both of which pertain to mapping requirements of applications filed pursuant to Public Service Law (PSL) Article VII. On October 11, 2022, Applicants filed a PSL Article VII application with the Commission seeking a Certificate of Environmental Compatibility and Public Need to construct, operate, and maintain an approximately 178-mile-long, 1,300-megawatt (MW)



High Voltage Direct Current (HVDC) subterranean and submarine transmission line. The transmission line will run from a point of interconnection (POI) located at the Fraser Substation in Delaware County to a POI located at the Rainey Substation in Queens.

The first provision that Applicants seek waiver of, 16 NYCRR § 86.3(a)(2), requires that Applicants submit detailed New York State Department of Transportation (NYSDOT) topographic maps at a scale of 1:250,000 showing: (i) the location, length and capacity of the proposed facility, and of any existing facility related to the proposed facility; (ii) the location and function of any structure to be built on, or adjacent to, the right-of-way; (iii) the location and designation of each point of connection between an existing and proposed facility; and (iv) nearby, crossing or connecting rights-of-way or facilities of other utilities. Applicants states that the specified maps are not available and requests Commission approval to provide, as an alternative to the required maps, 1:24,000 scale based on 1:24,000 NYSDOT maps, which will show the right-of-way of the proposed facility in conjunction with other components of the electric system and will provide the information required under 16 NYCRR § 86.3(a)(2)(i)-(iv) with a finer resolution than the required maps. Applicants also provide maps based on USGS topographic maps at a scale of 1:24,000 which show nearby crossing and connecting infrastructure facilities of existing utilities.

For its other waiver request, 16 NYCRR § 86.3(b)(2) requires that Applicants submit various aerial photographs of the project area that were taken within six months of the date its application is filed. Applicants request waiver of this temporal requirement and has confirmed that the field conditions shown in the aerial photographs taken in the spring of 2020 and 2021 and submitted with the application reflect current conditions of the area along the proposed project route.

The full text of the motion, the PSL Article VII application, 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-T-0558SP1)

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

**Notice of Intent to Submeter Electricity**

**I.D. No.** PSC-46-22-00010-P

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

**Proposed Action:** The Commission is considering the notice of intent of B240, LLC to submeter electricity at 85 and 86 Hangar Road, and 109, 129, 143, and 169 Air City Blvd., Rome, New York.

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

**Subject:** Notice of intent to submeter electricity.

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

**Substance of proposed rule:** The Commission is considering the notice of intent filed B240, LLC on August 17, 2022, seeking authority to submeter electricity at new fair market rate rental buildings, sited at 85 and 86 Hangar Road, and 109, 129, 143 and 169 Air City Blvd., Rome, New York, located in the territory of Griffiss Utility Services Corporation.

In the notice of intent, B240, LLC requests authorization to take electric service from Griffiss Utility Services Corporation and then distribute and meter that electricity to its residents. 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 notice of intent and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](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-0487SP1)

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**State University of New York**

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**NOTICE OF ADOPTION**

**State University of New York Tuition and Fees Schedule**

**I.D. No.** SUN-34-22-00002-A

**Filing No.** 881

**Filing Date:** 2022-10-27

**Effective Date:** 2022-11-16

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

**Action taken:** Amendment of section 302.1(b) of Title 8 NYCRR.

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

**Subject:** State University of New York Tuition and Fees Schedule.

**Purpose:** To amend the Tuition and Fees Schedule of the State University of New York effective for the Fall 2022 semester.

**Text or summary was published** in the August 24, 2022 issue of the Register, I.D. No. SUN-34-22-00002-EP.

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

**Text of rule and any required statements and analyses may be obtained from:** Lisa S. Campo, State University of New York, H. Carl McCall SUNY Building, Albany, NY 12246, (518) 320-1400, email: [Lisa.Campo@SUNY.edu](mailto:Lisa.Campo@SUNY.edu)

**Assessment of Public Comment**

The agency received no public comment.

**Department of Taxation and Finance**

**NOTICE OF ADOPTION**

**Fuel Use Tax on Motor Fuel and Diesel Motor Fuel and the Art. 13-A Carrier Tax Jointly Administered Therewith**

**I.D. No.** TAF-34-22-00001-A  
**Filing No.** 902  
**Filing Date:** 2022-11-01  
**Effective Date:** 2022-11-01

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

**Action taken:** Amendment of section 492.1(b)(1) of Title 20 NYCRR.  
**Statutory authority:** Tax Law, sections 47(e), 171, subd. First; 301-h(c), 509(7), 523(b) and 528(a)  
**Subject:** Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.  
**Purpose:** To set the sales tax component and the composite rate per gallon for the period October 1, 2022 through December 31, 2022.  
**Text or summary was published** in the August 24, 2022 issue of the Register, I.D. No. TAF-34-22-00001-P.

**Final rule as compared with last published rule:** No changes.  
**Text of rule and any required statements and analyses may be obtained from:** Kathleen D. Chase, Regulations Specialist, Department of Taxation and Finance, Office of Counsel, Building 9, W.A. Harriman Campus, Albany, NY 12227, (518) 530-4153, email: kathleen.chase@tax.ny.gov

**Assessment of Public Comment**  
 The agency received no public comment.

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

**Fuel Use Tax on Motor Fuel and Diesel Motor Fuel and the Art. 13-A Carrier Tax Jointly Administered Therewith**

**I.D. No.** TAF-46-22-00011-P

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

**Proposed Action:** Amendment of section 492.1(b)(1) of Title 20 NYCRR.  
**Statutory authority:** Tax Law, sections 171, subd. First; 301-h(c), 509(7), 523(b) and 528(a)  
**Subject:** Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.  
**Purpose:** To set the sales tax component and the composite rate per gallon for the period January 1, 2023 through March 31, 2023.  
**Text of proposed rule:** Section 1. Paragraph (1) of subdivision (b) of section 492.1 of such regulations is amended by adding a new subparagraph (cix) to read as follows:

Motor Fuel			Diesel Motor Fuel			
Sales Tax Component	Composite Rate	Aggregate Rate	Sales Tax Component	Composite Rate	Aggregate Rate	
(cviii) Oct. – Dec. 2022	16.0	24.0	41.3	16.0	24.0	39.55
(cix) Jan. – March 2023	14.0	22.0	40.1	14.0	22.0	38.35

**Text of proposed rule and any required statements and analyses may be obtained from:** Kathleen D. Chase, Regulations Specialist, Department of Taxation and Finance, Office of Counsel, Building 9, W.A. Harriman Campus, Albany, NY 12227, (518) 530-4153, email: kathleen.chase@tax.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, 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.

**HEARINGS SCHEDULED  
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
<b>Environmental Conservation, Department of</b>		
ENV-45-22-00021-P .....	Adding Aerosol Cans and Paint to NYS Universal Waste Rule	<p>Virtual via Webex—January 11, 2023, 2:00 p.m.</p> <p>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 370, Part 371, Part 373, Part 374, and Part 376 by November 9, 2022. The proposed regulations webpage for 6 NYCRR Part 370, Part 371, Part 373, Part 374, and Part 376 may be accessed at: <a href="https://www.dec.ny.gov/regulations/proregulations.html">https://www.dec.ny.gov/regulations/proregulations.html</a>.</p> <p>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 6 NYCRR Part 370, Part 371, Part 373, Part 374, and Part 376 public comment hearing.</p> <p>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 Friday, December 30, 2022. The written request must be addressed to ALJ Molly McBride, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to ALJ Molly McBride at <a href="mailto:ohms@dec.ny.gov">ohms@dec.ny.gov</a>.</p>
ENV-46-22-00004-P .....	Chemical Bulk Storage (CBS)	<p>Webinar—January 18, 2023, 3:00 p.m.</p> <p>Department of Environmental Conservation (DEC) will hold a public comment hearing on proposed regulations 6 NYCRR Parts 597, 598, and 613 at: 3:00 p.m. on January 18, 2023, via electronic webinar. These regulations were proposed regulations and previously noticed in the NYS Register, Vol XLIII, Issue 24 on June 16, 2021. They are being re-noticed to comply with regulatory timelines. Comments received during the 6/4/21 - 12/6/21 comment period have been recorded and will be included in the response to comments.</p>

Instructions on how to “join” the hearing webinar and provide an oral statement will be published on the Department’s proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 by November 18, 2022. The proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 may be accessed at: <https://www.dec.ny.gov/regulations/propregulations.html>.

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

Interpreter services shall be made available to deaf persons, and translator services shall be made available to persons with limited English proficiency, at no charge for either service, upon written request. Requests must be submitted no later than January 8, 2023, and directed to the NYSDEC Office of Communication Services, either by mail (address: NYSDEC, Office of Communication Services, 625 Broadway, 4th Floor, Albany, NY 12233-4500), or by e-mail ([language@dec.ny.gov](mailto:language@dec.ny.gov)).

All comments received during the 6/16/21 - 12/6/21 comment period have been recorded and will be included in the response to comments. Additional comments will be received until 5:00 p.m. on January 24, 2023. Comments may be entered during the hearing, e-mailed to [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov), or mailed to NYS DEC, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233, Attn: Jenn Dawson. Please include “Comments on Proposed Part 613” or “Comments on Proposed Parts 597/598” in the subject or memo line of the correspondence.

Additional hearing or rulemaking questions can be directed to Jenn Dawson at [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov).

Webinar—January 18, 2023, 3:00 p.m.

Department of Environmental Conservation (DEC) will hold a public comment hearing on proposed regulations 6 NYCRR Parts 597, 598, and 613 at: 3:00 p.m. on January 18, 2023, via electronic webinar. These regulations were proposed regulations and previously noticed in the NYS Register, Vol XLIII, Issue 24 on June 16, 2021. They are being re-noticed to comply with regulatory timelines. Comments received during the 6/4/21 - 12/6/21 comment period have been recorded and will be included in the response to comments.

ENV-46-22-00005-P ..... Petroleum Bulk Storage (PBS)

Instructions on how to “join” the hearing webinar and provide an oral statement will be published on the Department’s proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 by November 18, 2022. The proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 may be accessed at: <https://www.dec.ny.gov/regulations/propregulations.html>.

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

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All comments received during the 6/16/21 - 12/6/21 comment period have been recorded and will be included in the response to comments. Additional comments will be received until 5:00 p.m. on January 24, 2023. Comments may be entered during the hearing, e-mailed to [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov), or mailed to NYS DEC, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233, Attn: Jenn Dawson. Please include “Comments on Proposed Part 613” or “Comments on Proposed Parts 597/598” in the subject or memo line of the correspondence.

Additional hearing or rulemaking questions can be directed to Jenn Dawson at [derweb@dec.ny.gov](mailto:derweb@dec.ny.gov).

**Liquor Authority, State**

LQR-36-22-00001-P ..... Minimum curriculum requirements for ATAP schools

163 W. 125th St., New York, NY—November 22, 2022, 10:00 a.m.

**Long Island Power Authority**

LPA-37-22-00010-P ..... Solar Communities Program

Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY—November 16, 2022, 2:00 p.m.

H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 17, 2022, 10:00 a.m.

Refer to schedule on: [www.lipower.org](http://www.lipower.org)

LPA-37-22-00012-P ..... Authority’s small generator interconnection

Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY—November 16, 2022, 2:00 p.m.

H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 17, 2022, 10:00 a.m.

Refer to schedule on: [www.lipower.org](http://www.lipower.org)

LPA-37-22-00013-P ..... Authority’s annual budget and retail rates

Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY—November 16, 2022, 2:00 p.m.

LPA-37-22-00014-P .....	Large Renewable Host Community Benefit Program	<p>H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 17, 2022, 10:00 a.m.</p> <p>Refer to schedule on: <a href="http://www.lipower.org">www.lipower.org</a></p> <p>Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY—November 16, 2022, 2:00 p.m.</p> <p>H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 17, 2022, 10:00 a.m.</p> <p>Refer to schedule on: <a href="http://www.lipower.org">www.lipower.org</a></p>
LPA-37-22-00015-P .....	Long Island Choice Program	<p>Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY—November 16, 2022, 2:00 p.m.</p> <p>H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 17, 2022, 10:00 a.m.</p> <p>Refer to schedule on: <a href="http://www.lipower.org">www.lipower.org</a></p>
LPA-37-22-00016-P .....	Bill credits and food and medicine spoilage reimbursements during widespread prolonged outages	<p>Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY—November 16, 2022, 2:00 p.m.</p> <p>H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 17, 2022, 10:00 a.m.</p> <p>Refer to schedule on: <a href="http://www.lipower.org">www.lipower.org</a></p>
<b>State, Department of</b> DOS-39-22-00009-P .....	Administration and enforcement of the Uniform Code and Energy Code by the Department of State	<p>Department of State, 99 Washington Ave., Rm. 505, Albany, NY—November 30, 2022, 10:00 a.m.</p>

**ACTION PENDING INDEX**

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

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

For additional information concerning any of the proposals

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

Agency code	Issue number	Year published	Serial number	Action Code
<b>AAM</b>	<b>01</b>	<b>12</b>	<b>00001</b>	<b>P</b>

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
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**AGING, OFFICE FOR THE**

AGE-43-22-00001-P	..... 10/26/23	Service provision under the Expanded In-home Services for the Elderly Program and Home-Delivered Meals.	To provide flexibility in strict compliance with certain requirements relating to client assessments when not practicable.
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**AGRICULTURE AND MARKETS, DEPARTMENT OF**

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
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**ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF**

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-33-22-00001-RP	..... 08/17/23	Requirements for the establishment, incorporation and certification of providers of addiction services	To update outdated and stigmatizing language and to clarify processes of the certification process for providers and applicants

**CANNABIS MANAGEMENT, OFFICE OF**

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<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-33-22-00003-P	08/17/23	Limits on executive compensation	To remove the limits on executive compensation and administrative expenses
CFS-33-22-00010-P	08/17/23	Direct deposit for child care providers receiving child care assistance	To implement requirements of Section 390-c of the SSL, as amended by Chapter 650 of the Laws of 2021
CFS-36-22-00002-EP	09/07/23	Differential Response for Children Under Twelve (12) Years of Age	To establish a differential response program for children under twelve years of age
CFS-37-22-00003-EP	09/14/23	Updates provisions to reflect the enacted budget regarding child care assistance rates and work requirements.	To update provisions on child care assistance funded under the NYS Child Care Block Grant and Social Services Block Grant.
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-41-22-00003-P	10/12/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-41-22-00004-P	10/12/23	Jurisdictional Classification	To delete positions from and to classify positions in the exempt class.
CVS-41-22-00005-P	10/12/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-41-22-00006-P	10/12/23	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class
CVS-41-22-00007-P	10/12/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-41-22-00008-P	10/12/23	Jurisdictional Classification	To delete a subheading and positions from and to add a subheading and classify positions in the exempt class
CVS-41-22-00009-P	10/12/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-41-22-00010-P	10/12/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-41-22-00011-P	10/12/23	Jurisdictional Classification	To classify a position in the exempt class.
CVS-41-22-00012-P	10/12/23	Jurisdictional Classification	To classify a position in the exempt class and to classify positions in the non-competitive class
CVS-41-22-00013-P	10/12/23	Jurisdictional Classification	To classify positions in the exempt class and to classify positions from the non-competitive class
CVS-41-22-00014-P	10/12/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-41-22-00015-P	10/12/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-45-22-00001-P	11/09/23	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-45-22-00002-P	11/09/23	Jurisdictional Classification	To classify a position in the exempt class.
CVS-45-22-00003-P	11/09/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-45-22-00004-P	11/09/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-45-22-00005-P	11/09/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-45-22-00006-P	11/09/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-45-22-00007-P	11/09/23	Jurisdictional Classification	To classify a position in the exempt class.
CVS-45-22-00008-P	11/09/23	Jurisdictional Classification	To delete a position from the exempt class.
CVS-45-22-00009-P	11/09/23	Jurisdictional Classification	To classify a position in the exempt class and to classify positions in the non-competitive class
CVS-45-22-00010-P	11/09/23	Jurisdictional Classification	To delete positions from and to classify positions in the exempt class.
CVS-45-22-00011-P	11/09/23	Jurisdictional Classification	To delete positions from and to classify positions in the exempt class.
CVS-45-22-00012-P	11/09/23	Jurisdictional Classification	To classify a position in the exempt class.
CVS-45-22-00013-P	11/09/23	Jurisdictional Classification	To classify positions in the exempt class and to delete from and to classify positions in the non-competitive class
CVS-45-22-00014-P	11/09/23	Jurisdictional Classification	To classify positions in the exempt and non-competitive classes.
CVS-45-22-00015-P	11/09/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-45-22-00016-P	11/09/23	Jurisdictional Classification	To classify a position in the exempt class.
<b>CORRECTION, STATE COMMISSION OF</b>			
CMC-43-22-00002-EP	10/26/23	Medication assisted treatment.	Set minimum standards for a program of medication assisted treatment in jails.
<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-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-39-22-00001-P	09/28/23	Closed Facilities	To repeal the rules establishing facilities that have closed
<b>CRIMINAL JUSTICE SERVICES, DIVISION OF</b>			
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-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
EDV-37-22-00002-P	09/14/23	Empire State Film Production Tax Credit Program	To update the additional administrative process of this tax credit program
EDV-42-22-00001-P	10/19/23	Excelsior Jobs Program	To update the additional administrative process of this tax credit program
<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-22-22-00008-ERP	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-ERP	06/01/23	Implementing the Dominic Murray Sudden Cardiac Arrest Prevention Act	To implement the Dominic Murray Sudden Cardiac Arrest Prevention Act
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
EDU-39-22-00010-EP	09/28/23	Remote instruction and its delivery under emergency conditions and length of school days for approved school-age and preschool programs serving students with disabilities	To permit approved school-age and preschool programs serving students with disabilities to provide remote instruction on days they would otherwise close due to an emergency
EDU-39-22-00011-P	09/28/23	Appeals to the Commissioner of Education under Education Law § 310	To amend requirements
EDU-39-22-00012-EP	09/28/23	Laboratory experience required to take a science Regents examination	To permit students to satisfy laboratory requirement through a combination of hands-on and simulated laboratory experience
EDU-39-22-00013-P	09/28/23	Degree and experience requirements for college professors for the Tran G Certificate and the Individual Evaluation Pathway	To amend degree and experience requirements for college professors for the Traditional G certificate
EDU-39-22-00014-EP	09/28/23	Independent nurse practitioner practice	To implement Part C of Chapter 57 of the Laws of 2022
EDU-39-22-00015-EP	09/28/23	School Safety Plans	To conform the regulations to the amendments made to Education Law § 2801-a by Chapter 227 of the Laws of 2022

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>EDUCATION DEPARTMENT</b>			
EDU-39-22-00016-EP	09/28/23	Universal Prekindergarten Program (UPK) Staffing Qualifications	To conform the Commissioner's regulations to Part A of Chapter 56 of the Laws of 2022
EDU-39-22-00017-EP	09/28/23	Execution by registered professional nurses of non-patient specific orders to administer COVID-19 and influenza tests.	To implement Part C of Chapter 57 of the Laws of 2022.
EDU-42-22-00004-P	10/19/23	Student teaching requirements for registered teacher preparation programs and through the individual evaluation pathway.	To extend for one year the timeline for programs to implement the new student teaching requirements
EDU-42-22-00005-P	10/19/23	The definition of "prospective school employee."	To include individuals who will reasonably be expected to have telephonic communication or interaction with students.
EDU-42-22-00006-EP	10/19/23	Restarting the Accountability System Using 2021-2022 School Year Results	To align the commissioner's regulations with approved State plan addendum
EDU-42-22-00007-P	10/19/23	Deferment of the declaration of a major by matriculated students for state financial aid purposes	To allow students who matriculate with college credits to have additional time
EDU-42-22-00008-EP	10/19/23	The practice of registered dental assisting.	To conform the Commissioner's regulations with Chapter 512 of the Laws of 2022 and Chapter 390 of the Laws of 2019.
EDU-42-22-00009-EP	10/19/23	Requirements for members of the standing committee for the Regents examination appeals process.	To provide flexibility on who may serve as a member of the standing committee for the Regents examination appeals process.
<b>ELECTIONS, STATE BOARD OF</b>			
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>ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, NEW YORK STATE</b>			
ERD-37-22-00009-P	09/14/23	Appliance and Equipment Efficiency Standards	To establish Appliance and Equipment Efficiency Standards for products specified in Energy Law Section 16-104(1).
<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-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

## Action Pending Index

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
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
ENV-33-22-00004-P	10/20/23	Amendments to the regulations (6 NYCRR Part 621) that implement ECL article 70 (Uniform Procedures Act) and related changes	DEC is proposing the amendments as a general update to Part 621, with conforming changes to Parts 421 and 601
ENV-45-22-00020-P	11/09/23	Neversink River Riparian Corridor	To protect public health, safety and natural resources on the Neversink River Riparian Corridor
ENV-45-22-00021-P	01/11/24	Adding Aerosol Cans and Paint to NYS Universal Waste Rule.	Add Federal universal waste provisions relating to aerosol cans and allow waste paint to be managed as a universal waste.
ENV-46-22-00004-P	01/18/24	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-46-22-00005-P	01/18/24	Petroleum Bulk Storage (PBS)	To amend the PBS regulations, 6 NYCRR Part 613
<b>ETHICS AND LOBBYING IN GOVERNMENT, COMMISSION ON</b>			
ELG-43-22-00010-EP	10/26/23	Adjudicatory proceedings and appeals procedures for matters under the Commission's jurisdiction	To streamline and advance the investigative process and facilitate the expeditious and efficient performance of the Commission on Ethics and Lobbying in Government's investigative and enforcement duties as set forth in Section 94 of the Executive Law
ELG-45-22-00024-EP	11/09/23	Adjudicatory proceedings and appeals procedures for matters under the Commission's jurisdiction.	To conform Part 941 to the new Executive Law Section 94 established by the Ethics Commission Reform Act of 2022.
<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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
*DFS-42-21-00011-RP	01/18/23	Disclosure requirements for certain providers of commercial financing transactions	To provide new disclosure rules for small business financings
*DFS-44-21-00015-RP	02/01/23	Compliance With Community Reinvestment Act Requirements	To provide new rules concerning data collection on extension of credit to women-owned and minority-owned businesses
DFS-47-21-00006-RP	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-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
DFS-41-22-00021-P	10/12/23	Charges for Professional Health Services	To establish schedules of maximum permissible charges for professional health services payable as no-fault insurance benefits
DFS-45-22-00023-P	11/09/23	Consolidated rulemaking regarding peer-to-peer car sharing	To ensure consumers have appropriate insurance protection when using or operating a vehicle through a car sharing program.
DFS-45-22-00025-P	11/09/23	Cybersecurity Requirements for Financial Services Companies	To ensure that DFS-regulated entities most effectively address new and evolving cybersecurity threats.
<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-36-22-00003-P	09/07/23	Designation of substitute stewards.	To conform the substitute stewards rule to the current statute.
SGC-40-22-00009-P	10/05/23	The licensing and registration of gaming facility employees and vendors.	To govern the licensing and registration of gaming facility employees and vendors.
SGC-40-22-00010-P	10/05/23	Ineligible potential claimants in Thoroughbred claiming races.	To establish procedures for identifying ineligible claimants and resolving challenges to claims.
<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

## Action Pending Index

NYS Register/November 16, 2022

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
HLT-50-21-00003-EP	12/15/22	Face Coverings for COVID-19 Prevention	To control and promote the control of communicable diseases to reduce their spread
HLT-50-21-00004-EP	12/15/22	Personal Caregiving and Compassionate Caregiving Visitors in Nursing Homes (NH's) and Adult Care Facilities (ACF's)	To require NH's & ACF's to establish policies & procedures relating to personal caregiving & compassionate caregiving visitors
HLT-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-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-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
HLT-39-22-00004-P	09/28/23	Repeal of Collection of Source Plasma	Repeal of Collection of Source Plasma
HLT-39-22-00018-P	09/28/23	Source Plasma Donation Centers	To distinguish source plasma donation centers as a separate regulatory entity from blood banks
HLT-39-22-00019-P	09/28/23	Private Duty Nursing (PDN) Services to Medically Fragile Adults	To increase PDN fee-for-service reimbursement for nursing services provided to medically fragile adults
HLT-39-22-00020-P	11/07/23	Early Intervention Program	To conform existing program regulations to federal regulations and state statute, as well as to provide additional clarification
HLT-40-22-00002-P	10/05/23	Maximum Contaminant Levels (MCLs)	To adopt Maximum Contaminant Levels (MCLs) for four (4) additional per- and polyfluoroalkyl substances (PFAS).
HLT-41-22-00016-P	10/12/23	Licensure and Practice of Nursing Home Administration	To clarify and update the nursing home administrator licensure program.
HLT-42-22-00002-P	10/19/23	Medical Respite Program (MRP)	Establish procedures for review & approval of applications from a not-for-profit corporation to be certified as an MRP operator.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
HLT-43-22-00003-EP	10/26/23	Monkeypox Virus to the List of Sexually Transmitted Diseases (STDs)	To add the Monkeypox Virus to the list of sexually transmitted diseases (STDs).
HLT-46-22-00003-P	11/16/23	Repeal of Zika Action Plan; Performance Standards	To repeal regulatory provisions which are no longer applicable.
<b>HOUSING AND COMMUNITY RENEWAL, DIVISION OF</b>			
HCR-35-22-00004-P	11/15/23	The City Rent and Eviction Regulations governing rent control in New York City.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
HCR-35-22-00005-P	11/15/23	The Emergency Tenant Protection Regulations regulating residential rents and evictions.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
HCR-35-22-00006-P	11/15/23	The State Rent and Eviction Regulations governing statewide rent control.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
HCR-35-22-00007-P	11/15/23	The Rent Stabilization Code regulating residential rents and evictions.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
<b>JUDICIAL CONDUCT, STATE COMMISSION ON</b>			
JDC-40-22-00008-P	10/05/23	Update of Definitions, pronouns, clarification of rules involving the work of the Commission; Commission hearings	To update Commission rules to reflect advances in technology and the use of non-gendered pronouns
<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
LAB-37-22-00004-P	09/14/23	Prevailing Wage for Aggregate Hauling	To clarify the application Labor Law § 220(3-a)(f)
LAB-41-22-00022-P	10/12/23	Minimum Wage Increase	To comply with Sections 652 and 673 of the Labor Law, by adopting minimum wage increases for farmworkers
LAB-41-22-00023-P	10/12/23	Minimum Wage Increases	To implement minimum wage increases pursuant to Labor Law 652(1)(c)
LAB-41-22-00024-P	10/12/23	Overtime Thresholds for Farm Laborers	To implement incremental reductions in overtime pay thresholds for farm laborers
LAB-44-22-00001-P	11/02/23	Public Employees Occupational Safety and Health Standards	To incorporate by reference updates to OSHA standards into the State Public Employee Occupational Safety and Health Standards

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<b>LAKE GEORGE PARK COMMISSION</b>			
LGP-36-22-00006-P	11/09/23	Addition of Waste Water Management Regulations within the Lake George Park	The proposed regulations are intended to protect the waters of Lake George from wastewater pollution
<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"
<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
LQR-36-22-00001-P	11/22/23	Minimum curriculum requirements for ATAP schools	To add information regarding human trafficking awareness and prevention to minimum curriculum requirements for ATAP schools
<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



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<b>LONG ISLAND POWER AUTHORITY</b>			
*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-17-22-00012-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-17-22-00014-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
LPA-37-22-00010-P	..... exempt	The Solar Communities Program	To provide bill savings benefits to customers participating in Solar Communities.
LPA-37-22-00012-P	..... exempt	The Authority's Small Generator Interconnection Procedures for Distributed Generators and/or Energy Storage Systems.	Alignment with New York's statewide cost sharing framework
LPA-37-22-00013-P	..... exempt	The Authority's annual budget and retail rates.	Implementation of the Authority's annual budget and corresponding rate adjustments.
LPA-37-22-00014-P	..... exempt	The Large Renewable Host Community Benefit Program.	To share the benefits of large renewable projects with host communities.
LPA-37-22-00015-P	..... exempt	Long Island Choice Program	To eliminate potential barriers to the retail choice market in Long Island.
LPA-37-22-00016-P	..... exempt	Bill credits and food and medicine spoilage reimbursements during widespread prolonged outages	To provide relief to customers who experience prolonged outages
<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-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
OMH-46-22-00012-P	..... 11/16/23	Administrative Compensation	To Repeal Part 513 as Executive Order 38 has sunset
<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

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<b>NIAGARA FALLS WATER BOARD</b>			
*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
<b>PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR</b>			
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
PDD-46-22-00002-P	..... 11/16/23	Family Care Homes for People With Developmental Disabilities	To clarify terminology and limit the number of individuals residing in family care homes
<b>POWER AUTHORITY OF THE STATE OF NEW YORK</b>			
*PAS-01-10-00010-P	..... exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
<b>PUBLIC EMPLOYMENT RELATIONS BOARD</b>			
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
<b>PUBLIC SERVICE COMMISSION</b>			
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*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

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*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

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	..... exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*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

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*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

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Vernon and TW Telecom of New York L.P.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and TW Telecom of New York L.P.
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*PSC-34-09-00017-P	..... exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	..... exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	..... exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	..... exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	..... exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	..... exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-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

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-36-10-00010-P	..... exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	..... exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	..... exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-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

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*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

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*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

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<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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



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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island
*PSC-45-13-00022-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y
*PSC-47-13-00012-P	..... exempt	Conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates	Consideration of conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	..... exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*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 meter 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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established	To balance the need for the information necessary to support a robust market with customer privacy concerns
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets	To consider the Comcast and Charter transfer of systems, franchise and assets
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive, Albany, NY
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*PSC-40-14-00008-P	..... exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers
*PSC-40-14-00009-P	..... exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1
*PSC-40-14-00011-P	..... exempt	Late Payment Charge	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-40-14-00015-P	..... exempt	Late Payment Charge	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-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

## Action Pending Index

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-13-15-00024-P	..... exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking's request to recover a shortfall in earnings
*PSC-13-15-00026-P	..... exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*PSC-13-15-00027-P	..... exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*PSC-40-15-00014-P	..... exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	..... exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements
*PSC-44-15-00028-P	..... exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation	Consider Whitepaper on Implementing Lightened Ratemaking Regulation
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016	Consider the proposed retirement of Huntley Units 67 and 68
*PSC-50-15-00006-P	..... exempt	The reduction of rates	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-18-16-00014-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-18-16-00015-P	..... exempt	Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process	To ensure consumer protections for ESCO customers
*PSC-18-16-00016-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-18-16-00018-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-20-16-00008-P	..... exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP)	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP)
*PSC-20-16-00010-P	..... exempt	Deferral and recovery of incremental expense	To consider deferring costs of conducting leak survey and repairs for subsequent recovery
*PSC-20-16-00011-P	..... exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device
*PSC-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



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP)	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements
*PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	..... exempt	Implementation of the four EAMs	To consider the implementation of EAMs for RG&E
*PSC-02-17-00012-P	..... exempt	Implementation of the four EAMs	To consider the implementation of EAMs for NYSEG
*PSC-18-17-00024-P	..... exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-26-17-00005-P	..... exempt	Notice of Intent to submeter electricity	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York
*PSC-34-17-00011-P	..... exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver
*PSC-37-17-00005-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-39-17-00011-P	..... exempt	Whether to direct New York State Electric & Gas to complete electric facility upgrades at no charge to Hanehan	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan
*PSC-42-17-00010-P	..... exempt	Petition for rehearing of negative revenue adjustment and contents of annual Performance Report	To consider NFGD's petition for rehearing
*PSC-48-17-00015-P	..... exempt	Low Income customer options for affordable water bills	To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs
*PSC-50-17-00017-P	..... exempt	New Wave Energy Corp.'s petition for rehearing	To consider the petition for rehearing filed by New Wave Energy Corp.
*PSC-50-17-00018-P	..... exempt	Application of the Public Service Law to DER suppliers	To determine the appropriate regulatory framework for DER suppliers
*PSC-50-17-00019-P	..... exempt	Transfer of utility property	To consider the transfer of utility property
*PSC-50-17-00021-P	..... exempt	Disposition of tax refunds and other related matters	To consider the disposition of tax refunds and other related matters
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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 Aspurity for its non-compliance with Commission requirements	To ensure the provision of safe and adequate energy service at just and reasonable rates
*PSC-24-18-00013-P	..... exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements	To promote and maintain renewable and zero-emission electric energy resources
*PSC-28-18-00011-P	..... exempt	Storm Hardening Collaborative Report	To ensure safe and adequate gas service
*PSC-29-18-00008-P	..... exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	..... exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00015-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and energy efficiency protections are in place
*PSC-34-18-00016-P	..... exempt	Deferral of pre-staging and mobilization storm costs	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs
*PSC-35-18-00003-P	..... exempt	Con Edison's 2018 DSIP and BCA Handbook Update	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00005-P	..... exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers
*PSC-35-18-00006-P	..... exempt	National Grid's 2018 DSIP and BCA Handbook Update	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00008-P	..... exempt	Central Hudson's 2018 DSIP and BCA Handbook Update	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00010-P	..... exempt	O&R's 2018 DSIP and BCA Handbook Update	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*PSC-08-20-00003-P	..... exempt	PSC regulation 16 NYCRR § 86.3(a)(2) and 86.3(b)(2)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-10-20-00003-P	..... exempt	The Commission's statewide low-income discount policy	To consider modifications to certain conditions regarding utility low-income discount programs
*PSC-12-20-00008-P	..... exempt	Delivery rates of Corning Natural Gas Corporation	Whether to postpone the implementation of a change in rates that would otherwise become effective on June 1, 2020
*PSC-15-20-00011-P	..... exempt	To modify the terms and conditions under which gas utilities provide service to electric generators	To provide clarity and uniformity to the provision of gas service to electric generators
*PSC-16-20-00004-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by Central Hudson
*PSC-18-20-00015-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-25-20-00016-P	..... exempt	Modifications to the Low-Income Affordability program	To address the economic impacts of the COVID-19 pandemic
*PSC-27-20-00003-P	..... exempt	To make the uniform statewide customer satisfaction survey permanent	To encourage consumer protections and safe and adequate service
*PSC-28-20-00022-P	..... exempt	Compensation of distributed energy resources	To ensure just and reasonable rates, including compensation, for distributed energy resources
*PSC-28-20-00034-P	..... exempt	Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act	To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals
*PSC-34-20-00005-P	..... exempt	Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers	To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory
*PSC-38-20-00004-P	..... exempt	The annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-20-00008-P	..... exempt	Availability of gas leak information to the public safety officials.	Facilitate availability of gas leak information to public safety officials by gas corporations
*PSC-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-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-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

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-17-21-00005-P	..... exempt	Submetering equipment	To consider use of submetering equipment and if it is in the public interest
*PSC-17-21-00006-P	..... exempt	Community Choice Aggregation and Community Distributed Generation	To consider permitting opt-out Community Distributed Generation to be offered as the sole product in an aggregation
*PSC-17-21-00007-P	..... exempt	Utility studies of climate change vulnerabilities	To assess the need for utilities to conduct distinct studies of their climate change vulnerabilities
*PSC-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-29-21-00009-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

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-32-21-00002-P	..... exempt	The prohibition on ESCO service to low-income customers	To consider whether Icon Energy, LLC d/b/a Source Power Company should be granted a waiver to serve low-income customers
*PSC-32-21-00003-P	..... exempt	Exemptions from utility standby rates for certain designated or environmentally advantageous technologies	To harmonize standby rate exemptions statewide
*PSC-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-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-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



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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-01-22-00013-P	..... exempt	Interconnection costs	To consider a petition requesting relief from interconnection costs assigned by the interconnecting utility
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-03-22-00004-P	..... exempt	Proposal by electric utilities on a coordinated electric grid planning process	To support distribution and local transmission investments necessary to achieve the the State's clean energy and climate goals
PSC-04-22-00004-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-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-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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
PSC-14-22-00008-P	..... exempt	An opt-out community distributed generation program	To establish the program rules for offering community distributed generation on an opt-out basis in New York State
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-18-22-00007-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-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-21-22-00007-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-21-22-00010-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-22-22-00014-P	..... exempt	Amendments to the Standardized Interconnection Requirements	To consider changes to accommodate the interconnection of distributed energy resources by governmental entities

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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-23-22-00024-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-24-22-00006-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-25-22-00005-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-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-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.

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<b>PUBLIC SERVICE COMMISSION</b>			
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-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-31-22-00005-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.
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-32-22-00022-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.
PSC-33-22-00005-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-33-22-00006-P	..... exempt	Use of gas metering equipment.	To consider use of volume corrector and ensure that consumer bills will be based on accurate measurements of gas usage.
PSC-33-22-00007-P	..... exempt	PSC Regulations 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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-33-22-00008-P	..... exempt	Gas moratorium consumer protections.	To consider protections for existing and prospective customers should a utility institutes a moratorium on new gas service.
PSC-33-22-00009-P	..... exempt	Use of electric metering equipment.	To consider use of electric metering equipment and ensure consumer bills are based on accurate measurements of electric usage.
PSC-34-22-00003-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-34-22-00004-P	..... exempt	Clean Energy Standard administration.	To authorize the funding necessary for continued implementation of the Clean Energy Standard.
PSC-34-22-00005-P	..... exempt	Transfer of a Certificate of Environmental Compatibility and Public Need.	Consideration of whether the proposed transfer is in the public interest.
PSC-34-22-00006-P	..... exempt	Pole attachment rates.	To provide just and reasonable pole attachment rates.
PSC-34-22-00007-P	..... exempt	Use of electric metering equipment.	To consider use of an electric meter, and ensure consumer bills are based on accurate measurements of electric usage.
PSC-34-22-00008-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-36-22-00004-P	..... exempt	A petition for the transfer of utility property, granting of a CPCN, and lightened regulation.	To determine if it is in the public interest.
PSC-36-22-00005-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-37-22-00005-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-37-22-00006-P	..... exempt	Assessment of the need of the project for the provision of safe and adequate service at just and reasonable rates.	To determine whether the project is necessary and whether the utility can begin cost recovery through a surcharge mechanism.
PSC-37-22-00007-P	..... 09/14/23	Implementation of enhanced emergency contingency plans by telephone and cable companies, including storm response and credits.	To implement enhanced storm readiness and response by telephone and cable companies.
PSC-37-22-00008-P	..... 09/14/23	Technical amendments of state regulations and administrative corrections.	To make the provisions of natural gas service safer in New York State.
PSC-38-22-00002-P	..... exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-38-22-00003-P	..... exempt	A debt financing arrangement with respect to a proposed solar generation project.	To consider the requested financing arrangement, and if approved, what regulatory conditions should apply.
PSC-38-22-00004-P	..... exempt	Establishment of the regulatory regime applicable to a battery storage project.	To ensure appropriate regulation of an electric corporation.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-38-22-00005-P	..... exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-38-22-00006-P	..... exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-38-22-00007-P	..... exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-38-22-00008-P	..... exempt	Consideration of a Long Island Offshore Wind Export PPTN under the NYISO's planning process.	To determine whether the NYISO should proceed to select a solution to the identified Long Island Offshore Wind Export PPTN.
PSC-38-22-00009-P	..... exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-38-22-00010-P	..... exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-39-22-00006-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-39-22-00007-P	..... exempt	Transfer of indirect ownership of cable television facilities and 27 municipal franchises.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest.
PSC-39-22-00008-P	..... exempt	Proposed service territory extension, waiver, and tariff revisions.	To determine if proposed territory extension, waiver, and tariff revisions are in the public interest.
PSC-40-22-00003-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-40-22-00004-P	..... exempt	Sale of real property and granting of a permanent easement.	To determine whether to authorize the proposed sale and grant the permanent easement as well as the proper accounting treatment.
PSC-40-22-00005-P	..... exempt	Transfer of street light facilities.	To consider the transfer of street lighting facilities and the proper accounting treatment.
PSC-40-22-00006-P	..... exempt	NYSRC reliability rules and measurements.	To consider revisions to various rules and measurements of the NYSRC used to support safe and reliable electric service.
PSC-40-22-00007-P	..... exempt	Solutions to reduce the impact of traditional demand charges on commercial customers with significant EV charging demand.	To request that the Public Service Commission direct electric utilities to implement the enumerated EV charging solutions.
PSC-41-22-00018-P	..... exempt	Proposed revision to the Non-Wires Alternative Mechanism Surcharge.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-41-22-00019-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-41-22-00020-P	..... exempt	The proposed transfer of real property and other assets related to an electric generating facility.	To determine whether the proposed transfer is in the public interest.
PSC-42-22-00010-P	..... exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00011-P	..... exempt	Gas system planning.	To consider cost recovery procedures and an incentive mechanism for non-pipeline alternatives.
PSC-42-22-00012-P	..... exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00013-P	..... exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00014-P	..... exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00015-P	..... exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00016-P	..... exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00017-P	..... exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00018-P	..... exempt	Demand side management programs.	To consider proposed demand side management programs and cost recovery.
PSC-42-22-00019-P	..... exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00020-P	..... 10/19/23	Technical amendments of state regulations and administrative corrections.	To align 16 NYCRR Part 753 with recent changes in state laws and clarify the responsibilities of excavators.
PSC-43-22-00006-P	..... exempt	Minor electric rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-43-22-00007-P	..... exempt	Minor electric rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-43-22-00008-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-43-22-00009-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-44-22-00002-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-44-22-00003-P	..... exempt	Proposed draft tariff amendments.	To document and refine moratorium management procedures that seek to minimize hardships in the event a future moratorium occurs.

## Action Pending Index

NYS Register/November 16, 2022

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-45-22-00018-P	..... exempt	Transfer of a half interest in utility poles.	To determine if the transfer of the ownership interest is in the public interest.
PSC-45-22-00019-P	..... exempt	Waiver of certain Commission requirements related to the distribution of telephone directories.	To ensure performance in accordance with applicable telecommunications laws, regulations and standards, and public interest.
PSC-46-22-00006-P	..... exempt	PSC Regulations 16 NYCRR 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-46-22-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-46-22-00008-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-46-22-00009-P	..... exempt	PSC Regulations 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-46-22-00010-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
<b>STATE, DEPARTMENT OF</b>			
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
DOS-39-22-00009-P	..... 11/30/23	Administration and enforcement of the Uniform Code and Energy Code by the Department of State	To ensure the Department's administration and enforcement of the Uniform Code and Energy Code satisfies the minimum standards
DOS-42-22-00003-P	..... 10/19/23	Advertising licensed activity of installing, servicing, or maintaining security or fire alarm systems	To provide multi-state security or fire alarm system license holders flexibility to making certain disclosures
<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-46-22-00011-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, 2023 through March 31, 2023.
<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



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>			
TDA-39-22-00005-EP	09/28/23	Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP)	These regulatory amendments set forth the federally-approved SUAs as of 10/1/22
TDA-43-22-00004-P	10/26/23	Repeal of liens against real property as conditions of eligibility for Public Assistance	To update State regulations consistent with the repeal of SSL § 106 pursuant to Part MM of Chapter 56 of the Laws of 2022
<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>URBAN DEVELOPMENT CORPORATION</b>			
UDC-44-22-00004-P	11/02/23	Biodefense Commercialization Fund	To clarify certain aspects of the administration of the Fund, and to ensure consistency with recently updated guidelines
<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-26-22-00002-P	06/29/23	Pharmacy networks	To require carriers to notify pharmacies when there is a network
WCB-40-22-00011-P	10/05/23	Attorney's fees	To conform regulations to WCL section 24 amendment taking effect 1/1/23
WCB-41-22-00002-P	10/12/23	Disability benefits	To update and clarify DB claims process, and conform to statute



# RULE REVIEW

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## New York State Gaming Commission Regulations Continued Without Modification

As required by section 207(4) of the State Administrative Procedure Act, the New York State Gaming Commission (“Commission”) gives notice of the following:

As part of the Commission’s 2022 review of regulations that were adopted during 1997, 2002, 2007, 2012 and 2017, the Commission has reviewed several amendments that were made to the rules of the Commission (including rulemaking of its legacy agencies, the Division of Lottery and the Racing and Wagering Board) in these calendar years. The following amendments were reviewed:

2017

Horse Racing

SGC-45-16-00002. Advertising on jockeys. Amendment to 9 NYCRR § 4041.6.

SGC-47-16-00017. Harness racing conflicts. Addition of 9 NYCRR § 4105.17 and repeal of § 4116.3.

SGC-17-17-00008. Account wagering. Amendment of 9 NYCRR §§ 4500.1, 4500.2, 4500.3, 4500.4, 4500.5, 4500.6, 4500.7, 4500.8, 4500.9, 4500.10, 4500.11, 4500.12, 4500.13, 4500.14, 4500.15, 4500.16, 4500.17, 4500.20, 4500.21 and 4500.22. Sections 4500.2 and 4500.3 were further amended in 2022.

SGC-17-17-00004. Unqualified standardbred horse. Amendment of 9 NYCRR § 4113.5(a)(1).

Lottery

SGC-32-17-00005. Mega Millions amendments. Amendment of 9 NYCRR §§ 5007.1, 5007.2, 5007.4 and 5007.7.

Gaming

SGC-47-16-000024. Bonding of video lottery agents. Amendment of 9 NYCRR § 5103.5.

2012

Rules adopted by the Racing and Wagering Board:

RWB-43-11-00003. Testing of certain licensees and officials in horse racing activities for blood alcohol content. Addition of 9 NYCRR § 4042.6.

RWB-44-11-00004. Use of cellular telephones in the paddock at harness tracks. Addition of 9 NYCRR § 4104.14.

RWB-44-11-00001. Minimum diameter of a riding crop used in Thoroughbred racing. Amendment of 9 NYCRR § 4035.9(a)(1)(iii).

RWB-44-11-00002. The trifecta wager in thoroughbred horse racing. Amendment of 9 NYCRR § 4011.22(i), since renumbered as 4011.21(h).

RWB-44-11-00020. Generally accepted auditing standards for off-track betting corporations. Amendment of 9 NYCRR §§ 5208.1, 5208.2, 5208.3, 5208.4, 5208.5 and 5208.6.

RWB-52-11-00007. Authorizing and prohibiting the use of phenylbutazone. Amendment of 9 NYCRR §§ 4043.2(d) and 4120.2(d) (both such subdivisions were repealed entirely in 2014).

RWB-08-12-00001. Out-of-competition drug testing of Thoroughbred race horses. Amendment of 9 NYCRR §§ 4012.5 and 4043.12. Section 4012.5 was further amended in 2013 and section 4023.12 was further amended in 2013 and 2018.

RWB-23-12-00001. Maximum fines for violations in Thoroughbred, harness and Quarterhorse racing. Amendment of 9 NYCRR §§ 4022.13, 4102.3 and 4207.29.

RWB-25-12-00001. The reimbursement of costs to the State of New York for associate judges and starters at harness races. Addition of 9 NYCRR § 4101.41. The rule was further amended in 2013.

RWB-29-12-00007. Claims of Thoroughbred horses that die on the track during or after a race. Amendment of 9 NYCRR § 4038.5(a). Section 4038.5 was further amended in 2014, 2016 and 2020.

RWB-30-12-00001. Procedures and penalties for the testing of Thoroughbred and harness race horses for the presence of excess TCO2 levels. Amendment of 9 NYCRR §§ 4043.8, 4043.9, 4120.13 and 4120.14.

RWB-33-12-00002. The minimum price for which a horse shall be entered in a claiming race. Amendment of 9 NYCRR § 4038.2. The rule was further amended in 2019.

2007

Rules adopted by the Division of Lottery:

LTR-50-06-00004. Video lottery gaming. Amendment of 21 NYCRR Part 2836 (since renumbered as 9 NYCRR Subtitle T, Chapter IV, Subchapter A, Parts 5100-5122).

Rules adopted by the Racing and Wagering Board:

RWB-19-07-00004. Post race blood gas testing for Thoroughbred and harness race horses. Addition of 9 NYCRR §§ 4038.19(g), 4043.8, 4043.9, 4043.10, 4109.7(f), 4120.13, 4120.14 and 4120.15.

RWB-19-07-00005. Authorizing the “Treasure Chest Raffle” and “Search for the Queen of Hearts” as games of chance. Addition of 9 NYCRR §§ 5620.23 and 5620.24 (since renumbered as §§ 4620.23 and 4620.24). Section 4620.23 was further amended in 2022.

RWB-20-07-00006. Use of the whip rule. Amendment of 9 NYCRR § 4117.8.

RWB-20-07-00007. Wagering while on duty. Amendment of 9 NYCRR §§ 4005.4 and 4122.10.

RWB-20-07-00008. Single service use and disposal of syringes and needles. Addition of 9 NYCRR §§ 4043.11 and 4120.16.

RWB-31-07-00009. Failure to finish a harness race. Amendment of 9 NYCRR § 4117.2(c).

2002

Rules adopted by the Racing and Wagering Board:

RWB-37-01-00002. Games of Chance. Amendment of 9 NYCRR §§ 5602.1, 5606.1, 5606.14, 5608.7, 5620.12, 5624.1, 5624.18 and 5624.21 (since renumbered as §§ 4602.1, 4606.14, 4608.7, 4620.12, 4624.1, 4624.18 and 4624.21). Sections 4602.1, 4608.7, 4624.1 and 4624.21 were further amended in 2022.

RWB-38-01-00001. Bell Jar Games. Amendment of 9 NYCRR §§ 5600.1, 5608.4, 5608.5, 5608.7, 5611.1, 5611.2, 5620.19 and

5620.22 (since renumbered as §§ 4601.1, 4608.5, 4609.7, 4611.1, 4611.2, 4620.10 and 4620.22). Sections 4601.1, 4608.5, 4611.1, 4611.2, 4620.10 and 4620.22 were further amended in 2022.

RWB-28-02-00006. Electronic Bingo Aids. Amendment of 9 NYCRR § 5800.1 (since renumbered as § 4800.1) and addition of Part 5823 (since renumbered as Part 4823).

1997

Rule adopted by the Division of Lottery:

LTR-33-97-00002. Lottery Subscriptions. Amendment of 21 NYCRR §§ 2804.13(a) and § 2804.16 (since renumbered as 9 NYCRR §§ 5005.1(c) and 5055.7(c)). This rule was amended in 2013 and 2016.

Rules adopted by the Racing and Wagering Board:

RWB-43-96-0004. Additional License Fee for Raffles. Amendment of 9 NYCRR § 5624.3 (since renumbered as § 4624.3). Section 4624.3 was further amended in 2022.

A summary of the foregoing regulations was published in the Rule Review section of the January 26, 2022 issue of the State Register. The Commission did not receive any public comment regarding these regulations.

Except for subsequent amendments as noted, the Commission has determined that these regulations should be continued without modification because there have been no changes in public policy or regulatory circumstances that would warrant modification to these rules.

*For further information contact:* Kristen M. Buckley, Acting Secretary of the Gaming Commission, One Broadway Center, Suite 500, Schenectady, NY 12301-7500.

# GUIDANCE DOCUMENTS

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Not less than once each year, every agency shall submit to the Secretary of State for publication in the *State Register* a list of all Guidance Documents on which the agency currently relies [SAPA, section 202-e(1)]. However, an agency may be exempted from compliance with the requirements of SAPA section 202-e(1) if the agency has published on its website the full text of all Guidance Documents on which it currently relies [SAPA, section 202-e(2)].

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## Department of Taxation and Finance

The Department of Taxation and Finance has published the full text of all guidance documents on which said agency currently relies on at the following website: [www.tax.ny.gov](http://www.tax.ny.gov)



# ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

## SEALED BIDS

### REMOVE/REPLACE FUEL OIL TANK

Woodbourne Correctional Facility  
Woodbourne, Sullivan County

Sealed bids for Project Nos. Q1822-C, Q1822-H and Q1822-E, comprising separate contracts for Construction Work, HVAC Work, and Electrical Work, Remove / Replace Fuel Oil Tank, Woodbourne Correctional Facility, 99 Prison Road, Woodbourne (Sullivan 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, November 30, 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 \$33,200 for C, \$39,100 for H, and \$10,500 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$500,000 and \$1,000,000 for C, between \$500,000 and \$1,000,000 for H, and between \$100,000 and \$250,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are 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.

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

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

The substantial completion date for this project is 583 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 10:00 a.m. on November 16, 2022, at the OGS Field Office at Sullivan Correctional Facility, 325 Riverside Drive, Fallsburg, 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 Karen Flood, (845-434-0214) 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) for Construction Work and an overall goal of 8% for MWBE participation, 4% for Minority-Owned Business Enterprises ("MBE") participation and 4% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Electrical Work and an overall goal of 4% for MWBE participation, 2% for Minority-Owned Business Enterprises ("MBE") participation and 2% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for HVAC Work. The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials.

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS

hereby establishes overall goals for SDVOBs' participation under this contract as follows: 6% for the C trade contractor, 3% for the E trade contractor, and 3% for the H trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an e-mail to [support@bidexpress.com](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  
Probation Commission Meeting

Pursuant to Public Officers Law section 104, the Division of Criminal Justice Services gives notice of a meeting of the New York State Probation Commission Meeting to be held on:

Date: November 17, 2022  
Time: 10:00 a.m. - 1:00 p.m.  
Primary Conference Site:  
Alfred E. Smith Bldg.  
80 S. Swan St., Rm. 118  
Albany, NY 12210  
\*Sign-in required

Web Streaming information: The webcast information for this meeting will be posted on the Division of Criminal Justice website under the Newsroom, Open Meeting/ Webcasts.

<https://www.criminaljustice.ny.gov/pio/openmeetings.htm>

\*Sign-in is required at this location. *For further information, or if you need a reasonable accommodation to attend this meeting, contact:* [dcjsapplications@dcjs.ny.gov](mailto:dcjsapplications@dcjs.ny.gov), Division of Criminal Justice Services, Office of Probation and Correctional Alternatives, 80 S. Swan St., Albany, NY 12210 (518) 485-7692

## PUBLIC NOTICE

Department of State  
F-2022-0522

Date of Issuance – November 9, 2022

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of

the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2022-0522, the City of Kingston is proposing the replacement of a utility line over the north jetty of Rondout Harbor to the Kingston Roundout Lighthouse. The proposed installation of a new underground electrical conduit and cable, approximately 600 feet, extending from the northwest corner of the parcel to the landward end of the stony jetty. The conduit will transition above grade and be anchored to the top of the northern line of wood piles, approximately 2,300 feet, before entering the lighthouse. A platform with a waterproof disconnection point above base flood elevation on the mainland and a disconnection point at the lighthouse will be constructed to allow the conduit to be removed if required to allow for maintenance of the jetty. The site is located on 4 and 6 North Street in the city of Kingston, Ulster County along Roundout Creek and the Hudson River.

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2022/11/f-2022-0522.pdf> or at <https://dos.ny.gov/public-notices>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or December 9, 2022.

*Comments should be addressed to:* Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: [CR@dos.ny.gov](mailto:CR@dos.ny.gov)

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2022-0610

Date of Issuance – November 16, 2022

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2022-0610, James Groff, is proposing to replace a dilapidated bulkhead and construct a 4' x 135' new dock, 9 Shawnee Street, Southampton, Suffolk County, Shinnecock Bay.

The stated purpose of the proposed action is to "replace dilapidated bulkhead and install pier for access to the waters".

The applicant's consistency certification and supporting informa-

tion are available for review at: <https://dos.ny.gov/system/files/documents/2022/10/f-2022-0610groff.pdf> or at <https://dos.ny.gov/public-notices>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or November 25, 2022.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: [CR@dos.ny.gov](mailto:CR@dos.ny.gov)

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2022-0615

Date of Issuance – November 16, 2022

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2022-0615, Leonard Bley, is proposing construction of a new 194' x 4' catwalk with 3' x 12', 6' x 20' float, and two (2) 8" diameter float-supporting piles, Southampton, Moriches Bay.

The stated purpose of the proposed action is to "construct new dock for water access".

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2022/11/f-2022-0615bley.pdf> or at <https://dos.ny.gov/public-notices>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or December 16, 2022.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: [CR@dos.ny.gov](mailto:CR@dos.ny.gov)

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of Taxation and Finance  
Tax Law Article 13-A Rates

Pursuant to the provisions of subdivisions (e), (f), (g) and (h) of section 301-a, subdivision (b) of section 301-d, subdivisions (b) and (c) of section 301-e, subdivisions (a) and (c) of section 301-j and subdivision (a) of Tax Law section 308, the Commissioner of Taxation and Finance hereby gives public notice regarding the petroleum business tax (Tax Law, Article 13-A) rate adjustment calculation and the resulting rates effective January 1, 2023 (effective March 1, 2023 for quarterly filers), as follows: The motor fuel and highway diesel motor fuel rate is adjusted from \$.103 to \$.108; the non-highway diesel mo-

tor fuel rate is adjusted from \$.095 to \$.099; the residual petroleum product rate is adjusted from \$.073 to \$.076; the kero-jet fuel rate is adjusted from \$.070 to \$.073; the aviation gasoline rate is adjusted from \$.103 to \$.108; the rate of the supplemental tax on aviation gasoline is adjusted from \$.070 to \$.073; and the rate of the supplemental petroleum business tax is adjusted from \$.070 to \$.073. The separate rate of supplemental petroleum business tax with respect to highway diesel motor fuel is adjusted from \$.0525 to \$.0555; it is computed by subtracting one and three-quarters cents from the adjusted rate of the supplemental petroleum business tax. The railroad diesel rate is adjusted from \$.090 to \$.095; it is computed by subtracting one and three-tenths cents from the motor fuel and highway diesel motor fuel rate.

The basic utility credit (or reimbursement) rate with respect to residual petroleum product is adjusted from \$.0583 to \$.0612 and the basic utility credit (or reimbursement) rate with respect to non-highway diesel motor fuel product is adjusted from \$.0586 to \$.0615. The basic utility credit (or reimbursement) rates are further adjusted by adding one-half of one cent to the adjusted basic rates of the utility credits (or reimbursements); as a result, the utility credit (or reimbursement) rate with respect to residual petroleum product is adjusted from \$.0633 to \$.0662, and the utility credit (or reimbursement) rate with respect to non-highway diesel motor fuel product is adjusted from \$.0636 to \$.0665.

The adjusted petroleum business tax rates are obtained by multiplying the existing rates by a fraction, the numerator of which is the sum of the monthly producer price indices (unadjusted) for refined petroleum products for the twelve consecutive months ending with the month of August 2022, and the denominator of which is the sum of the monthly producer price indices (unadjusted) for refined petroleum products for the twelve consecutive months ending with the month of August 2021. Such monthly producer price indices for the twelve consecutive months ending with the month of August 2022, are 257.1, 278.8, 278.7, 259.6, 275.1, 307.8, 364.7, 376.1, 418.6, 466.7, 407.3, and 351.8, which total 4042.1. Such monthly producer price indices for the twelve consecutive months ending with the month of August 2021, are 144.4, 146.6, 148.9, 164.6, 178.4, 196.8, 225.2, 222.2, 242.1, 241.9, 256.7, and 251.3, which total 2419.1. The producer price index for the category of commodities designated as refined petroleum products is published monthly by the Bureau of Labor Statistics of the U.S. Department of Labor. As required by law, the adjusted rates, except the utility credit (or reimbursement) rates and the rate of supplemental petroleum business tax with respect to highway diesel motor fuel, have been rounded to the nearest tenth of one cent. The utility credit (or reimbursement) rates and the rate of supplemental petroleum business tax with respect to highway diesel motor fuel have been rounded to the nearest hundredth of one cent. Tax Law section 301-a does not allow the rates to change by more than 5 percent of the rates in effect on December 31. The computed rate change would be an increase of 67.1 percent; therefore, all of the above rates were subject to the 5 percent limitation.

*For further information contact:* David Shanley, Department of Taxation & Finance, Taxpayer Guidance Division, W.A. Harriman Campus, Albany, NY 12227, (518) 530-4116, e-mail: [David.Shanley@tax.ny.gov](mailto:David.Shanley@tax.ny.gov)

# COURT NOTICES

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## AMENDMENT OF RULE

### Rules of the Chief Judge

Pursuant to Article VI, § 28(c) of the State Constitution and section 211 of the Judiciary Law, upon consultation with the Administrative Board of the Courts, and with the approval of the Court of Appeals of the State of New York, I hereby amend, effective immediately, Part 26 of the Rules of the Chief Judge, by deleting the bracketed material and adding the underlined material to section 26.4 as follows:

Section 26.4 Request for information regarding filed statements.

A request for information regarding a filed statement must be made, *in writing*, to the Office of Court Administration, *Appointment Processing Unit, 25 Beaver Street, 8th Floor, New York, New York 10004* or via email to *part36@nycourts.gov*. [Statement of Approval of Compensation, P. O. Box 3171, Church Street Station, New York, New York 10008, in writing,] specifying the information desired.

