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DEPARTMENT OF STATE
Division of Administrative Rules

NEW YORK STATE REGISTER

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

For notices published in this issue:
– the 60-day period expires on February 5, 2023
– the 45-day period expires on January 21, 2023
– the 30-day period expires on January 6, 2023

KATHY HOCHUL
GOVERNOR

ROBERT J. RODRIGUEZ
SECRETARY OF STATE

NEW YORK STATE DEPARTMENT OF STATE

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NEW YORK STATE
REGISTER

Be a part of the rule making process!

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

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

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

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

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

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

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

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

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

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

Office of Cannabis Management

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Violations, Hearings and Enforcement

I.D. No. OCM-50-22-00001-EP
Filing No. 964
Filing Date: 2022-11-22
Effective Date: 2022-11-22

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

Proposed Action: Addition of Part 133 to Title 9 NYCRR.

Statutory authority: Cannabis Law, section 13

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

Specific reasons underlying the finding of necessity: Emergency action is necessary for the preservation of the public health, safety and general welfare to ensure that Cannabis Control Board (Board) can take punitive action against any person issued a license, registration, or permit by the Board who is found to be in violation of Cannabis Law or other applicable regulations.

The Legislature intended to decriminalize, regulate, control, and tax adult-use cannabis and cannabis products, generate significant new revenue, make substantial investments in communities and people most impacted by cannabis criminalization, and reduce participation of otherwise law-abiding citizens in the unlawful market. The emergency regulations accomplish this objective by authorizing the Office of Cannabis Management (the Office) to initiate investigations against licensed entities that result in a range of categorized violation by severity, where the violation is an immediate and severe threat to public health and safety and emergency action is warranted, including summary suspension, to where the violation is inconsistent with the orderly operation of a regulated business. The emergency regulations will also enable the Office and Board to take action against unlicensed entities that are engaged in unlawful cannabis related activities that poses an immediate threat to the public health or safety. The Office would be further empowered to seize any and all cannabis and cannabis products from unlicensed entities, as well as require such entity to cease all cannabis related activity. The Office may also refer such investigations to the Department of Taxation and Finance, the district attorney, or any other civil or criminal investigative or enforcement agencies. This will also provide the Office with the ability to hold hearings in response to violations of the Cannabis Laws, related regulations or guidance, or of this emergency rule.

The emergency addition of Part 133 addresses many issues by ensuring that there are regulations in place regarding violations, hearings and enforcement of Cannabis Law before the issuance of Conditional Adult-Use Retail Dispensary licenses and before laboratory-tested adult-use cannabis products are sold to the general public. This addition further ensures actions to protect public health and safety can be taken regarding the Cannabis Laboratories permitted under 9 NYCRR Part 130. This addition protects the public safety and general welfare by ensuring the Board can take punitive action against any person issued a license, registration or permit by the Board who is found to be in violation of Cannabis Law or other applicable regulations.

Therefore, emergency action is necessary at the November 21st Board meeting for the preservation of the public health, safety and general welfare to ensure that Board can take punitive action against any person issued a license, registration or permit by the Board who is found to be in violation of Cannabis Law or other applicable regulations. This emergency action will be effective for 120 days pursuant to Cannabis Law § 13(5) and will expire on March 21, 2023.

Subject: Violations, Hearings and Enforcement.

Purpose: Establishing parameters around violations, hearings, and enforcement.

Substance of emergency/proposed rule (Full text is posted at the following State website: cannabis.ny.gov): As required by section 13, 16, 17, 89, 132, and 133 of the Cannabis Law, Chapter II of Subtitle B of Title 9 (Executive) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended, and new Part 133 added, to be effective upon filing with the Department of State.

§ 133.1 Definitions

Defines all terms used for Part 133, including but not limited to, administrative law judge (ALJ), debarment, investigation, and party.

§ 133.2 Denial of Requests for Change of License or Renewals of License

Establishes a process in which the Office may approve or deny a change to a license. Requires the Office to notify the licensee whether the request was approved. If such request was not approved, requires the Office to identify the reasons, including any person or a particular offense or incident that does not satisfy requirements under the Cannabis Law, applicable regulations, or related guidance. Licensees shall have the opportunity to cure or request a conciliation conference. Such conciliation conference includes requirements for timely filing for such request and potential inspections for compliance by the conferee or the Office. Establishes a process for a hearing before an ALJ, but only after the licensee and the Office fail to agree on a proposed resolution. Requires the licensee to specifically identify facts and issues in dispute and state the position before the ALJ at the hearing.

§ 133.3 Compliance, Inspections, and Enforcement Investigation

Authorizes the Office to conduct compliance inspections or enforcement investigations of the licensee and any premises licensed by the Board, and any affiliated vehicles owned, leased, or utilized by the

licensee. Authorizes the Office to examine and inspect any records held or maintained by the licensee. Examination and inspection may include interviews of individuals who under operation of a subpoena could be compelled to produce papers or other documents necessary for an investigation. The premises would be subject to inspection by authorized representatives of the Office, any peace officer, or a police officer. Requires licensees to make themselves available and present for inspections and investigations required by the Office. Establishes the ability of Office representatives to direct licensees to send any cannabis, cannabis samples or products to a laboratory for testing. Provides for immediate summary suspension of a license in the case of a licensee not making themselves available for an inspection or an investigation, for not providing any documents and information requested by the Office, or by not allowing access to the licensed premises or not cooperating with Office representatives. Provides for seizure of cannabis or cannabis products and a stop order being issued during an inspection or investigation by authorized OCM representatives.

§ 133.4 Violations

Creates five categories of violations, ranging in severity at Category 1 where the violation is an immediate and severe threat to public health and safety and emergency action is warranted, including summary suspension, to Category 5 where the violation is inconsistent with the orderly operation of a regulated business. Establishes standards where a licensee may not destroy, damage, or conceal potential evidence of a violation unless they are engaged in a corrective action plan or remediation as approved by the Office. Authorizes the Office to implement enforcement actions upon license holders in response to violations of the Cannabis Law or related regulations, and sanctions may include but are not limited to civil penalties, fees, suspension, debarment, or referral to law enforcement. The Office may impose multiple enforcement actions or sanctions under Part 133 that may be applied concurrently or consecutively.

§ 133.5 Corrective Action Plan

Requires the Office to document any violations or noncompliance identified through inspection or investigation in a statement of findings, which shall be responded to by the licensee in a written corrective action plan within fifteen calendar days of the date of the statement. Such plan must address all violations and areas of noncompliance cited, an assessment and analysis of the violation, a procedure of how the licensee will correct such violation, an explanation of how proposed corrective actions will be implemented and maintained, and the proposed date violations will be corrected. Requires licensees to submit corrective action plans to the Office within 24 hours of notification of such deficiency if such violation immediately jeopardizes the health and safety of the public. Failure by licensees to comply with these requirements may result in revocation, a civil penalty, or permanent disbarment from engaging in a business transaction with any person licensed under the Cannabis Law.

§ 133.6 Summary Suspension and Stop Work Orders

Authorizes the Office to issue summary suspension orders or stop work orders to any licensee that has committed a Category 1 violation, any violation that posed a severe and imminent risk to public health or safety, or failed to make themselves or any documents available during an inspection or investigation by the Office. Requires a licensee to immediately cease all business activity and the licensee must submit a corrective action plan. Allows licensees to request an expedited hearing. Failure to comply with the summary suspension order or stop work order may result in the immediate revocation of any license possessed by the licensee and may prohibit the issuance or any new or renewal of any existing license. Authorizes the Office to issue a stop work order to any unlicensed person engaged in any cannabis related activity that poses an immediate threat to the public health or safety, where such activity may be further referred to the Department of Taxation and Finance, the district attorney, or any other civil or criminal investigative or enforcement agencies. Requires such unlicensed person to immediately cease all cannabis related activity and authorizes the Office to seize any and all cannabis and cannabis related products.

§ 133.7 Grounds for Suspension, Cancellation, Revocation, or Debarment of a License, and Denial of Renewal or Change of Licenses

Authorizes the Office to suspend, cancel, or revoke a license, or debar a person from licensure, and deny the renewal of a license or change of license where the information from such licensee was deceptive, false, or fraudulent or they failed to implement a corrective action plan. Additionally, the Office may suspend, debar, or deny renewal of such licensee if they committed or conspired to commit activity unauthorized by the Cannabis Law, including the diversion of cannabis or cannabis products.

§ 133.8 Notice of Hearing and Statement of Charges

Requires the Office to provide a licensee charged with a violation(s) with a reference to any applicable statutes and regulations that serve as the basis of the violation and a statement of the matters declared comprising the statement of charges. The notice shall also include the time, date, and place of the hearing, and shall be served at least 30 days prior to such hearing. If the licensee does not seek conciliation conference prior to the date of the hearing, the licensee shall have been deemed to have waived that right and the hearing will be held as scheduled.

§ 133.9 Request for Adjournment

Allows for an adjournment of a hearing, provided it is made in writing and submitted to the ALJ and other parties prior to the hearing. Adjournments are only granted by the ALJ and only after consultation with all parties.

§ 133.10 Answer or Responsive Pleadings

Provides for serving or answering pleadings, provided they are signed by the party or their attorney, and must specify which allegations are admitted, which are denied, and which the party has insufficient information to form an opinion. Such answers or responsive pleadings must be served no later than seven days before the hearing date.

§ 133.11 Amendment of Pleadings

Allows for any party to amend or supplement a pleading at any time prior to the issuance of the ALJ's determination upon approval of the ALJ.

§ 133.12 Service of Papers

Allows for all notices and papers connected with a hearing, other than the notice of hearing and statement of charges, to be served by ordinary mail.

§ 133.13 Disclosure

Provides that there shall be no disclosure between parties, including but not limited to documents, witness lists, depositions, or other discovery. The ALJ is not bound by the rules of discovery observed by the courts and may not require disclosure. Requires any party to disclose certain information, including, but not limited to, names of witnesses, list of documentary evidence, or other materials the ALJ demands, to other parties to the hearing if the Office is intending to suspend, cancel, or revoke such license, deny such license renewal, or debar.

§ 133.14 Responsibilities of the Administrative Law Judge

Establishes responsibilities for the ALJ, including scheduling and conducting all hearings. The ALJ will oversee all statements of charges and motions filed under Part 133 and make any such determinations. Requires the ALJ to conduct hearings in a fair and impartial manner and have the power to rule upon requests, administer oaths and affirmations, issue subpoenas, summon and examine witnesses, admit and exclude evidence, hear testimony, dismiss charges, among other powers.

§ 133.15 Administrative Law Judge Hearings

Allows for parties to appear in person or through representation by an attorney and provides for the structure of how hearings will be conducted by the ALJ, including but not limited to the swearing in of witnesses, the acceptance of evidence, and how the official record will be recorded, consolidation and severance, intervention of another party, and the record to be kept.

§ 133.16 Subpoenas

Requires that any subpoena(s) issued by the Office as authorized by the Board, shall be governed by the Civil Practice Law and Rules.

§ 133.17 Stipulations and Consent Orders

Provides for a stipulation where parties may enter for the resolution of any or all issues prior to a Board decision, and it also provides the Office an opportunity to issue a consent order upon agreement or stipulation of the parties which will have the same force and effect as an order. Such stipulations will require licensees to admit guilt to at least one of the acts of misconduct alleged, agree not to contest the allegations, or assert they cannot successfully defend themselves and they will either surrender their license or agree to a penalty.

§ 133.18 Administrative Law Judge's Determination

Requires the ALJ to prepare a determination following a hearing, including findings of facts, legal conclusions, and a proposed penalty, if any, to be submitted to all parties and the Board.

§ 133.19 Filing of Exceptions to Administrative Law Judge's Determination

Allows for any party to submit exceptions to the determination to the Board for review within 30 days of the ALJ determination. Exceptions may include findings of fact, general comments on the appropriateness of the determination, and an alternative proposed determination for consideration by the Board.

§ 133.20 Decision of the Board

Requires the Board to issue decisions, embodied in a written order and within 120 days, after reviewing the ALJ's determinations if an exception to the determination has been taken, however, the Board may delegate that authority to the Office.

§ 133.21 Appeal of the Decision of the Board

Granting all parties the right to appeal the decision of the Board by commencing an Article 78 proceeding.

§ 133.22 Cannabis Laboratory and Sampling Firm Specific Actions

Provides for specific actions related to cannabis laboratories and sampling firms, including a final determination being provided within 30 days from the date of notice of denial. The Board is empowered to

reconsider affirm, revoke, or modify the denial, allow issuance of a permit conditional on maintenance of corrective action, or require that a cannabis laboratory or sampling firm take corrective action. Within ten business days of receipt of the order, the laboratory or firm may submit additional material to the Office or a demand a hearing, or both. Cannabis laboratories or sampling firms' licenses may be suspended or revoked following a hearing.

§ 133.23 Severability

Provides for the independent treatment of one provision to another such that in the event any provision or its application is found to be invalid the remaining provisions continue to be valid.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire March 21, 2023.

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

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

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

Regulatory Impact Statement

Statutory Authority:

Sections 13, 16, 17, 89, 132, and 133 of the Cannabis Law provides that the Cannabis Control Board (Board) shall propose such rules and regulations as the Board may deem necessary or proper to fully effectuate the provisions of the Cannabis Law. This emergency rule shall include the enhancement of violations and the bolstering of hearings and enforcement processes by the Office.

Legislative Objectives:

The Legislature intended to decriminalize, regulate, control, and tax adult-use cannabis and cannabis products, generate significant new revenue, make substantial investments in communities and people most impacted by cannabis criminalization, and reduce participation of otherwise law-abiding citizens in the unlawful market. The emergency regulations accomplish this objective by authorizing the Office to initiate investigations against licensed entities that result in a range of categorized violation by severity, where the violation is an immediate and severe threat to public health and safety and emergency action is warranted, including summary suspension, to where the violation is inconsistent with the orderly operation of a regulated business. The emergency regulations will also enable the Office and Board to take action against unlicensed entities that are engaged in unlawful cannabis related activities that poses an immediate threat to the public health or safety. The Office would be further empowered to seize any and all cannabis and cannabis products from unlicensed entities, as well as require such entity to cease all cannabis related activity. The Office may also refer such investigations to the Department of Taxation and Finance, the district attorney, or any other civil or criminal investigative or enforcement agencies. This will also provide the Office with the ability to hold hearings in response to violations of the Cannabis Laws, related regulations or guidance, or of this emergency rule.

Needs and Benefits:

The emergency rule establishes the parameters around violations, hearings, and enforcement. Rules proposed for violations, hearings, and enforcement accords with the Cannabis Law and creates requirements that are intended to further protect public health, safety, and welfare by preventing unlawful cannabis or unsafe practices from permeating the marketplace. This emergency rule includes additional violations in addition to those already included in the Cannabis Law, Tax Law, and Penal Law and any related regulations and guidance. Such additional violations include penalties and ameliorative relief for licensed entities, including conciliation conferences, fair hearings, stipulations and consent orders, and an appeal process. The emergency rule also allows the Office to take any additional required action against unlicensed entities engaged in unlawful cannabis-related activities to ensure licensed businesses that properly follow all laws, regulations, and guidance will flourish.

Costs:

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

The Office discussed anticipated costs for violations, hearings, and enforcement with other states who have already implemented and currently oversee existing legalized cannabis programs. Violation penalty costs will vary significantly and will fall primarily on individual licensees, not oversight entities. There are statutorily outlined penalties in the Cannabis Law ranging in cost from $50 to $10,000. There are also statutorily outlined criminal penalties in the Cannabis Law, as well as in the Tax Law and Penal Law, ranging from a violation to felony-level offenses, which may also be accompanied by a fine.

Costs to State and Local Governments:

The emergency rule does not require the state or local government to perform any additional tasks beyond those contemplated under the Cannabis Law. When the Cannabis Law was enacted, it was anticipated a certain level of collaboration may be needed by state and local enforcement entities for the Office to effectuate its duties.

Costs to the Office of Cannabis Management:

The Office of Cannabis Management anticipates that violations, hearings, and enforcement initiatives will require Office resources to support the development and review and ongoing monitoring, compliance, and enforcement of licensees, as well as unlicensed entities engaged in unlawful cannabis-related activities. Staff will be required to inspect, investigate, review, and determine potential violations by licensees and if they rise to the level of summary suspension or proposed revocation. However, the Office anticipated these costs and is in line with the legislative intent of the Cannabis Law.

Local Government Mandates:

The emergency rule does not impose any new programs, services, duties or responsibilities on local government. However, when the Cannabis Law was enacted, it was anticipated a certain level of collaboration may be needed by local law enforcement entities for the Office to effectuate its duties.

Paperwork:

The paperwork associated with violations, hearings, and enforcement of licensees and unlicensed entities engaged in unlawful cannabis-related activities New York State will include maintaining records of inspections, any investigations, conciliation conferences, violations, summary suspensions, hearing records, among other requirements. It is anticipated that inspections will be ongoing.

Duplication:

The emergency rule does not duplicate any existing State or federal requirements that are applicable to regulated cannabis violations, hearings, or enforcement.

Alternatives:

There were no significant alternatives proposals to be considered for the adoption of the emergency regulations during the regulatory process as the alternative would have been to do nothing or to establish a more flexible violation, hearing, and enforcement schematic which did not have rules, but policy decisions. Doing nothing was not a significant alternative because there was a need to provide licenses for adult-use purposes to address the legislative intent to regulate, control, and tax cannabis, generate significant new revenue, make substantial investments in communities and people most impacted by cannabis criminalization, reduce participation of otherwise law-abiding citizens in the illicit market, end the racially disparate impact of existing cannabis laws, create new industries, and increase employment. To establish such a lofty violation, hearing, and enforcement process, SAPA would have mandated that where there are hard and fast rules and the flexibility of establishing the procedure through guidance was also not a significant alternative because there were going to be things required of each applicant where there would be no flexibility.

Federal Standards:

Federal requirements do not include provisions for regulated cannabis violations, hearings, or enforcement.

Compliance Schedule:

The emergency regulations will take effect upon filing with the Department of State.

Regulatory Flexibility Analysis

Effect of Rule:

This emergency rule will provide for a hearing process by the Office and to reinforce violations and enforcement by the Board. There are no costs to existing small business establishments or government entities in New York State.

Compliance Requirements:

Licensees and unlicensed entities will be required to submit to compliance inspections or enforcement investigations, including any affiliated vehicles owned, leased, or utilized by the entity. The entity will also be required to submit to inspections or investigations of records held or maintained, including but not limited to financial statements, payrolls, and correspondence, without prior notice. Examination and inspection may include interviews of individuals including employees, contractors, supervisors, or others who under operation of a subpoena could be compelled to produce papers or other documents necessary for an investigation. The licensed or unlicensed premises would be subject to inspection by authorized representatives of the Office, any peace officer, or a police officer. The Office will be empowered to direct licensees to send any cannabis, cannabis samples or products to a laboratory for testing. Licensees may have their license summarily suspended by the Office if such licensee does not make themselves available for an inspection or an investigation, for not providing any documents and information requested by the Office, or by not allowing access to the licensed premises or not cooperating with Office representatives. The Office may also seize cannabis or cannabis products and issue stop order being during an inspection or investigation.

Professional Services:
No professional services will be required of local governments. Small business may need to utilize or hire law professionals, accounting professionals, or other financial professionals to assist in inspections, investigations, or proceedings as proposed in this rule.
Compliance Costs:
There are no small business entities which are currently licensed that will be affected by this emergency rule. The emergency rule does not impose an economic impact on any existing lawful small business entity. Entities or persons that commit violations outlined in the Cannabis Law, other related regulations, and the regulations proposed in this rule may be subject to civil penalties and fees that include a cost. There may be additional costs to licensed entities if the Office finds such entity must initiate a corrective action plan because of a violation, if the entity wishes to enter a conciliation conference or must agree to a hearing, of if the licensed entity wishes to cure.
Economic and Technological Feasibility:
This emergency rule is economically and technologically feasible. The operations of the Office implementing hearings and bolstering hearings and enforcement do not impose any unique technological or economic challenges to small businesses or local governments.
Minimizing Adverse Impact:
This emergency rule will expand the Office's ability to ensure a level playing field for the cannabis industry through enhanced violations and a bolstered hearings and enforcement process. This rule will provide a fair and impartial hearing process that respects all parties throughout, overseen by an administrative law judge. These regulations do not create an adverse impact to small businesses and local governments, unless small business entities that are licensed by the Office commit any violations.
Small Business and Local Government Participation:
The emergency rule was developed in response to feedback from multiple organizations, state agencies, and advocates and who have provided feedback and suggestions for implementation of violations, hearings, and enforcement. There will be a 60-day public comment period with the proposed regulations that will allow for additional comments to be considered.

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:
Outside of major cities and metropolitan population centers, most counties in New York State contain rural areas.
Reporting, Recordkeeping and Other Compliance Requirements; and Professional Services:
There are no new reporting, recordkeeping or other compliance requirements imposed on rural areas because of the regulations. No new professional services will be required specifically of rural areas. Compliance requirements will be limited to the Office, administrative law judges, entities licensed by the Office, and unlicensed entities who are not in compliance with the Cannabis Law, regulations, and related guidance.
Costs:
There are no compliance costs to existing establishments in rural areas since no new compliance activities are imposed upon them. Compliance costs will be limited to the Office and to licensed entities and unlicensed entities who commits a violation and/or who may be subject to conciliation conference, corrective action, or hearings.
Minimizing Adverse Impact:
The emergency rule will apply to individuals, licensed entities, and unlicensed entities who commit violations and/or may be subject to conciliation conference, corrective action, or hearings. Applicants in rural areas of the state, as well as other areas of the state, will be able to obtain information regarding violations and the hearing process online. Any hearing called pursuant to this emergency rule will be held at a location which the administrative law judge overseeing such hearing chooses.
Rural Area Participation:
The emergency rule was developed in response to feedback from multiple organizations, state agencies, and advocates and who have provided feedback and suggestions for the implementation of violations, hearings, and enforcement. There will be a 60-day public comment period with the proposed regulations that will allow for additional comments to be considered.

Job Impact Statement

The emergency rule will allow for the creation of new jobs to support the activities of entities licensed by the Office of Cannabis Management by ensuring the success of a regulated cannabis industry through a robust yet responsible enforcement process that includes violations for licensed and unlicensed entities, and a fair and impartial hearing process that respects all parties throughout. By ensuring the regulated cannabis industry is on a level playing field through such enforcement, this emergency rule will allow jobs in this new industry to be created and bolstered. This Office has determined that there are no foreseeable adverse impacts on jobs.

Office of Children and Family Services

EMERGENCY RULE MAKING

Differential Response for Children Under 12 Years of Age

I.D. No. CFS-36-22-00002-E
Filing No. 947
Filing Date: 2022-11-16
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: Addition of Part 437 to Title 18 NYCRR.

Statutory authority: L. 2021, ch. 810

Finding of necessity for emergency rule: Preservation of public health, 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 children in New York State. Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022, raised the lower age of juvenile delinquency to age 12 for most offenses and requires the Office of Children and Family Services (OCFS) to promulgate regulations to establish a differential response for those children for whom there is no longer jurisdiction under Article 3 of the Family Court Act. Each local department of social services is required to submit a differential response plan to OCFS for review and approval prior to December 29, 2022. These differential response programs are necessary to reduce the likelihood of interaction with the juvenile justice and child welfare systems in the future for eligible children.

Subject: Differential Response for Children Under 12 Years of Age.

Purpose: To establish a differential response program for children under twelve years of age.

Text of emergency rule: NYCRR Part 437

Differential Response for Children Under Twelve (12) Years of Age

Section 437.1 Legal Authority

This subpart is established pursuant to Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022, which provides that the Office of Children and Family Services shall promulgate regulations regarding the differential response for children under 12 years of age who do not fall under the definition of juvenile delinquent under section 301.2 of the Family Court Act, but whose behavior would otherwise bring them under the jurisdiction of Article 3 of the Family Court Act.

Section 437.2 Definitions

(a) Child Welfare Services Plan means the district-wide plan, as required under 409-d of the Social Services Law.

(b) Differential Response Program means a program established under these regulations for eligible children under 12 years of age.

(c) Eligible child means a child under 12 years of age, who does not fall under the definition of juvenile delinquent pursuant to subparagraph (iii) of paragraph (a) of subdivision one of section 301.2 of the Family Court Act and whose behavior, but for their age, would bring them within the jurisdiction of the family court pursuant to Article 3 of the Family Court Act.

(d) Family shall include but not be limited to biological relationships; relationships through marriage, partnership, or adoption; caretakers of the child; siblings; adults with a positive relationship to the child or child's family; caretakers of any siblings; or other persons whom the eligible child or their family may consider to be critical supports.

Section 437.3 Program Requirement

All local social services districts (districts) are required to establish a differential response program for the eligible children within the district. Services offered through the differential response program are voluntary to the eligible child and their family. Details of the program and the implementation plan must be reflected in the district child welfare services plan.

Section 437.4 Plan Requirement

Districts must include details of their differential response program for children under 12 years of age in their child welfare services plan. Such information must include, but is not limited to the following:

(a) A description of how the differential responses will enhance the ability of the district to reduce the likelihood of the eligible child's interactions with the juvenile justice and child welfare systems in the future and ensure the safety and well-being of the eligible children. Such description should also include how any family needs and concerns will be supported.

(b) A description of how such differential response addresses adverse impacts on marginalized communities.

(c) A description of the assessments that shall be utilized to determine whether services are necessary and if necessary, the least restrictive interventions that meet the needs of the eligible child and their family. Such tools shall include, but not be limited to, assessment of the eligible child's and their family's strengths, concrete needs, and challenges. Such assessments should consider any individualized vulnerabilities and be responsive to the child and their family's culture.

(d) A description of services and supports to be provided to the eligible child and their family to include but not be limited to preventive services, if eligible, in accordance with Social Services Law Section 409-a and 18 NYCRR Part 423, and family support services programs as defined in 458-m as required or available, and how the services will be offered. Services offered through the differential response are voluntary and must be identified as such in the plan.

(e) A description of the process to be followed for how the district will plan and monitor the services provided under the differential response.

(f) A description of the training to be required for staff engaged in implementation of the differential response. This includes training for district and relevant non-district staff who will be working with eligible children and their families. Such description shall include the training for law enforcement within the district whose main responsibilities are juveniles, pursuant to section 840 of the Executive Law.

(g) A description of any additional funding that shall be made available to enhance the differential response.

Section 437.5 Records, Retention and Confidentiality

Records created under a district's differential response program shall:

(a) include, at a minimum, information regarding the reason(s) the child was referred to the differential response program, documentation of all services offered and accepted by the eligible child and their family, and all evaluations and assessments of that child's progress; and

(b) be maintained for five (5) years after an eligible child has been referred to the district or until the eligible child reaches the age of 12, whichever is sooner. The district shall destroy differential response program records when they reach the retention benchmark.

Records are confidential and shall not be disclosed except as set forth in section 458-o(3)(c) of the Social Services Law.

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-36-22-00002-EP, Issue of September 7, 2022. The emergency rule will expire January 14, 2023.

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:

Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022, requires that the Office of Children and Family Services (the Office) shall promulgate regulations regarding the differential response for children under 12 years of age who do not fall under the definition of Juvenile Delinquent under section 301.2 of the Family Court Act as of December 29, 2022, but for whose behavior would otherwise bring them under the jurisdiction of Article 3 of the Family Court Act.

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

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

2) Legislative Objectives:

To establish differential response programs for children under the age of 12 in order to reduce the likelihood of the eligible child's interactions with the juvenile justice and child welfare systems in the future.

3) Needs and Benefits:

These regulations are required under by Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022. They require local social services districts (districts) to establish a differential response program for eligible children, provide standards around that differential response as well as regarding records, retention, and confidentiality.

The legislation and regulations are an opportunity to be responsive to children and their families using developmentally focused, equity-centered community alternatives and early interventions that address concerning or harmful behavior through age- and stage-appropriate means. Emphasis is placed on family engagement and providing necessary assistance and opportunities to the child using positive youth development, restorative, and trauma-informed practices to address the behavior rather than juvenile justice approaches. Addressing behaviors early reduces the likelihood of continued community behavior concerns in the future, as well as more costly out of home placements.

Children of color are disproportionately overrepresented at every stage of the juvenile justice system. The legislation and regulations require an intentional focus on addressing adverse impacts on marginalized communities while continually assessing the communities' strengths and resources that can meet the needs of the eligible children and their families.

4) Costs:

While there may be marginal administrative costs related to the implementation of the differential response and the completion of a new section of the child welfare services plan, the local social services districts are already responsible for assisting families in engaging in services and supports and the completion of the child welfare services plan. It is important to note:

- The total number statewide of intakes for this age group in 2021 was 266.
- Some local districts will realize cost savings where children under 12 years of age who do not fall under the definition of Juvenile Delinquent under section 301.2 of the Family Court Act as of December 29, 2022, are no longer eligible to be placed in a juvenile detention facility, a foster care placement or a New York State Office of Children and Family Services facility due to delinquency charges and these are more costly than the alternative differential response.

5) Local Government Mandates:

In accordance with state law, these regulations would adopt mandates for the districts regarding the differential response for children under 12 years of age who do not fall under the definition of Juvenile Delinquent under section 301.2 of the Family Court Act as of December 29, 2022, but for whose behavior would otherwise bring them under the jurisdiction of Article 3 of the Family Court Act.

6) Paperwork:

The proposed regulations would require districts to document certain information related to the differential response program for eligible children. At a minimum, information regarding the reason(s) the child was referred to the differential response program, documentation of all services offered and accepted by the eligible child and their family, and all evaluations and assessments of that child's progress.

7) Duplication:

The proposed regulations would comply with, but are not duplicative of, other state requirements.

8) Alternatives:

No alternative approaches to implementing the regulation were considered as the requirements are mandated by state law.

9) Federal Standards:

The proposed regulations are not in conflict with current federal standards.

10) Compliance Schedule:

Compliance with the Emergency Adoption and Proposed Rule Making would be effective immediately.

Regulatory Flexibility Analysis

1) Effect of Rule:

The proposed regulations will affect all local social services districts (districts) in New York State. No small businesses will be impacted by this regulation.

2) Compliance Requirements:

Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022, provides that the Office of Children and Family Services (the Office) shall promulgate regulations regarding the differential response for children under 12 years of age who do not fall under the definition of Juvenile Delinquent under section 301.2 of the Family Court Act, but for whose behavior would otherwise bring them under the jurisdiction of Article 3 of the Family Court Act.

Specifically, the proposed regulations would require all districts to establish a differential response program for the eligible children. As part of their district-wide child welfare services plan, the districts must include a plan to implement the program.

3) Professional Services:

These regulations would adopt provisions for the district differential response to include a strength-based assessment to determine whether services are necessary, the plan for supports offered to and accepted by the child and family, and the monitoring of the child's progress in such interventions. It will also provide provisions for training of district and non-district staff regarding the differential response. OCFS is working with local districts on tools to assist them in meeting the requirements of

the regulations, including a referral tracking mechanism and training materials.

4) Compliance Costs: While there may be marginal administrative costs related to the implementation of the differential response and the completion of a new section of the child welfare services plan, the local social services districts are already responsible for assisting families in engaging in services and supports and the completion of the child welfare services plan. It is important to note:

• The total number statewide of intakes for this age group in 2021 was 266.

• Some local districts will realize cost savings where children under 12 years of age who do not fall under the definition of Juvenile Delinquent under section 301.2 of the Family Court Act as of December 29, 2022, are no longer eligible to be placed in a juvenile detention facility, a foster care placement or a New York State Office of Children and Family Services facility due to delinquency charges, and these are more costly than the alternative differential response.

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

6) Minimizing Adverse Impact: These regulations would adopt state mandated provisions. The requirements under these proposed regulations were necessitated by the Raise the Lower Age of Juvenile Delinquency legislation (Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022) and were therefore unavoidable. The Office of Children and Family Services (the Office) will support local social services districts in the drafting and any necessary revisions of their differential response plans.

7) Small Business and Local Government Participation: The Office has engaged in a process of receiving feedback from local districts regarding the implementation of the Raise the Lower Age of Juvenile Delinquency legislation. This has occurred through the following:

• Forming a small working group of interested local districts to provide direct feedback to the Office on the implementation of the legislation and regulations.

• The Office attending regional meetings of districts to review the legislative requirements and obtain their direct feedback.

• The Office presenting at the New York Public Welfare Association conference in July 2022 to provide an overview of the legislation and obtain feedback from local districts directly.

• The Office will continue to seek opportunities to provide additional learning opportunities for local districts through the issuance of policy and further training.

Rural Area Flexibility Analysis

1) Types and Estimated Numbers of Rural Areas: The proposed regulations will affect the 44 local social services districts that are in rural areas.

2) Reporting, Recordkeeping and Other Compliance Requirements; and Professional Services: These proposed regulations implement requirements derived directly from statutory provisions (Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022).

3) Costs: While there may be marginal administrative costs related to the implementation of the differential response and the completion of a new section of the child welfare services plan, the local social services districts are already responsible for assisting families in engaging in services and supports and the completion of the child welfare services plan. It is important to note:

• The total number statewide of intakes for this age group in 2021 was 266.

• Some local districts, including those with rural areas, will realize cost savings where children under 12 years of age who do not fall under the definition of Juvenile Delinquent under section 301.2 of the Family Court Act as of December 29, 2022, are no longer eligible to be placed in a juvenile detention facility, a foster care placement or a New York State Office of Children and Family Services facility due to delinquency charges, and these are more costly than the alternative differential response.

4) Minimizing Adverse Impact: The requirements under these proposed regulations were necessitated by the Raise the Lower Age of Juvenile Delinquency legislation (Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022) and were therefore unavoidable. The Office of Children and Family Services (the Office) will support local social services districts, including those in rural areas, in the drafting and any necessary revisions of their differential response plans.

5) Rural Area Participation: The Office will actively seek input of local social services districts in rural areas for the implementation of the Raise the Lower Age of Juvenile Delinquency legislation.

Job Impact Statement

The proposed regulatory amendments will not have a substantial adverse impact on jobs or employment opportunities. A full job impact statement has not been prepared for the proposed regulations as it is evident from the subject matter of the rule that the proposed regulations will not result in the loss of jobs.

NOTICE OF ADOPTION

Differential Response for Children Under 12 Years of Age

I.D. No. CFS-36-22-00002-A
Filing No. 952
Filing Date: 2022-11-18
Effective Date: 2022-12-07

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

Action taken: Addition of Part 437 to Title 18 NYCRR.

Statutory authority: L. 2021, ch. 810

Subject: Differential Response for Children Under 12 Years of Age.

Purpose: To establish a differential response program for children under 12 years of age.

Text of final rule: NYCRR Part 437

Differential Response for Children Under Twelve (12) Years of Age

Section 437.1 – Legal Authority

This subpart is established pursuant to Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022, which provides that the Office of Children and Family Services shall promulgate regulations regarding the differential response for children under 12 years of age who do not fall under the definition of juvenile delinquent under section 301.2 of the Family Court Act, but whose behavior would otherwise bring them under the jurisdiction of Article 3 of the Family Court Act.

Section 437.2 Definitions

(a) Child Welfare Services Plan means the district-wide plan, as required under 409-d of the Social Services Law.

(b) Differential Response Program means a program established under these regulations for eligible children under 12 years of age.

(c) Eligible child means a child under 12 years of age, who does not fall under the definition of juvenile delinquent pursuant to subparagraph (iii) of paragraph (a) of subdivision one of section 301.2 of the Family Court Act and whose behavior, but for their age, would bring them within the jurisdiction of the family court pursuant to Article 3 of the Family Court Act.

(d) Family shall include but not be limited to biological relationships; relationships through marriage, partnership, or adoption; caretakers of the child; siblings; adults with a positive relationship to the child or child's family; caretakers of any siblings; or other persons whom the eligible child or their family may consider to be critical supports.

Section 437.3 Program Requirement

All local social services districts (districts) are required to establish a differential response program for the eligible children within the district. Services offered through the differential response program are voluntary to the eligible child and their family. Details of the program and the implementation plan must be reflected in the district child welfare services plan.

Section 437.4 Plan Requirement

Districts must include details of their differential response program for children under 12 years of age in their child welfare services plan. Such information must include, but is not limited to the following:

(a) A description of how the differential responses will enhance the ability of the district to reduce the likelihood of the eligible child's interactions with the juvenile justice and child welfare systems in the future and ensure the safety and well-being of the eligible children. Such description should also include how any family needs and concerns will be supported.

(b) A description of how such differential response addresses adverse impacts on marginalized communities.

(c) A description of the assessments that shall be utilized to determine whether services are necessary and if necessary, the least restrictive interventions that meet the needs of the eligible child and their family. Such tools shall include, but not be limited to, assessment of the eligible child's and their family's strengths, concrete needs, and challenges. Such assessments should consider any individualized vulnerabilities and be responsive to the child and their family's culture.

(d) A description of services and supports to be provided to the eligible child and their family to include but not be limited to preventive services, if eligible, in accordance with Social Services Law Section 409-a and 18 NYCRR Part 423, and family support services programs as defined in 458-m as required or available, and how the services will be offered. Services offered through the differential response are voluntary and must be identified as such in the plan.

(e) A description of the process to be followed for how the district will plan and monitor the services provided under the differential response.

(f) A description of the training to be required for staff engaged in implementation of the differential response. This includes training for district and relevant non-district staff who will be working with eligible children and their families. Such description shall include the training for law enforcement within the district whose main responsibilities are juveniles, pursuant to section 840 of the Executive Law.

(g) A description of any additional funding that shall be made available to enhance the differential response.

Section 437.5 Records, Retention and Confidentiality

Records created under a district's differential response program shall

(a) include, at a minimum, information regarding the reason(s) the child was referred to the differential response program, documentation of all services offered and accepted by the eligible child and their family, and all evaluations and assessments of that child's progress; and

(b) be maintained for five (5) years after an eligible child has been referred to the district or until the eligible child reaches the age of 12, whichever is sooner. The district shall destroy differential response program records when they reach the retention benchmark.

Records are confidential and shall not be disclosed except as set forth in section 458-o(3)(c) of the Social Services Law.

Final rule as compared with last published rule: Nonsubstantial changes were made in Part 437-5(b).

Revised rule making(s) were previously published in the State Register on September 7, 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

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

A revised Regulatory Impact Statement, Regulatory Flexibility Analysis and Rural Area Flexibility Analysis have not been prepared because the proposed changes to the last published rule merely clarify the text and do not change the substance of the proposed rule. Accordingly, no changes to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis and Rural Area Flexibility Analysis are needed.

Revised Job Impact Statement

The proposed regulatory amendments will not have a substantial adverse impact on jobs or employment opportunities. A full job impact statement has not been prepared for the proposed regulations as it is evident from the subject matter of the rule that the proposed regulations will not result in the loss of jobs.

Initial Review of Rule

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

Assessment of Public Comment

Pursuant to Chapter 810 of the Laws of 2021, as amended by Chapter 38 of the Laws of 2022, the Office of Children and Family Services (OCFS) filed Emergency Regulations adding Part 437 to Title 18 NYCRR. OCFS received two public comments, which are grouped below by the relevant regulation sections they address.

Section 437.4

One commenter suggested that an additional subdivision should be added requiring LDSSs to include a description of the referral process for the differential response program.

Response: Thank you for this feedback. OCFS has considered this suggestion and has not made changes to the regulations at this time. OCFS policy includes requirements regarding the need to support families during the referral process, which is contained within the Raising the Lower Age of Juvenile Delinquency Differential Response Practice Guide. OCFS has also reinforced this through training and technical assistance with districts. OCFS will also continue to monitor the field in this area.

Subdivision (b)

One commenter suggested that the regulations should specifically require a description of how the differential response programs address the adverse impact of policing and prosecution of marginalized communities.

Response: Thank you for this feedback. OCFS has considered this suggestion and has not made changes to the regulations at this time. OCFS policy promotes effective equity strategies within the Raising the Lower Age of Juvenile Delinquency Differential Response Annual Plan Desk Aid and the OCFS-2211—Raising the Lower Age of Juvenile Delinquency Differential Response for Children under 12 Years of Age 2022 Annual Plan. The legislation eliminates the possibility of policing and prosecution of eligible children for the differential response and OCFS believes this suggested change would limit districts rather than promote additional effective equity strategies.

Subdivision (c)

One commenter suggested that it should be made explicit that the referral for the differential response assessment is completely voluntary.

Response: Thank you for this feedback. OCFS has considered this suggestion and has not made changes to the regulations at this time. The emergency/proposed regulations explicitly include language related to the voluntary nature of the differential response: Services offered through the differential response program are voluntary to the eligible child and their family. The issued OCFS policy (22-OCFS-ADM-23—Raising the Lower Age of Juvenile Delinquency—A Differential Response for Children Under 12 Years of Age, the Raising the Lower Age of Juvenile Delinquency Differential Response Practice Guide, and the OCFS-2211—Raising the Lower Age of Juvenile Delinquency Differential Response for Children under 12 Years of Age 2022) outlines clearly that the differential response program and any recommended interventions are voluntary to the child and family. OCFS has also reinforced this policy during training and technical assistance sessions with the field.

Subdivision (f)

Two commenters suggested that:

- subdivision (f) be amended to add training for "school district staff" as well as law enforcement pursuant to 840 of the Executive Law, and
- a new subdivision be added that requires a description of how the LDSS shall provide all school districts within the district about the voluntary services for children and families through the differential response and how the services will be offered.

One commenter suggested that OCFS work closely with the New York State Education Department to ensure that all school districts are aware of the voluntary supports available to children and their families under the differential response.

Response: OCFS appreciates the feedback from both commenters, has considered these suggestions and has not made changes to the regulations at this time. OCFS has been working closely with the New York State Education Department to provide a uniform, consistent message to the field for school districts and LDSS differential response programs. New York State Education Department (SED) has issued guidance to school districts as their oversight agency, which is consistent with OCFS policy. OCFS has also reinforced this uniform messaging through training and technical assistance sessions with districts strongly encouraging the LDSSs engage their local school districts in both planning and training. OCFS will continue to collaborate with SED regarding on-going support to the field.

Subdivision (g)

One commenter suggested that this subdivision should include the possibility that LDSSs may seek private funding to support the differential response program and specifically that the term "private" should be added after "local" in this section.

Response: Thank you for your response. OCFS has considered this suggestion and has not made changes to the regulations at this time. Subdivision (g) currently states: A description of any additional funding that shall be made available to enhance the differential response. The broad language currently contained in the regulations is intended to provide flexibility for any additional funding (e.g. private, federal grants or other local governmental funds) to be used to support the differential response program.

Section 437.5

One commenter suggested subdivision (b) should be amended to explicitly require destruction of any records created under the LDSS differential response program.

Response: Thank you for this feedback. OCFS has considered this suggestion and will be clarifying further the record retention requirements contained within the regulations by explicitly referencing destruction of the differential response records when the legislative and regulatory record retention schedule benchmarks occur.

Department of Civil Service

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00005-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Westchester County under the subheading "Solid Waste Commission," by adding thereto the position Deputy Director Solid Waste Licensing (1).

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00006-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Office of Parks, Recreation and Historic Preservation," by adding thereto the position of Chief Diversity Officer.

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00007-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "Division of Criminal Justice Services," by adding thereto the position of Information Systems Auditor 1 (1).

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00008-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified

Service, listing positions in the exempt class, in the Department of Mental Hygiene under the subheading "Office of Addiction Services and Supports," by increasing the number of positions of Associate Commissioner from 6 to 7 and Deputy Counsel from 1 to 2.

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00009-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Audit and Control, by increasing the number of positions of Information Technology Specialist 2 (Information Security) from 2 to 10, Information Technology Specialist 3 (Information Security) from 3 to 7, Information Technology Specialist 4 (Information Security) from 2 to 4 and Manager Information Technology Services 1 (Information Security) from 1 to 2.

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00010-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Labor under the subheading "Workers' Compensation Board," by adding thereto the position of Equal Opportunity Specialist 2 (1).

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00011-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified

Service, listing positions in the non-competitive class, in the Department of Health, by adding thereto the positions of Data Analyst 1, Data Analyst 2, Data Analyst 3, Information Systems Auditor 1, Information Systems Auditor 2 and Information Systems Auditor 3.

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00012-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Civil Service under the subheading "Public Employment Relations Board," by adding thereto the positions of Director Private Employment Practices and Representation and Special Assistant.

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00013-P

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

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

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

Subject: Jurisdictional Classification.

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

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

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00014-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Agriculture and Markets, by adding thereto the position of Public Information Specialist 1 (Digital Content) (1).

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00015-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Family Assistance under the subheading "Office of Children and Family Services," by adding thereto the positions of Assistant Manager Information Services and Manager Information Services and by increasing the number of positions of Special Assistant from 18 to 19.

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-49-22-00016-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Transportation, by increasing the number of positions of Special Assistant from 24 to 28.

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

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

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

Regulatory Impact Statement

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

Department of Economic Development

NOTICE OF ADOPTION

Digital Gaming Media Production Tax Credit Program

I.D. No. EDV-32-22-00019-A
Filing No. 955
Filing Date: 2022-11-21
Effective Date: 2022-12-07

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

Action taken: Addition of Part 300 to Title 5 NYCRR.

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

Subject: Digital Gaming Media Production Tax Credit Program.

Purpose: To create the administrative process for the program.

Substance of final rule: The regulation contained in 5 NYCRR Part 300 which governs the newly created Digital Gaming Media Production Tax Credit program is summarized as follows:

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

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

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

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

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

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

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

The regulation next addresses an applicant's appeal process. It notes that if the authorized applicant's final application is disapproved by the Department, or if the approved applicant disagrees with the amount of the tax credit granted by the Department, the applicant has a right to appeal. Upon receipt of a timely letter of appeal, an independent hearing officer will be appointed by the Commissioner to handle the appeal. The independent hearing officer shall make a report on the appeal to the Commissioner. The Commissioner or designee shall issue a final order within 60 days of the report.

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

The text of the rulemaking is available at: www.esd.ny.gov

Final rule as compared with last published rule: Nonsubstantive changes were made in section 300.2(j) and (m).

Text of rule and any required statements and analyses may be obtained from: Thomas Regan, Department of Economic Development, 625 Broadway, Albany, NY 12245, (518) 292-5110, email: thomas.regan@esd.ny.gov

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

As there have been no substantive changes to the last published rule, there are no changes to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Initial Review of Rule

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

Assessment of Public Comment

The agency received no public comment.

Department of Financial Services

NOTICE OF ADOPTION

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

I.D. No. DFS-47-21-00006-A
Filing No. 957
Filing Date: 2022-11-22
Effective Date: 2022-12-07

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

Action taken: Amendment of Part 52 (Regulation 62) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 301, 302; Insurance Law, sections 301, 3217, 3217-a, 3217-b, 4324, 4325; Public Health Law, sections 4406-c, 4408; and Federal No Surprises Act

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

Purpose: To apply disclosure requirements to dental and vision and hold issuers responsible for inaccurate network status information.

Text of final rule: 52.54(d) is added as follows:

(d)(1) The disclosure requirements in Insurance Law sections 3217-a(a)(1) through (6), (9), (10), (15), (16), (17), (18), (19)(A) and (B), and (20); 3217-a(b)(1), (2), (4), (5), (7), (8) if applicable, (10), (11), (13) and (14); 4324(a)(1) through (6), (9), (10), (15), (16), (17), (19), (20)(A) and (B), and (21); and 4324-a(b)(1), (2), (4), (5), (7), (8) if applicable, (10), (11), (13) and (14) shall apply to stand-alone dental insurance and stand-alone vision insurance.

(2) In addition to the disclosure requirements in paragraph (1) of this subdivision, the disclosure requirements in Insurance Law section 3217-a(a)(7) and (11) through (13) and Insurance Law section 4324(a)(7) and (11) through (13) shall apply to stand-alone dental insurance and stand-alone vision insurance that meets the definition of a "managed care product" in Insurance Law section 4801(c).

(3) This subdivision shall apply to any policies issued, renewed, modified, or amended on or after one year after the effective date of this section.

A new section 52.77 is added as follows:

§ 52.77 Payment when an issuer provides inaccurate network status information.

(a) If an insured who is covered under an accident and health insurance policy that uses a network of health care providers receives a bill for out-of-network services resulting from an issuer providing inaccurate network status information to an insured, the issuer shall not impose on the insured a copayment, coinsurance, or deductible for the service that is greater than the copayment, coinsurance, or deductible that would be owed if the insured had received services from a participating provider. The issuer shall apply the out-of-pocket maximum that would have applied had the services been received from a participating provider.

(b) Pursuant to Insurance Law sections 3217-b(n) and 4325(o) and Public Health Law section 4406-c(12), if an issuer provides inaccurate network status information to an insured, the issuer shall reimburse the provider for the out-of-network services regardless of whether the insured's coverage includes out-of-network services.

(c)(1) An issuer that issues comprehensive health insurance policies shall provide network status information to an insured in writing through print or electronic means, if the insured consents to electronic communication, within one business day of the insured requesting the information by telephone or through electronic means, if available.

(2) An issuer that issues a policy, other than a comprehensive health insurance policy, that uses a network of providers shall provide network status information to an insured in writing through print or electronic means, if the insured consents to electronic communication, within three business days of the insured requesting the information by telephone or through electronic means, if available.

(3) An issuer shall retain any recordings of telephone requests for network status information and a copy of its written response to the insured in the insured's file in accordance with section 243.2(b)(8) of this Part.

(d) An issuer provides inaccurate network status information when:

(1) the issuer represents in the provider directory posted on its

website that a non-participating provider is participating in the issuer's network;

(2) the issuer provides information, upon an insured's request made by telephone or through electronic means, if available, that a non-participating provider is participating in the issuer's network;

(3) the issuer fails to provide information in writing through print or electronic means, if the insured consents to electronic communication, regarding a specific provider's participating status within the timeframes established in subdivision (c) of this section; or

(4) the issuer represents in the hard copy provider directory that a provider is participating in the issuer's network and the provider is non-participating as of the date of publication of the hard copy provider directory.

(e) An issuer shall include in its hard copy provider directory a notification that the information contained in the directory was accurate as of the date of publication of such directory and that an insured should consult the provider directory posted on the issuer's website to obtain the most current provider directory information.

(f) As used in this section:

(1) Non-participating means not having an agreement with an issuer with respect to the rendering of health care services to an insured.

(2) Participating means having an agreement with an issuer with respect to the rendering of health care services to an insured.

(3) Issuer means an insurer licensed to write accident and health insurance in this State, a corporation organized pursuant to Insurance Law Article 43, a municipal cooperative health benefit plan certified pursuant to Insurance Law Article 47, a health maintenance organization certified pursuant to Public Health Law Article 44, and a student health plan certified pursuant to Insurance Law section 1124.

(g) This section shall apply to all comprehensive health insurance policies issued, renewed, modified, or amended on or after the effective date of this section. This section shall apply to policies other than comprehensive health insurance policies that are issued, renewed, modified, or amended on or after one year after the effective date of this section.

Final rule as compared with last published rule: Nonsubstantial changes were made in sections 52.54(d), 52.77(c), (d) and (g).

Revised rule making(s) were previously published in the State Register on August 17, 2022.

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

Revised Regulatory Impact Statement

1. Statutory authority: Financial Services Law ("FSL") Sections 202, 301, and 302, Insurance Law ("IL") Sections 301, 3217, 3217-a, 3217-b, 4324, and 4325, Public Health Law ("PHL") Sections 4406-c and 4408, and the federal No Surprises Act (the "Federal Act").

FSL Section 202 establishes the office of the Superintendent of Financial Services ("Superintendent"). FSL Sections 301 and 302 and IL Section 301, in pertinent part, authorize the Superintendent to prescribe regulations interpreting the IL and to effectuate any power granted to the Superintendent in the IL, FSL, or any other law.

IL Section 3217 sets forth the minimum standards for the form, content, and sale of accident and health insurance policies and subscriber contracts (collectively, "health insurance policies") in relation to insurers licensed to write accident and health insurance in New York State, corporations organized pursuant to Insurance Law Article 43, municipal cooperative health benefit plans certified pursuant to Insurance Law Article 47, health maintenance organizations ("HMOs") certified pursuant to PHL Article 44, and student health plans certified pursuant to IL Section 1124 (collectively, "issuers").

IL Sections 3217-a and 4324 set forth the disclosure of information requirements for comprehensive expense-reimbursed health insurance policies, managed care health insurance policies, and any other health insurance policy or product for which the Superintendent deems such disclosure appropriate.

IL Sections 3217-b and 4325 and PHL Section 4406-c set forth provider contract requirements for the provision of provider directory information and for reimbursement when an insured is provided with inaccurate network status information in relation to issuers subject to IL Article 32, organized under IL Article 43, or certified pursuant to PHL Article 44.

PHL Section 4408 sets forth the disclosure of information requirements for HMOs.

The Federal Act, in pertinent part, prohibits health insurance issuers from imposing a cost-sharing amount that is greater than the cost-sharing amount that would apply had the services been furnished by a participating provider when an insured receives information through a database, provider directory, or response protocol that a non-participating provider is a participating provider. These provisions of the Federal Act took effect for plan years beginning on or after January 1, 2022.

2. Legislative objectives: To protect health insurance consumers from surprise medical bills.

3. Needs and benefits: The Department of Financial Services ("Department") has received complaints that issuers are not updating their provider directories when a provider is terminated, and insureds rely on inaccurate information with the disastrous consequence of having to pay unexpected medical bills. Insureds who check their issuer's provider directory, or request information before obtaining health care services, should not be responsible for unexpected bills when provided with inaccurate information. Furthermore, insureds covered by stand-alone dental or stand-alone vision insurance should have the same protections as insureds whose comprehensive health insurance policies include dental or vision benefits.

The Federal Act prohibits issuers from imposing a cost-sharing amount, deductible, or out-of-pocket maximum that is greater than the amounts that would apply had the services been furnished by a participating provider when an issuer provides incorrect information indicating a provider is in-network, through an online database, hard copy provider directory, or in response to the insured's request, or fails to provide network status information within one business day of an insured's request (collectively "inaccurate network status information"). The Federal Act requires issuers to include a notification in any printed provider directory that the information was accurate as of the date of publication of the directory and that an insured should consult the online provider directory to obtain the most current information. The Federal Act includes requirements for the provider to give provider directory information to an issuer on a timely basis. It also requires the provider to reimburse the insured for the amount paid by the insured in excess of the in-network cost-sharing amount, including interest, for the services when the insured is provided with inaccurate network status information by the issuer.

IL Sections 3217-b(m) and 4325(n) and PHL Section 4406-c(11), as amended by Part AA of Chapter 57 of the Laws of 2022 ("Part AA"), require that contracts between issuers and providers include a requirement for the provider to have in place a business process to ensure the timely provision of provider directory information to the issuer and to submit provider directory information to an issuer when the provider begins or terminates a network agreement with the issuer; when there are material changes to the provider directory information of the provider; and at any other time, including upon the issuer's request, as the provider determines to be appropriate. IL Sections 3217-b(n) and 4325(o) and PHL Section 4406-c(12), as amended by Part AA, also mandate that contracts between issuers and providers require a provider to reimburse an insured for amounts in excess of the in-network cost-sharing amount when the insured is provided with inaccurate network status information by the issuer. Furthermore, these sections of the IL provide that if an issuer provides inaccurate network status information to an insured, the issuer must reimburse the provider for the services regardless of whether the insured's coverage includes out-of-network services.

IL Sections 3217-a(a)(17) and 4324(a)(17) and PHL Section 4408(1)(r) require certain issuers to post provider directory information on their websites and update their websites within 15 days of the addition or termination of a provider from their network.

This regulation implements the requirements of Part AA and the Federal Act. It requires issuers to provide network status information to an insured upon request, in writing through print or electronic means if the insured consents to electronic communication, within one business day for comprehensive health insurance or three business days for other policies that use a network of providers. Electronic means includes email or Internet-based means, such as an online member portal. The regulation prohibits an issuer from imposing a cost-sharing amount, deductible, or out-of-pocket maximum that is greater than the amounts that would apply if the insured had received services from a participating provider when the issuer provides inaccurate network status information. It also provides that if an issuer provides inaccurate network status information to an insured, the issuer must reimburse the provider for the out-of-network services regardless of whether the insured's coverage includes out-of-network services. The regulation requires an issuer to include in its hard copy provider directory a notification that the information contained in the directory was accurate as of the date of publication of such directory and that an insured should consult the provider directory posted on the issuer's website to obtain the most current information. It also applies certain disclosure requirements in IL Sections 3217-a and 4324 to stand-alone dental and vision insurance to ensure that insureds covered under these policies are provided accurate and up-to date information. Finally, this regulation holds issuers responsible when they provide inaccurate network status information.

4. Costs: This regulation may impose costs on issuers of stand-alone dental or vision insurance to provide the required disclosures in IL Sections 3217-a and 4324; however, it is the Department's understanding that most issuers offering stand-alone dental or stand-alone vision insurance are already providing such disclosures. This regulation may also impose

compliance costs on issuers that fail to make timely updates to their provider directories or that provide inaccurate information or fail to provide information in response to requests from insureds since they may only impose the in-network cost-sharing amount and must reimburse the provider for the out-of-network services, regardless of whether the insured's coverage includes out-of-network benefits. Issuers that timely update their provider directories and timely provide accurate information in response to requests from insureds will not incur such costs; thus, the actual additional cost to an issuer will be dependent upon the issuer's timeliness and accuracy. However, any additional costs for comprehensive health insurance coverage are a result of the Federal Act and Part AA, and not this regulation, because this regulation implements the Federal Act and Part AA.

The Department may incur minimal costs for implementation and continuation of this regulation, but the Department should be able to absorb such costs in its ordinary budget.

This regulation does not impose any compliance costs on state or local governments or health care providers.

5. Local government mandates: This regulation does not impose any program, service, duty or responsibility upon a city, town, village, school district, or fire district.

6. Paperwork: The regulation imposes no new reporting requirements.

7. Duplication: This regulation does not duplicate, overlap, or conflict with any existing state or federal rules or other legal requirements.

8. Alternatives: The Department considered language that would require an issuer, if an insured receives a bill for out-of-network services resulting from the issuer providing inaccurate network status information to the insured, to ensure that the insured will incur no greater out-of-pocket costs for the services than would be owed if the insured received services from a participating provider. This language previously has been interpreted as requiring the issuer to pay the provider's actual charges to make the insured whole. However, because neither the Federal Act nor Part AA set a payment amount, and because both the issuer and the provider are responsible for ensuring that an insured is only responsible for paying the in-network cost-sharing, the Department removed this language and mirrored the language in the Federal Act. The federal government may issue a regulation or guidance addressing the payment amount in the future. If and when such regulation or guidance is issued, issuers will be expected to comply with it.

The Department considered applying the obligations on issuers when they provide inaccurate network status information only to comprehensive health insurance policies that use a network of health care providers and not expanding the disclosure requirements in IL Sections 3217-a and 4324 to stand-alone dental and vision insurance; however, the new provisions in Part AA that amend IL Sections 3217-b and 4325 to set forth provider contract requirements for the provision of provider directory information and for reimbursement when an insured is provided with inaccurate network status information are not limited to comprehensive health insurance policies. Therefore, the Department applied the obligations to all accident and health insurance policies that use a network of health care providers, including stand-alone dental and stand-alone vision insurance. The Department considered a request that the one business day timeframe for an issuer to respond to an insured's telephone request for network status information be changed to three business days and a request that the Department consider "the date of publication" of the hard copy provider directory to be the last date information was imported prior to being finalized and sent to the printer. The Department did not make these changes in relation to comprehensive health insurance coverage because the current requirements are consistent with the Federal Act. However, the Department did change the timeframe to three business days for stand-alone dental and vision coverage to address comments raised by interested parties.

The Department considered a request that the regulation require providers to report provider directory information timely to the issuer and the insured. The Department did not make this change because the Federal Act and Part AA already require providers to report provider directory information timely to issuers and because the regulation only addresses issuer requirements.

9. Federal standards: The regulation does not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: Issuers will need to comply with this regulation for comprehensive health insurance policies and contracts issued, renewed, modified, or amended on and after the publication of the notice of adoption in the State Register. However, issuers should be complying already with the requirements of the Federal Act upon policy issuance or renewal on and after January 1, 2022 and complying with the requirements of Part AA as of April 9, 2022. Issuers will need to comply with this regulation for any other applicable policies and contracts issued, renewed, modified, or amended on and after one year after the publication of the notice of adoption in the State Register.

Revised Regulatory Flexibility Analysis

1. Effect of rule: This regulation implements the federal No Surprises Act (the "Federal Act") and Part AA of Chapter 57 of the Laws of 2022 ("Part AA"), the relevant provisions of which took effect for plan years beginning on or after January 1, 2022, and on April 9, 2022, respectively, and applies to insurers licensed to write accident and health insurance in New York State, corporations organized pursuant to Insurance Law Article 43, municipal cooperative health benefit plans certified pursuant to Insurance Law Article 47, health maintenance organizations certified pursuant to Public Health Law Article 44, and student health plans certified pursuant to Insurance Law Section 1124 (collectively, "issuers"). Among other things, the regulation applies certain disclosure requirements in Insurance Law Sections 3217-a and 4324 to stand-alone dental insurance and stand-alone vision insurance and prohibits an issuer of an accident and health insurance policy that uses a network of health care providers from imposing a copayment, coinsurance, or deductible that is greater than the copayment, coinsurance, or deductible that would be owed if the insured had received services from a participating provider when the issuer incorrectly lists a provider as participating in its online or hard copy provider directory, provides information upon an insured's request that a nonparticipating provider is participating, or fails to provide information regarding a specific provider's participating status within one business day for comprehensive health insurance or three business days for other policies of a request from an insured. The regulation also requires an issuer to apply the out-of-pocket maximum that would have applied had the services been received from a participating provider. Finally, it requires an issuer, if the issuer provides inaccurate network status information to an insured, to reimburse the provider for the out-of-network services, regardless of whether the insured's coverage includes out-of-network services.

Industry has asserted that certain issuers subject to the regulation are small businesses. An issuer that may be a small business subject to the regulation may incur additional costs. The costs are difficult to estimate and will vary by issuer because of several factors. However, most of the additional costs incurred are a result of the Federal Act and Part AA because this regulation implements the Federal Act and Part AA.

This regulation does not affect local governments.

2. Compliance requirements: A local government will not have to undertake any reporting, recordkeeping, or other affirmative acts to comply with the regulation since the regulation does not apply to a local government.

An issuer that is a small business will not have to undertake any additional reporting, recordkeeping, or other affirmative acts. To the extent there are additional compliance requirements, they are mainly a result of the Federal Act and Part AA, and not the regulation, because the regulation implements the Federal Act and Part AA.

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

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

An issuer that issues stand-alone dental or stand-alone vision insurance may incur costs to comply with the disclosure requirements in Insurance Law Sections 3217-a and 4324, but it is the Department's understanding that most stand-alone dental and vision issuers are already providing such disclosures. An issuer that is a small business and that provides inaccurate provider directory information to insureds may incur costs to comply with this regulation because it must not charge a cost-sharing amount that is greater than the cost-sharing amount that would be owed if an insured had received services from a participating provider and it must reimburse the provider for the out-of-network services, regardless of whether the insured's coverage includes out-of-network services. However, any additional costs incurred are a result of the Federal Act and Part AA because this regulation implements the Federal Act and Part AA.

5. Economic and technological feasibility: This regulation does not apply to any local government; therefore, no local government should experience any economic or technological impact as a result of the regulation. An issuer that is a small business should not incur any economic or technological impact as a result of the regulation.

6. Minimizing adverse impact: There will not be an adverse impact on any local government because the regulation does not apply to any local government. This regulation should not have an adverse impact on an issuer that is a small business because the regulation uniformly affects all issuers. However, to the extent there is an adverse impact on an issuer that is a small business, it is a result of the Federal Act and Part AA, and not this regulation, because this regulation implements the Federal Act and Part AA.

7. Small business and local government participation: In October 2021,

the Department of Financial Services ("Department") posted a draft regulation on its website for informal outreach and comments and notified trade organizations that represent issuers that may be small businesses of the posting, in compliance with State Administrative Procedure Act Section 202-b(6). Issuers that are small businesses also had an opportunity to participate in the rulemaking process when the proposed regulation was published in the State Register on November 24, 2021 and the revised proposed regulation was published in the State Register on August 17, 2022.

Revised Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: Insurers licensed to write accident and health insurance in New York State, corporations organized pursuant to Insurance Law Article 43, municipal cooperative health benefit plans certified pursuant to Insurance Law Article 47, health maintenance organizations certified pursuant to Public Health Law Article 44, and student health plans certified pursuant to Insurance Law Section 1124 (collectively, "issuers") affected by this regulation operate in every county in New York State, including rural areas as defined by State Administrative Procedure Act Section 102(10).

2. Reporting, recordkeeping, and other compliance requirements; and professional services: This regulation imposes no new reporting, recordkeeping, or other compliance requirements. Any additional compliance requirements are a result of the federal No Surprises Act (the "Federal Act") and Part AA of Chapter 57 of the Laws of 2022 ("Part AA"), and not the regulation, because the regulation implements the Federal Act and Part AA.

Issuers, including those in a rural area, should not need to retain professional services, such as lawyers or auditors, to comply with this regulation.

3. Costs: This regulation may impose compliance costs on issuers, including those in a rural area, that issue stand-alone dental or stand-alone vision insurance to comply with certain disclosure requirements in Insurance Law Sections 3217-a and 4324, but it is the Department's understanding that most stand-alone dental and vision issuers are already providing such disclosures. This regulation may also impose compliance costs on issuers, including those in a rural area, that provide inaccurate provider directory information to insureds. Issuers that fail to make timely updates to their provider directories or that provide inaccurate information or fail to provide information in response to requests from insureds must not charge a cost-sharing amount that is greater than the cost-sharing amount that would be owed if the insured had received services from a participating provider and must reimburse the provider for the out-of-network services, regardless of whether the insured's coverage includes out-of-network services. Issuers that timely update their provider directories and provide accurate information in response to requests from insureds will not have to impose in-network cost-sharing amounts or reimburse providers when they do not cover out-of-network services, and thus the actual additional cost to the issuer will be dependent upon the issuer's timeliness and accuracy. However, any additional costs are a result of the Federal Act and Part AA, and not this regulation, because this regulation implements the Federal Act and Part AA.

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

5. Rural area participation: In October 2021, the Department posted the draft regulation on its website for informal outreach and comments and notified trade organizations of the posting. Issuers in rural areas were also given an opportunity to participate in the rulemaking process when the proposed regulation was published in the State Register on November 24, 2021 and the revised proposed regulation was published in the State Register on August 17, 2022.

Revised Job Impact Statement

The regulation implements the requirements of Part AA of Chapter 57 of the Laws of 2022 and the federal No Surprises Act (the "Federal Act"), which require insurers licensed to write accident and health insurance in New York State, corporations organized pursuant to Insurance Law Article 43, municipal cooperative health benefit plans certified pursuant to Insurance Law Article 47, health maintenance organizations certified pursuant to Public Health Law Article 44, and student health plans certified pursuant to Insurance Law Section 1124 (collectively, "issuers") to post provider directory information on their websites, make timely updates to their websites, and reimburse providers for out-of-network services if an issuer provides inaccurate network status information. The Federal Act also prohibits an issuer from imposing on an insured a cost-sharing amount that is greater than the cost-sharing amount that would be owed if the insured had received services from a participating provider when the insured receives a bill for out-of-network services resulting from an issuer providing inaccurate network status information to the insured. Accordingly, the regulation applies certain disclosure requirements in Insurance Law Sections 3217-a and 4324 to stand-alone dental insurance and stand-alone vision insurance and prohibits an issuer of an accident and health insurance policy that uses a network of health care providers from imposing on an insured a copayment, coinsurance, or deductible that is greater than the copayment, coinsurance, or deductible that would be owed if the insured had received services from a participating provider when the issuer fails to make timely updates to its provider directory information or fails to provide accurate information in response to a request from an insured. It also requires an issuer to reimburse the provider for out-of-network services if the issuer provides inaccurate network status information to an insured. The Department of Financial Services does not anticipate that any issuer subject to this regulation will reduce its workforce or vendor services due to this regulation, and therefore finds that this regulation should not have a substantial adverse impact on jobs or employment opportunities in New York State.

Initial Review of Rule

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

Assessment of Public Comment

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Principle-Based Reserving

I.D. No. DFS-49-22-00001-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 rulemaking to amend Part 103 (Regulation 213) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 301, 4217 and 4517

Subject: Principle-Based Reserving.

Purpose: To adopt the 2022 Valuation Manual and amend the scope of section 103.4 to include certain group term life insurance.

Text of proposed rule: Footnote 1 to section 103.3(b) is amended as follows:

[1]The [2021] *2022* Valuation Manual, published by the National Association of Insurance Commissioners, is hereby incorporated by reference in this Part. The [2021] *2022* Valuation Manual is readily available without charge at the following internet address: https://www.naic.org/pbr_data.htm. The [2021] *2022* Valuation Manual is also available for public inspection and copying at the New York State Department of Financial Services, One State Street, New York, NY 10004.

The title of section 103.4 is amended as follows:

Valuation of individual term life insurance [reserves] *and individual certificates issued under a group term life contract*.

Section 103.4(a) is amended as follows:

(a) Scope. This section applies to all individual term life insurance policies *and all individual life certificates under a group term life contract that meet the requirements of section 1.B of VM-20,* whether directly written or assumed through reinsurance, issued on or after January 1, 2019.

Section 103.8(c)(1) is amended as follows:

(1) for individual term life insurance policies *and individual life certificates under a group term life contract* subject to section 103.4 of this Part, the greater of:

(i) the amount determined pursuant to section 103.4(c)(1) of this Part reduced by the credit for reinsurance determined pursuant to the Insurance Law and this Title, including Insurance Law section 1308, Part 79 (Insurance Regulation 133), Part 125 (Insurance Regulation 20), Part 126 (Insurance Regulation 114), Part 83 (Insurance Regulation 172), and Part 127 (Insurance Regulation 102) of this Title, and any other applicable regulations, as applicable; and

(ii) the minimum aggregate reserve after reflection of such reinsurance ceded calculated in accordance with the methodology and assumptions prescribed by the valuation manual;

Section 103.8(c)(3)(i) is amended as follows:

(i) the amount determined in section [103.6(b)(2)(i)(a)] *103.6(d)* or section [103.6(b)(3)(i)] *103.6(e)* of this Part, as applicable, reduced by the credit for reinsurance determined pursuant to the Insurance Law and this Title, including Insurance Law section 1308, Part 79 (Insurance Regulation 133), Part 125 (Insurance Regulation 20), Part 126 (Insurance Regulation 114), Part 83 (Insurance Regulation 172), and Part 127 (Insurance Regulation 102) of this Title, and any other applicable regulations, as applicable; and

Section 103.8(c)(4)(i) is amended as follows:

(i) the amount determined in section 103.7(b)(1) or section [103.8(c)(1)] *103.7(c)(1)* of this Part, as applicable, reduced by the credit for reinsurance determined pursuant to the Insurance Law and this Title, including Insurance Law section 1308, Part 79 (Insurance Regulation 133), Part 125 (Insurance Regulation 20), Part 126 (Insurance Regulation 114), Part 83 (Insurance Regulation 172), and Part 127 (Insurance Regulation 102) of this Title, and any other applicable regulations, as applicable; and

Text of proposed rule and any required statements and analyses may be obtained from: Amanda Fenwick, New York State Department of Financial Services, One Commerce Plaza, Albany, New York 12257, (518) 474-7929, email: Amanda.Fenwick@dfs.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

No person is likely to object to this amendment, which adopts the most recent (2022) edition of the Valuation Manual published by the National Association of Insurance Commissioners ("NAIC"), replacing the rule's current reference to the 2021 Valuation Manual; expands the scope of Section 103.4 to include individual certificates issued under a group term life contract; and makes technical corrections by fixing certain citations in subdivision (c) of Section 103.8.

Insurance Law Section 4217 sets forth rules for the valuation of insurance policies and contracts and Insurance Law Section 4217(g) requires principle-based reserving ("PBR") for certain individual and group life insurance policies and annuity contracts. The minimum standard for the valuation of all such policies and contracts is the standard prescribed in the NAIC's Valuation Manual as adopted by the Superintendent of Financial Services by regulation.

PBR is also an NAIC accreditation standard. Thus, this amendment is necessary for the Department of Financial Services ("Department") to maintain its accreditation status with the NAIC.

The Department determines this rule to be a consensus rule, as defined in State Administrative Procedure Act Section 102(11) ("SAPA"), and the rule is proposed pursuant to SAPA Section 202(1)(b)(i). Accordingly, this rulemaking is exempt from the requirement to file a Regulatory Impact Statement, Regulatory Flexibility Analysis for Small Businesses and Local Governments, or a Rural Area Flexibility Analysis.

Job Impact Statement

This amendment should not adversely impact jobs or employment opportunities in New York State. Insurance Law Section 4217(g) requires principle-based reserving ("PBR") for certain individual and group life insurance policies and annuity contracts. The minimum standard for the valuation of all such policies and contracts must be the standard prescribed in the National Association of Insurance Commissioners ("NAIC") valuation manual (the "Manual") as adopted by the Superintendent of Financial Services by regulation. PBR is also an NAIC accreditation standard. This amendment to the regulation makes technical corrections by fixing certain citations in subdivision (c) of Section 103.8, expands the scope of section 103.4 to include individual certificates issued under a group term life contract, and adopts the NAIC's 2022 edition of the Manual, which also ensures continued compliance with the NAIC's accreditation standards.

Department of Health

EMERGENCY RULE MAKING

Surge and Flex Health Coordination System

I.D. No. HLT-07-22-00011-E
Filing No. 954
Filing Date: 2022-11-18
Effective Date: 2022-11-18

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

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

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

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

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

The Surge and Flex Health Care Coordination System was activated during the COVID-19 State disaster emergency which was declared by Governor Cuomo under Executive Orders No. 202 through 202.111 (March 7, 2020 to June 15, 2021; see 9 NYCRR §§ 8.202 through 8.202.111), the State disaster emergency which was declared by Governor Hochul under Executive Orders No. 4 through 4.14 (September 27, 2021 to November 26, 2022; see 9 NYCRR §§ 9.4 through 9.4.14), and the State disaster emergency which was declared by Governor Hochul under Executive Orders No. 11 through 11.9 (November 26, 2021 to September 12, 2022; see 9 NYCRR §§ 9.11 through 9.11.9).

Of note, a Notice of Proposed Rule Making was published in the State Register on February 16, 2022, with a public comment period that ended on April 18, 2022. The Department intends these emergency regulations to be in effect only until such time as the Notice of Adoption is published in the State Register, which will make the Proposed Rule permanent.

Subject: Surge and Flex Health Coordination System

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

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

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

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. HLT-07-22-00011-P, Issue of February 16, 2022. The emergency rule will expire January 16, 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 authority for the promulgation of these regulations with respect to facilities subject to Article 28 of the Public Health Law (PHL) is contained in PHL sections 2800 and 2803(2). PHL Article 28 (Hospitals), section 2800, specifies: "Hospital and related services including health-related service of the highest quality, efficiently provided and properly utilized at a reasonable cost, are of vital concern to the public health. In order to provide for the protection and promotion of the health of the inhabitants of the state, pursuant to section three of article seventeen of the constitution, the department of health shall have the central, comprehensive responsibility for the development and administration of the state's policy with respect to hospital and related services, and all public and private institutions, whether state, county, municipal, incorporated or not incorporated, serving principally as facilities for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition or for the

rendering of health-related service shall be subject to the provisions of this article." PHL section 2801 defines the term "hospital" as also including residential health care facilities (nursing homes) and diagnostic and treatment centers (D&TCs). PHL section 2803 (2) authorizes PHHPC to adopt and amend rules and regulations, subject to the approval of the Commissioner, to implement the purposes and provisions of PHL Article 28, and to establish minimum standards governing the operation of such health care facilities.

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

PHL section 225 authorizes the Public Health and Health Planning Council (PHHPC) and the Commissioner to establish and amend the State Sanitary Code (SSC) provisions related to any matters affecting the security of life or health or the preservation and improvement of public health in the State of New York.

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

Legislative Objectives:

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

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

Needs and Benefits:

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

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

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

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

Costs:

Costs to Regulated Parties:

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

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

Costs to Local Governments:

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

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

Cost to State Government:

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

Paperwork:

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

Local Government Mandates:

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

Duplication:

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

Alternatives:

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

Federal Standards:

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

Compliance Schedule:

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

Regulatory Flexibility Analysis

Effect of Rule:

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

Compliance Requirements:

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

Professional Services:

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

Compliance Costs:

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

To the extent additional requirements are imposed on small businesses and local governments by these proposed regulatory amendments, most requirements would only be in effect for the duration of a declared state disaster emergency, with the hope of limiting costs to the extent possible. Ongoing costs requiring hospitals to maintain a minimum PPE supply and ensure work from home capabilities should have been addressed throughout the ongoing COVID-19 pandemic, thereby limiting costs of continued implementation. Ongoing costs related to hospital development of disaster emergency response plan will complement and build upon existing planning documents that hospitals are already required to have, which also limits costs.

Economic and Technological Feasibility:

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

Minimizing Adverse Impact:

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

Small Business and Local Government Participation:

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

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

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

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

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

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

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

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

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

Costs:

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

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

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

Economic and Technological Feasibility:

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

Minimizing Adverse Impact:

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

Rural Area Participation:

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

Job Impact Statement

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

Assessment of Public Comment

The agency received no public comment.

EMERGENCY RULE MAKING

Hospital and Nursing Home Personal Protective Equipment (PPE) Requirements

I.D. No. HLT-23-22-00001-E
Filing No. 953
Filing Date: 2022-11-18
Effective Date: 2022-11-18

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

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

Statutory authority: Public Health Law, section 2803

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

Specific reasons underlying the finding of necessity: These regulations are needed on an emergency basis to ensure hospital and nursing home staff, as well as the patients and residents for whom they provide care, are adequately protected during the 2019 Coronavirus (COVID-19) or another communicable disease outbreak. These regulations are specifically meant to address the lessons learned in New York State from 2020 to 2021 during the COVID-19 pandemic with respect to PPE. Notwithstanding the end of the State disaster emergencies relating to COVID-19, infections in nursing homes across the state persist and hospitals remain at the front lines of response. Further, a possible resurgence of COVID-19 or another communicable disease outbreak necessitates that hospitals and nursing homes continue to have an adequate supply of PPE to protect these vulnerable populations and the staff who provide care.

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

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

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

Of note, a Notice of Proposed Rule Making was published in the State Register on June 8, 2022, with a public comment period that ended on August 8, 2022. The Department intends these emergency regulations to be in effect only until such time as the Assessment of Public Comment and Final Rule can be published in the State Register, which would make the Proposed Rule permanent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. HLT-23-22-00001-P, Issue of June 8, 2022. The emergency rule will expire January 16, 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:

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

Legislative Objectives:

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

Needs and Benefits:

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

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

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

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

Costs:

Costs to Regulated Parties:

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

Costs to Local and State Governments:

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

Costs to the Department of Health:

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

Paperwork:

This regulation imposes no addition paperwork.

Local Government Mandates:

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

Duplication:

These regulations do not duplicate any State or federal rules.

Alternatives:

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

Federal Standards:

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

Compliance Schedule:

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

Regulatory Flexibility Analysis

Effect of rule:

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

Compliance Requirements:

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

Professional Services:

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

Compliance Costs:

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

Economic and Technological Feasibility:

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

Minimizing Adverse Impact:

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

Small Business and Local Government Participation:

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

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

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

thousand or greater population 'rural areas' means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein."

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

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

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

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

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

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

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

Compliance Costs:

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

Economic and Technological Feasibility:

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

Minimizing Adverse Impact:

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

Rural Area Participation:

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

Job Impact Statement

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

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Nursing Home Minimum Direct Resident Care Spending

I.D. No. HLT-46-21-00005-A
Filing No. 950
Filing Date: 2022-11-17
Effective Date: 2022-12-07

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

Action taken: Addition of section 415.34 to Title 10 NYCRR.

Statutory authority: Public Health Law, section 2828

Subject: Nursing Home Minimum Direct Resident Care Spending.

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

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

415.34. Minimum Direct Resident Care Spending.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Applicability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Recoupment.

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

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

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

(2) Remission of excess revenue.

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

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

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

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

(f) Residential Health Care Facility Cost Reports.

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

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

Final rule as compared with last published rule: Nonsubstantial changes were made in section 415.34(e)(3).

Revised rule making(s) were previously published in the State Register on August 10, 2022.

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

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

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

Initial Review of Rule

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

Assessment of Public Comment

The New York State Department of Health (Department) received comments from several organizations as well as many for-profit nursing homes, non-profit nursing homes, and individuals. The comments and the Department's responses are summarized below.

Comment: Commenters indicated concern with facilities being penalized for not meeting the spending mandate when they are in compliance with the staffing mandate. They believe the spending mandate does not consider the quality of a facility and penalizes efficiently run, high quality facilities without addressing the problematic facilities.

Response: The Department has an obligation to execute and implement Public Health Law Section 2828, as amended by Laws of 2022, Chapter 57, Part M, Section 1 (2022-2023 Budget). The Legislature did add a provision in the 2022-2023 Budget amending the definition of revenue so that nursing homes that have a four- or five-star rating assigned pursuant to the inspection rating system of the U.S. Centers for Medicare and Medicaid Services (CMS rating) may exclude the capital per diem portion of the reimbursement rate for nursing homes from revenue. This exclusion is not, however, available for nursing homes that have a CMS one-, two-, or three-star rating. The Revised Rule amended the definition of revenue, which considers the quality of a facility and favors facilities with high CMS ratings. No changes have been made to the regulation in response to these comments.

Comment: Commentors indicated concern that the definition of revenue to be spent on patient care includes Medicare reimbursements for services rendered. They stated that diverting a portion of these Medicare reimbursements to the nursing home quality pool would cross-subsidize the State's Medicaid program.

Response: Nursing homes in New York are required to comply with Public Health Law Section 2828, and when they do, Medicare reimbursement will be used, as it should be, for resident care. As provided in Public Health Law Section 2828(1)(c) and Section 415.34(e) of the regulation, nursing homes not in compliance with the requirements shall be subject to recoupment for excessive total operating revenue. No changes to the regulation have been made in response to these comments.

Comment: Commenters indicated that enforcement of the regulations retroactive to January 1, 2022, would be unfair. One commenter pointed to recent court rulings under the State Administrative Procedure Act, indicating that these rulings disallow the State from retroactively penalizing facilities.

Response: Under PHL Section 2828(1)(a), the minimum direct spending requirements began on January 1, 2022. Under Executive Order 4.4 (codified in 9 NYCRR Section 9.4.4), however, which was in effect from January 1, 2022, through March 31, 2022, compliance was not required until April 1, 2022. Since the statute has been in place since April 1, 2022, enforcement is not retroactive. No changes to the regulation have been made in response to these comments.

Comment: Commenters also indicated that the use of contracted staff has dramatically increased. They believe these mandates will result in increased costs and, coupled with the 15% discount for using contracted staff, will undermine their efforts to meet the spending requirements.

Response: Under PHL Section 2828(1)(b), 15 percent of costs associated with resident-facing staffing contracted out by a facility for services provided by registered professional nurses, licensed practical nurses, or certified nurse aides shall be deducted from the calculation of the amount spent on resident-facing staffing and direct resident care. Section 415.34(e) of the regulation implements this provision of the statute. No changes to the regulation have been made in response to these comments.

Comment: One Commentor expressed concern that the spending requirements would force high level facilities to hire additional staff, which would drain resources from other facilities.

Response: The Department is well-aware that there are healthcare staffing shortages in the State of New York. Requiring more direct care spending will increase expenditure on labor and thereby increase participation of healthcare workers in the labor market. No changes to the regulation have been made in response to this comment.

Comment: A commenter indicated concern with the extent to which the proposed regulations allow for facilities to request waivers when they provide specialized care.

Response: The Department's first Assessment of Public Comment already responded to this comment when this Revised Rule was published: https://regs.health.ny.gov/sites/default/files/proposed-regulations/Nursing%20Home%20Minimum%20Direct%20Resident%20Care%20Spending_0.pdf. The Revised Rule did not make changes in response to this comment.

Comment: A commenter indicated that relying on annual revenues to determine compliance with the 5% spending cap may result in penalties being assessed inappropriately as annual revenues could include payments of prior year rate adjustments, which can inflate annual revenues and spending benchmarks. The commenter suggested that a balance sheet rather than a profit and loss statement is a superior indicator of a facility's financial condition.

Response: The Department will develop and make public its policies regarding the calculation of the 5% under PHL Section 2828(1)(c) and Section 415.34(e)(1)(i) of the regulation. No changes to the regulation have been made in response to this comment.

Comment: A commenter suggested that the regulatory definition of "contracted out" be revised to explicitly exclude payments to individual per diem employees, and these payments should not be subject to the 15 percent discount under Section 415.34(d)(2)(ii) of the regulation.

Response: The regulatory definition of "contracted out" does not include staff that are paid directly as per diem staff. The definition of "contracted out" does include staff such as agency nurses that are paid by a third-party contractor. The 15 percent discount reflects the fact that a portion of what is paid to the third-party contractor is not used for staffing of the nursing home. This regulation applies the definition of "contracted out" to all employees in the same manner, regardless of whether the employees are paid an annual salary or are paid by the hour per diem. No changes to the regulation have been made in response to this comment.

Comment: Commenters stated that the regulatory definition of "direct resident care" should be revised to include security, grounds, and medical records, as these functions are required for proper resident safety and care, and the regulation would discourage spending in areas that contribute to the stated goals of the statue, and exclusion of these costs would serve to detract from resident safety and quality of life. One commenter urged the Department to include assistive devices that promote independent performance of self-care and mobility in the definition of direct care spending.

Response: PHL Section 2828(2)(c) defines "Direct resident care." Section 415.34(b)(2) of the regulation implements this provision of the statute. The Department will provide further guidance as needed. No changes to the regulation have been made in response to these comments.

Comment: A commenter stated that the exclusion of the average increase in the capital portion of the Medicaid reimbursement rate from the prior three years will not offer much relief as it would have no impact on debt predating three years ago, or depreciation expense on a capital asset acquisition that is more than three years old.

Response: Under PHL Section 2828(2)(a)(i), revenue excludes the average increase in the capital portion of the Medicaid reimbursement rate from the prior three years. Section 415.34(b)(4)(i) of the regulation implements this provision of the statute. No changes to the regulation have been made in response to this comment.

Comment: A commenter suggested the proposed regulation should provide information on how the exclusion of certain capital reimbursement from revenue, based on star rating, will be implemented.

Response: The Department thanks the commenter for this suggestion. The Department will develop and make public its policies regarding the point in time at which a facility's star rating must be 4 or 5 to qualify for the exclusion of capital reimbursement from revenue. No changes to the regulation have made in response to this comment.

Comment: A commenter stated the regulation should define "common or familial relationship" and exclude capital payments from a not-for-profit to their parent or sponsor, hospital-based nursing home to its parent, or public facility to its sponsor.

Response: Under PHL Section 2828(2)(a)(iii), revenue excludes the capital per diem portion of the reimbursement rate for nursing homes that have an overall 4 or 5-star rating assigned pursuant to the inspection rating system of the U.S. Centers for Medicare and Medicaid Services (CMS rating), provided however that such exclusion shall not apply to any amount of the capital per diem portion of the reimbursement rate that is attributable to a capital expenditure made to a corporation, other entity, or individual, with a common or familial ownership to the operator or the facility

as reported under PHL Section 2803-x. Section 415.34(b)(4)(iii) of the regulation implements this provision of the statute. DAL NH 22-15 (June 23, 2022) provides guidance regarding PHL Section 2803-x, and the Department will provide additional guidance as needed. No changes to the regulation have been made in response to this comment.

Comment: Comments were received regarding the proposed definition of "revenue" in the regulation and suggesting that it lacks clarity regarding the inclusion of certain non-patient care revenue, such as investment income, grants, and charitable donations. Another commenter stated that Statewide Health Care Facility Transformation program and Vital Access Provider program money is excluded from the definition of "revenue." Another commenter stated that nursing home quality pool distributions should be excluded from the definition of "revenue." Another commenter stated that payments from successful Medicaid rate appeals should be excluded from the definition of "revenue." These non-patient care revenues should be excluded from the definition of "revenue" and not require any application or demonstration.

Response: PHL Section 2828(2)(a) defines "revenue" and specifies that the definition is "as reported in the residential health care facility cost reports submitted to the department." Section 415.34(b)(4) of the regulation implements this provision of the statute. The Department will provide additional guidance as needed. No changes to the regulation have been made in response to these comments.

Comment: A commenter stated that facilities should not be required to remit revenues in excess of five percent of total operating revenue for the duration of the federal Public Health Emergency in light of the proposed Section 415.34(d)(3), which allows facilities to apply individually for exclusions of expenses due to natural disasters and other reasons.

Response: Under PHL Section 2828(4), "The commissioner may also exclude from revenues and expenses, on a case-by-case basis, extraordinary revenues and capital expenses, incurred due to a natural disaster or other circumstances set forth by the commissioner in regulation." Section 415.34(d)(3) of the regulation implements this provision of the statute. The Department will provide additional guidance as needed. No changes to the regulation have been made in response to this comment.

Comment: A commenter stated the proposed regulation, and as necessary, the statute, should be revised so that the 15 percent discount of the reported costs of nurse and aide services obtained under contract, as proposed in Section 415.34(d)(2)(ii) of the regulation, only apply to services obtained under related-party staffing contracts. The commenter noted that, with non-related party contracts, the facility's operator does profit from the transaction, and the regulation would penalize nursing homes for following New York State Labor Law, which under Section 167 requires nursing homes to first attempt to call in agency staff before mandating nurse overtime.

Response: The Department believes that the statute was not only intended to discourage self-dealing but also to encourage nursing homes to provide adequate staffing by hiring staff directly and not to depend on agency nurses working under contract. No changes to the regulation were made in response to this comment.

Comment: A comment was received stating that section 415.34(e)(2)(ii), which requires remittance of excess revenue prior to November 1st, should be amended to require remittance within 30 days from the date of the notice of noncompliance. The commenter stated that a delay in the cost reporting deadline or other associated delays could prevent the Department from issuing a notice of noncompliance in time to allow adequate notice to a facility.

Response: Under PHL Section 2828(1)(c), "such excess revenue… shall be payable, in a manner to be determined by… regulations, by November first in the year following the year in which the expenses are incurred." Section 415.34(e)(2)(ii) of the regulation implements this provision of the statute. The Department will provide additional guidance as needed. No changes to the regulation have been made in response to this comment.

Comment: A commenter suggested the Department clarify how additional funds will be distributed, noting a lack of clarity because the State has not submitted a State Plan Amendment to authorize changes to the quality pool.

Response: The Department's first Assessment of Public Comment already responded to this comment when this Revised Rule was published: https://regs.health.ny.gov/sites/default/files/proposed-regulations/Nursing%20Home%20Minimum%20Direct%20Resident%20Care%20Spending_0.pdf. No changes to the regulation have been made in response to this comment.

Comment: A commenter asked how direct resident care and resident facing staffing expenses will be calculated for hospital-based nursing homes, as hospital-based nursing homes do not file the RHCF-4 Medicaid cost report.

Response: The Department's first Assessment of Public Comment already responded to this comment when this Revised Rule was published: https://regs.health.ny.gov/sites/default/files/proposed-regulations/Nursing%20Home%20Minimum%20Direct%20Resident%20Care%20Spending_0.pdf. No changes to the regulation have been made in response to this comment.

NOTICE OF ADOPTION

Minimum Staffing Requirements for Nursing Homes

I.D. No. HLT-46-21-00007-A
Filing No. 949
Filing Date: 2022-11-17
Effective Date: 2022-12-07

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 415.13 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 2803 and 2895-b

Subject: Minimum Staffing Requirements for Nursing Homes.

Purpose: Requiring minimum staffing levels for nursing homes.

Text of final rule: Pursuant to the authority vested in the Public Health and Health Planning Council and Commissioner of Health by sections 2803 and 2895-b of the Public Health Law, Sections 415.2 and 415.13 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) is hereby amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Subdivision (h) of Section 415.2 is amended to read as follows:

(h) Nurse aide (see section [415.13(c)(1)] 415.13(d)(1) of this Part).

Section 415.13, and the title thereof, are amended to read as follows:

Section 415.13 Nursing Services and Minimum Nursing Staff Requirements.

(a) Staffing standards. The facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care. The facility shall further assure that staffing levels enable each resident to receive[s] treatments, medications, diets and other health services in accordance with individual care plans. At a minimum, the facility shall ensure its daily nursing staff levels comply with paragraph (2) of subdivision (b) of this Section; provided, however, that compliance with paragraph (2) of subdivision (b) of this Section shall not serve as a defense where the facility has failed to provide sufficient nursing care to residents in accordance with their resident assessment and individual plans of care, or the facility failed to ensure residents received ordered treatments, medications, diets or other health services consistent with the residents' individual plans of care and in accordance with federal and State law and regulations.

[(a)] (b) Sufficient staff.

(1) The facility shall provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:

(i) registered professional nurses or licensed practical nurses;

(ii) certified nurse aides, meaning any person included in the nursing home nurse aide registry pursuant to Section 2803-j of the Public Health Law; and

(iii) other nursing personnel.

(2) Minimum Nursing Staff Requirements. At a minimum, the facility shall employ certified nurse aides, registered professional nurses, licensed practical nurses, or nurse aides sufficient to maintain the following daily staffing hours per resident:

(i) From January first, two thousand twenty-two through December thirty-first, two thousand twenty-two, the facility shall maintain daily average staffing hours equal to 3.5 hours of care per resident per day by a certified nurse aide, registered professional nurse, licensed practical nurse, or nurse aide. Out of such 3.5 hours, no less than 2.2 hours of care per resident per day shall be provided by a certified nurse aide or a nurse aide, and no less than 1.1 hours of care per resident per day shall be provided by a registered professional nurse or licensed practical nurse.

(ii) Beginning January first, two thousand twenty-three and thereafter, every nursing home shall maintain daily average staffing hours equal to 3.5 hours of care per resident per day by a certified nurse aide, registered professional nurse, or licensed practical nurse. Out of such 3.5 hours, no less than 2.2 hours of care per resident per day shall be provided by a certified nurse aide, and no less than 1.1 hours of care per resident per day shall be provided by a registered professional nurse or licensed practical nurse.

[(2)] (3) The facility shall designate a registered professional nurse or

licensed practical nurse to serve as a charge nurse on each tour of duty who is responsible for the supervision of total nursing activities in the facility. Alternatively, as necessitated by resident care needs, the facility may designate one charge nurse for each tour of duty on each resident care unit or on proximate nursing care units in the facility provided that each nursing care unit in the facility is under the supervision of a charge nurse.

[(b)] (c) Registered professional nurse.

(1) The facility shall use the services of a registered professional nurse for at least 8 consecutive hours a day, 7 days a week, or more often as necessary to comply with the minimum staffing requirements set forth in paragraph (2) of subdivision (b) of this Section.

* * *

[(c)] (d) Nurse aide.

(1) For the purpose of this section and section 415.26(d) of this Part, nurse aide shall mean any person [who provides direct personal resident care and services including, but not limited to, safety, comfort, personal hygiene or resident protection services, for compensation, under the supervision of a registered professional nurse or licensed practical nurse in the facility] who is included in the nurse aide hour component of the federal Centers for Medicare and Medicaid Services payroll based journal for long-term care facilities but has not yet been certified as a certified nurse aide, including individuals who are in the first four months of employment and who are receiving training in a Department-approved nurse aide training and

competency evaluation program and are providing nursing or nursing-related services for which they have been trained and are under the supervision of a licensed or registered nurse, or individuals, other than a licensed professional, who have been approved by the Department to administer medications to residents. For the purposes of this section and section 415.26(d) of this Part, a nurse aide does not include volunteers or [except for] those individuals who furnish services to residents only as feeding assistants as defined in Section [415.13(d)] 415.13(e) of this Part. Certification of such nurse aide shall be in accordance with the provisions of section 415.26(d) of this Part.

* * *

[(d)] (e) Feeding Assistant.

* * *

(f) Non-Compliance with Staffing Standards.

(1) Compliance with the minimum nursing staff requirements set forth in paragraph (2) of subdivision (b) of this Section shall be determined on a quarterly basis, as determined by the Department, by comparing the daily average of the number of hours provided per resident, per day, using the most recent data available from the federal Centers for Medicare and Medicaid Services payroll based journal and the facility's average daily census on a daily basis.

(i) The Department shall initially determine whether a facility is compliant or non-compliant with the minimum nursing staff requirements by conducting the following three assessments:

(a) Assessing whether the total daily staffing hours provided per resident by nurse aides (only from January first, two thousand twenty-two through December thirty-first, two thousand twenty-two), certified nurse aides, licensed practical nurses, or registered nurses fell below 3.5 hours of care per resident on average over the course of the quarter; and

(b) Assessing whether at least 2.2 hours of care per resident per day was provided by a certified nurse aide or a nurse aide (only from January first, two thousand twenty-two through December thirty-first, two thousand twenty-two) on average over the course of the quarter; and

(c) Assessing whether at least 1.1 hours of care per resident per day was provided by a registered professional nurse or licensed practical nurse on average over the course of the quarter.

(ii) A facility that, on average over the course of the quarter, fell below the hourly requirements set forth in clauses (a) through (c) of subparagraph (i) will be considered non-compliant for the purposes of this Section. Any facility that the Department finds non-compliant shall have progressive penalties assessed based upon the number of days per quarter in which the daily staffing hours provided per resident fell below the minimum hourly requirements set forth in paragraph (2) of subdivision (b) of this Section.

(iii) For the purposes of determining compliance, an individual shall not be counted while performing administrative services, as defined in the Centers for Medicare and Medicaid Services payroll based journal for long-term care facilities. Further, individuals who are attending training, either onsite or offsite, and are not available to perform their primary job duties shall not be counted for purposes of determining compliance with the minimum daily staffing hours.

(2) Penalties.

(i) The Department shall impose a penalty of up to two thousand (2,000) dollars per day for each day in a quarter that a facility fails to comply with the minimum nursing staff requirements set forth in paragraph (2) of subdivision (b) of this Section, unless mitigating or aggravating factors exist.

(ii) Mitigating Factors. The Department may reduce penalties in a quarter that a facility is non-compliant, if the Department determines, in its sole discretion, that any of the following mitigating circumstances existed during the period of non-compliance:

(a) Extraordinary circumstances faced the facility. For the purposes of this clause, extraordinary circumstances shall mean that the facility experienced a natural disaster; a national emergency affecting the facility has been officially declared; a State or municipal emergency affecting the facility has been declared pursuant to Article 2-B of the Executive Law; or the facility experienced a catastrophic event that caused physical damage to the facility or impaired the ability of facility personnel to access the facility. Provided, however, that the facility must first demonstrate, to the satisfaction of the Department, that such extraordinary circumstances could not have been prevented or mitigated through effective implementation of the facility's pandemic emergency plan, prepared pursuant to Section 2803(12) of the Public Health Law, and that the facility complied with the disaster and emergency preparedness requirements set forth in Section 415.26(f) of this Part; or

(b) An acute labor supply shortage of nurse aides, certified nurse aides, licensed practical nurses, or registered nurses exists in the Metropolitan and Nonmetropolitan Area in which the facility is located, as such areas are defined by the federal Bureau of Labor Statistics.

(1) For the purposes of determining whether a facility was located in an area experiencing an acute labor supply shortage during the period of non-compliance, the Commissioner shall issue a determination on a quarterly basis as to whether an acute labor supply shortage of nurse aides, certified nurse aides, licensed practical nurses, or registered nurses exists in any Metropolitan or Nonmetropolitan Area of New York State. Such determination shall be made in consultation with the New York State Department of Labor and shall take into account job availability metrics developed by the New York State Department of Labor, which may include but is not limited to the list of job openings in New York State.

(2) The fact that the facility is located in an area experiencing an acute labor supply shortage pursuant to this clause shall not serve as a mitigating factor unless the facility has demonstrated, to the satisfaction of the Department, reasonable attempts to procure sufficient staffing during the period of non-compliance, notwithstanding the acute labor supply shortage. Reasonable attempts may include, but not be limited to, incentivizing new personnel through increased wage and benefit offers and searching for personnel outside of the Metropolitan and Nonmetropolitan Area in which the facility is located;

(3) The fact that the facility is located in an area experiencing an acute labor supply shortage pursuant to this clause shall not serve as a mitigating factor unless the facility has demonstrated, to the satisfaction of the Department, that it has taken steps over the course of the quarter to ensure resident health and safety notwithstanding any labor supply shortage, including but not limited to discontinuing admissions or transferring residents to another appropriate facility; or

(c) A verifiable union dispute exists between the facility and nurse aides, certified nurse aides, licensed practical nurses, or registered nurses employed or contracted by such facility, resulting in a labor shortage at the facility.

(g) Eligibility for Funding to Comply with Minimum Nursing Staff Requirements.

The Department shall determine which nursing homes are anticipated to be in compliance with Section 2828 of the Public Health Law based on the most current, available Residential Health Care Facility cost report data, or such other source of cost information as the Department shall identify. Pursuant to methodology set forth in the current Medicaid State Plan Amendment, the Department shall determine whether such nursing homes must expend additional funds to comply with this Section, beyond any costs necessary to comply with Section 2828 of the Public Health Law. Any such nursing home that the Department finds will be required to expend additional funds to comply with this Section shall be eligible to receive from the Department additional funds, subject to availability from the New York State Division of the Budget, to hire nursing staff necessary to achieve the minimum nursing staff requirements set forth in paragraph (2) of subdivision (b) of this Section.

Final rule as compared with last published rule: Nonsubstantial changes were made in section 415.13(b)(2)(i).

Revised rule making(s) were previously published in the State Register on August 10, 2022.

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

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

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

Initial Review of Rule

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

Assessment of Public Comment

The New York State Department of Health (Department) received comments on the Revised Rule from organizations, individual nursing homes, and individuals. The comments and the Department's responses are summarized below.

Comment: The Department received numerous comments from individuals indicating opposition to determining compliance with the minimum staffing standards using an average over the quarter, rather than assessing compliance daily.

Response: The Department's first Assessment of Public Comment already responded to this comment when this Revised Rule was published: https://regs.health.ny.gov/sites/default/files/proposed-regulations/Minimum%20Staffing%20Requirements%20for%20Nursing%20Homes_0.pdf. The Revised Rule did not make changes in response to this comment.

Comment: Commenters indicated that potential fines in the amount of $2,000 per day would exacerbate the current healthcare worker crisis. They indicated that due to the well-documented shortage of healthcare staff, facilities would be unable to comply with the staffing standards despite numerous and innovative efforts to recruit and retain staff. Commenters also indicated that the staffing mandate will drive up the cost of contracted services. Facilities indicated they would not be able to generate the necessary revenues as staffing shortages do not allow new admissions. They additionally questioned why highly rated facilities providing quality care would be penalized.

Response: The penalty of up to $2,000 per day is necessary to ensure compliance with the statute. The Department is obligated to implement and enforce PHL Section 2895-b and does not agree that enforcing the law would exacerbate the current healthcare worker shortage. The Department may take into consideration several mitigating factors when issuing penalties, including regional labor supply shortages. Facilities identified by the Department as located in areas experiencing an acute labor shortage will have the opportunity to apply for waivers due to this mitigating circumstance. The regulation no longer contains the minimum $300 per day penalty, which provides the Department greater discretion in assessing penalties. No changes to the regulation have been made in response to this comment.

Comment: One commenter asked that the regulation include language to place a moratorium on fines until the healthcare worker shortage is manageable. This commenter also urged the State to expand mitigating penalty factors while the staffing crisis exists.

Response: In response to comments on the original Proposed Rule, the Revised Rule no longer requires the Department to impose a minimum $300 per day penalty regardless of mitigating circumstances. No changes to the regulation have been made in response to this comment.

Comment: Some commenters expressed concerns that the staffing standards do not consider the case-mix of facilities.

Response: PHL Section 2895-b does not take into account the case-mix of facilities. No changes to the regulation have been made in response to these comments.

Comment: Multiple residential health care facilities indicated that the Department should not enforce the regulations retroactively, and that the Department should clearly indicate the date on which compliance was required.

Response: PHL Section 2895-b went into effect June 18, 2021, and the staffing standard must be met under PHL Section 2895-b beginning January 1, 2022. Under Executive Order 4.4 (codified in 9 NYCRR § 9.4.4), which was in effect from January 1, 2022, through March 31, 2022, compliance was not required until April 1, 2022. Since the staffing standards have been in place since April 1, 2022, enforcement of the statute from that date forward is not retroactive. No changes to the regulation have been made in response to this comment.

Comment: Some nursing homes indicated that the 3.5-hour staffing mandate is inconsistent with the 70-40-5 spending rule, because the spending rule includes ancillary and program services in resident-facing staff, while the 3.5-hour rule excludes ancillary program services.

Response: It is possible for nursing homes to comply with both regulations, so the two regulations are not inconsistent. No changes to the regulation have been made in response to these comments.

Comment: Commenters indicated that the regulations should make clear that failing to meet any one of the three minimum nurse staffing requirements will be considered non-compliant.

Response: Nursing homes must comply with each separate component of the minimum staffing standards. No changes to the regulation are necessary in response to these comments.

Comment: Some commentors requested that the minimum penalty of $300 be restored.

Response: In response to comments on the original Proposed Rule, this Revised Rule no longer requires the Department to impose a minimum $300 per day penalty regardless of mitigating circumstances. The Department does not believe that it would be practical or fair to impose a minimum $300 per day penalty regardless of mitigating circumstances and having authority to issue penalties of up to $2,000 per day is sufficient to ensure compliance with the statute. No changes to the regulation have been made in response to these comments.

Comment: One commenter opposed the removal of the reference to "closing units" in the list of examples of how nursing homes could take steps to ensure resident health and safety notwithstanding any labor supply shortage under Section 415.26(f)(2)(ii)(b)(3). The commenter expressed concern that this would allow facilities to transfer residents to other facilities and potentially cause trauma, rather than consolidating units in their own facility. Another commenter indicated that including "discontinuing admissions" in the list of examples does not take into consideration consequential issues, such as hospitals being unable to discharge patients to the care of nursing homes.

Response: The Department removed the phrase "closing units," because the Department did not want the regulation to imply that nursing homes were at liberty to close units without getting approval from the Department as required by 10 NYCRR §§ 401.3(h) and 401.3(i). The Department believes that "discontinuing admissions" is a way a nursing home could ensure adequate staffing. No changes to the regulation have been made in response to these comments.

Comment: Some commenters strongly supported removal of the $300 minimum penalty from the regulations given the existing statewide healthcare staffing shortages and the penalty's potential financial burden on facilities.

Response: The Department appreciates the support for the change made in the Revised Rule.

Comment: One association indicated that a facility's quality of care should be considered when determining eligibility for funding to comply with the minimum staffing requirements.

Response: The intent of the funding is to allow nursing homes to come into compliance with the staffing standards in PHL § 2895 b. The Department believes that all nursing homes should come into compliance regardless of their quality of care. No changes to the regulation have been made in response to this comment.

Comment: Commenters also recommended that the State strongly consider including additional clinical staff titles in the minimum staffing requirement to better evaluate the overall staffing model and care at state nursing homes.

Response: The Department's regulation implements PHL § 2895 b and includes the titles that are included in that section of the law. No changes to the regulation have been made in response to these comments.

Comment: The Department received comments indicating that the regulations should allow the minimum staffing requirements for nurses and nurse aides to be met with other types of personnel, such as medication technicians, feeding assistants, temporary nurse aides, graduates of nursing programs and individuals who are on other states' certified nurse aide (CNA) registries and are awaiting New York State certification.

Response: PHL § 2895 b contains minimum staffing requirements for nurses and nurse aides, not other types of personnel. A nurse aide means any person included in the nursing home nurse aide registry pursuant to Section 2803-j of the Public Health Law. No changes to the regulation have been made in response to this comment.

Comment: One commenter indicated that the regulations should include "the frequency and nature of non-compliance" as a mitigating factor that the Department should consider in penalty determinations and provide guidance as to how this standard will be applied.

Response: The Department is aware that the frequency and nature of non-compliance is a mitigating factor under Public Health Law § 2895-b(2)(b)(ii), and the amount of civil penalty assessed will vary depending upon the frequency and nature of non-compliance. No changes to the regulation have been made in response to this comment.

Comment: A commenter stated that the regulations do not include the process facilities will need to follow to demonstrate the existence of mitigating factors.

Response: The Department will issue further guidance regarding the process for demonstrating that mitigating factors exist. No changes to the regulation have been made in response to this comment.

Comment: A commenter suggested the Department define "acute labor supply shortage" more specifically and include a methodology for determining whether an acute labor shortage exists.

Response: As stated in Section 415.26(f)(2)(ii)(b)(1), "the Commissioner shall issue a determination on a quarterly basis as to whether an acute labor supply shortage of nurse aides, certified nurse aides, licensed practical nurses, or registered nurses exists in any Metropolitan or Nonmetropolitan Area of New York State. Such determination shall be made in consultation with the New York State Department of Labor and shall take into account job availability metrics developed by the New York State Department of Labor, which may include but is not limited to the list of job openings in New York State." No changes to the regulation have been made in response to this comment.

Comment: Commenters criticized the Department's proposed Medicaid State Plan Amendment to implement Section 415.26(g).

Response: Comments on the State Plan Amendment are outside the scope of this regulation. No changes to the regulation have been made in response to these comments.

Comment: Clarification was requested on regulations that require nursing homes to post information regarding nurse staffing that the facility is required to make available to the public under Public Health Law § 2805-t.

Response: This comment is outside the scope of this regulation. No changes to the regulation have been made in response to this comment.

Comment: One commenter objected to language that is already in section 415.13(a) requiring the facility to "assure that each resident receives treatments, medications, diets and other health services in accordance with individual care plans."

Response: This language is already in the regulation, and the Department does not believe that PHL § 2895 b requires the Department to remove or edit this requirement. No changes to the regulation have been made in response to this comment.

Comment: A commenter stated that section 415.13(g) conditions eligibility to receive funding on complying with PHL § 2828; however, compliance with this standard is established based on the most recent Medicaid cost report filed by each facility. The commenter noted that there is typically a 21-to-23-month lag between the start of the cost reporting year and the date when the cost report data becomes available, whereas compliance with the regulation is based on quarterly reports. The commenter concluded that using this asynchronous data could result in conditioning a facility's current eligibility for minimum nurse staffing funding on data that may not reflect its current spending.

Response: The Department will address this issue as needed in the methodology set forth in the Medicaid State Plan Amendment that describes eligibility for funding to comply with the minimum staffing requirements. No changes to the regulation have been made in response to this comment.

Comment: One commenter indicated that compliance with staffing levels should be based solely on weekends, as they have observed the normal staffing on weekdays is greater than weekends.

Response: The Department is implementing PHL § 2895 b as written, without any distinction between staffing levels on weekdays and weekends. No changes to the regulation have been made in response to this comment.

Comment: Another commenter indicated that facilities should be prohibited from accepting new patients for long-term care or rehabilitation until they maintain safe staffing levels.

Response: As indicated in response to another comment, "discontinuing admissions" is one way of taking steps to ensure adequate staffing. No changes to the regulation have been made in response to this comment.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

State Aid for Public Health Services: Counties and Cities

I.D. No. HLT-49-22-00002-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 amend Part 40 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 619

Subject: State Aid for Public Health Services: Counties and Cities.

Purpose: To increase article 6 base funding to local health departments.

Text of proposed rule: Subdivision (a) of section 40-1.61 is amended to read as follows:

Expenditures by local health departments shall be reimbursed as follows, provided all requirements of this Part are met:

(a) Base grant:

(1) For local health departments providing all of the core services set forth in Subpart 40-2 of this Part, the State Aid base grant shall be 100 percent of net eligible expenditures for performance of these services to a maximum of [$650,000] *$750,000* or the amount representing [65 cents] *$1.30* per capita, whichever is greater.

* * *

Subdivision (b) of section 40-2.1 is amended and new subdivision (d) is added, to read as follows:

(b) Local health departments may contract for core public health services provided, however, that:

* * *

(2) pursuant to section 616 of the Public Health Law, the local health department shall not claim as State Aid eligible expenses any portion of the contract cost relating to indirect costs [or fringe benefits, including but not limited to retirement funds, health insurance and federal old age and survivors insurance]; and

* * *

(d) Fringe benefits are eligible for State Aid reimbursement only if such costs are:

(1) consistent with a municipality's documented fringe benefit costs; and

(2) do not exceed fifty per centum of the municipality's eligible personnel services.

Subdivision (d) of section 40-2.3 is amended to read as follows:

Activities, services, and costs that are ineligible for State Aid include, but are not limited to, the following:

* * *

(d) infrastructure and administration costs:

* * *

(10) Indirect costs [and fringe benefits]. Contributions by the local health department for indirect costs [and fringe benefits], including but not limited to contractor [fringe and] indirect costs[, employee retirement funds, health insurance, workers' compensation, and Federal old age and survivor's insurance].

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) § 619 authorizes the Commissioner to effectuate the provisions and purposes of the State Aid program under PHL article 6.

Basis:

Article 6 of the PHL, relating to State Aid to Cities and Counties, was amended by part E of chapter 57 of the Laws of 2022 to increase base funding to local health departments and remove the categorical prohibition on partial State reimbursement of costs associated with personnel-related fringe, including employee retirement funds, health insurance, Workers' Compensation, and Federal old age and survivor's insurance. These regulatory amendments to Part 40 are necessary to enact the changes made to article 6 of the PHL and therefore no person is likely to object to the adoption of the rule as written. In fact, these regulatory amendments will be highly beneficial to the local health departments and the New York State Association of County Health Officials (NYSACHO) has expressed support for the changes.

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 amendments, that it will not have an adverse impact on jobs and employment opportunities.

Department of Labor

NOTICE OF EXPIRATION

The following notice has expired and cannot be reconsidered unless the Department of Labor publishes a new notice of proposed rule making in the NYS *Register.*

New York Health and Esssential Rights Act (NY HERO Act)

I.D. No.	Proposed	Expiration Date
LAB-34-21-00002-EP	August 25, 2021	November 17, 2022

Office for People with Developmental Disabilities

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Protection of Individuals Receiving Services

I.D. No. PDD-49-22-00004-P

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

Proposed Action: Amendment of section 633.16 of Title 14 NYCRR.

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

Subject: Protection of Individuals Receiving Services.

Purpose: To add clarity and consistency.

Substance of proposed rule (Full text is posted at the following State website: OPWDD.NY.GOV): OPWDD is updating the 633.16 Person-Centered Behavioral Intervention regulation in order to make necessary updates, clarifications, and changes to better meet the needs of individuals with intellectual and developmental disabilities and the agencies that provide services. Some of the changes include those that were requested by agencies and others are clarifications or minor changes to certain parts of the text to ensure consistency of practice, ensure safety and due process rights, and facilitate agency compliance with the regulations.

Throughout the regulation, updates have been made to diagnostic terminology to match changes in diagnoses reflected in current diagnostic manuals and classification systems. These changes are needed to maintain accuracy and clarity when making diagnostic references.

Minor changes have been made to qualifications to be a behavior intervention specialist, a clinical title used to identify staff who may write behavior plans. These changes have been made to ensure that no one currently in those titles will be negatively affected. The changes clarify the pathway to achieving a higher-level clinical status and reduces the time requirement required to attain that higher level status. These changes are needed to assist agencies in being able to hire qualified staff for these clinical positions.

Specific changes have been made to the section regulating the use of restrictive/intrusive interventions to define, describe, and separate the use of blocking pads when used in response to challenging behavior. Requirements regarding use, inclusion in a behavior support plan, and additional requirements are outlined. These changes are in response to agency requests for clarification on use of blocking pads.

Additional changes have been made including what licensed clinicians can supervise behavior intervention specialists and what procedures may be consented to by an informed consent committee (ICC) in the event that a person with disability is unable to provide their own consent and has no other guardian, family, or other regulatorily authorized entity (such as the Willowbrook Consumer Advisory Board) who can provide consent on their behalf.

Finally, among other minor changes, clarifications have been made regarding the procedures for implementation and due process rights related to any clinically needed limitation on specific rights articulated in regulation. These clarifications are needed to ensure protections and safety for all individuals receiving services.

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, (518) 474-7100, 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.

2. Legislative objectives: The proposed regulations further legislative objectives embodied in MHL sections 13.07, 13.09(b), and 16.00, which include providing and encouraging 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.

3. Needs and benefits: The proposed regulation amends Title 14 NYCRR Section 633.16 to clarify diagnostic terminology, qualifications to become a behavior intervention specialist, and the use of restrictive/intrusive interventions.

Updates have been made to diagnostic terminology to match changes in diagnoses reflected in current diagnostic manuals and classification systems. These changes are needed to maintain accuracy and clarity when making diagnostic references. Revisions have also been made to qualifications to be a behavior intervention specialist, a clinical title used to identify staff who may write behavior plans. The changes clarify the pathway to achieving a higher-level clinical status and reduces the time requirement required to attain that higher level status. These changes are needed to assist agencies in being able to hire qualified staff for these clinical positions.

Additionally, changes have been made to the section regulating the use of restrictive/intrusive interventions in order to define, describe, and separate the use of blocking pads when used in response to challenging behavior. These changes are in response to agency requests for clarification on use of blocking pads.

Finally, clarifications have been made regarding the procedures for implementation and due process rights related to any clinically needed limitation on specific rights articulated in regulation. These clarifications are needed to ensure protections and safety for all individuals receiving services.

4. Costs:

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

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

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

b. Costs to private regulated parties: There are no anticipated costs to regulated providers to comply with the proposed regulations. There should not be any noticeable additional paperwork requirements, and accordingly, no additional paperwork costs.

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

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

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

8. Alternatives: OPWDD did not consider any other alternatives to the proposed regulations. These changes are necessary to update and clarify existing regulation.

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

10. Compliance schedule: OPWDD plans to adopt the regulations following the public comment period. The effective date for enforcement of the regulation will be upon adoption. OPWDD expects that providers will be in compliance with the proposed requirements at the time of their effective date(s).

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses or local governments.

The proposed regulation amends Title 14 NYCRR Section 633.16 to clarify diagnostic terminology, qualifications to become a behavior intervention specialist, and the use of restrictive/intrusive interventions. 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. 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 Title 14 NYCRR Section 633.16 in order to clarify diagnostic terminology, qualifications to become a behavior intervention specialist, and the use of restrictive/intrusive interventions. 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 Title 14 NYCRR Section 633.16 in order to clarify diagnostic terminology, qualifications to become a behavior intervention specialist, and the use of restrictive/intrusive interventions. However, there have always been restrictions on these types of titles and interventions so the compliance measures would be minimal and not overly burdensome. Furthermore, the amendments make it easier for individuals to move up in job titles and responsibilities with a wider range of criteria for eligibility. The regulation will not have a substantial impact on jobs or employment opportunities in New York State.

Public Service Commission

NOTICE OF ADOPTION

Deferral Accounting of Pension Settlement Loss

I.D. No. PSC-19-17-00004-A

Filing Date: 2022-11-22

Effective Date: 2022-11-22

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

Action taken: On 11/17/22, the PSC adopted an order authorizing Liberty Utilities (New York Water) Corp. (LWNY), formerly New York American Water Company, Inc. to defer $370,580 related to 2016 pension settlement losses.

Statutory authority: Public Service Law, section 89-c

Subject: Deferral accounting of pension settlement loss.

Purpose: To authorize LWNY to defer $370,580 related to 2016 pension settlement losses.

Substance of final rule: The Commission, on November 17, 2022, adopted an order authorizing Liberty Utilities (New York Water) Corp. (LWNY), formerly New York American Water Company, Inc. to defer $370,580 in account 186 Miscellaneous Deferred Debits related to 2016 pension settlement losses. LWNY shall submit to the Secretary to the Commission, within 30 days of the closing, the accounting entries made to record the initial transactions related to the 2016 pension settlement losses and all adjusting entries necessary to comply with the order, subject to the terms and conditions set forth in the order.

Text or summary was published in the May 10, 2017 issue of the Register, I.D. No. PSC-19-17-00004-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-W-0062SA1)

NOTICE OF ADOPTION

Intra-corporate Reorganization

I.D. No. PSC-25-21-00005-A

Filing Date: 2022-11-22

Effective Date: 2022-11-22

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

Action taken: On 11/17/22, the PSC adopted an order authorizing an intra-corporate reorganization between Pennsylvania Electric Company (Penelec) and The Waverly Electric Light and Power Company (Waverly) with Waverly merging into Penelec.

Statutory authority: Public Service Law, section 70(1)

Subject: Intra-corporate reorganization.

Purpose: To authorize Penelec and Waverly's intra-corporate reorganization with Waverly merging into Penelec.

Substance of final rule: The Commission, on November 17, 2022, adopted an order authorizing an intra-corporate reorganization between Pennsylvania Electric Company (Penelec) and The Waverly Electric Light and Power Company (Waverly) with Waverly merging into Penelec. Penelec shall file with the Secretary to the Commission a letter confirming that Waverly has been merged into Penelec within 30 days of the date of the order. Penelec shall file with the Secretary within 60 days of the issuance of the order a report, consistent with the discussion in the body of the order, that: (1) identifies any documents referencing Waverly and its plan to have such references changed to the Penelec, with deadlines for effecting such modifications; or (2) explains that it has reviewed all relevant documents and confirmed that none refer to Waverly, subject to the terms and conditions set forth in the order.

Text or summary was published in the June 23, 2021 issue of the Register, I.D. No. PSC-25-21-00005-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0252SA1)

NOTICE OF ADOPTION

Standby Service Rate Exemptions

I.D. No. PSC-32-21-00003-A

Filing Date: 2022-11-21

Effective Date: 2022-11-21

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

Action taken: On 11/17/22, the PSC adopted an order approving the Joint Utilities' proposal to harmonize standby service rate exemptions across the Joint Utilities' service territories and directed utilities to file tariff amendments to align standby service exemptions.

Statutory authority: Public Service Law, sections 64, 65(1), (2), (3), (5), 66(1), (2), (5), (8), (9), (10) and (12)

Subject: Standby service rate exemptions.

Purpose: To approve Joint Utilities' proposal to align standby service rate exemptions and direct utilities to file tariff amendments.

Substance of final rule: The Commission, on November 17, 2022, adopted an order approving Central Hudson Gas & Electric Corporation (Central Hudson); Consolidated Edison Company of New York, Inc. (Con Edison); New York State Electric & Gas Corporation (NYSEG); Niagara Mohawk Power Corporation d/b/a National Grid (National Grid); Orange and Rockland Utilities, Inc. (O&R); and Rochester Gas and Electric Corporation's (RG&E) (collectively, the Joint Utilities) proposal to harmonize standby service rate exemptions across the Joint Utilities' service territories and directed utilities to file tariff amendments to align standby service exemptions. National Grid is directed to file tariff amendments to implement modifications to its Environmentally Advantageous Technologies standby rate exemption, as described in the body of the order, to become effective on December 1, 2022, on not less than one day's notice. Central Hudson, NYSEG, and RG&E shall consult with Department of Public Service Staff prior to filing tariff amendments to implement modifications to their Energy Storage Exemption, as described in the body of the order. Such tariff amendments shall become effective on January 1, 2023, on not less than 14 days' notice, subject to the terms and conditions set forth in the order.

Text or summary was published in the August 11, 2021 issue of the Register, I.D. No. PSC-32-21-00003-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(19-E-0079SA4)

NOTICE OF ADOPTION

Deferral Accounting of Pension Settlement Loss

I.D. No. PSC-36-21-00007-A

Filing Date: 2022-11-22

Effective Date: 2022-11-22

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

Action taken: On 11/17/22, the PSC adopted an order authorizing Liberty Utilities (New York Water) Corp. (LWNY), formerly New York American Water Company, Inc. to defer $75,709 related to 2020 pension settlement losses.

Statutory authority: Public Service Law, section 89-c

Subject: Deferral accounting of pension settlement loss.

Purpose: To authorize LWNY to defer $75,709 related to 2020 pension settlement losses.

Substance of final rule: The Commission, on November 17, 2022, adopted an order authorizing Liberty Utilities (New York Water) Corp. (LWNY), formerly New York American Water Company, Inc. to defer $75,709 in account 186 Miscellaneous Deferred Debits related to 2020 pension settlement losses. LWNY shall submit to the Secretary to the Commission, within 30 days of the closing, the accounting entries made to record the initial transactions related to the 2020 pension settlement losses and all adjusting entries necessary to comply with the order, subject to the terms and conditions set forth in the order.

Text or summary was published in the September 8, 2021 issue of the Register, I.D. No. PSC-36-21-00007-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-W-0364SA1)

NOTICE OF ADOPTION

Petition for Refund and Cap of Interconnecting Costs

I.D. No. PSC-01-22-00013-A

Filing Date: 2022-11-22

Effective Date: 2022-11-22

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

Action taken: On 11/17/22, the PSC adopted an order denying Noblehurst Farms' (Noblehurst) petition for Niagara Mohawk Corporation d/b/a National Grid to refund costs related to interconnecting a farm waste generator and to cap all costs related to $5,000.

Statutory authority: Public Service Law, sections 5, 65 and 66.

Subject: Petition for refund and cap of interconnecting costs.

Purpose: To deny Noblehurst's petition for a refund and cap of interconnecting costs.

Substance of final rule The Commission, on November 17, 2022, adopted an order denying Noblehurst Farms' petition for Niagara Mohawk Corporation d/b/a National Grid to refund costs related to interconnecting a farm waste generator and to cap all costs related to $5,000, subject to the terms and conditions set forth in the order.

Text or summary was published in the January 5, 2022 issue of the Register, I.D. No. PSC-01-22-00013-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-E-0568SA1)

NOTICE OF ADOPTION

Lightened Regulation and CPCN

I.D. No. PSC-01-22-00017-A

Filing Date: 2022-11-18

Effective Date: 2022-11-18

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

Action taken: On 11/17/22, the PSC adopted an order granting Bluebird Renewable Energy, LLC (BRE) a lightened regulatory regime and Certificate of Public Convenience and Necessity (CPCN) for the construction and operation of a project located in Cayuga County, New York.

Statutory authority: Public Service Law, sections 2(10), (11), 5(1)(b), 64-69, 69-a, 70-72, 72-a, 105-114, 114-a, 115, 117, 118, 119-b and 119-c

Subject: Lightened regulation and CPCN.

Purpose: To grant BRE a lightened regulatory regime and CPCN.

Substance of final rule: The Commission, on November 17, 2022, adopted an order granting Bluebird Renewable Energy, LLC (BRE) a lightened regulatory regime and Certificate of Public Convenience and Necessity (CPCN) for the construction and operation of a project located in Cayuga County, New York. BRE shall comply with the Public Service Law in conformance with the requirements set forth in the body of the order, and shall, within 30 days of the issuance of the order, file with the Secretary a verified written statement signed by a duly authorized officer indicating its complete and unconditional acceptance of this Order and its terms and conditions. Failure to comply with this condition shall invalidate the order. BRE shall ensure that the biogas entering the Aurora Ridge

Pipeline does not exceed hydrogen sulfide (H2S) levels above 100 parts per million (ppm), and to immediately stop the flow of biogas into the pipeline and direct the biogas to be flared if the biogas exceeds that threshold, as set forth in the body of the order. BRE shall also immediately notify Department of Public Service Staff if such an event occurs, and to provide regular updates as to the status of the Aurora Ridge Pipeline, the Scrubber, and all other related facilities until such time that the H2S content of the biogas is reduced below the 100 ppm threshold. The maximum operating pressure of the renewable gas project's pipelines shall not exceed 30 pounds per square inch gauge (psig). BRE shall design, construct, test, operate and maintain its renewable gas project's pipelines in accordance with provisions of 16 NYCRR Part 255 applicable to high-density polyethylene gathering lines including, but not limited to, plastic pipe joining, joining inspection, patrolling, leak survey, and the placement of line markers. At least 30 days before construction commences, BRE shall make available to Department of Public Service Staff a copy of construction standards that conform with 16 NYCRR § 255.9. These standards shall encompass all phases of construction including, but not limited to, plastic pipe joining procedures, joining procedure qualifications, joining qualification, and backfilling. At least 10 days before construction commences, BRE shall notify the Department of Public Service Office of Electric, Gas and Water's Safety Section. The notice shall be a letter of intent giving the company name, address, and specific location of the intended construction. Such notice can be submitted via email at Safety@dps.ny.gov. At least five days prior to commencement of any pipe joining activities, BRE shall notify the Department of Public Service Office of Electric, Gas and Water's Safety Section of the date, time, and place of any pipe joining procedure qualification or joining qualification tests to be conducted. BRE shall designate a full-time joining inspector(s). The joining inspector(s) shall be present anytime there is active joining to ensure that the joining is being performed in accordance with the qualified procedure. BRE shall notify Department of Public Service Office of Electric, Gas and Water's Safety Section, either by phone at 518-474-5453 or via e-mail at Safety@dps.ny.gov, at least five business days prior to starting the pipeline pressure test. BRE shall become a member of the one-call notification system in the area where its renewable gas project is located and shall comply with the requirements for excavators and operators for the protection of underground facilities set forth in 16 NYCRR Part 753. In addition, BRE shall notify UDig NY of the addition of its renewable gas pipeline prior to the project's in-service date so that it is included in the one call notification system. If the Aurora Ridge Pipeline is located in an area used for commercial farm purposes in at least two of the last five years, BRE shall complete the information required in 16 NYCRR Appendices 7-G and 7-G(a), and provide one copy each of 16 NYCRR Appendices 7-G and 7-G(a) to the affected farmland operator and the local county soil and water conservation district at least 48 hours in advance of the start of construction. BRE shall retain a copy of the completed 16 NYCRR Appendices 7-G and 7-G(a) for review by any interested party in the future. BRE shall otherwise construct its renewable gas project in accordance with the safety and other requirements set forth in the body of the order, and such construction shall be performed in compliance with all of the applicable requirements of 16 NYCRR Parts 255 and 753 pertaining to the design, construction, operation, and maintenance of pipelines. BRE shall, within 90 days of the issuance of the order, file with the Secretary to the Commission a decommissioning plan as set forth in the body of the order. BRE shall, within 90 days of the issuance of the order and every three years thereafter, file with the Secretary to the Commission a decommissioning cost study in conformance with the requirements set forth in the body of the order. The decommissioning cost study shall be updated by a qualified independent engineer licensed to practice engineering in the State of New York to reflect inflation and any other changes in cost. BRE shall work with the Department of Public Service (DPS) Staff on an acceptable form of letter or letters of credit. BRE shall also file with the Secretary proof that the letter or letters of credit have been obtained in the decommissioning estimate amount. The letter or letters of credit shall remain active for the life of the storage facility, until it is decommissioned, as adjusted every third year in consultation with DPS Staff. BRE shall execute a decommissioning agreement with the Town of Ledyard and the Town of Venice establishing a right for the Town of Ledyard or the Town of Venice to draw on the letter of credit if BRE defaults on any part of its decommissioning obligations, subject to the terms and conditions set forth in the order.

Text or summary was published in the January 5, 2022 issue of the Register, I.D. No. PSC-01-22-00017-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(21-G-0576SA1)

NOTICE OF ADOPTION

Petition for Waiver of Certain Provisions Regarding Article VII Application Requirements

I.D. No. PSC-20-22-00010-A

Filing Date: 2022-11-22

Effective Date: 2022-11-22

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

Action taken: On 11/17/22, the PSC adopted an order granting in part, and denying, in part, Anbaric Development Partners, LLC's (Anbaric) petition for a waiver of certain provisions of 16 NYCRR regarding requirements for an Article VII application.

Statutory authority: Public Service Law, sections 4 and 122

Subject: Petition for waiver of certain provisions regarding Article VII application requirements.

Purpose: To grant in part, and deny, in part, Anbaric's petition for waiver of certain provisions.

Substance of final rule: The Commission, on November 17, 2022, adopted an order granting in part, and denying, in part, Anbaric Development Partners, LLC's petition for a waiver of certain provisions of 16 NYCRR regarding requirements under an Article VII application for Certificates of Environmental Compatibility and Public Need, subject to the terms and conditions set forth in the order.

Text or summary was published in the May 18, 2022 issue of the Register, I.D. No. PSC-20-22-00010-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-T-0157SA1)

NOTICE OF ADOPTION

Transfer of Complete Ownership and Control

I.D. No. PSC-21-22-00010-A

Filing Date: 2022-11-18

Effective Date: 2022-11-18

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

Action taken: On 11/17/22, the PSC adopted an order granting a joint petition to transfer complete ownership and control of Empire Telephone Corporation (Empire Telephone), et al. to Endurance Parent, Inc. (Endurance), subject to conditions.

Statutory authority: Public Service Law, section 222

Subject: Transfer of complete ownership and control.

Purpose: To transfer complete ownership and control of Empire Telephone, et. al. to Endurance, subject to conditions.

Substance of final rule: The Commission, on November 17, 2022, adopted an order granting a joint petition, subject to conditions, of Lantelco, Inc. (Lantelco) and Barch Corporation (Barch), Empire Telephone Corporation (Empire Telephone) and Empire Long Distance Corporation d/b/a Empire Access (ELD), Empire Video Service Corp. (EVSC) and Community Cable Corp. (Community Cable and together with EVSC, the Franchisees) and Endurance Parent, Inc. (Endurance and, collectively, the Petitioners) request for Commission authorization pursuant to Public Service Law (PSL) § 99, 100, and 222 to complete a transfer of ownership and control of Empire Telephone, ELD, EVSC, and Com-

munity Cable to Endurance, and for ELD to participate in certain financing arrangements (Financing Arrangements) pursuant to PSL § 101, upon completion of the proposed transaction and upon receipt by the Commission of certification by the Petitioners that they and their successors in interest unconditionally accept and agree to comply with the conditions and commitments set forth in the body of the order is approved. Such certification shall be submitted within seven (7) business days of the issuance of the order. If the Petitioners do not unconditionally accept within seven (7) business days of the issuance of the order, the order shall constitute a denial of the Joint Petition and supplement. The Petitioners will be required to extend high-speed broadband service (defined for purposes of this commitment as an internet access service with minimum speeds of 100 Megabits-per-second (Mbps) download and 20 Mbps upload) to: (a) pass at least 800 addresses within one (1) year of completing the proposed transaction, and (b) pass the remaining additional addresses (for an aggregate of 1,412 addresses) within two (2) years of completing the proposed transaction in Empire Telephone's territory. An address is considered passed if Empire Telephone (or its affiliate) has network facilities that can provide high-speed broadband: (a) located in or on the public right-of-way (i.e., road) that the address abuts, or (b) located in or on a public right-of-way into which the private right-of-way that the address abuts terminates or intersects; provided that with respect to an address described in (b) above, if such address is within 150 feet from the network facilities of Empire Telephone (or its affiliates) in the public right-of-way, Empire Telephone (or its affiliates) shall not impose a special construction charge for such construction and shall complete such construction and provide service within seven (7) business days of a request for service at such address and securing any necessary private easements or rights. The Petitioners shall be required to file with the Secretary to the Commission network build-out compliance reports every six (6) months, beginning six (6) months from the issuance of the order, indicating the number of unserved and underserved addresses and address locations passed as of the date of the respective compliance report filings. Empire Telephone will also be required to continue to fulfill its broadband deployment commitments under the federal Universal Service Fund's Revised Alternative Connect America Cost Model Program, described in 47 C.F.R § 54.308(a)(1)(iii). The Petitioners must notify the Secretary to the Commission within 30 days of the date when the common equity ratio of Empire Telephone or the consolidated entity (i.e., Endurance) falls below 50 percent on a 12-month rolling basis. In the event this occurs, the Petitioners must meet with the Department of Public Service Staff within 30 days to discuss their plan to address any further deterioration in the common equity ratio. Empire Telephone will file the agreed-upon capital structure mitigation plan with the Secretary to the Commission no later than 30 days after meeting with Department of Public Service Staff. The Petitioners shall pay off all Empire Telephone's, EVSC's, and Community Cable's outstanding short-term and long-term debts (estimated as of December 2022) and further relieve Empire Telephone and the consolidated entity from the share buyback obligations under the Empire Telephone Employee Stock Option Program. No amount of goodwill or premium paid above book value incurred in the proposed transaction shall be recovered from ratepayers or included on the books and records of Empire Telephone. The costs of the proposed transaction shall be excluded from the rate base, expenses, and capitalization in the determination of rates and earned returns of Empire Telephone for New York State intrastate regulatory accounting and reporting purposes. No costs related to Endurance's acquisition transaction and related Financing Arrangements shall be recovered from Empire Telephone's ratepayers. The proposed transaction and associated Financing Arrangements shall not be secured by Empire Telephone's, EVSC's, or Community Cable's assets. Empire Telephone shall not provide any financial guarantees to facilitate this transaction or any other future acquisitions without Commission approval. The Petitioners will continue to participate in the Affordable Connectivity Program (ACP) or successor program(s) implemented by the Federal Communications Commission for the remaining length of the ACP or successor program(s), so long as the ACP or successor program(s) retain materially similar terms and conditions as the ACP has as of the date of the order. The Petitioners shall be precluded from laying off, involuntarily reducing, or taking any action that is intended to reduce customer-facing jobs in New York for Empire Telephone, ELD, and the Franchisees for a period of two years following the close of the proposed transaction, with the exception of early retirement incentives and attrition. The Petitioners shall demonstrate that the total number of employees at Empire Telephone, ELD, and the Franchisees as of the date of the order is maintained on the second anniversary of the close of the proposed transaction. Empire Telephone, ELD and the Franchisees shall be required to report to the Commission the number of customer-facing jobs in their respective service territories within 21 days of the issuance of the order, and to provide quarterly updates for the two years following the close of the transaction. The Department of Public Service shall have unrestricted access to all books and records (including General Ledger and Trial Balance) of Empire Telephone, which books and records (1) shall not be removed from New York State without prior Commission approval and (2) shall be maintained separately from those of its affiliates. Empire Telephone, ELD, EVSC and Community Cable shall maintain their books and records in a place accessible (which may be through electronic access) to the Commission and the Department of Public Service Staff in New York and shall provide such access to the Commission and Department of Public Service Staff upon request. The Petitioners shall be subject to a Most Favored State clause consistent with the discussion in the body of the order. If, in obtaining approval of the proposed transaction in other state or federal jurisdictions, the Petitioners commit to additional benefits, they shall within 30 days following such commitments, notify the Commission of its intent to provide those commitments in New York. Notwithstanding the foregoing, the conditions here shall be provided in addition to any benefit that results from any other state or federal action regarding this transaction, subject to the terms and conditions set forth in the order.

Text or summary was published in the May 25, 2022 issue of the Register, I.D. No. PSC-21-22-00010-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-M-0223SA1)

NOTICE OF ADOPTION

Annual Revenue Increase and Conversion to an Electronic Tariff Schedule

I.D. No. PSC-23-22-00024-A

Filing Date: 2022-11-21

Effective Date: 2022-11-21

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

Action taken: On 11/17/22, the PSC adopted an order authorizing Heritage Estates Homeowners Association, LTD. (Heritage) to increase its annual revenues by $7,645, or 42.5 percent and the conversion to an electronic tariff schedule, to become effective December 1, 2022.

Statutory authority: Public Service Law, sections 4(1), 5(1)f, 89-b(1), 89-c(1), (3), (10)(a), (b), and (f)

Subject: Annual revenue increase and conversion to an electronic tariff schedule.

Purpose: To authorize Heritage for an annual revenue increase and conversion to an electronic tariff schedule.

Substance of final rule: The Commission, on November 17, 2022, adopted an order authorizing Heritage Estates Homeowners Association, LTD. (Heritage) to increase its annual revenues by $7,645, or 42.5 percent, and the conversion to an electronic tariff schedule, P.S.C. No. 2 – Water, to become effective December 1, 2022, with the modifications directed in the order. Heritage is directed to file, on not less than three days' notice, to become effective December 1, 2022, revised Leaf Nos. 5, 10, and 12. Heritage is directed to notify its customers by direct mail of the Commission's decision in this proceeding and file a copy of the notification with the Secretary to the Commission no later than December 31, 2022, subject to the terms and conditions set forth in the order.

Text or summary was published in the June 8, 2022 issue of the Register, I.D. No. PSC-23-22-00024-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-W-0281SA1)

NOTICE OF ADOPTION

Replacement of Wireless Telecommunication Equipment Attached to Transmission Tower

I.D. No. PSC-24-22-00006-A

Filing Date: 2022-11-22

Effective Date: 2022-11-22

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

Action taken: On 11/17/22, the PSC adopted an order approving Consolidated Edison Company of New York, Inc. (Con Edison) New Cingular Wireless PCS, LLC's (Cingular) joint petition to replace existing telecommunication equipment attached to Con Edison's Tower K-49.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Replacement of wireless telecommunication equipment attached to transmission tower.

Purpose: To approve Con Edison and Cingular's joint petition replacing telecommunication equipment attached to transmission tower.

Substance of final rule: The Commission, on November 17, 2022, adopted an order approving Consolidated Edison Company of New York, Inc (Con Edison) New Cingular Wireless PCS, LLC's (Cingular) joint petition to replace existing wireless telecommunication equipment attached to Con Edison's electric transmission Tower K-49. Con Edison and Cingular shall report any proposed changes to the approved construction plans to Department of Public Service Staff (Staff) for review. Staff shall refer changes that do not cause a substantial change in environmental impacts or are not related to contested issues to the Chief of the Environmental Certification and Compliance Section of the Office of Electric, Gas and Water for approval, subject to the terms and conditions set forth in the order.

Text or summary was published in the June 15, 2022 issue of the Register, I.D. No. PSC-24-22-00006-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-M-0248SA1)

NOTICE OF ADOPTION

Replacement of Wireless Telecommunication Equipment Attached to Transmission Tower

I.D. No. PSC-24-22-00009-A

Filing Date: 2022-11-22

Effective Date: 2022-11-22

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

Action taken: On 11/17/22, the PSC adopted an order approving Consolidated Edison Company of New York, Inc. (Con Edison) New Cingular Wireless PCS, LLC's (Cingular) joint petition to replace existing telecommunication equipment attached to Con Edison's Tower K-34.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Replacement of wireless telecommunication equipment attached to transmission tower. (22-M-0249SA1)

Purpose: To approve Con Edison and Cingular's joint petition replacing telecommunication equipment attached to transmission tower.

Substance of final rule: The Commission, on November 17, 2022, adopted an order approving Consolidated Edison Company of New York, Inc (Con Edison) New Cingular Wireless PCS, LLC's (Cingular) joint petition to replace existing wireless telecommunication equipment attached to Con Edison's electric transmission Tower K-34. Con Edison and Cingular shall report any proposed changes to the approved construction plans to Department of Public Service Staff (Staff) for review. Staff shall refer changes that do not cause a substantial change in environmental impacts or are not related to contested issues to the Chief of the Environmental Certification and Compliance Section of the Office of Electric, Gas and Water for approval, subject to the terms and conditions set forth in the order.

Text or summary was published in the June 15, 2022 issue of the Register, I.D. No. PSC-24-22-00009-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-M-0249SA1)

NOTICE OF ADOPTION

Reconsideration of Commission Order

I.D. No. PSC-28-22-00015-A

Filing Date: 2022-11-18

Effective Date: 2022-11-18

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

Action taken: On 11/17/22, the PSC adopted an order authorizing modifications to the April 19, 2017 Commission Order Approving Transfer Subject to Acceptance of Conditions and Making Other Findings (2017 Order).

Statutory authority: Public Service Law, sections 2(13), (22), (23), 5(1)(b), 64, 65, 66, 78, 79, 80, 105-108 and 110-111

Subject: Reconsideration of Commission Order.

Purpose: To authorize modifications to the 2017 Order.

Substance of final rule: The Commission, on November 17, 2022, adopted an order authorizing modifications to the April 19, 2017 Commission Order Approving Transfer Subject to Acceptance of Conditions and Making Other Findings (2017 Order). Helix Generation, LLC (Helix, and LS Power Development, LLC (LS Power) shall refrain from taking any actions that may constitute the exercise of market power, and shall refrain from engaging in anti-competitive behavior. Helix and/or LS Power shall, within 60 days following issuance of the order, file with the Commission an Operation and Maintenance Plan as described in the body of the order. Thereafter, updates and/or changes to the Operation and Maintenance Plan shall be filed with the Commission within the timeframes set forth in the body of the order. Helix and/or LS Power shall file biannual reports, commencing with the commercial operation date of the Segment A transmission project, outlining affiliate ownership of electric generation and transmission assets. The reports shall identify every direct and indirect affiliated entity, whether upstream or downstream of LS Power, that holds any active or passive interest in any electric plant, as defined in Public Service Law § 2(12), located in the New York Independent System Operator, Inc. service area. The reports shall specify the nature and level of interest held by each entity and shall describe each generation or transmission asset. The reports shall further identify every electric generation or transmission project currently under development in the aforementioned markets by any affiliated entity. For the purposes of the report, a project under development includes any project for which studies, analyses, and/or reports have been prepared for internal corporate review, even if no regulatory approvals have been requested. Helix and/or LS Power shall file biannual reports, commencing with the commercial operation date of the Segment A transmission project, regarding forced and unforced outages of the Segment A transmission project or related facilities, as discussed in the body of the order. The reports shall identify the number and dates of any outages, length of outages, reasons for the outages, solutions undertaken, and the impact on affiliate generator pricing. Helix and/or LS Power shall file biannual reports, commencing with the commercial operation date of the Segment A transmission project, identifying any additional generation, energy storage, or supply-side projects that LS Power or its affiliates and subsidiaries plan to develop within the New York Control Area. Any reports identifying such projects shall be accompanied by a production cost analysis measuring the impact the Segment A transmission project would have on locational based marginal prices at pricing nodes in energy

zones where LS Power affiliates or subsidiaries propose generation facilities. The study shall project price impacts for a prospective decade period and specifically address the impact of the Segment A transmission project on affiliate generator net revenues. Commencing with the commercial operation date of the Segment A transmission project, LS Power shall file or cause to be filed with the Commission a report of any forced or unforced outages at the Segment A transmission project or related facilities, the reasons for such outages, and the length of the outages, as discussed in the body of the order. This report must be filed within five days of the outage. Helix shall be subject to the penalty provisions set forth in Attachment G of the Petition filed in this proceeding on May 26, 2022 and discussed in the body of the order. Within 90 days of the issuance of this Order, Helix shall file with the Secretary to the Commission proof that a letter of credit has been obtained in the amount set forth in Attachment G of the Petition, and that the letter of credit establishes a right for the Public Service Commission to draw upon such amount if the penalty provisions are triggered. The letter of credit shall remain active so long as Helix and/or its affiliates simultaneously hold ownership interests in the Ravenswood Generating Facility and any transmission assets in New York. The order is conditioned on Helix and LS Power, within 30 days of the date of issuance of the order, filing with the Secretary to the Commission a verified written statement signed by a duly authorized officer indicating Helix and LS Power's complete and unconditional acceptance of the order and its terms and conditions. Failure to comply with this condition shall invalidate the order, subject to the terms and conditions set forth in the order.

Text or summary was published in the July 13, 2022 issue of the Register, I.D. No. PSC-28-22-00015-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-E-0016SA2)

NOTICE OF ADOPTION

Replacement of Wireless Telecommunication Equipment Attached to Transmission Tower

I.D. No. PSC-29-22-00008-A

Filing Date: 2022-11-22

Effective Date: 2022-11-22

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

Action taken: On 11/17/22, the PSC adopted an order approving Consolidated Edison Company of New York, Inc. (Con Edison) New Cingular Wireless PCS, LLC's (Cingular) joint petition to replace existing telecommunication equipment attached to Con Edison's Tower E-10.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Replacement of wireless telecommunication equipment attached to transmission tower.

Purpose: To approve Con Edison and Cingular's joint petition replacing telecommunication equipment attached to transmission tower.

Substance of final rule: The Commission, on November 17, 2022, adopted an order approving Consolidated Edison Company of New York, Inc (Con Edison) New Cingular Wireless PCS, LLC's (Cingular) joint petition to replace existing wireless telecommunication equipment attached to Con Edison's electric transmission Tower E-10. Con Edison and Cingular shall report any proposed changes to the approved construction plans to Department of Public Service Staff (Staff) for review. Staff shall refer changes that do not cause a substantial change in environmental impacts or are not related to contested issues to the Chief of the Environmental Certification and Compliance Section of the Office of Electric, Gas and Water for approval, subject to the terms and conditions set forth in the order.

Text or summary was published in the July 20, 2022 issue of the Register, I.D. No. PSC-29-22-00008-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-M-0250SA1)

NOTICE OF ADOPTION

Deferral Accounting of Pension Settlement Loss

I.D. No. PSC-31-22-00008-A

Filing Date: 2022-11-22

Effective Date: 2022-11-22

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

Action taken: On 11/17/22, the PSC adopted an order authorizing Liberty Utilities (New York Water) Corp. (LWNY) to defer $98,474 related to 2021 pension settlement losses.

Statutory authority: Public Service Law, section 89-c

Subject: Deferral accounting of pension settlement loss.

Purpose: To authorize LWNY to defer $98,474 related to 2021 pension settlement losses.

Substance of final rule: The Commission, on November 17, 2022, adopted an order authorizing Liberty Utilities (New York Water) Corp. (LWNY) to defer $98,474 in account 186 Miscellaneous Deferred Debits related to 2021 pension settlement losses. LWNY shall submit to the Secretary to the Commission, within 30 days of the closing, the accounting entries made to record the initial transactions related to the 2021 pension settlement losses and all adjusting entries necessary to comply with the order, subject to the terms and conditions set forth in the order.

Text or summary was published in the August 3, 2022 issue of the Register, I.D. No. PSC-31-22-00008-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-W-0404SA1)

NOTICE OF ADOPTION

Transfer of Real Property Interests and Leaseback

I.D. No. PSC-32-22-00024-A

Filing Date: 2022-11-21

Effective Date: 2022-11-21

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

Action taken: On 11/17/22, the PSC adopted an order approving Flint Mine Solar, LLC (Flint Mine Solar), DESRI Flint Mine Land Holdings, LLC (Land Holdings), and DESRI Flint Mine Development, LLC's (DESRI) joint petition for a transfer of real property interests.

Statutory authority: Public Service Law, sections 2(12), (13), 5(1)(b), 5-b, 64, 65, 66 and 70

Subject: Transfer of real property interests and leaseback.

Purpose: To approve Flint Mine Solar, Land Holdings, and DESRI's petition for a transfer of real property interests and leaseback.

Substance of final rule: The Commission, on November 17, 2022, adopted an order approving Flint Mine Solar, LLC (Flint Mine Solar), DESRI Flint Mine Land Holdings, LLC (Land Holdings), and DESRI Flint Mine Development, LLC's joint petition for a transfer of real property interests associated with Flint Mine Solar's 100 megawatt (MW) large-scale solar project in the Towns of Athens and Coxsackie, Greene

County, New York, from Flint Mine Solar to Land Holdings, and the leaseback of those real property interests from Land Holdings to Flint Mine Solar, subject to the terms and conditions set forth in the order.

Text or summary was published in the August 10, 2022 issue of the Register, I.D. No. PSC-32-22-00024-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-E-0372SA1)

NOTICE OF ADOPTION

Water Service Agreement and Waiver Request

I.D. No. PSC-33-22-00005-A

Filing Date: 2022-11-21

Effective Date: 2022-11-21

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

Action taken: On 11/17/22, the PSC adopted an order approving Saratoga Water Services, Inc.'s (Saratoga Water) Agreement for the Provision of Water Service with ES-TD Ventures, LLC (ES-TD) and request for waivers of certain tariff provisions and Commission regulations.

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

Subject: Water service agreement and waiver request.

Purpose: To approve Saratoga Water's water service agreement with ES-TD and waiver request.

Substance of final rule: The Commission, on November 17, 2022, adopted an order approving Saratoga Water Services, Inc.'s (Saratoga Water) Agreement for the Provision of Water Service with ES-TD Ventures, LLC, and the extension of water service to fulfill said agreement is reasonable and in the public interest. The requested waivers of Sections XI (1) and XIII, on Leaves 44 and 45 of Saratoga Water's tariff (P.S.C No. 4 – Water) and Title 16 of the New York Codes, Rules and Regulations § 501.2, 501.3, 501.4, 501.6, 501.9, 501.10, and 502.3 are also granted. Saratoga Water is directed to file with the Secretary to the Commission, within 30 days of issuance by the Department of Environmental Conservation, a copy of the permit authorizing the extension of water service, subject to the terms and conditions set forth in the order.

Text or summary was published in the August 17, 2022 issue of the Register, I.D. No. PSC-33-22-00005-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-W-0405SA1)

NOTICE OF ADOPTION

Motion for Waiver of Certain Department of Public Service Regulations

I.D. No. PSC-33-22-00007-A

Filing Date: 2022-11-22

Effective Date: 2022-11-22

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

Action taken: On 11/17/22, the PSC adopted an order granting Empire Offshore Wind LLC's (Empire Offshore) motion for waiver of certain DPS regulations governing the specifications of certain maps and photographs required in Article VII applications.

Statutory authority: Public Service Law, sections 4 and 122

Subject: Motion for waiver of certain Department of Public Service regulations.

Purpose: To grant Empire Offshore's motion for waiver of certain Department of Public Service regulations.

Substance of final rule: The Commission, on November 17, 2022, adopted an order granting Empire Offshore Wind LLC's motion for waiver of certain Department of Public Service regulations; 16 NYCRR § 86.3(a)(2) and 86.3(b)(2), governing the specifications of certain maps and photographs required in Article VII applications, subject to the terms and conditions set forth in the order.

Text or summary was published in the August 17, 2022 issue of the Register, I.D. No. PSC-33-22-00007-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-T-0346SA1)

NOTICE OF ADOPTION

Tariff Amendment

I.D. No. PSC-34-22-00006-A

Filing Date: 2022-11-18

Effective Date: 2022-11-18

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

Action taken: On 11/17/22, the PSC adopted an order authorizing New York Municipal Power Agency's (NYMPA) tariff amendment to P.S.C. No. 1—Electricity, to establish updated pole attachment rates, to become effective on December 28, 2022.

Statutory authority: Public Service Law, sections 65, 66 and 119-a

Subject: Tariff amendment.

Purpose: To authorize NYMPA's tariff amendment to update pole attachment rates.

Substance of final rule: The Commission, on November 17, 2022, adopted an order authorizing New York Municipal Power Agency's (NYMPA) tariff amendment to P.S.C. No. 1 – Electricity, to establish updated pole attachment rates, to become effective on December 28, 2022. All municipal electric utilities are authorized to file tariff amendments, to become effective on a permanent basis on or after December 28, 2022, on not less than five days' notice, containing the pole attachment proxy rate of $16.75 per foot of space required by the attacher per year. NYMPA member utilities are to file, with the Secretary to the Commission, a copy of the notice sent to attachers impacted by the rate change in Ordering Clauses 1 and 2 not more than 15 days after the effective date of the change, subject to the terms and conditions set forth in the order.

Text or summary was published in the August 24, 2022 issue of the Register, I.D. No. PSC-34-22-00006-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(22-E-0435SA1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Stock Ownership Interest and Associated Financial Transactions

I.D. No. PSC-49-22-00017-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 Margaretville Telephone Co. (MTC) and its affiliate(s) for authority to transfer more than ten percent interest to MTC's Employee Stock Ownership Plan and accomplish the related financing arrangements.

Statutory authority: Public Service Law, sections 100, 101 and 106

Subject: Stock ownership interest and associated financial transactions.

Purpose: To consider the transfer of controling interest and associated financial transactions.

Substance of proposed rule: The Public Service Commission is considering a petition filed on October 21, 2022 by Margaretville Telephone Company Inc. (MTC) and Margaretville Telephone Company Inc. Employee Stock Ownership Plan (MTC ESOP) for authority to transfer interest to MTC ESOP.

MTC ESOP, which currently owns 60.77% of the equity of MTC, is seeking approval to acquire the remaining 39.23% equity interest in MTC and consummate related financing arrangements.

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

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

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

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

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

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

(22-C-0593SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-49-22-00018-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 70 Remsen Street Tenants Corp. to submeter electricity at 70 Remsen St., Brooklyn, New York.

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

Subject: Notice of intent to submeter electricity.

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

Substance of proposed rule: The Commission is considering the notice of intent filed by 70 Remsen Street Tenants Corp. filed on August 2, 2022, seeking authority to submeter electricity to an existing master-metered cooperative building located at 70 Remsen Street, Brooklyn, New York, 11201 located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

In the notice of intent, 70 Remsen Street Tenants Corp. requests authorization to take electric service from Con Edison and then distribute and meter that electricity to its residents. 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 notice of intent and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

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

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

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

(22-E-0458SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Waiver of Tariff Rules and a Related Commission Regulation

I.D. No. PSC-49-22-00019-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 by Peet Homes LLC for waiver of Niagara Mohawk Power Corporation d/b/a National Grid's tariff rules and a related regulation regarding the extension of electric and gas lines.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Waiver of tariff rules and a related Commission regulation.

Purpose: To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed on November 9, 2022 by Peet Homes, LLC (Petitioner), requesting a one-year extension of the time allowed by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid)'s tariff to energize additional lots of the Peet Drive Subdivision (Development).

The Commission's regulations at 16 NYCRR § 100.3 provide that a non-residing applicant for electric service must provide a deposit to the utility equal to the estimated cost of construction. The deposit is returned to the applicant, on a pro rata basis, as each lot is sold and new customers take service from the utility. Part 100.3(b) provides that any portion of the deposit remaining unrefunded five years after the date the utility is first ready to render service shall be retained by the utility. National Grid's electric tariff, PSC 220 Rule 16.6, incorporates the Commission's regulation. National Grid's gas tariff, PSC 219, Rule 10.4 provides substantially similar requirements for non-residing applicants requesting the extension of gas facilities.

The Development is located in Marcy, New York. National Grid has been ready to supply the Development with electric and gas service since 2017. The Petitioner provided National Grid with a letter of credit for the refundable portion of the contribution. The five-year development period expired on November 15, 2022, at which point National Grid would be entitled to call upon the remaining value of the letter of credit, approximately $5,105.32. Petitioner requests a waiver of National Grid's tariff rule and the related Commission regulation to allow a one-year extension of the development period. Petitioner states it has been negatively affected due to the impacts of the COVID-19 pandemic.

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

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

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

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

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

(22-M-0639SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Waiver of Tariff Rules and a Related Commission Regulation

I.D. No. PSC-49-22-00020-P

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

Proposed Action: The Commission is considering a petition filed by Niagara Mohawk Power Corporation d/b/a National Grid for a limited waiver of the Revenue Decoupling Mechanism provisions in its electric service tariff and waiver of newspaper publication requirements.

Statutory authority: Public Service Law, sections 5(1)(b), 66(1) and (12)(b)

Subject: Waiver of tariff rules and a related Commission regulation.

Purpose: To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed on November 18, 2022 by Niagara Mohawk Power Corporation d/b/a National Grid (Company) requesting a limited waiver of the Revenue Decoupling Mechanism (RDM) provisions included in Rule 57.1.3 and 57.1.3.3 of the P.S.C. 220 – Electric Service Tariff (Electric Tariff), as well as waiver of the newspaper publication requirements of Public Service Law (PSL) § 66(12)(b) and 16 NYCRR § 720-8.1.

Rule 57 of the Electric Tariff allows the Company to reconcile actual billed delivery service revenues for the RDM reconciliation period to target delivery service revenues, for each customer group subject to the RDM. The difference between actual billed delivery service revenues and target revenues for each customer group forms the basis for the RDM adjustment for that group. The Company's Electric Energy Efficiency Transition Implementation Plan (ETIP) costs were moved from the System Benefits Charge surcharge rate to base delivery rates in the Company's last rate case. Since customers that received an allocation of energy from NY Power Authority or the Recharge NY program were not required to contribute to the Company's ETIP program, such customer began receiving ETIP credits starting in April 2018. The Company states that these ETIP credits issued to customers were not included in actual delivery revenues for the RDM reconciliation, causing the Company to under-recover approximately $18 million from Service Classification ("SC") 2 Demand ("SC-2D"), SC-3, and SC-3A customer groups in aggregate for the period of April 2018 through March 2021.

The Company requests waiver of Rule 57.1.3 and 57.1.3.3 of its Electric Tariff to allow it to include these omitted credits in its RDM adjustment and to recover them over a period of longer than 12 months for SC-3 and SC-3A customers. The Company proposes three different recovery plans to recover the omitted credits for each of the three impacted Reconciliation Groups: (1) inclusion of SC-2D's under-recovery in the Company's next annual RDM reconciliation filing in June 2023; (2) recovery of the SC-3 under-recovery over a 15-month period, beginning in April 2023; and (3) recovery of the SC-3A under-recovery over 27-month period, beginning in April 2023. The Company also requests waiver of the newspaper publication requirements of PSL § 66(12)(b), as it plans to notify all impacted SC-3 and SC-3A customers by letter/email. The Company also states that the amount to be recovered from SC-2D customers is de minimis and thus customer communication should not be necessary.

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

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

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

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

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

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

(20-E-0380SP3)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Clean Energy Standard Tier 1 Load Serving Entity Obligations

I.D. No. PSC-49-22-00021-P

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

Proposed Action: The Commission is considering a petition filed by the New York State Energy Research and Development Authority seeking to modify the Clean Energy Standard Tier 1 load serving entity obligation to a load share obligation.

Statutory authority: Public Service Law, sections 4(1), 5(1), (2), 66(2), 66-p and Energy Law, section 6-104(5)(b)

Subject: Clean Energy Standard Tier 1 load serving entity obligations.

Purpose: To transition the Tier 1 load serving entity obligation from a percentage based obligation to a load share obligation approach.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition (Petition), filed on November 9, 2022, by the New York Energy Research and Development Authority (NYSERDA) seeking approval to transition the Clean Energy Standard (CES) Tier 1 program away from the current percentage-based obligation and toward a load share obligation approach similar to other existing load serving entity (LSE) obligations under the CES.

Under the proposed approach, all LSEs would be obligated to procure all Tier 1 renewable energy certificates (RECs) made available by NYSERDA in a proportion equivalent to their share of the statewide load share, after the completion of a new voluntary sales process for Tier 1 RECs. The Petition notes that there would no longer be a need for LSEs to purchase Alternative Compliance Payments (ACPs) for CES compliance, nor would there be an incentive for LSEs to purchase RECs outside of those purchased by NYSERDA. NYSERDA proposes that the transition from an LSE obligation percentage to a method using LSE load share to determine each LSE's obligation commence with compliance year 2025.

Additionally, NYSERDA proposes to purchase all Value of Distributed Resources (VDER) Tier 1 RECs from each investor-owned utility (IOUs) and add these VDER Tier 1 RECs to the Tier 1 RECs purchased by NYSERDA to determine the total Tier 1 REC costs and obligation for all LSEs. The Petition adds that the IOUs will receive credit for NYSERDA's required purchase of IOU VDER Tier 1 RECs. NYSERDA proposes that the cost of VDER Tier 1 RECs is to be shared amongst jurisdictional ratepayers as the environmental attributes are a shared social benefit. To effectuate this purchase of VDER Tier 1 RECs from IOUs, NYSERDA proposes that VDER Tier 1 REC transferability be modified to allow VDER Tier 1 RECs minted in the New York Generation Attribute Tracking System (NYGATS) to be transferrable to NYSERDA and that NYSERDA be able to transfer VDER Tier 1 RECs as necessary.

If the Long Island Power Authority (LIPA) elects to participate in this new framework for Tier 1 compliance, NYSERDA proposes to purchase from LIPA the Tier 1 RECs LIPA procures, in a similar manner as NYSERDA is purchasing VDER Tier 1 RECs from IOUs.

NYSERDA also proposes that municipal utilities that own or are in contract with a CES Tier 1 eligible project be treated in a manner consistent with IOUs' Tier 1 VDER RECs. Regarding the New York Power Authority (NYPA), NYSERDA proposes to modify or replace the agreement between NYSERDA and NYPA for the purchase of Tier 1 RECs starting in 2024 if the Petition is approved.

NYSERDA proposes to sell Tier 1 RECs to the voluntary market in three ways which would help to defray the cost of the Tier 1 program to New York ratepayers. First, NYSERDA proposes to enter into long-term contracts with creditworthy entities for the purchase of Tier 1 RECs prior to sale to LSEs. Any revenue NYSERDA receives from the long-term contracts would be recognized as long-term contract revenue for the purpose of the LSE Tier 1 obligation reconciliation and as such reduce the total cost of the Tier 1 REC program to ratepayers.

Second, as part of the new approach, NYSERDA proposes to hold an annual presale at the start of each compliance year whereby NYSERDA would offer a percentage of available Tier 1 RECs to the voluntary market. NYSERDA would announce the quantity of Tier 1 RECs available for sale, presale price, and presale process no later than July 15th of each year through the end of the Tier 1 program. The Petition states that NYSERDA would conduct the first voluntary presale of Tier 1 RECs in August of 2024 for the delivery in the 2025 compliance year. The Tier 1 REC presale would be based on the projected net-weighted average cost of Tier 1 RECs after subtracting the voluntary long-term commitments, plus any administrative adder. Given the evolving and competitive nature of the Tier 1 REC market, NYSERDA proposes to have the ability to pursue an auction mechanism that would include variable pricing citing the potential that an auction structure could meet the needs of the market and maximize voluntary sales, thereby maximizing the reduction of ratepayer obligations. Under the presale auction structure, NYSERDA would sell RECs to the voluntary market at or above NYSERDA's forecasted net-weighted average cost to procure RECs for the upcoming compliance year, with the forecasted REC price serving as an auction reserve price for blocks of RECs that voluntary purchasers could bid on for a designated period of time. If the demand for Tier 1 RECs is below the expected Tier 1 presale inventory, each organization would be allocated a quantity of RECs equal to their order quantity. If total order quantity is above the expected Tier 1 REC inventory, each organization would receive a pro-rata share of Tier 1 RECs based upon their total order quantity. Invoices would be distributed within approximately seven business days from the end of each presale period, with payments from purchasers within 30 days. If the full funds are not transferred to NYSERDA according to the payment terms, NYSERDA would reserve the right to cancel the purchaser's order. NYSERDA proposes that the proceeds from the annual Tier 1 REC presale be considered Tier 1 annual revenue and included in the reconciliation process.

Third, NYSERDA proposes to hold a Tier 1 REC resale at the end of each compliance year if there is sufficient demand and NYSERDA has a sufficient volume of Tier 1 RECs. If NYSERDA were to hold a Tier 1 REC resale, it proposes that the Tier 1 RECs be priced at the actual weighted average price, plus any applicable administrative adder. NYSERDA further proposes to use the same sale methodologies for this resale as it would for the presale described above, with one substantive difference. For the resale, NYSERDA requests the ability to design an auction process that would sell at or above NYSERDA's actual, rather than forecasted, net-weighted average cost to procure RECs for the compliance year.

NYSERDA proposed to transfer Tier 1 RECs to all voluntary purchasers via NYGATS after the Tier 1 compliance year is complete, with account holders having 14 days to accept the pending transfer from NYSERDA per the NYGATS Operating Rules. Under this proposal, NYGATS account holders, including voluntary purchasers, would not be allowed to transfer Tier 1 RECs purchased from NYSERDA. For non-VDER Tier 1 RECs, NYSERDA proposes to remove the banking restriction from Tier 1 RECs. For VDER Tier 1 RECs, NYSERDA proposes to allow VDER Tier 1 RECs to be transferred to NYSERDA's NYGATS account via a standardized agreement, and allow VDER Tier 1 RECs acquired by NYSERDA to be resold by NYSERDA to NYGATS account holders.

NYSERDA further proposes a reconciliation process to reconcile LSE obligations similarly to the processes currently utilized for reconciliation of other CES Tiers. Under the proposed method, a uniform wholesale per megawatt hour (MWh) charge would be applied to each LSE's actual wholesale load to calculate their monthly Tier 1 REC obligation payments. Beginning January 1, 2025, and reoccurring each year thereafter, NYSERDA proposes to determine, in collaboration with Department of Public Service Staff, the dollar per MWh charge (LSE Tier 1 REC Rate) owed by each LSE for the next compliance year of the Tier 1 program. That rate would be used by all LSEs and NYSERDA to determine the monthly payment an LSE would be responsible for making to NYSERDA and would be a wholesale rate that would be applied to the wholesale load data NYSERDA receives from the New York Independent System Operator (NYISO). The cost component of the LSE Tier 1 REC Rate would be based on the total forecasted cost for NYSERDA to purchase Tier 1 RECs, while the load component would be based on statewide forecasted load. Any discrepancies between projected costs and actual costs would be settled during the annual reconciliation process. To provide process transparency, NYSERDA proposes to use a published forecast as the basis of determining the statewide load component.

An LSE's monthly Tier 1 payment obligation would be calculated using the LSE Tier 1 REC Rate, multiplied by the number of MWh the LSE served, using the NYISO Version 1 load data, and multiplied by a Load Modifier Rate. NYSERDA proposes to notify each LSE of the LSE Tier 1 REC Rate for the upcoming year as well as any load modifier adjustments and a load modifier rate, by e-mail after it has been calculated, with NYSERDA also publishing the LSE Tier 1 REC Rate on the NYSERDA website. This notification would occur after Commission approval of any NYSERDA administrative adder for the compliance year but at least two months before the commencement of a compliance year.

Next, NYSERDA proposes that the Tier 1 obligation payment determination would utilize the "pay-as-you-go" payment methodology developed under the 2019 Zero Emission Credit Implementation Plan. NYSERDA would utilize an LSE's monthly wholesale load requirements for their retail customers, as settled by the NYISO each month, as a basis for each LSE's monthly payment to NYSERDA.

NYSERDA proposes that a reconciliation process would occur after the Tier 1 compliance year ends on December 31st each year. As proposed, NYSERDA would first reconcile financial obligations to Tier 1 contracted generators and the IOUs would submit their final VDER quantity. NYSERDA would next offset the total financial obligation to Tier 1 contracted generators and IOU VDERs with any Tier 1 long-term contract revenue as well as any Tier 1 annual presale or resale revenue to determine the net LSE financial obligation. NYSERDA would then reconcile the funds collected from each LSE to the net LSE financial obligation necessary to meet their requirement based on the NYISO Version 2 load data recorded in NYGATS, and adjusted for load modifiers. This reconciliation would account for the actual adjusted statewide load, the actual number of Tier 1 RECs purchased by NYSERDA, the actual price paid by NYSERDA for those Tier 1 RECs, and any Tier 1 revenue from the long-term or annual voluntary sales.

Included in the Petition as Appendix A is a proposed Tier 1 form agreement reflecting the terms of the proposed Tier 1 compliance obligation for LSEs. NYSERDA proposes that all LSEs are required to accept the agreement within 60 days of any order approving the Petition.

Finally, NYSERDA summarizes the benefits of this transition to a load share obligation approach. First, NYSERDA asserts that the ability to hold voluntary Tier 1 REC sales could transition costs of the Tier 1 component of the CES from obligated ratepayers to the voluntary market. Second, this approach would eliminate the need for ACPs, and would result in NYSERDA only collecting enough funds to meet its contractual requirements for a compliance year plus any Commission-approved administrative adder. Additionally, since other LSE obligations (Tier 2, Tier 3, Tier 4, and Offshore Wind), are all based upon an LSE's load share, NYSERDA asserts that by transitioning Tier 1 to a load share obligation, all of the CES obligations would be consistent across all programs and enable both LSEs and NYSERDA to gain administration efficiencies.

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

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

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

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

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

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

(15-E-0302SP56)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Waiver of Tariff Rules and a Related Commission Regulation

I.D. No. PSC-49-22-00022-P

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

Proposed Action: The Commission is considering a petition by Pinebrooke Falls, LLC for waiver Niagara Mohawk Power Corporation d/b/a National Grid's tariff rules and a related regulation regarding the extension of electric lines.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Waiver of tariff rules and a related Commission regulation.

Purpose: To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed on November 8, 2022 by Pinebrooke Falls, LLC (Petitioner), requesting a two-year extension of the time allowed by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid)'s tariff, in addition to a previous extension granted by the Commission on January 24, 2022 in Case 21-E-0475, to energize additional lots of the Pinebrook Apartments (Development).

The Commission's regulations at 16 NYCRR § 100.3 provide that a non-residing applicant for electric service must provide a deposit to the utility equal to the estimated cost of construction. The deposit is returned to the applicant, on a pro rata basis, as each lot is sold and new customers take service from the utility. Part 100.3(b) provides that any portion of the deposit remaining unrefunded five years after the date the utility is first ready to render service shall be retained by the utility. National Grid's electric tariff, PSC 220 Rule 16.6, incorporates the Commission's regulation.

The Development is located in Honeoye Falls, New York. National Grid has been ready to supply the Development with electric service since October 14, 2016. The Petitioner provided National Grid with a letter of credit for the refundable portion of the contribution. The development period expires on December 31, 2022, due to the Commission's previously approved extension, at which point National Grid would be entitled to call upon the remaining value of the letter of credit, approximately $57,009.60. Petitioner requests a waiver of National Grid's tariff rule and the related Commission regulation to allow for an additional two-year extension of the development period. Petitioner states it has continued to be negatively affected due to the impacts of COVID-19 and now lack of product availability and cost increases have inflated its project budget.

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

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

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

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

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

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

(22-E-0638SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Waiver of Tariff Rules and a Related Commission Regulation

I.D. No. PSC-49-22-00023-P

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

Proposed Action: The Commission is considering a petition by Beach Ridge Meadows for a waiver of Niagara Mohawk Power Corporation d/b/a National Grid's tariff rules and a related regulation regarding the extension of electric lines.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Waiver of tariff rules and a related Commission regulation.

Purpose: To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed on November 7, 2022 by Beach Ridge Meadows (Petitioners), requesting a five-year extension of the time allowed by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid)'s tariff to energize additional lots of the Beach Ridge Meadows (Development) owned by the Petitioners.

The Commission's regulations at 16 NYCRR § 100.3 provide that a non-residing applicant for electric service must provide a deposit to the utility equal to the estimated cost of construction. The deposit is returned to the applicant, on a pro rata basis, as each lot is sold and new customers take service from the utility. Part 100.3(b) provides that any portion of the deposit remaining unrefunded five years after the date the utility is first ready to render service shall be retained by the utility. National Grid's electric tariff, PSC 220 Rule 16.6, incorporates the Commission's regulation.

The Development is located in Town of Pendleton, New York. The Petitioners state that National Grid has been ready to supply the Development with electric service since 2017. The Petitioners provided National Grid with a letter of credit for the refundable portion of the contribution. The development period expires on December 13, 2022, at which point National Grid would be entitled to call upon the remaining value of the letter of credit, approximately $43,008. The Petitioners request a waiver of National Grid's tariff rule and the related Commission regulation to allow for an additional two-year extension of the development period. The Petitioners state they have been negatively affected due to the impacts of the COVID-19 pandemic.

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

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

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

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

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

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

(22-E-0632SP1)

Department of State

NOTICE OF ADOPTION

Updates to Educational Standards

I.D. No. DOS-29-22-00004-A
Filing No. 956
Filing Date: 2022-11-21
Effective Date: 2022-12-21

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

Action taken: Amendment of sections 176.3, 176.4, 176.15, 176.16, 176.20, 176.25, 177.1, 177.14; repeal of sections 176.26, 177.18(b); addition of sections 176.26, 177.8(c) and 177.18(b) to Title 19 NYCRR.

Statutory authority: Executive Law, section 91; Real Property Law, sections 441(3)(e), 442-h and 442-k

Subject: Updates to educational standards.

Purpose: Conform existing regulations to changes required relating to fair housing education.

Substance of final rule: This rule conforms existing regulations to recent legislative changes concerning educational standards relating to obtaining and/or renewing a license under Article 12-A of the NY Real Property Law (NY RPL).

On December 21, 2021, Governor Hochul signed a series of new bills into law, of which many were revised by chapter amendments. Accordingly, this rule implements such laws and chapter amendments.

Under the new laws, licensees are required to take 2 hours of implicit bias and 2 hours of cultural competency education for license renewal. These courses are taken within the existing 22.5 hours of required training. Accordingly, this rule adds the required course work to existing regulations where required.

Under the new laws, applicants for licensure as a salesperson are required to take 2 additional hours of pre-licensing education in fair housing. Accordingly, this rule adds the required course work to existing regulations where required.

Under the new laws, applicants for licensure as a broker are required to take an additional 32 hours of pre-licensing education. Accordingly, the rule amends the existing curriculum to obtain a broker's license to allocate the additional 32 hours, of which 10 hours have been devoted to specific fair housing issues.

To ensure that those applicants who have taken previously approved course work will not have to re-take entire classes, the Department is also implementing revisions to allow for supplemental courses which would satisfy any outstanding hours of education required by the NY RPL.

Under the new laws, approved educational providers must affirm, under the penalty of perjury, compliance with all applicable statutory and regulatory requirements pertaining to the instruction of the established curriculum. Additionally, the amended statute requires the Department to promulgate rules regarding penalties for non-compliance. Accordingly, the rule amends existing regulations to provide for the required affirmation and non-discretionary statutory penalties for non-compliance.

The rule also removes an exemption to the continuing education requirement which was repealed by the legislature, but was never addressed in Title 19 of the NYCRR. Accordingly, this revision is non-discretionary and intended to conform with the current version of NY RPL § 441.

A copy of the full final adopted rule is available on the Department's website at: https://dos.ny.gov/regulatory-proposals

Final rule as compared with last published rule: Nonsubstantive changes were made in section 176.26(a)(1), (3), (b)(1) and (2).

Text of rule and any required statements and analyses may be obtained from: David Mossberg, NYS Department of State, 123 William Street, 20th Floor, New York, NY 10038, (212) 417-2063, email: david.mossberg@dos.ny.gov

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

The Department has adopted this rulemaking with non-substantive changes to 19 NYCRR §§ 176.26(a)(1),(3); and 19 NYCRR §§ 176.26(b)(1),(2). The changes clarify that an applicant seeking to upgrade a license or obtain an entirely new license from the Department can satisfy the educational requirements by taking a course dedicated to fair housing and/or anti-bias training. As originally proposed, the course would have needed to provide instruction on both topics. After proposing the rule, the Department determined that, since not every course on fair housing covers specifically anti-bias training or vice-versa, to provide greater flexibility to students and to ensure there are sufficient courses available, applicants could take a course devoted to either topic. The Department therefore considers these changes non-substantive, which do not change the intended purpose of the rule. Accordingly, these changes do not require a Revised: Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, or Job Impact Statement.

Initial Review of Rule

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

Assessment of Public Comment

The agency received no public comment.

Office of Temporary and Disability Assistance

EMERGENCY RULE MAKING

Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP)

I.D. No. TDA-39-22-00005-E
Filing No. 948
Filing Date: 2022-11-17
Effective Date: 2022-12-11

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

Action taken: Amendment of section 387.12(f)(3)(v)(a)-(c) of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(a)-(b), (k), 20(3)(d), 95; 7 United States Code, section 2014(e)(6)(C); 7 Code of Federal Regulations, section 273.9(d)(6)(iii)

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

Specific reasons underlying the finding of necessity: It is of great importance that the federally-approved standard utility allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP) are applied to SNAP benefit calculations effective October 1, 2022, and thereafter until new amounts eventually are approved by the United States Department of Agriculture (USDA). The new federally-approved SUA amounts for heating/cooling, utilities and telephone must be implemented by the October 1, 2022 deadline. The use of SUAs that are not authorized by the USDA could result in severe fiscal sanctions by the federal government against the State. These emergency amendments protect the public health and general welfare by setting forth the federally-approved SUAs effective as of October 1, 2022.

As stated above, there is no federal authority to use past SUAs after the October 1, 2022 effective date of the new federally-approved allowance amounts. For New York to continue the State option to use the SUA in lieu of the actual utility cost portion of SNAP household shelter expenses, new allowances must be in place. Otherwise, the State may be forced to use the actual utility cost portion of the shelter expenses of each SNAP household. This policy would result in all 58 social services districts (districts) in New York State having to require up to 1.6 million SNAP households to provide verification of the actual utility cost portions of their shelter expenses. This policy would create a tremendous burden on both districts as well as recipient households. In addition, as actual utility costs are generally significantly less than the SUAs, SNAP households would have a much smaller shelter deduction resulting in a sizeable reduction in their SNAP benefits. This reduction in SNAP benefits for up to 1.6 million SNAP households would result in significant harm to the health and welfare of these households.

It is noted that the regulatory amendments are being promulgated pursuant to a Notice of Emergency Adoption due to time constraints. To preserve public health and general welfare, OTDA originally promulgated

the emergency rule via a Notice of Emergency Adoption and Proposed Rule Making on September 12, 2022, and the emergency rule became effective on October 1, 2022. The Notice of Emergency Adoption and Proposed Rule Making was published in the New York State Register on September 28, 2022 under I.D. No. TDA-39-22-00005-EP. OTDA will be accepting public comments on the current emergency rule through November 28, 2022. The current emergency rule expires on December 10, 2022.

This first readoption of the current emergency rule is necessary in order to avoid a lapse in the current emergency rule, insofar as the expiration of the 60-day public comment period will not provide sufficient time for OTDA to publish a Notice of Adoption in the New York State Register before the current emergency rule expires on December 10, 2022.

Subject: Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP).

Purpose: These regulatory amendments set forth the federally-approved SUAs as of 10/1/22.

Text of emergency rule: Clauses (a)-(c) of subparagraph (v) of paragraph (3) of subdivision (f) of § 387.12 of Title 18 NYCRR is amended to read as follows:

(a) The standard allowance for heating/cooling consists of the costs for heating and/or cooling the residence, electricity not used to heat or cool the residence, cooking fuel, sewage, trash collection, water fees, fuel for heating hot water and basic service for one telephone. The standard allowance for heating/cooling is available to households which incur heating and/or cooling costs separate and apart from rent and are billed separately from rent or mortgage on a regular basis for heating and/or cooling their residence, or to households entitled to a Home Energy Assistance Program (HEAP) payment or other Low Income Home Energy Assistance Act (LIHEAA) payment. A household living in public housing or other rental housing which has central utility meters and which charges the household for excess heating or cooling costs only is not entitled to the standard allowance for heating/cooling unless they are entitled to a HEAP or LIHEAA payment. Such a household may claim actual costs which are paid separately. Households which do not qualify for the standard allowance for heating/cooling may be allowed to use the standard allowance for utilities or the standard allowance for telephone. As of October 1, [2021] *2022*, but subject to subsequent adjustments as required by the United States Department of Agriculture (USDA), the standard allowance for heating/cooling for SNAP applicant and recipient households residing in New York City is [$852] *$1,002*; for households residing in either Suffolk or Nassau Counties, it is [$792] *$932*; and for households residing in any other county of New York State, it is [$703] *$827*.

(b) The standard allowance for utilities consists of the costs for electricity not used to heat or cool the residence, cooking fuel, sewage, trash collection, water fees, fuel for heating hot water and basic service for one telephone. It is available to households billed separately from rent or mortgage for one or more of these utilities other than telephone. The standard allowance for utilities is available to households which do not qualify for the standard allowance for heating/cooling. Households which do not qualify for the standard allowance for utilities may be allowed to use the standard allowance for telephone. As of October 1, [2021] *2022*, but subject to subsequent adjustments as required by the USDA, the standard allowance for utilities for SNAP applicant and recipient households residing in New York City is [$336] *$395*; for households residing in either Suffolk or Nassau Counties, it is [$311] *$366*; and for households residing in any other county of New York State, it is [$285] *$335*.

(c) The standard allowance for telephone consists of the cost for basic service for one telephone. The standard allowance for telephone is available to households which do not qualify for the standard allowance for heating/cooling or the standard allowance for utilities. As of October 1, [2021] *2022*, but subject to subsequent adjustments as required by the USDA, the standard allowance for telephone for all SNAP applicant and recipient households residing in New York State is $31.

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. TDA-39-22-00005-EP, Issue of September 28, 2022. The emergency rule will expire January 15, 2023.

Text of rule and any required statements and analyses may be obtained from: Thomas Makely, New York State Office of Temporary and Disability Assistance, 40 North Pearl Street, Floor 16C, Albany, NY 12243-0001, (518) 402-3966, email: thomas.makely@otda.ny.gov

Regulatory Impact Statement

1. Statutory authority:

The United States Code (U.S.C.), at 7 U.S.C. § 2014(e)(6)(C), provides that in computing shelter expenses for budgeting under the federal Supplemental Nutrition Assistance Program (SNAP), a State agency may use a standard utility allowance (SUA) as provided in federal regulations.

The Code of Federal Regulations (C.F.R.), at 7 C.F.R. § 273.9(d)(6)(iii), provides for SUAs in accordance with SNAP. Clause (A) of this subparagraph states that with federal approval from the Food and Nutrition Services (FNS) of the United States Department of Agriculture (USDA), a State agency may develop SUAs to be used in place of actual costs in calculating a household's excess shelter deduction. Federal regulations allow for the following types of SUAs: a SUA for all utilities that includes heating or cooling costs; a limited utility allowance that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection; and an individual standard for each type of utility expense. Clause (B) of the subparagraph provides that a State agency must review the SUAs annually and adjust them to reflect changes in costs. State agencies also must provide the amounts of the SUAs to the FNS when the SUAs are changed and submit the methodologies used in developing and updating the SUAs to the FNS for approval whenever the methodologies are developed or changed.

Social Services Law (SSL) § 17(a)-(b) and (k) provide, in part, that the Commissioner of the Office of Temporary and Disability Assistance (OTDA) shall "exercise such other powers and perform such other duties as may be imposed by law."

SSL § 20(3)(d) authorizes OTDA to promulgate regulations to carry out its powers and duties.

SSL § 95 authorizes OTDA to administer SNAP in New York State (NYS) and to perform such functions as may be appropriate, permitted or required by or pursuant to federal law.

2. Legislative objectives:

It was the intent of the Legislature to implement the federal SNAP Act in NYS in order to provide SNAP benefits to eligible NYS residents.

3. Needs and benefits:

The regulatory amendments set forth the SUAs within NYS as of October 1, 2022. OTDA is amending its SUAs in 18 NYCRR § 387.12(f)(3)(v)(a)-(b) to reflect an increase in fuel and utility costs, which is indicated in the Consumer Price Index (CPI) fuel and utilities values (which includes components for water, sewage and trash collection). Specifically, OTDA is amending the standard allowance for heating/cooling for SNAP applicant and recipient households residing in New York City from $852 to $1,002; the standard allowance for heating/cooling for such households residing in either Nassau or Suffolk Counties from $792 to $932; and for such households residing in any other county of NYS $703 to $827. OTDA is also amending the standard allowance for utilities for SNAP applicant and recipient households residing in New York City from $336 to $395; the standard allowance for utilities for such households residing in either Nassau or Suffolk Counties from $311 to $366; and for such households residing in any other county of NYS from $285 to $335. The standard allowance for telephone, as set forth in 18 NYCRR § 387.12(f)(3)(v)(c), will remain $31 for all counties in the State.

The following chart sets forth the SUA categories; the past SUAs ("Past SUA") that were in effect for federal fiscal year (FFY) 2022, from October 1, 2021 through September 30, 2022; and the new SUAs ("New SUA") that are in effect for FFY 2023, effective October 1, 2022:

	New York City		Nassau/Suffolk Counties		Rest of State	
	Past SUA	New SUA	Past SUA	New SUA	Past SUA	New SUA
Heating/Air Conditioning SUA	$852	$1002	$852	$1002	$703	$827
Basic Utility SUA	$336	$395	$311	$366	$285	$335
Phone SUA	SUA: $31 (for all Counties)		SUA: $31 (for all Counties)		SUA: $31 (for all Counties)	

The aforementioned values have been determined in accordance with the current methodology approved by USDA for adjusting New York State's SUA values.

To determine the Heating/Cooling and Limited Utility SUA values for FFY 2023, the Consumer Price Index (CPI) Fuel and Utility value for All Urban Consumers, Not Seasonally Adjusted, for June 2022 was compared to the same CPI Fuel and Utility value for June 2021. (The June 2021 CPI value was used to determine the adjustment for the current FFY 2022 SUA values). The June 2022 CPI-U Fuel and Utility value is 17.624 percent higher than the June 2021 value. Consequently, the SUA figures provided above are 17.624 percent higher than the current FFY 2022 SUA. Rounded to the nearest whole dollar, the resultant values are reflected in the chart above.

To determine the Telephone SUA value for FFY 2023, the Consumer Price Index (CPI) Telephone Services value for All Urban Consumers, Not Seasonally Adjusted, for June 2022 was compared to the same CPI Telephone Services value for June 2021, the CPI value that was used to determine the current FFY 2022 SUA value. The percentage change between June 2021 and June 2022 was then applied to OTDA's current SUA figure and rounded; the June 2022 CPI-U Telephone Services value is 0.067 percent lower than the June 2021 value. Rounded to the nearest whole dollar, this means that the Telephone SUA value for FFY 2023 will remain $31 statewide.

OTDA has all required approvals from the FNS pertaining to these changes and is required to apply the SUAs for FFY 2023 in its SNAP budgeting effective October 1, 2022. As of October 1, 2022, OTDA does not have federal approval or authority to apply past SUAs in its prospective SNAP budgeting.

It is of great importance that the federally-approved SUAs for the SNAP are applied to SNAP benefit calculations effective October 1, 2022, and thereafter until new amounts eventually are approved by the USDA. The new federally-approved SUA amounts for heating/cooling, utilities and telephone must be implemented by the October 1, 2022 deadline. The use of a SUA that is not authorized by the USDA could result in severe fiscal sanctions by the federal government against the State. These emergency amendments protect the public health and general welfare by setting forth the federally-approved SUAs effective as of October 1, 2022.

As stated above, there is no federal authority to use past SUAs after the October 1, 2022 effective date of the new federally-approved allowance amounts. For New York to continue the State option to use the SUA in lieu of the actual utility cost portion of SNAP household shelter expenses, new allowances must be in place. Otherwise, the State may be forced to use the actual utility cost portion of the shelter expenses of each SNAP household. This policy would result in all 58 social services districts (districts) in NYS having to require up to 1.6 million SNAP households to provide verification of the actual utility cost portions of their shelter expenses. This policy would create a tremendous burden on both districts as well as recipient households. In addition, as actual utility costs are generally significantly less than the SUAs, SNAP households would have a much smaller shelter deduction resulting in a sizeable reduction in their SNAP benefits. This reduction in SNAP benefits for up to 1.6 million SNAP households would result in significant harm to the health and welfare of these households.

4. Costs:

The regulatory amendments will not result in any impact to the State financial plan, they will not impose costs upon the districts because SNAP benefits are 100 percent federally-funded, and they comply with federal statute and regulation to implement federally-approved SUAs.

5. Local government mandates:

The regulatory amendments do not impose any mandates upon districts since the amendments simply set forth the federally-approved SUAs, effective October 1, 2022. Additionally, the calculation of SNAP budgets, which incorporates the SUAs, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using OTDA's Welfare Management System. To the extent that these processes are not automated, the regulatory amendments do not impose any additional requirements upon the districts in terms of calculating SNAP budgets.

6. Paperwork:

The regulatory amendments do not impose any new forms, new reporting requirements or other paperwork upon the State or the districts.

7. Duplication:

The regulatory amendments do not duplicate, overlap or conflict with any existing State or federal statutes or regulations.

8. Alternatives:

An alternative to the regulatory amendments would be to refrain from implementing the revised SUAs. However, this alternative is not a viable option because if NYS were to opt not to implement the new SUAs or were otherwise judicially precluded from doing so, then NYS would be out of compliance with federal statutory and regulatory requirements.

9. Federal standards:

The regulatory amendments do not conflict with or exceed minimum standards of the Federal Government.

10. Compliance schedule:

To preserve public health and general welfare, OTDA originally promulgated the emergency rule via a Notice of Emergency Adoption and Proposed Rule Making on September 12, 2022, and the emergency rule became effective on October 1, 2022. The current emergency rule expires on December 10, 2022. Since the regulatory amendments are presently in effect, the State and the districts are already in compliance with the regulatory amendments.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis is not required for the regulatory amendments because the regulatory amendments to 18 NYCRR § 387.12(f)(3)(v)(a)-(c) will neither have an adverse economic impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon small businesses or social services districts (districts). The regulatory amendments set forth the federally-approved standard utility allowances for the Supplemental Nutrition Assistance Program effective October 1, 2022. As it is evident from the nature of the regulatory amendments that they will not have an adverse impact upon or impose reporting, recordkeeping, or other compliance requirements upon small businesses or districts, no further measures were needed to ascertain those facts and, consequently, none were taken.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not required for the regulatory amendments to 18 NYCRR § 387.12(f)(3)(v)(a)-(c) because the regulatory amendments will neither have an adverse impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon rural social services districts (rural districts) or private entities in rural areas. The regulatory amendments set forth the federally-approved standard utility allowances for the Supplemental Nutrition Assistance Program effective October 1, 2022. As it is evident that the regulatory amendments will not have an adverse impact upon or impose reporting, recordkeeping, or other compliance requirements upon rural districts or private entities in rural areas, no further measures were needed to ascertain those facts and, consequently, none were taken.

Job Impact Statement

A Job Impact Statement is not required for the regulatory amendments. It is apparent from the nature and the purpose of the regulatory amendments that they do not have a substantial adverse impact on jobs and employment opportunities in either the public or the private sectors in New York State (NYS). The regulatory amendments have no effect on small businesses. The regulatory amendments do not affect, in any significant way, the jobs of the workers in the social services districts (districts) or the State. These regulatory amendments set forth the federally-approved standard utility allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP) as of October 1, 2022. The calculation of SNAP budgets, which incorporates the SUAs, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using the Office of Temporary and Disability Assistance's Welfare Management System. To the extent these processes are not automated, the regulatory amendments do not impose any additional requirements upon the districts in terms of calculating SNAP budgets. Thus, the regulatory amendments do not have any adverse impact on jobs and employment opportunities in either the public or private sectors of NYS.

Office of Victim Services

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Limits on Administrative Expenses and Executive Compensation Pursuant to Executive Order 38

I.D. No. OVS-49-22-00003-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 amend section 525.22(b); and repeal section 525.24 of Title 9 NYCRR.

Statutory authority: Executive Law, section 623(3)

Subject: Limits on administrative expenses and executive compensation pursuant to Executive Order 38.

Purpose: As Executive Order 38 has been discontinued, the purpose of this rule is to repeal regulations implementing Executive Order 38.

Text of proposed rule: Section 525.22(b) is amended to read as follows:

(b) Victim Assistance Programs receiving State funds or State-authorized payments from the office pursuant to the terms of a contract or memorandum of understanding shall comply with all applicable Federal and State laws and regulations and any applicable contractual or memorandum of understanding language entered into with the office. Applicable state regulations shall include, but not be limited to this section[and section 525.24 of this Part].

Section 525.24 is repealed and reserved.

Text of proposed rule and any required statements and analyses may be obtained from: John Watson, General Counsel, NYS Office of Victim Services, 80 South Swan Street, Second Floor, Albany, NY 12210, (518) 457-8066, email: john.watson@ovs.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

On October 8, 2021, Governor Kathy Hochul issued Executive Order (EO) 6, discontinuing a number of previously issued Executive Orders. Pursuant to that Executive Order, EO 38 issued by Governor Andrew Cuomo was discontinued. This proposal repeals the regulations established pursuant to EO 38 as these regulations are no longer necessary. The Office of Victim Services has determined that no person is likely to object to this proposal.

Job Impact Statement

The Office of Victim Services projects there will be no adverse impact on jobs or employment opportunities in the State of New York as a result of this proposed rule change. This proposed rule change is to repeal regulations established to implement Governor Andrew Cuomo's Executive Order 38, which has been discontinued. As apparent from the nature and purpose of this proposed rule change, a full Job Impact Statement is not required and therefore one has not been prepared.

HEARINGS SCHEDULED FOR PROPOSED RULE MAKINGS

Agency I.D. No.	Subject Matter	Location—Date—Time
Environmental Conservation, Department of		
ENV-45-22-00021-P	Adding Aerosol Cans and Paint to NYS Universal Waste Rule	Virtual via Webex—January 11, 2023, 2:00 p.m. Instructions on how to "join" the hearing webinar and provide an oral statement will be published on the Department's proposed regulations webpage for 6 NYCRR Part 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: 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 6 NYCRR Part 370, Part 371, Part 373, Part 374, and Part 376 public comment hearing. The Department will provide interpreter services for hearing impaired persons, and language interpreter services for individuals with difficulty understanding or reading English, at no charge upon written request submitted no later than 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 ohms@dec.ny.gov.
ENV-46-22-00004-P	Chemical Bulk Storage (CBS)	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 he 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, NY 12233-4500), or by e-mail (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, 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.

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

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 he 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, NY 12233-4500), or by e-mail (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, 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.
ENV-47-22-00005-P	Heavy-Duty Diesel Vehicle Inspection and Maintenance Program Requirements	Electronic Webinar—January 24, 2023, 6:00 p.m. Instructions on how to "join" the hearing webinar and provide an oral statement will be published on the Department's proposed regulations webpage for 6 NYCRR Part 217-5 by November 23, 2022. The proposed regulations webpage for 6 NYCRR Part 217-5 may be accessed at: https://www.dec.ny.gov/regulations/propregulations.html Persons who wish to receive the instructions by mail or telephone may call the Department at (518) 402-9003. Please provide your first and last name, address, and telephone number and reference the Part 217-5 public comment hearing.

The Department will provide interpreter services for hearing impaired persons, and language interpreter services for individuals with difficulty understanding or reading English, at no charge upon written request submitted no later than January 13, 2023. The written request must be addressed to ALJ Jennifer Ukeritis, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or e-mailed to ALJ Ukeritis at ohms@dec.ny.gov.

ACTION PENDING INDEX

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

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

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

Agency code	Issue number	Year published	Serial number	Action Code
AAM	**01**	**12**	**00001**	**P**

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
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.
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
CHILDREN AND FAMILY SERVICES, OFFICE OF			
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CHILDREN AND FAMILY SERVICES, OFFICE OF			
CFS-33-22-00003-P	08/17/23	Limits on executive compensation	To remove the limits on executive compensation and administrative expenses
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.
CIVIL SERVICE, DEPARTMENT OF			
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
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
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.
CVS-49-22-00005-P	12/07/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-49-22-00006-P	12/07/23	Jurisdictional Classification	To classify a position in the exempt class.
CVS-49-22-00007-P	12/07/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-49-22-00008-P	12/07/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-49-22-00009-P	12/07/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-49-22-00010-P	12/07/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-49-22-00011-P	12/07/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-49-22-00012-P	12/07/23	Jurisdictional Classification	To classify positions in the exempt class.
CVS-49-22-00013-P	12/07/23	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-49-22-00014-P	12/07/23	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-49-22-00015-P	12/07/23	Jurisdictional Classification	To classify positions in the exempt class.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-49-22-00016-P	12/07/23	Jurisdictional Classification	To classify positions in the exempt class.
CORRECTION, STATE COMMISSION OF			
CMC-43-22-00002-EP	10/26/23	Medication assisted treatment.	Set minimum standards for a program of medication assisted treatment in jails.
CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF			
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 correpsondence from CANY
CCS-39-22-00001-P	09/28/23	Closed Facilities	To repeal the rules establishing facilities that have closed
CRIMINAL JUSTICE SERVICES, DIVISION OF			
CJS-32-22-00028-P	08/10/23	NYS Forensic Laboratory Accreditation Standards	To add ISO/IEC 17020 as a standard.
CJS-47-22-00001-P	11/23/23	Part 349 Interstate, Intrastate, Conflict of Interest Transfer and Temporary Probation Supervision for Adults and Juveniles	Update the existing rule to provide a framework for consistent statewide practices in the intrastate transfer of individuals
CJS-47-22-00002-P	11/23/23	Probation Services for Article 3 Juvenile Delinquency (JD)	Update existing Rule to reflect services which will be performed by Probation departments.
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
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
EDUCATION DEPARTMENT			
*EDU-48-21-00008-P	02/17/23	Special education impartial hearing officers and the special education due process system procedures	To address volume of special education due process complaints in the New York City due process system
EDU-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
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 conforms the regulations to the amendments made to Education Law § 2801-a by Chapter 227 of the Laws of 2022
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 20222.
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.
EDU-48-22-00008-EP	11/30/23	Technical amendment relating to licensure in the profession of public accountancy.	To fix a clerical error for amendments to section 52.13 of the Commissioner's adopted in September 2022.
EDU-48-22-00009-EP	11/30/23	Central library services aid and state aid for library construction.	To align the Commissioner's regulations with recent amendments to sections 273, 273-a of the Education Law.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
EDU-48-22-00010-P	11/30/23	Experience requirement for professional school building leader certification.	To remove the requirement that one year of such experience be as a school building leader.
ELECTIONS, STATE BOARD OF			
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 requried	To conform regulatory provisions to canvassing provisions provided for by chapter 781 of Laws of 2021
ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, NEW YORK STATE			
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).
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
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
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

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ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
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
ENV-47-22-00005-P	01/24/24	Heavy-Duty Diesel Vehicle Inspection and Maintenance Program requirements	To update Heavy-Duty Diesel Vehicle Inspection and Maintenance Program requirements
ETHICS AND LOBBYING IN GOVERNMENT, COMMISSION ON			
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.
ELG-48-22-00011-EP	11/30/23	Amending references to the Commission and citations to the Executive Law to conform to the Ethics Commission Reform Act of 2022	To conform the Commission's regulations to new Executive Law § 94 established by the Ethics Commission Reform Act of 2022
FINANCIAL SERVICES, DEPARTMENT OF			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liabilty Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
*DFS-42-21-00011-RP	01/18/23	Disclosure requirements for certain providers of commercial fiancing 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-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
FINANCIAL SERVICES, DEPARTMENT OF			
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.
DFS-49-22-00001-P	12/07/23	Principle-Based Reserving	To adopt the 2022 Valuation Manual and amend the scope of section 103.4 to include certain group term life insurance.
GAMING COMMISSION, NEW YORK STATE			
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.
HEALTH, DEPARTMENT OF			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
HLT-50-21-00002-EP	12/15/22	Investigation of Communicable Disease; Isolation and Quarantine	Control of communicable disease
HLT-50-21-00003-EP	12/15/22	Face Coverings for COVID-19 Prevention	To control and promote the control of communicable diseases to reduce their spread
HLT-50-21-00004-EP	12/15/22	Personal Caregiving and Compassionate Caregiving Visitors in Nursing Homes (NH's) and Adult Care Facilities (ACF's)	To require NH's & ACF's to establish policies & procedures relating to personal caregiving & compassionate caregiving visitors
HLT-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HEALTH, DEPARTMENT OF			
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.
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.
HLT-48-22-00001-P	11/30/23	Adult Day Health Care	To regulate adult day health care programs for registrants with medical needs in a non-residential health care facility
HLT-49-22-00002-P	12/07/23	State Aid for Public Health Services: Counties and Cities	To increase Article 6 base funding to local health departments.
HOUSING AND COMMUNITY RENEWAL, DIVISION OF			
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HOUSING AND COMMUNITY RENEWAL, DIVISION OF			
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.
JUDICIAL CONDUCT, STATE COMMISSION ON			
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
LABOR, DEPARTMENT OF			
*LAB-34-21-00002-EP	11/17/22	New York Health and Essential Rights Act (NY HERO Act)	Airborne Infectious Disease Exposure Prevention Standard
LAB-51-21-00007-P	02/09/23	Workplace Safety Committees	To comply with Labor Law 27-d(8) which requires that the Department adopt regulations
LAB-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
LAKE GEORGE PARK COMMISSION			
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
LAW, DEPARTMENT OF			
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”
LIQUOR AUTHORITY, STATE			
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LONG ISLAND POWER AUTHORITY			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment
*LPA-37-18-00018-P	exempt	The treatment of energy storage in the Authority's Tariff for Electric Service	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap
*LPA-09-20-00010-P	exempt	To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory	To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets
*LPA-28-20-00033-EP	exempt	LIPA's late payment charges, reconnection charges, and low-income customer discount enrollment	To allow waiver of late payment and reconnection charges and extend the grace period for re-enrolling in customer bill discounts
*LPA-37-20-00013-EP	exempt	The terms of deferred payment agreements available to LIPA's commercial customers	To expand eligibility for and ease the terms of deferred payment agreements for LIPA's commercial customers
*LPA-12-21-00011-P	exempt	LIPA's Long Island Choice (retail choice) tariff	To simplify and improve Long Island Choice based on stakeholder collaborative input
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LONG ISLAND POWER AUTHORITY			
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
MEDICAID INSPECTOR GENERAL, OFFICE OF			
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.
MENTAL HEALTH, OFFICE OF			
OMH-46-22-00012-P	11/16/23	Administrative Compensation	To Repeal Part 513 as Executive Order 38 has sunset
METROPOLITAN TRANSPORTATION AGENCY			
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
NIAGARA FALLS WATER BOARD			
*NFW-04-13-00004-EP	exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
NFW-49-21-00010-EP	12/08/22	Adoption of Rates, Fees, and Charges	To pay for increased costs necessary to operate, maintain, and manage the system, and to meet covenants with the bondholders
OGDENSBURG BRIDGE AND PORT AUTHORITY			
*OBA-33-18-00019-P	exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
*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
PARKS, RECREATION AND HISTORIC PRESERVATION, OFFICE OF			
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
PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR			
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR			
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
PDD-49-22-00004-P	12/07/23	Protection of Individuals Receiving Services	To add clarity and consistency
POWER AUTHORITY OF THE STATE OF NEW YORK			
*PAS-01-10-00010-P	exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PUBLIC EMPLOYMENT RELATIONS BOARD			
PRB-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
PUBLIC SERVICE COMMISSION			
*PSC-09-99-00012-P	exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-06-04-00009-P	exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-46-04-00013-P	exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-22-06-00021-P	exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*PSC-06-07-00020-P	exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-22-07-00015-P	exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*PSC-04-08-00012-P	exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-23-08-00008-P	exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	exempt	Annual Reconcilliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-48-08-00008-P	exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-12-09-00010-P	exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commerical accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-22-09-00011-P	exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Vernon and TW Telecom of New York L.P.
*PSC-27-09-00014-P	exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and TW Telecom of New York L.P.
*PSC-29-09-00011-P	exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*PSC-34-09-00017-P	exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	exempt	Modifications to the $5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income $5 Bill Credit Program
*PSC-39-09-00018-P	exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-51-09-00029-P	exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to $50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-19-10-00022-P	exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	exempt	Approval of a contract for $250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of $250,000 for tank repairs
*PSC-34-10-00006-P	exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-36-10-00010-P	exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-44-10-00003-P	exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	exempt	The proposed transfer of 55.42 acres of land and $1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and $1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	exempt	Water rates and charges	To approve an increase in annual revenues by about $25,266 or 50%
*PSC-26-11-00009-P	exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	exempt	Petition requesting the Commssion reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing
*PSC-35-11-00011-P	exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-23-12-00007-P	exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-30-12-00010-P	exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	exempt	Regulation of 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

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-28-13-00017-P	exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	exempt	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices
*PSC-32-13-00012-P	exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines
*PSC-33-13-00029-P	exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy
*PSC-34-13-00004-P	exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island
*PSC-45-13-00022-P	exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	exempt	Petition for submetering of electricity	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y
*PSC-47-13-00012-P	exempt	Conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates	Consideration of conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates
*PSC-49-13-00008-P	exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-51-13-00009-P	exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*PSC-51-13-00010-P	exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*PSC-51-13-00011-P	exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*PSC-52-13-00012-P	exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC)	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s)
*PSC-52-13-00015-P	exempt	To enter into a loan agreement with the banks for up to an amount of $94,000	To consider allowing Knolls Water Company to enter into a long-term loan agreement
*PSC-05-14-00010-P	exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality andthe Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties
*PSC-16-14-00015-P	exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-36-14-00009-P	exempt	Modification to the Commission's Electric Safety Standards	To consider revisions to the Commission's Electric Safety Standards
*PSC-38-14-00003-P	exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program
*PSC-38-14-00004-P	exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn
*PSC-38-14-00005-P	exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2
*PSC-38-14-00007-P	exempt	Whether to expand Con Edison's low income program to include Medicaid recipients	Whether to expand Con Edison's low income program to include Medicaid recipients
*PSC-38-14-00008-P	exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn
*PSC-38-14-00010-P	exempt	Inter-carrier telephone service quality standard and metrics and administrative changes	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines
*PSC-38-14-00012-P	exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2
*PSC-39-14-00020-P	exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*PSC-40-14-00008-P	exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers
*PSC-40-14-00009-P	exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1
*PSC-40-14-00011-P	exempt	Late Payment Charge	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due
*PSC-40-14-00013-P	exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY
*PSC-40-14-00014-P	exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-40-14-00015-P	exempt	Late Payment Charge	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due
*PSC-42-14-00003-P	exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries

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

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

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

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

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-04-18-00005-P	exempt	Notice of intent to submeter electricity	To consider the notice of intent of Montante/ Morgan Gates Circle LLC to submeter electricity
*PSC-05-18-00004-P	exempt	Lexington Power's ZEC compliance obligation	To promote and maintain renewable and zero-emission electric energy resources
*PSC-06-18-00012-P	exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria
*PSC-06-18-00017-P	exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity
*PSC-07-18-00015-P	exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades	To consider AEC's petition requesting resolution of their billing dispute with National Grid
*PSC-11-18-00004-P	exempt	New York State Lifeline Program	To consider TracFone's petition seeking approval to participate in Lifeline
*PSC-13-18-00015-P	exempt	Eligibility of an ESCO to market to and enroll residential customers	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension
*PSC-13-18-00023-P	exempt	Reconciliation of property taxes	To consider NYAW's request to reconcile property taxes
*PSC-14-18-00006-P	exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	exempt	Petition for use of gas metering equipment	To ensure that consumer bills are based on accurate measurements of gas usage
*PSC-18-18-00009-P	exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	exempt	Whether to impose consequences on Aspirity for its non-compliance with Commission requirements	To ensure the provision of safe and adequate energy service at just and reasonable rates
*PSC-24-18-00013-P	exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements	To promote and maintain renewable and zero-emission electric energy resources
*PSC-28-18-00011-P	exempt	Storm Hardening Collaborative Report	To ensure safe and adequate gas service
*PSC-29-18-00008-P	exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00015-P	exempt	Petition to submeter electricity	To ensure adequate submetering equipment and energy efficiency protections are in place
*PSC-34-18-00016-P	exempt	Deferral of pre-staging and mobilization storm costs	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs

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

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-20-00015-P	exempt	Participation of Eligible Telecommunications Carriers (ETCs) in New York State Lifeline Program	Commission will consider each petition filed by an ETCs seeking approval to participate in the NYS Lifeline program
*PSC-19-20-00004-P	exempt	Clarification of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether energy service companies should be permitted to bank RECs to satisfy their renewable energy requirements
*PSC-19-20-00005-P	exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation	To provide cost recovery for new DLM programs and prevent double compensation to participating customers
*PSC-19-20-00009-P	exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation	To consider revisions to P.S.C. No. 10 - Electricity, and P.S.C. No. 12 - Electricity
*PSC-25-20-00010-P	exempt	Whitepaper regarding energy service company financial assurance requirements	To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies
*PSC-25-20-00016-P	exempt	Modifications to the Low-Income Affordability program	To address the economic impacts of the COVID-19 pandemic
*PSC-27-20-00003-P	exempt	To make the uniform statewide customer satisfaction survey permanent	To encourage consumer protections and safe and adequate service
*PSC-28-20-00022-P	exempt	Compensation of distributed energy resources	To ensure just and reasonable rates, including compensation, for distributed energy resources
*PSC-28-20-00034-P	exempt	Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act	To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals
*PSC-34-20-00005-P	exempt	Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers	To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory
*PSC-38-20-00004-P	exempt	The annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-20-00008-P	exempt	Availability of gas leak information to the public safety officials.	Facilitate availability of gas leak information to public safety officials by gas corporations
*PSC-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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
*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-26-21-00011-P	exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-47-21-00005-P	exempt	Utility processes for customers to consent to sharing data with third parties and how consent options will be communicated	To develop standardized consent requirements that will increase customer familiarity with appropriate data sharing and access
*PSC-48-21-00007-P	exempt	Verizon's Performance Assurance Plan	To consider whether to retire the Performance Assurance Plan
PSC-50-21-00006-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-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
PUBLIC SERVICE COMMISSION			
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 and 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-20-22-00011-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-21-22-00011-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
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
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-24-22-00007-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-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-29-22-00005-P	exempt	Notice of intent to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-29-22-00006-P	exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-29-22-00007-P	exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
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-31-22-00009-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-32-22-00025-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-33-22-00006-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-33-22-00008-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-34-22-00007-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.

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

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
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.
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), 863(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.
PSC-47-22-00006-P	exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-47-22-00007-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-47-22-00008-P	exempt	Proposed revisions related to the participation of Distributed Energy Resources.	To align utility retail tariffs with wholesale tariffs.
PSC-48-22-00002-P	exempt	The Performance Factor used in Distribution Load Relief and Commercial System Relief Programs for the 2023 capability period.	To effect more efficient demand response programs to gain operational efficiency and shave peak demand.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-48-22-00003-P	exempt	Gas moratorium customer protections.	To consider protections to minimize customer hardships in the unlikely event of a future gas moratorium.
PSC-48-22-00004-P	exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-22-00005-P	exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-22-00006-P	exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-22-00007-P	exempt	The level of incentives and use of demand response under utility EV managed charging programs.	To consider adequate incentive levels and eliminating participation of demand response under EV managed charging programs.
PSC-49-22-00017-P	exempt	Stock ownership interest and associated financial transactions.	To consider the transfer of controling interest and associated financial transactions.
PSC-49-22-00018-P	exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment andconsumer protections are in place.
PSC-49-22-00019-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-49-22-00020-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-49-22-00021-P	exempt	Clean Energy Standard Tier 1 load serving entity obligations.	To transition the Tier 1 load serving entity obligation from a percentage based obligation to a load share obligation approach.
PSC-49-22-00022-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-49-22-00023-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.
STATE, DEPARTMENT OF			
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
DOS-47-22-00004-P	11/23/23	Creation of a cease and desist zone within Kings County.	To adopt a cease and desist zone for a designated area within Kings County and remove reference to expired zones.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
TAXATION AND FINANCE, DEPARTMENT OF			
*TAF-46-20-00003-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period January 1, 2021 through March 31, 2021
TAF-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.
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-01-22-00001-EP	01/05/23	2019 Novel Coronavirus (COVID-19) masking requirements in congregate shelters	Protect the well-being of shelter staff and persons staying in congregate shelters
TDA-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
TRANSPORTATION, DEPARTMENT OF			
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
URBAN DEVELOPMENT CORPORATION			
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
VICTIM SERVICES, OFFICE OF			
OVS-49-22-00003-P	12/07/23	Limits on administrative expenses and executive compensation pursuant to Executive Order (EO) 38.	As EO 38 has been discontinued, the purpose of this rule is to repeal regulations implementing EO 38.
WORKERS' COMPENSATION BOARD			
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-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

ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

SEALED BIDS

PROVIDE
SIGN SHOP
Department of Transportation Region 1
Hudson Falls, Washington County

Sealed bids for Project Nos. 46177-C, 46177-H, 46177-P and 46177-E, comprising separate contracts for Construction Work, HVAC Work, Plumbing Work, and Electrical Work, Provide Sign Shop, DOT Region 1, Washington County, 3716 Burgoyne Avenue, Hudson Falls (Washington 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 Transportation, until 2:00 p.m. on Wednesday, December 21, 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 $73,300 for C, $15,600 for H, $9,400 for P, and $23,600 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between $2,000,000 and $3,000,000 for C, between $100,000 and $250,000 for H, between $100,000 and $250,000 for P, and between $250,000 and $500,000 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.

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

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

The substantial completion date for this project is 427 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 1:00 p.m. on December 7, 2022, at 3716 Burgoyne Ave, Hudson Falls, NY 12839. 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 Lindsay Breault (518-639-5554) a minimum of 48 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 48 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 Electrical Work and an overall goal of 20% for MWBE participation, 10% for Minority-Owned Business Enterprises ("MBE") participation and 10% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) 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: 3% for the C trade contractor, 3% for the E trade contractor, 3% for the H trade contractor, and 3% for the P trade contractor, based on the current availability of qualified SDVOBs.

Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: http://www.bidexpress.com

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp

By OGS - Design & Construction Group

REHABILITATE
ELEVATOR
Edgecombe Correctional Facility
New York, New York County

Sealed bids for Project No. 46247-C, comprising a contract for Construction Work, Rehabilitate Elevator, Building 3, Edgecombe Correctional Facility, 611 Edgecombe Avenue, New York (New York 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, December 14, 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 $31,600 for C.

Further, Wicks Exempt Projects require a completed form BDC 59 (Wicks Exempt List of Contractors) be filled out and submitted (included in a separate, sealed envelope) in accordance with Document 002220, Supplemental Instructions to Bidders – Wicks Exempt. Failure to submit this form correctly will result in a disqualification of the bid.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between $500,000 and $1,000,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Cook, Jessica Hoffman, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: https://ogs.ny.gov/ACPL/

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over $5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is $1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

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

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

Substantial completion for this project is in accordance with Section 0110000.

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 28, 2022, at Edgecombe Correctional Facility, 611 Edgecombe Avenue, New York. 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 Cheryl Chasin (845-365-0370) a minimum of 72 hours in advance of the date to provide the names of those who will attend the pre-bid site visit. Only contractors that schedule a visit at least 72 hours in advance will be allowed to participate in the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 6% for the C trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available

for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: http://www.bidexpress.com

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp

By OGS - Design & Construction Group

PROVIDE
VEHICLE MAINTENANCE SHOP
State Armory
Troy, Rensselaer County

Sealed bids for Project Nos. 47063-C, 47063-H, 47063-P and 47063-E, comprising separate contracts for Construction Work, HVAC Work, Plumbing Work, and Electrical Work, Provide Vehicle Maintenance Shop, State Armory, 137 Glenmore Road, Troy (Rensselaer County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Division of Military and Naval Affairs, until 2:00 p.m. on Wednesday, December 14, 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 $222,600 for C, $49,700 for H, $38,000 for P, and $59,900 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 $8,000,000 and $9,000,000 for C, between $1,000,000 and $2,000,000 for H, between $500,000 and $1,000,000 for P, and between $1,000,000 and $2,000,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are 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 734 days after the Agreement is approved by the Comptroller.

As a condition of award, within 48 hours of receipt of the proposed Contract Agreement from the State, the apparent low bidder shall return the Contract Agreement to the State, properly executed, along with the Bonds if required by said Agreement. Low bidders who cannot meet these provisions may be subject to disqualification and forfeiture of the bid security.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 9:00 a.m. on December 1, 2022, at 137 Glenmore Road, Troy 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 Tyson Gamache, (518-928-1607) a minimum of 24 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 24 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, HVAC Work and Plumbing Work, and an overall goal of 20% for MWBE participation, 10% for Minority-Owned Business Enterprises ("MBE") participation and 10% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Electrical 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, 3% for the H trade contractor, and 3% for the P trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: http://www.bidexpress.com

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp

By OGS - Design & Construction Group

REPLACE
ROOF
Department of Transportation Region 5
Lockport, Niagara County

Sealed bids for Project Nos. 47339-C and 47339-E, comprising separate contracts for Construction Work, and Electrical Work, Replace Roof, Salt Building, DOT Region 5, Niagara County, 5055 Lockport Junction Road, Lockport (Niagara 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 Transportation, until 2:00 p.m. on Wednesday, December 21, 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 $33,000 for C, and $8,000 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, and between $50,000 and $100,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are 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 177 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 December 8, 2022, at 5055 Lockport Junction Road, Lockport, NY 14094. 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 Laura Yingling (716-885-0908) a minimum of 48 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 48 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. The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials.

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 3% for the C trade contractor, and 0% for the E trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: http://www.bidexpress.com

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp

By OGS - Design & Construction Group

MISCELLANEOUS
NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

PUBLIC NOTICE
Division of Criminal Justice Services
Juvenile Justice Advisory Group

Pursuant to Public Officer Law § 104, the Division of Criminal Justice Services gives notice of a meeting of the New York State Juvenile Justice Advisory Group:

Date: December 6, 2022
Time: 10:00 a.m. - 1:00 p.m.
Place: Division of Criminal Justice Services
80 S. Swan St.
1st Fl., Rm. 118
Albany, NY 12210
Video Conference with:
633 Third Ave.
37th Fl. – 36A
New York, NY 10007

For further information contact: Thomas R. Andriola, Chief of Policy and Implementation, Office of Youth Justice, Division of Criminal Justices Services, 80 S. Swan St., 8th Fl., Albany, NY 12210, (518) 320-6926, e-mail: Thomas.Andriola@dcjs.ny.gov

PUBLIC NOTICE
Department of Health
Home and Community-Based Services (HCBS)
Final Rule Statewide Transition Plan (STP)

In compliance with 42 CFR § 441.301(6)(B)(iii), the NYS Department of Health (DOH), on behalf of New York State, is pleased to announce that it will conduct a public comment period to allow members of the public to submit comments on its Home and Community-Based Services (HCBS) Final Rule Statewide Transition Plan (STP). This transition plan describes New York's assessment and remediation of its HCBS related regulations, policies and procedures, and its site level or HCBS provider level assessment and remediation activities, completed/or being completed to achieve compliance with the HCBS Final Rule across its HCBS system. The HCBS Final Rule is a federal rule that promotes community involvement and independence for HCBS recipients. New York State operates one 1115 demonstration project, four 1915(c) waivers, and a 1915(k) State plan service across four agencies/offices, through 14 individual oversight units overseeing programs and services for individuals with disabilities; either physical, behavioral, mental, developmental, or intellectual. These agencies/offices operate waiver programs or sponsor home and community-based services under the oversight of the Department of Health, the State's Medicaid Agency.

This notice serves to open the 30-day public comment period that will close on January 13, 2023, during which the public may submit written comments by email: hcbsrule@health.ny.gov; or by mail: E. Palmiero, DOH OALTC, One Commerce Plaza, Suite 1624, Albany, NY 12260. The proposed HCBS Final Rule Statewide Transition Plan is available for review online at: https://www.health.ny.gov/health_care/medicaid/redesign/hcbs/docs/hcbs_final_rule_stp_2023.pdf. For individuals with limited online access who require special accommodation, paper copies are available for review at the following locations, or by calling E. Palmiero at 518-474-9844.

DOH Capital District Regional Office
875 Central Avenue
Albany, NY 12206

DOH Central New York Regional Office
217 South Salina Street
3rd Floor
Syracuse, NY 13202

DOH Western Region: Buffalo Office
Ellicott Building
295 Main Street, Suite 300
Buffalo, NY 14203

DOH Western Region: Rochester Office
The Triangle Building
335 East Main Street
Rochester, NY 14604

DOH New York City Office
90 Church Street - 14th Floor
New York, NY 10007-2919

OPWDD Broome DDRO
249 Glenwood Rd.
Binghamton, NY 13905

OPWDD Central NY DDRO
187 Northern Concourse
North Syracuse, NY 13212

OPWDD Sunmount DDRO
2445 State Route 30
Tupper Lake, NY 12986

DOH New York City Office
90 Church Street - 14th Floor
New York, NY 10007-2919

DOH Central Islip Office
Court House Corporation Center
320 Carlton Avenue
Suite 500 - 5th Floor
Central Islip, NY 11722

DOH New Rochelle Office
145 Huguenot Street, 6th floor
New Rochelle, NY 10801-5291

OPWDD Finger Lakes DDRO
620 Westfall Rd./326 Sun St.
Rochester, NY 14620

OPWDD Western NY DDRO
1200 East and West Rd., Bldg. 16
West Seneca, NY 14224

OPWDD Metro NY DDRO/Bronx
2400 Halsey St.
Bronx, NY 10461

OPWDD Brooklyn DDRO
888 Fountain Ave.
Bldg. 1, 2nd Fl.
Brooklyn, NY 11239

OPWDD Metro NY DDRO/Manhattan
25 Beaver St., 7th Fl.
New York, NY 10004

OPWDD Capital District DDRO
500 Balltown Rd.
Schenectady, NY 12304

OPWDD Hudson Valley DDRO
9Wilbur Rd.
Thiells, NY 10984

OPWDD Taconic DDRO
38 Firemens Way
Poughkeepsie, NY 12603

OPWDD Bernard Fineson DDRO
80-45 Winchester Blvd.
Bldg. 80, 2nd Fl. Administrative Suite
Queens Village, NY 11427

OPWDD Staten Island
DDRO 930 Willowbrook Rd.
Staten Island, NY 10314

NYS OASAS
NYC Regional Office
501 7th Ave.
New York, NY 10018-5903

NYS OASAS
Upstate District Office
1450 Western Avenue
Albany, NY 12203-3526

Further Information to Submit Public Comment

NYS DOH and, where applicable, its State partners that administer HCBS, will consider all written and verbal comments received, amending review of HCBS Final Rule compliance and conducting further remediation activities where needed, prior to finalizing the HCBS Final Rule STP. Upon completion of this review and response to public comment, the HCBS Final Rule STP will be appropriately revised and submitted to the Centers for Medicare and Medicaid Services (CMS) for review. CMS response will be used to conduct further review and remediation of the HCBS system as needed: https://www.health.ny.gov/health_care/medicaid/redesign/home_community_based_settings.htm

Please direct all questions to DOH at hcbsrule@health.ny.gov

Written comments will be accepted by email: hcbsrule@health.ny.gov or by mail: OALTC, Department of Health, Attn: E. Palmiero, One Commerce Plaza, Suite 1624, Albany, NY 12260

All comments must be postmarked or emailed by 30 days of the date of this notice.

PUBLIC NOTICE

Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for Institutional Services as authorized by § 2826 of New York Public Health Law. The following changes are proposed:

Institutional Services

The Department of Health would like to retract the November 30, 2022, noticed provision for the temporary rate adjustments for Health Alliance – St. Mary's Avenue Campus. This notice was published erroneously and will be republished at a later date.

The public is invited to review this retraction, a copy of which will be available for public review at State Register | Department of State (ny.gov) Individuals without Internet access may view the retraction at any local (county) social services district.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

Queens County, Queens Center
3220 Northern Boulevard
Long Island City, New York 11101

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

Richmond County, Richmond Center
95 Central Avenue, St. George
Staten Island, New York 10301

For further information and to review and comment, please contact: Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, e-mail: spa_inquiries@health.ny.gov

PUBLIC NOTICE

Department of State
Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2022-0490 In the matter of William Pitcher, Pitcher Architect PLLC, 124 Feogel Avenue, Syracuse, New York 13203 on behalf of Douglas Tarpinian, 438 County Route 22, Smyrna, New York for a variance concerning sprinkler system requirements for a banquet facility known as Holy Smoke Stoney Creek, located at 438 Conty Route 22, Town of Smyrna, County of Chenango, State of New York.

PUBLIC NOTICE

Department of State
Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2022-0635 in the Matter of KTM Architect, Kimberly T. Martelli, 700 Fenimore Road 2nd Fl, Mamaroneck, NY 10543, for a variance concerning safety requirements, including ceiling height. Involved is a one family dwelling located at 46 Iselin Terrace, Village of Larchmont, NY 10538, County of Westchester, State of New York.

2022-0637 in the Matter of Acquest Design Services, Adam Schwock, AIA, 5554 Main Street, Williamsville, NY 14221, for a variance concerning safety requirements, including fire resistance rating of building elements. Involved is a one-story building located at 211 Saw Mill River Road, Town of Mount Pleasant, NY 10532, County of Westchester, State of New York.

PUBLIC NOTICE

Department of State
Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual

notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2022-0642 In the matter of Matthew Lacey, March Associates Architects & Planners, 258 Genesee Street, Suite 300, Utica, New York 13502, for a variance concerning stormwater piping testing requirements at Oneida County Parking Facility located at 407 State Street, City of Utica, County of Oneida, State of New York.

PUBLIC NOTICE

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Uniform Code Variance/Appeal Petitions

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2022-0643 in the Matter of KTM Architect, Kimberly Martelli, 700 Fenimore Road 2nd Fl., Mamaroneck, NY 10543, for a variance concerning safety requirements, including ceiling height and headroom and width of stairs. Involved is a one family dwelling located at 183 Cortlandt Street, Village of Buchanan, NY 10511, County of Westchester, State of New York.

2022-0645 in the Matter of Monsey Developers & Builders Inc., Samuel Wettenstein, PO Box 760, Monsey, NY 10952, for a variance concerning safety requirements, including exterior egress stairs. Involved is a three family dwelling located at Eight Park Street, Town of Ramapo, NY 10977, County of Rockland, State of New York.

PUBLIC NOTICE

Department of State
Notice of Review for the
Village of Sackets Harbor
Draft Local Waterfront Revitalization Program Amendment

In accordance with the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the New York State Coastal Management Program, the Village of Sackets Harbor, located within Jefferson County, has prepared a Draft Local Waterfront Revitalization Program (LWRP) Amendment. The LWRP is a comprehensive management program for the Village's waterfront resources along Lake Ontario.

To approve the Village of Sackets Harbor LWRP Amendment, pursuant to Article 42 of the NYS Executive Law, it is required that potentially affected State, federal, and local agencies be consulted to assure that the program does not conflict with existing policies and programs. For this purpose, the Draft LWRP Amendment is available online at: https://dos.ny.gov/public-notices

The Village of Sackets Harbor Draft LWRP Amendment was accepted by the New York State Department of State (DOS) as complete and is now available for review by potentially affected State, federal and local agencies, and the public. Comments on the Draft LWRP Amendment are due by February 7, 2023. At the close of this required review period, DOS will coordinate responses to comments received with the Village, and revisions to the LWRP Amendment will be made as necessary to address all comments. Following adoption of the LWRP by the Village, and its subsequent approval by the Secretary of State, pursuant to 15 CFR Part 923, Subpart H, DOS will request incorporation of the LWRP Amendment into the State's Coastal Management Program by the federal Office for Coastal Management (OCM), as a Program Change.

Comments on the Village of Sackets Harbor Draft LWRP Amendment should be submitted by February 7, 2023 to: Barbara Kendall, Department of State, Office of Planning, Development & Community Infrastructure via email at Barbara.Kendall@dos.ny.gov

PUBLIC NOTICE

Department of Taxation and Finance
New York State and Yonkers Withholding Tables and Methods

The Acting Commissioner of Taxation and Finance, being duly authorized to act due to the vacancy in the office of the Commissioner of Taxation and Finance, hereby gives public notice of changes to the method of determining the amount to be withheld from employees' wages for the 2023 taxable year for New York State and Yonkers.

Tax Law section 671(a) requires the commissioner to prescribe the method of determining the amount to be withheld, to publish any changes to such method on the website of the Department of Taxation and Finance, and to cause notice of such changes to be published in the section for miscellaneous notices in the State Register and give other appropriate notice of such changes.

Tax Law section 1332(a) provides that section 671 shall apply to a city income tax surcharge imposed pursuant to the authority of article 30-A with the same force and effect as if it had been expressly incorporated into such article and had expressly referred to the city income tax imposed thereunder.

In keeping with sections 671(a) and 1332(a), the 2023 New York State Withholding Tables and Methods (NYS-50-T-NYS) and Yonkers Withholding Tables and Methods (NYS-50-T-Y) have been published on the website of the New York State Department of Taxation and Finance.

Tax Law sections 671(a)(1) and 1329(a), and section 15-105 of the Code of the City of Yonkers mandate that employers withhold from the wages of taxpayers subject to New York State withholding tax and Yonkers residents subject to the Yonkers income tax surcharge amounts that are substantially equivalent to the amount of New York State and Yonkers income tax reasonably estimated to be due for the taxable year.

The changes to the New York State and Yonkers Withholding Tables and Methods reflect the implementation of middle-class tax cuts enacted under Part TT of Chapter 60 of the Laws of 2016 and accelerated under Subchapter A of Part A of Chapter 59 of the Laws of 2022. The new withholding tables and methods also reflect the temporary expansion of the top brackets and rates of New York State personal income tax effected by Part A of Chapter 59 of the Laws of 2021. Changes to the Yonkers withholding tables and other methods were necessary because the City of Yonkers income tax surcharge is a specified percentage of New York State tax.

The 2023 New York State and Yonkers Withholding Tables apply to wages and other compensation subject to withholding paid on or after January 1, 2023.

PUBLIC NOTICE

Town of Oyster Bay

On November 15, 2022 the Town of Oyster Bay, by Town Board Resolution No. 859-2022 awarded a contract to Great Northern Fibers, LLC pursuant to Section 120-(w) of the General Municipal Law for the acceptance, processing and marketing of recyclable materials produced by the Town with no new construction and no facility improvements, contract number DPW20-205.

The validity of this Contract or the procedures which led to its award may be hereafter contested only by action, suit or proceeding commenced within sixty days after the date of this notice and only upon the ground or grounds that:

1. Such award or procedure was not authorized pursuant to that section; or,

2. Any of the provisions of that section which should be complied with at the date of this publication have not been substantially complied with; or,

3. A conflict of interest can be shown in the manner in which the Contract was awarded; or,

4. By action, suit or proceeding commenced on the grounds that such contract was awarded in violation of the provisions of the Constitution.

EXECUTIVE ORDERS

Executive Order No. 23: Establishing the New York State Master Plan for Aging

WHEREAS, New York has demonstrated its commitment to an age-friendly environment to ensure that all New Yorkers can age with dignity and independence through policies that promote the value of healthy, meaningful aging; these policies include the New York State Prevention Agenda, Health Across All Policies, Age-Friendly New York, the Age-Friendly Health System Initiative, and the New York State Plan on Aging;

WHEREAS, New York has the fourth-largest population of older adults in the U.S., with 3.2 million New Yorkers (16 percent of the population) over 65. New York's population of those over the age of 60 is projected to grow to 5.3 million by 2030 with those over eighty years of age exceeding 1.2 million; By 2030, it is projected that 25 percent of the population in more than 51 counties will be 60 and older with at least 30 percent of the population in 18 counties 60 or older. The older adult population is growing faster than any other age group in the state;

WHEREAS, New York takes great pride in being named the first Age-Friendly State in the nation by the American Association of Retired Persons (AARP), a status based on the World Health Organization's eight domains of livability: outdoor spaces and buildings, transportation, housing, social participation, respect and social inclusion, work and civic engagement, communication and information, community and health services;

WHEREAS, New York has been a leader in advancing policies that address social determinants of health, including the conditions in which people are born, grow, work, live, play, and age, as well as the wider set of forces and systems shaping the conditions of daily life, which have a tremendous impact on the health and well-being of all people;

WHEREAS, the majority of New Yorkers want to remain in the State during their retirement years. Older adults and baby boomers generate sixty-three percent of the household income in the State, supporting the economy and the tax base;

WHEREAS, with aging there is an increase in health care utilization and health-related conditions, including chronic diseases. New York needs to assure that our health care system is prepared to handle the coming demands and preferences for care, especially long term care;

WHEREAS, the public funding of long-term care through Medicaid and Medicare is substantial, and should support the broad goals of healthy aging;

WHEREAS, health care workforce issues must be addressed, along with ways to better support informal and family caregivers;

WHEREAS, older adults, and those with disabilities, should be able to choose to remain in their communities and whereas meaningful choice requires access to a broad range of public and private programs, resources, and supports, including health care, home care, food and nutrition, human services, housing and transportation;

WHEREAS, family caregivers struggle to balance work and caregiving, provide essential care for older adults and those with disabilities, and demand for this family care is growing.

WHEREAS, issues regarding access to affordable, suitable housing, transportation, the ability to age in place, mental health, isolation, ageism, opportunities for civic engagement and the prevention of elder abuse must be addressed in a comprehensive manner;

WHEREAS, it is important for the State to prioritize the needs of our aging population with a positive focus and to engage the public and those who serve older citizens in a meaningful planning process;

WHEREAS, planning for the opportunities and challenges that will result from change in the State's aging population, so New Yorkers of all ages can continue to live fulfilling lives, as independently as possible, in good health, and with the freedom to choose to age in place, requires a new level of strategic planning;

NOW, THEREFORE, I, Kathy Hochul, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, and more specifically, Article IV, Section 1 of the New York State Constitution do hereby order and direct as follows:

1. That a New York State Master Plan for Aging shall coordinate existing and new state policy and programs creating a blueprint of strategies to be implemented to ensure older New Yorkers can live fulfilling lives, in good health, with freedom, dignity and independence to age in place for as long as possible.
2. The New York State Department of Health, in coordination with the State Office for the Aging, shall convene a Master Plan for Aging Council to advise the Governor in developing the New York State Master Plan for Aging. The Commissioner of Health, or their designee, shall serve as the Chair of the Council, and the Acting Director, or their designee, of the State Office for the Aging, shall serve as the Vice Chair of the Council. Members of the Council shall include the Commissioners and Directors of relevant Executive agencies and offices, as determined by the Governor, or their designees.
3. Executive branch agencies are directed to participate on and assist with the work of the Master Plan for Aging Council.
4. The Master Plan for Aging Council shall be convened within sixty days of the enactment of this order and present the recommended Master Plan for Aging to the Governor for issuance no later than twenty-four months following the first meeting of the Stakeholder Advisory Committee.
5. The New York State Department of Health, in coordination the State Office for the Aging and Master Plan for Aging Council, shall convene a Stakeholder Advisory Committee to advise the Governor and the Master Plan for Aging Council in the development of the Master Plan. The Chair and Vice Chair of the Council shall serve as the Chair and Vice Chair of the Stakeholder Advisory Committee.
   a. The Stakeholder Advisory Committee shall include representation from a broad array of those committed to the planning necessary to keep and improve New York's standing as one of the most age-friendly states. The Advisory Committee members shall be recommended by the Chair and Vice Chair, and may include, but not be limited to, health care and support service providers, consumers, informal caregivers, older adults - particularly those in communities experiencing disparities, health plans, labor organizations, community-based organizations, employers, experts on aging, academic researchers, foundations, local governments, and tribal communities.
   b. The Stakeholder Advisory Committee shall prepare a preliminary report within six-months of the first meeting of

the Stakeholder Advisory Committee that details the intended activities of the Committee and shall include target measures that will be tracked over time. Reports detailing the Committee's activities and progress shall be available upon request.

c. The Stakeholder Advisory Committee shall prepare an advisory report to be delivered to the Master Plan for Aging Council and the Governor, no later than eighteen months following the first meeting of the Stakeholder Advisory Committee.

d. The Stakeholder Advisory Committee shall have subcommittees dedicated to long term care services and supports, community-based services, and caregivers. These subcommittees shall make a report directly to the Advisory Committee, the Master Plan for Aging Council and the Governor within twelve months following the first meeting of the Stakeholder Advisory Committee.

e. The Stakeholder Advisory Committee may form additional subcommittees.

6. The Master Plan for Aging plan development process shall include ongoing opportunities for engagement with the public, which may include public comment periods during Advisory Committee meetings, town hall or similar forums for input, or any other means of public engagement deemed appropriate by the Chair.

7. The Master Plan for Aging Council and the Master Plan for Aging Advisory Committee shall have the authority to convene meetings, form subcommittees, workgroups and focus groups to work on specific issues, and create a website for the purpose of posting notices, meeting materials and other information necessary to carry out the development of the Master Plan for Aging.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this fourth day of November in the year two thousand twenty-two.

BY THE GOVERNOR

/S/ Kathy Hochul

/s/ Karen Persichilli Keogh

Secretary to the Governor

COURT NOTICES

AMENDMENT OF RULE

Court of Appeals

At a session of the Court, held at Court of Appeals Hall in the City of Albany, on the 18th day of November, 2022.

PRESENT, HON. ANTHONY CANNATARO, Acting Chief Judge presiding.

In the Matter of The Amendment of the Rules of Practice of the Court of Appeals (22 NYCRR Part 523).

Pursuant to section 51 of the Judiciary Law, it is hereby

ORDERED that Part 523 of the Rules of the Court of Appeals for the Temporary Practice of Law in New York is amended (22 NYCRR Part 523), effective December 7, 2022, or as soon thereafter as section 52 of the Judiciary Law is complied with, by adding the underlying material to section 523.1 and by adding new section 523.5, to read as follows:

§ 523.1 General regulation as to lawyers admitted in another jurisdiction

A lawyer who is not admitted to practice in this State shall not:

(a) except as authorized by other rules or law *such as section 523.5 below*, establish an office or other systematic and continuous presence in this State for the practice of law; or

(b) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this State.

§ 523.5 Working from home

A lawyer who is not admitted to practice in this State but who is authorized to practice law in one or more other jurisdictions identified in section 523.2(a)(1), may practice law from a temporary or permanent residence or other temporary or permanent location in this State to the same extent that such lawyer is permitted to practice law in the jurisdiction(s) where the lawyer is duly admitted or authorized, provided:

(a) the lawyer does not practice the law of this State except to the extent permitted by this Part, by other laws of this State, and by the laws of jurisdictions in which the lawyer is authorized to practice;

(b) the lawyer does not use advertising, oral representations, business letterhead, websites, signage, business cards, email signature blocks or other communications to hold themselves out, publicly or privately, as authorized to practice law in this State or as having an office for the practice of law in this State;

(c) the lawyer does not solicit or accept residents or citizens of New York as clients on matters that the lawyer knows primarily require advice on the state or local law of New York, except as permitted by 22 NYCRR section 522.4 (the in-house registration rule) or by other New York or federal law;

(d) the lawyer does not regularly conduct in-person meetings with clients or third persons in New York except as would otherwise be permitted under section 523.2 of this Part; and

(e) when the lawyer knows or reasonably should know that a person with whom the lawyer is dealing mistakenly believes that the lawyer is authorized to practice in this State, the lawyer shall make diligent efforts to correct the misunderstanding.