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**NEW YORK STATE**

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# **REGISTER**

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

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

- the 60-day period expires on October 1, 2023
- the 45-day period expires on September 16, 2023
- the 30-day period expires on September 1, 2023

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**NEW YORK STATE DEPARTMENT OF STATE**

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# NEW YORK STATE REGISTER

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## Be a part of the rule making process!

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

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

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

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

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

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

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

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

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

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## Office of Alcoholism and Substance Abuse Services

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### NOTICE OF ADOPTION

#### Requirements for the Establishment, Incorporation, and Certification of Providers of Addiction Services

**I.D. No.** ASA-33-22-00001-A

**Filing No.** 601

**Filing Date:** 2023-07-12

**Effective Date:** 2023-08-02

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

**Action taken:** Amendment of Part 810 of Title 14 NYCRR.

**Statutory authority:** Mental Hygiene Law, sections 19.07(c), (e), 19.09(b), 19.20, 19.20-a, 19.21(b), (d), 19.40, 32.01, 32.05, 32.07(a), 32.09, 32.21, 32.29, 32.31; Business Corporation Law, section 406; Not-For-Profit Corporation Law, section 404(u); Protection of People with Special Needs Act (L. 2012, ch. 501); 42 CFR part 2

**Subject:** Requirements for the establishment, incorporation, and certification of providers of addiction services.

**Purpose:** To update outdated and stigmatizing language, clarify the certification process, create a provisional operating certificate.

**Text or summary was published** in the August 17, 2022 issue of the Register, I.D. No. ASA-33-22-00001-P.

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

**Revised rule making(s) were previously published in the State Register** on November 9, 2022.

**Text of rule and any required statements and analyses may be obtained from:** Kelly E. Grace, Office of Addiction Services and Supports, 1450 Western Avenue, Albany, NY 12203, (518) 485-2365, email: Kelly.Grace@oasas.ny.gov

#### Revised Regulatory Impact Statement

##### 1. Statutory Authority:

(a) Section 19.07(c) of the Mental Hygiene Law (MHL) charges the Office with the responsibility for ensuring that persons in need of addiction services, care and treatment receive services of high quality and effectiveness and that the personal and civil rights of persons seeking and receiving such services are adequately protected.

(b) Section 19.07(e) of the MHL authorizes the Commissioner to adopt standards including necessary rules and regulations pertaining to addiction treatment services.

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

(d) Section 19.20 of the MHL requires review of criminal history information review concerning certain prospective employees and volunteers of providers of services certified, operated or otherwise authorized by the office.

(e) Section 19.20 -a of the MHL authorizes the Office to receive criminal history information from the Division of Criminal Justice Services related to persons seeking to be credentialed or applicants for an operating certificate issued by the office that will have regular and substantial unsupervised or unrestricted contact with patients/clients.

(f) Section 19.21(b) of the MHL requires the [c]Commissioner to establish and enforce regulations concerning the licensing, certification, inspection and treatment standards of addiction treatment services.

(g) Section 19.21(d) of the MHL requires the office to establish reasonable performance standards for providers of services certified by the Office.

(h) Section 19.40 of the MHL authorizes the Commissioner to issue operating certificates for the provision of addiction treatment services, including the authority to waive regulatory requirements.

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

(j) Section 32.05 of the MHL provides that no substance use disorder services may be established without an Operating Certificate issued by the commissioner.

(k) Section 32.07(a) of the MHL authorizes the Commissioner to adopt regulations to effectuate the provisions and purposes of article 32 of the MHL.

(l) Section 32.09 of the MHL contains criteria that the Commissioner must consider when issuing an operating certificate.

(m) Section 32.20 of the MHL authorizes the Commissioner to appoint a Temporary Operator.

(n) Section 32.21 of the MHL provides the Commissioner with the authority to suspend, revoke or limit operating certificates and imposition of fines.

(o) Section 32.29 of the MHL authorizes the Commissioner to approve the construction of a facility for which an operating certificate will be issued.

(p) Section 32.31 of the MHL provides the process for the establishment or incorporation of facilities for addiction services.

(q) Section 406 of the Business Corporation Law requires any corporation which intends to establish or operate a program of services for services to obtain the approval of the Commissioner as to the proposed filing of its certificate of incorporation.

(r) Section 404(u) of the Not-For-Profit Corporation Law gives the Commissioner the responsibility of approving the certificate of incorporation of any corporation which intends to establish or operate an addiction program Certified by the Office.

(s) The Protection of People with Special Needs Act (Chapter 501 of the Laws of 2012) establishes the Justice Center for the Protection of People with Special Needs (Justice Center) and requires criminal information history reviews of all applicants for authorization to operate a program of services for addiction; and of all employees, contractors, or volunteers of such certified program who will have the potential for, or may be permitted, regular and substantial unsupervised or unrestricted physical contact with the patients or clients of in such programs.

(t) 42 CFR 431.110 relates to federal requirements that New York State's Medicaid State Plan provide for the acceptance of Indian Health Services facilities as a Medicaid provider on the same basis as any other qualified provider.

2. Legislative Objectives: Part 810 (Establishment, Incorporation and Certification) was revised at this time because it contained outdated and unnecessary terminology, and needed to be revised to as to better reflect current practice in the Agency. The objectives in making these edits were to make the certification process more clear to providers in order to provide safe, effective, and efficient addiction support programs that reflect the needs of the clients. By making the requirements more clear to providers and prospective providers, it should be easier for providers and prospective providers to comply with the standards set forth in the regulations in creating and maintaining quality programs.

3. Needs and Benefits: OASAS is updating the language used in this regulation consistent with amendments made to other OASAS regulations. These updates include using less stigmatizing and more person centered terminology, using gender neutral language, updating the name of the Agency, and updating outdated definitions. Other amendments made were specifically to clarify certification requirements, and to include statutory language that has been added and/or updated since the time that the regulation was last updated. Standards for approving a certification application for full or administrative review was updated to clarify the policy requirement that 10% of the owners or principals or board members of an applicant program must have substantial experience directly providing or managing substance use disorder treatment services, as determined by the office. The reason for this clarification is that it is essential for an applicant to demonstrate that there is sufficient knowledge within the ownership and management of an applicant to successfully implement substance use disorder services. These criteria by which this will be reviewed is currently drafted as "guidance" for applicants. This section also includes language to clarify the requirements that must be met by an applicant, as well as provides for the inclusion of gender neutral facilities.

Previously there were several references to "a reasonable time" in the regulation in relation to certain steps of the applicant approval process. Definitions for these time frames were clarified in the regulation so as to align with current practice of the agency. A "provisional certification" was included in the types of operating certificates issued by the office to allow for a provisional certificate to be issued to an applicant by the Commissioner. The requirement that an additional location must be operated in the same or contiguous county as the original was eliminated to align with other OASAS regulations.

The Inspection and Review section of the regulation was amended to clarify the requirements for providers. A provision for appointment of a Temporary Operator was also included in the amended regulation, as it was a statutory provision added to the mental hygiene law in the time since the regulation was last updated. The authority for this comes from Section 32.20 of the Mental Hygiene law, and the regulation simply includes the requirements in the law.

In addition, Section 810.18 of the regulation included language that "notwithstands state law"-which is legally impermissible. As such, the language is invalid and was removed. That said, the removal of Section 810.18 does not impact the ability of IHS outpatient programs to seek Medicaid reimbursement since that is already covered by Federal rules. Specifically, the Federal rule (42 CFR Section 431.110) relating to Medicaid reimbursement which mirrors the language in Section 810.18 and remains applicable.

In regards to Section 810.18 of the OASAS regulation that spoke to certification of IHS programs, that is also covered by a Federal rule (42 CFR Section 8.11). Under the Federal Rule, OASAS facilities directly operated by IHS (on Tribal land) are not impacted by the removal of Section 810.18 of the OASAS regulation. However, IHS facilities that are organized or authorized (but not directly operated and not located on tribal land) by IHS will need to obtain OASAS certification in order to provide substance use disorder services in NYS.

4. Costs: No additional administrative costs to the State, agency, local governments or regulated parties are anticipated.

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

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

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

8. Alternatives: The alternative is to leave the regulation as it currently reads, with language inconsistent across Title 14 regulations and out of date terminology. To remove any inconsistencies and potential confusion among providers, this alternative was deemed unacceptable.

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

10. Compliance Schedule: This rulemaking will be effective upon publication of a Notice of Adoption in the State Register.

#### **Revised Regulatory Flexibility Analysis**

OASAS has determined that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments because the amended regulation does not impose any new requirements on providers or applicants beyond what is already required by the Office. The amendments only update outdated and stigmatizing language, and clarify certification process requirements to align with practice. This rule will be effective upon publication in the State Register.

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

OASAS has determined that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas because the amended regulation does not impose any new requirements on providers or prospective applicants beyond what the office already requires. The amendments only update outdated and stigmatizing language, and clarify certification process requirements to align with practice. This rule will become effective upon publication in the State Register.

#### **Revised Job Impact Statement**

OASAS is not submitting a Job Impact Statement for this rulemaking. OASAS does not anticipate a substantial adverse impact on jobs and employment opportunities because the amended regulation does not impose any new employment or training requirements on applicants or providers of services. The amendments only update outdated and stigmatizing language, and clarify certification process requirements to align with practice. This rule will become effective upon publication in the State Register.

#### **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 2028, which is no later than the 5th year after the year in which this rule is being adopted.

#### **Assessment of Public Comment**

Public comment: OASAS received several public comments relating to the revisions in Part 810.18 (Indian Health Services) and seeking clarification as to the removal of this section.

Agency response: In response to the comments relating to Part 810.18-OASAS incorrectly based the IHS provision in Part 810 on a federal rule (42 CFR 431.10) which is solely related to reimbursement in federal programs for IHS recognized entities (IHS organized, operated or authorized). The OASAS regulation (Part 810) was a misapplication of the federal rule since it took a federal reimbursement rule and applied to state certification. The relevant federal rule for certification can be found in 42 CFR 8.11 and applies a certification waiver to directly operated IHS facilities only (not those that are merely organized or authorized).

As such, OASAS is simply removing the inaccurate regulatory language that is void on its face since it conflicts with the relevant federal rules.

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## Education Department

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### EMERGENCY RULE MAKING

**Removes Requirement That a Postdoctoral General Practice or Specialty Dental Residency Program Experience be Clinically Based**

**I.D. No.** EDU-04-23-00006-E

**Filing No.** 606

**Filing Date:** 2023-07-14

**Effective Date:** 2023-07-15

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



**Action taken:** Amendment of section 61.18 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207, 6504, 6506, 6507, 6601, 6604; L. 2022, ch. 613

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

**Specific reasons underlying the finding of necessity:** The proposed rule is necessary to implement Chapter 613 of the Laws of 2022, which became effective November 21, 2023. The proposed rule conforms the Commissioner’s regulations to Chapter 613, which amends Education Law § 6604(3) by removing the requirement that the postdoctoral general practice or specialty dental residency program experience required for dental licensure needs to be clinically based. Chapter 613 was designed to address that fact that certain well-recognized accredited dental residency programs in oral medicine, orofacial pain, and dental public health are excluded from satisfying the experience requirement for dentist licensure because they are not deemed to be 50 percent clinically based specialty residencies. This prevents qualified dental school graduates with accredited residency training from obtaining a license after spending two to three years in a dental specialty program. Chapter 613 eliminates this unnecessary restriction on dental residency programs. It recognizes that the Department is responsible for all formal outcome assessments evaluating all residencies for dentistry and related specialties. This will expand access to much needed dental services by increasing the number of dentists in New York.

The proposed rule implements the provisions of Chapter 613 by:

- removing the “clinical” definition;
- removing the requirement that the postdoctoral clinical dental residency program be completed in a nationally accredited “dental facility” for dental teaching purposes. This requirement may now be met by completing such residency program in a community health center or facility that is nationally accredited for teaching purposes;
- adding dental public health, orofacial pain, and oral medicine to the list of accredited residency programs in a dental specialty that can be used for meeting the experience requirement for licensure; and
- removing the requirement that, for each accredited residency program in a specialty of dentistry, at least 50 percent of the accredited residency program consist of clinical training in certain areas.

Additionally, the proposed amendment removes the requirement that the written statement for completion of the residency or specialty program be notarized. Instead, it requires that such written statement attest to the applicant’s competence to practice the “completed dental specialty.”

The proposed amendment was presented to the Professional Practice Committee for recommendation to the Full Board for adoption as an emergency rule at the January 2023 Regents meeting and became effective January 10, 2023.

Because the January 2023 emergency action was set to expire on April 9, 2023, a second emergency action was necessary at the March 2023 meeting, effective April 10, 2023, to ensure the emergency rule remained continuously in effect until it can be permanently adopted.

Following the 60-day public comment period, and in response to public comment, at its May 2023 the Department made substantial revisions to the proposed amendment by removing obsolete provisions contained in section 61.19(b)(3)(i) and (ii) regarding the formal written outcome assessment that accredited residency programs must include. These provisions have been removed since the procedures listed in it are no longer necessary as accrediting standards are substantially more stringent. However, the revised proposed amendment adds language to section 61.18(b)(3) of the Commissioner’s regulations to still require that the assessment include a written statement by the residency program director attesting that the applicant has successfully completed the accredited residency program and is, in the director’s judgment, competent to practice general dentistry or a specialty of dentistry.

Since the Board of Regents meets at fixed intervals, the earliest that the proposed revised rule can be presented for permanent adoption, after expiration of the 45-day comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(4a), would be the September 2023 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the September 2023 meeting, would be September 27, 2023, the date the Notice of Adoption would be published in the State Register.

Since Chapter 613 became effective November 21, 2022, emergency action is necessary at the June 2023 meeting, effective July 15, 2023, for the preservation of the public health and general welfare in order to timely implement the provisions of Chapter 613 of the Laws of 2022, which became effective November 21, 2022, and to ensure the emergency action taken at the May 2023 meeting remains continuously in effect.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the September 2023 meeting, which is the first scheduled meeting after expiration of the 45-day public comment period mandated by SAPA for state agency rule making.

However, since the emergency action will expire before the September Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the September 2023 Regents meeting.

**Subject:** Removes requirement that a postdoctoral general practice or specialty dental residency program experience be clinically based.

**Purpose:** To implement chapter 613 of the Laws of 2022.

**Text of emergency rule:** 1. Section 61.18 of the Regulations of the Commissioner of Education is amended to read as follows:

Section 61.18 Residency program requirement for dental licensure

(a) Definitions. As used in this section:

(1) ...  
 (2) [Clinical means relating to or involving the direct examination and treatment of patients.

(3)] Competent to practice dentistry means the level of knowledge and skills necessary to perform safely and independently the practice of dentistry consistent with the definition of the practice of dentistry in section 6601 of the Education Law.

(b) Residency program. To be acceptable to the department for purposes of licensure under section 6604 of the Education Law, a residency program shall meet the requirements of this section.

(1) The residency program shall be a postdoctoral [clinical] dental residency program in either general dentistry, or a specialty of dentistry as defined in paragraph (2) of this subdivision, of at least one year’s duration in a hospital or [dental] facility accredited for teaching purposes by an acceptable national accrediting body, which is completed successfully by the applicant prior to the submission to the department of the application for licensure.

(2) The accredited residency program in a specialty of dentistry shall be in the specialty of endodontics, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, dental anesthesiology, dental public health, orofacial pain, oral medicine, or another specialty of dentistry, as determined by the department[,for which at least 50 percent of the accredited residency program consists of clinical training in one or more of the following areas: general dentistry, endodontics, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, and/or dental anesthesiology].

(3) The accredited residency program shall include a formal written outcome assessment which is acceptable to the department, which shall include a written statement by the residency program director attesting that the applicant has successfully completed the accredited residency program as defined in this section, and is, in the director’s judgment, competent to practice general dentistry or a specialty of dentistry.

(i) For an accredited residency program in general dentistry, the formal written outcome assessment used by the residency program shall be acceptable to the department if it includes:

(a) an acceptable notarized written statement by the residency program director attesting that the applicant has completed successfully the accredited residency program and is in the director’s judgment competent to practice dentistry; and

(b) acceptable notarized written statement(s) by the residency program director who supervised the dental procedures performed by the applicant, and/or the attending dentist(s) who supervised the dental procedures performed by the applicant if different from the residency program director, attesting that the applicant completed independently, and to generally accepted professional standards for dentistry, two full crowns, two endodontically treated teeth, four restorations (two anterior, two posterior) and one periodontal case during the accredited residency program.

(ii) For an accredited residency program in a specialty of dentistry, as defined in paragraph (2) of this subdivision, the formal written outcome assessment used by the residency program shall be acceptable to the department if it includes an acceptable [notarized] written statement by the residency program director attesting that the applicant has successfully completed the accredited residency program in a specialty of dentistry, as defined in paragraph (2) of this subdivision, and is in the director’s judgment competent to practice dentistry.]

(c) ...

(d) ...

**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. EDU-04-23-00006-EP, Issue of March 14, 2023. The emergency rule will expire September 11, 2023.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Regulatory Impact Statement**

Since the publication of a Notice of Emergency Adoption and Proposed Rulemaking in the State Register on January 25, 2023, and a second Notice of Emergency Adoption on April 26, 2023, the proposed rule has been revised, in response to public comment, as follows:

Obsolete provisions contained in section 61.19(b)(3)(i) and (ii) of regarding the formal written outcome assessment that accredited residency programs must include were removed. These provisions have been removed since the procedures listed in it are no longer necessary as accrediting standards are now substantially more stringent. However, the revised proposed amendment adds language to section 61.18(b)(3) of the Commissioner's regulations to continue to require that the assessment include a written statement by the residency program director attesting that the applicant has successfully completed the accredited residency program and is, in the director's judgment, competent to practice general dentistry or a specialty of dentistry.

The above changes do not require any changes to the previously published Regulatory Impact Statement.

**Regulatory Flexibility Analysis**

Since the publication of a Notice of Emergency Adoption and Proposed Rulemaking in the State Register on January 25, 2023, and a second Notice of Emergency Adoption on April 26, 2023, the proposed rule has been revised as set forth in the Statement Concerning the Regulatory Impact Statement.

The aforementioned revisions do not require any changes to the previously published Statement in Lieu of Regulatory Flexibility Analysis for Small Businesses and Local Governments.

**Rural Area Flexibility Analysis**

Since the publication of a Notice of Emergency Adoption and Proposed Rulemaking in the State Register on January 25, 2023, and a second Notice of Emergency Adoption on April 26, 2023, the proposed rule has been revised as set forth in the Statement Concerning the Regulatory Impact Statement.

The aforementioned revisions do not require any changes to the previously published Statement in Lieu of Rural Area Flexibility Analysis. Regulatory Flexibility Analysis for Small Businesses and Local Governments.

**Job Impact Statement**

Since the publication of a Notice of Emergency Adoption and Proposed Rulemaking in the State Register on January 25, 2023, and a second Notice of Emergency Adoption on April 26, 2023, the proposed rule has been revised as set forth in the Statement Concerning the Regulatory Impact Statement.

The aforementioned revisions do not require any changes to the previously published Statement in Lieu of Job Impact Statement.

**Assessment of Public Comment**

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

## EMERGENCY RULE MAKING

**Requirements for Admission to the Examination for Licensure as an Engineer**

**I.D. No.** EDU-18-23-00009-E

**Filing No.** 603

**Filing Date:** 2023-07-17

**Effective Date:** 2023-07-17

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

**Action taken:** Amendment of section 68.3 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207, 6504, 6507, 7206; L. 2021, ch. 465

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

**Specific reasons underlying the finding of necessity:** The Department proposes to amend section 68.3 of the Commissioner's regulations to reflect the intent of Chapter 465 of the Laws of 2021 by allowing the "all experience" pathway applicants to sit for the fundamentals of engineering examination provided that they meet the pathway's requirements prescribed in section 68.1(c) of the Commissioner's regulations.

The proposed amendment was presented to the Professional Practice Committee for recommendation to the Full Board for adoption as an emergency rule at the April 2023 meeting of the Board of regents, effective April 18, 2023. Since the Board of Regents meets at fixed intervals, the

earliest the proposed amendment could be adopted by regular (non-emergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the July 2023 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the July 2023 meeting, would be August 2, 2023, the date the Notice of Adoption would be published in the State Register.

However, the emergency rule will expire on July 16, 2023. Therefore, a second emergency action is necessary at the June 2023 meeting, effective July 17, 2023, for the preservation of the general welfare to immediately conform the Commissioner's regulations to Chapter 465 of the Laws of 2021, which became effective April 6, 2022, and to ensure that the emergency action taken at the April meeting remains continuously in effect until the rule can be permanently adopted.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the July 2023 Regents meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rule making.

**Subject:** Requirements for admission to the examination for licensure as an engineer.

**Purpose:** To reflect the intent of Chapter 465 of the Laws of 2021 by continuing to allow "all experience" pathway applicants to sit for the fundamentals of engineering examination.

**Text of emergency rule:** Subdivision (b) of section 68.3 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) Admission to examinations.

(1) To meet the requirements for admission to the fundamentals of engineering examination, an applicant shall either:

(i)...

(ii)...

(iii) have met the education requirement of 68.1(b)(4) or (5); or

(iv) as prescribed in section 68.1(c) of this Part, have earned at least six education/experience credits and submitted an application for licensure with the required fee to the department prior to April 6, 2024,

(2)...

**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. EDU-18-23-00009-EP, Issue of May 3, 2023. The emergency rule will expire September 14, 2023.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Regulatory Impact Statement****1. STATUTORY AUTHORITY:**

Section 207 of the Education Law grants general rulemaking authority to the Board of Regents to carry into effect the laws and policies of the State relating to education.

Section 6504 of the Education Law authorizes the Board of Regents to supervise the admission to and regulation of the practice of the professions.

Paragraph (a) of subdivision (2) of section 6507 of the Education Law authorizes the Commissioner of Education to promulgate regulations in administering the admission to and the practice of the professions.

Section 7206 of the Education Law defines the Requirements for a License as a Professional Engineer.

Subdivision (4) of section 7206 of the Education Law, as added by Chapter 465 of the Laws of 2021, permits applicants, who file with the Department within two years of the effective date of this subdivision, an application and fee requirements pursuant to paragraphs (1) and (8) of subdivision (1) of this section and who, at such time or anytime thereafter, demonstrate to the satisfaction of the Department that they have 12 years of practical experience in work satisfactory to the State Board for Engineering, Land Surveying and Geology may substitute such experience for the degree and experience requirements specified in paragraphs (2) and (3) of subdivision (1) of this section, provided that each full year of study in engineering satisfactory to the Department may at the discretion of the State Board for Engineering, Land Surveying and Geology be accepted in lieu of up to two years of the required 12 years of experience.

**2. LEGISLATIVE OBJECTIVES:**

The proposed amendment is consistent with the aforementioned statute and is necessary to fix a clerical error in the adoption of amendments to section 68.3 of the Commissioner's regulations that were adopted by the Board of Regents at their July 2022 meeting.

At its July 2022 Regents meeting, the Board of Regents voted to permanently adopt amendments to section 68.3 of the Commissioner's regulations relating to the education, examinations, and experience requirements for licensure in the profession of professional engineering. This amendment updated such requirements effective April 18, 2023.

Due to a clerical error, the July 2022 amendments to the Commissioner’s regulations filed with the Department of State inadvertently omitted a subdivision of 68.3(b) of the Commissioner’s regulations. The omitted text of the regulation failed to provide for those individuals who would otherwise qualify to take an examination under a sunseting pathway to sit for the Fundamentals of Engineering examination. Therefore, the proposed amendment is necessary to resolve this clerical error.

**3. NEEDS AND BENEFITS:**

Due to a clerical error, amendments to section 68.3 of the Commissioner’s regulations filed with the Department of State concerning licensure in the profession of engineering inadvertently omitted a subdivision of 68.3(b) of the Commissioner’s regulations that would provide for those individuals who would otherwise qualify to take an examination under a sunseting pathway to sit for the Fundamental of Engineering examination under the regulations adopted by the Board of Regents at its July 2022 meeting. Therefore, the proposed amendment is necessary to resolve this clerical error by inserting the omitted language.

**4. COSTS:**

- (a) Costs to State government. There are no additional costs to State government.
- (b) Costs to local government. There are no additional costs to local government.
- (c) Costs to private regulated parties. There are no additional costs to private regulated parties.
- (d) Costs to the regulatory agency. There are no additional costs to the State Education Department.

**5. LOCAL GOVERNMENT MANDATES:**

The proposed amendment does not impose any program, service, duty, or responsibility on local governments.

**6. PAPERWORK:**

The proposed amendment imposes no new forms, reporting requirements, or other recordkeeping or paperwork requirements.

**7. DUPLICATION:**

The proposed amendment does not duplicate any other existing State or federal requirements.

**8. ALTERNATIVES:**

The proposed amendment to section 68.3 of the Regulations of the Commissioner of Education is necessary to resolve a clerical error by fixing discrepancies in language that was adopted by the Board of Regents and the language that was filed with the Department of State. There are no significant alternatives to the proposed amendment, and none were considered.

**9. FEDERAL STANDARDS:**

No Federal standards apply to the subject of this proposed rule making. Since there are no applicable federal standards, the proposed rule does not exceed any minimum federal standards for the same or similar subject areas.

**10. COMPLIANCE SCHEDULE:**

It is anticipated that regulated parties will be able to comply with the proposed amendment by the effective date.

**Regulatory Flexibility Analysis**

At its April 2023 Regents meeting, the Board of Regents voted to permanently adopt amendments to section 68.3 of the Commissioner’s regulations relating to the requirements for admission to the examination for licensure in the profession of engineering. This amendment updated such requirements effective April 18, 2023.

Due to a clerical error, the July 2022 amendments to the Commissioner’s regulations filed with the Department of State inadvertently omitted a subdivision of 68.3(b) of the Commissioner’s regulations. The omitted text of the regulation failed to provide for those individuals who would otherwise qualify to take an examination under a sunseting pathway to sit for the Fundamentals of Engineering examination. Therefore, the proposed amendment is necessary to resolve this clerical error.

The proposed rule will not impose any reporting, recordkeeping or other compliance requirements or costs or have any adverse economic impact on small businesses or local governments. Because it is evident from the proposed rule that it will not adversely affect small businesses or local governments, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required, and one has not been prepared.

**Rural Area Flexibility Analysis**

At its April 2023 Regents meeting, the Board of Regents voted to permanently adopt amendments to section 68.3 of the Commissioner’s regulations relating to the requirements for admission to the examination for licensure in the profession of engineering. This amendment updated such requirements effective April 18, 2023.

Due to a clerical error, the July 2022 amendments to the Commissioner’s regulations filed with the Department of State inadvertently omit-

ted a subdivision of 68.3(b) of the Commissioner’s regulations. The omitted text of the regulation failed to provide for those individuals who would otherwise qualify to take an examination under a sunseting pathway to sit for the Fundamentals of Engineering examination. Therefore, the proposed amendment is necessary to resolve this clerical error.

The proposed amendment will not impose any adverse economic impact on regulated parties located in rural areas. Likewise, the proposed amendment will not impose any reporting, record keeping or other compliance requirements on regulated parties located in rural areas. Therefore, no rural area flexibility analysis is required pursuant to Section 202-bb(4)(a) of the State Administrative Procedure Act, and none has been prepared.

**Job Impact Statement**

At its April 2023 Regents meeting, the Board of Regents voted to permanently adopt amendments to section 68.3 of the Commissioner’s regulations relating to the requirements for admission to the examination for licensure in the profession of engineering. This amendment updated such requirements effective April 18, 2023.

Due to a clerical error, the July 2022 amendments to the Commissioner’s regulations filed with the Department of State inadvertently omitted a subdivision of 68.3(b) of the Commissioner’s regulations. The omitted text of the regulation failed to provide for those individuals who would otherwise qualify to take an examination under a sunseting pathway to sit for the Fundamentals of Engineering examination. Therefore, the proposed amendment is necessary to resolve this clerical error.

The proposed amendment will not have a substantial adverse impact on jobs and employment opportunities. Because it is evident from the nature of the proposed amendment that it will not affect job and employment opportunities, no affirmative steps were needed to ascertain these facts and none were taken. Accordingly, a job impact statement is not required and one has not prepared.

**EMERGENCY  
RULE MAKING**

**Deadline to Apply and Qualify for the Provisional School Counselor Certificate**

**I.D. No.** EDU-18-23-00010-E

**Filing No.** 605

**Filing Date:** 2023-07-17

**Effective Date:** 2023-07-17

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

**Action taken:** Amendment of section 80-2.1 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101, 207, 208, 305, 308, 3001, 3004 and 3009

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

**Specific reasons underlying the finding of necessity:** At its May 2017 meeting, the Board of Regents adopted regulatory amendments establishing new Initial and Professional School Counselor certificates and the registration requirements for school counselor education programs that lead to these certificates. Institutions of higher education admitting new candidates for school counselor certification were required to register programs leading to Initial and Professional School Counselor certification by September 1, 2021. The Initial and Professional School Counselor certificates became available on February 2, 2023.

Candidates must have applied and qualified for the Provisional School Counselor certificate under the previous requirements prior to February 2, 2023 (8 NYCRR 80-2.1(a)(1)(iii)). On that date, the application for the Provisional School Counselor certificate and the ability for institutions to recommend candidates for this certificate was no longer available. Therefore, candidates who qualified for Provisional School Counselor certification prior to February 2, 2023, but did not apply for the certificate prior to this date would need to pursue the new Initial or Professional School Counselor certificate instead.

The coursework and clinical experience requirements for Provisional School Counselor certification and registered programs leading to this certificate were different from the coursework and clinical experience requirements for Initial and Professional School Counselor certification and registered programs leading to these certificates. As such, candidates who completed a registered program leading to Provisional School Counselor certification may not be eligible for an Initial or Professional School Counselor certificate through the individual evaluation pathway and may need to complete additional requirements.

The Department has become aware of candidates who completed a

registered program leading to Provisional School Counselor certification prior to February 2, 2023, but did not submit an application and pay the application fee for the certificate prior to this date or did not receive an institutional recommendation for certification by this date. To hold these candidates harmless, the Department is proposing to extend the date by which candidates who complete a registered program leading to Provisional School Counselor certification would need to apply and qualify for this certificate to February 2, 2024.

The proposed amendment would provide appropriate flexibility for qualified candidates who completed a registered program leading to Provisional School Counselor certification, as well as candidates who may still be matriculating in this type of program but will complete it by February 2, 2024. This will ensure that these candidates can seamlessly obtain Provisional certification so that there will be a larger pool of candidates to provide school counselor services. School counselor services are of critical importance, particularly given their important role in working with children who are dealing with challenges stemming from the COVID-19 pandemic.

The proposed amendment was presented to the Higher Education Committee for recommendation to the Full Board for adoption as an emergency rule at the April 2023 meeting of the Board of Regents. Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (non-emergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the September 2023 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the September meeting, would be September 27, 2023, the date the Notice of Adoption would be published in the State Register.

However, the emergency rule will expire July 16, 2023. Therefore, a second emergency action is necessary at the June 2023 meeting for the preservation of the general welfare to immediately extend the date by which candidates who completed a registered program leading to Provisional School Counselor certification would need to apply and qualify for this certificate to February 2, 2024 and to ensure that the emergency action taken at the April 2023 meeting remains continuously in effect.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at its September 2023 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for State agency rulemaking. However, since the emergency action will expire before the September 2023 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the September 2023 Regents meeting.

**Subject:** Deadline to apply and qualify for the provisional school counselor certificate.

**Purpose:** To extend the deadline to apply and qualify for the provisional school counselor certificate for candidates who completed a registered program leading to Provisional School Counselor certification, as well as candidates who may still be matriculating in this type of program but will complete it by February 2, 2024.

**Text of emergency rule:** Subparagraph (iii) of paragraph (1) of subdivision (a) of section 80-2.1 of the Regulations of the Commissioner of Education is amended to read as follows:

(iii) Candidates who apply and qualify for the provisional certificate in the title school counselor prior to February 2, 2023 shall be subject to the requirements of this Subpart. Candidates who do not meet these requirements shall be subject to the requirements of Subpart 80-3 of this Part, unless otherwise specifically prescribed in this Part. *The requirement that the candidate must apply and qualify for the provisional certificate in the title school counselor prior to February 2, 2023 shall not apply to a candidate who has completed a program leading to such certificate registered pursuant to Part 52 of this Title. In that case, the candidate must apply and qualify for the certificate prior to February 2, 2024 to be subject to the requirements of this Subpart.*

**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. EDU-18-23-00010-EP, Issue of May 3, 2023. The emergency rule will expire September 14, 2023.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, Education Department, Office of Counsel, 89 Washington Avenue, Room 112 EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

#### Regulatory Impact Statement

##### 1. STATUTORY AUTHORITY:

Education Law § 101 (not subdivided) charges the Department with the general management and supervision of all public schools and all of the educational work of the state.

Education Law § 207 grants general rule-making authority to the Regents to carry into effect State educational laws and policies.

Education Law § 208 grants general rule-making authority to the Regents to confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the requirements prescribed.

Education Law § 305 authorizes the Commissioner to enforce the educational policies of this State and execute all educational policies determined by the Regents and shall prescribe the licensing of teachers employed in this State.

Education Law § 308 authorizes the Commissioner to enforce and rule or direction of the Regents pertaining to the school system or any part thereof.

Education Law § 3001 establishes the qualifications of teachers in the classroom.

Education Law § 3004 authorizes the Commissioner to promulgate regulations governing the certification requirements for teachers employed in public schools.

Education Law § 3009 prohibits school districts from paying the salary of an unqualified teacher.

##### 2. LEGISLATIVE OBJECTIVES:

The proposed amendment is consistent with the above statutory authority and is necessary to extend the date by which candidates who complete a New York State registered program leading to Provisional School Counselor certification would need to apply and qualify for the Provisional School Counselor Certificate from February 2, 2023 to February 2, 2024. The proposed amendment ensures that these candidates can seamlessly obtain Provisional certification so that there will be a larger pool of candidates to provide school counselor services. School counselor services are of critical importance, particularly given their important role in working with children who are dealing with challenges stemming from the COVID-19 pandemic.

##### 3. NEEDS AND BENEFITS:

At its May 2017 meeting, the Board of Regents adopted regulatory amendments establishing new Initial and Professional School Counselor certificates and the registration requirements for school counselor education programs that lead to these certificates. Institutions of higher education admitting new candidates for school counselor certification were required to register programs leading to Initial and Professional School Counselor certification by September 1, 2021. The Initial and Professional School Counselor certificates became available on February 2, 2023.

Candidates must have applied and qualified for the Provisional School Counselor certificate under the previous requirements prior to February 2, 2023 (8 NYCRR 80-2.1(a)(1)(iii)). On that date, the application for the Provisional School Counselor certificate and the ability for institutions to recommend candidates for this certificate were no longer available. Therefore, candidates who qualified for Provisional School Counselor certification prior to February 2, 2023 but did not apply for the certificate prior to this date would need to pursue the new Initial or Professional School Counselor certificate instead.

The coursework and clinical experience requirements for Provisional School Counselor certification and registered programs leading to this certificate were different from the coursework and clinical experience requirements for Initial and Professional School Counselor certification and registered programs leading to these certificates. As such, candidates who completed a registered program leading to Provisional School Counselor certification may not be eligible for an Initial or Professional School Counselor certificate through the individual evaluation pathway and may need to complete additional requirements.

The Department has learned of candidates who completed a registered program leading to Provisional School Counselor certification prior to February 2, 2023 but did not submit an application and pay the application fee for the certificate prior to this date or did not receive an institutional recommendation for certification by this date. To hold these candidates harmless, the Department is proposing to extend the date by which candidates who complete a New York State registered program leading to Provisional School Counselor certification would need to apply and qualify for this certificate to February 2, 2024.

The proposed amendment would provide appropriate flexibility for qualified candidates who completed a registered program leading to Provisional School Counselor certification, as well as candidates who may still be matriculating in this type of program but will complete it by February 2, 2024. This will ensure that these candidates can seamlessly obtain Provisional certification, so that there will be a larger pool of candidates to provide school counselor services. School counselor services are of critical importance, particularly given their important role in working with children who are dealing with challenges stemming from the COVID-19 pandemic.

##### 4. COSTS:

a. Costs to State government: The amendment does not impose any costs on State government, including the State Education Department.

b. Costs to local government: The amendment does not impose any costs on local government.

c. Costs to private regulated parties: The amendment does not impose any costs on private regulated parties.

d. Costs to regulating agency for implementation and continued administration: See above.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any additional program, service, duty or responsibility upon any local government.

6. PAPERWORK:

The proposed amendment does not impose any additional paperwork requirements.

7. DUPLICATION:

The proposed amendment does not duplicate existing State or Federal requirements.

8. ALTERNATIVES:

The proposed rule is necessary to extend the date by which candidates who complete a New York State registered program leading to Provisional School Counselor certification would need to apply and qualify for the Provisional School Counselor Certificate from February 2, 2023 to February 2, 2024. The proposed amendment ensures that these candidates can seamlessly obtain Provisional certification so that there will be a larger pool of candidates to provide school counselor services. School counselor services are of critical importance, particularly given their important role in working with children who are dealing with challenges stemming from the COVID-19 pandemic. There were no alternatives and none were considered.

9. FEDERAL STANDARDS:

There are no applicable Federal standards.

10. COMPLIANCE SCHEDULE:

The proposed rule will take effect as an emergency action on April 18, 2023. It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at its September 2023 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for State agency rulemaking. However, since the emergency action will expire before the September 2023 Regents meeting, it is anticipated that additional emergency actions will be presented for adoption at the June and September 2023 Regents meeting. It is anticipated that regulated parties will be able to comply with the proposed rule on its effective date, as the proposed rule merely provides flexibility for qualified candidates who completed a registered program leading to Provisional School Counselor certification, as well as candidates who may still be matriculating in this type of program but will complete it by February 2, 2024.

**Regulatory Flexibility Analysis**

The purpose of the proposed amendment of section 80-2.1 of the Regulations of the Commissioner of Education is to extend the date by which candidates who complete a New York State registered program leading to Provisional School Counselor certification would need to apply and qualify for the Provisional School Counselor Certificate from February 2, 2023 to February 2, 2024. The proposed amendment ensures that these candidates can seamlessly obtain Provisional certification so that there will be a larger pool of candidates to provide school counselor services. School counselor services are of critical importance, particularly given their important role in working with children who are dealing with challenges stemming from the COVID-19 pandemic.

The amendment does not impose any new recordkeeping or other compliance requirements and will not have an adverse economic impact on small businesses or local governments. Because it is evident from the nature of the proposed amendment that it will not affect small businesses or local governments, no further steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required and one has not been prepared.

**Rural Area Flexibility Analysis**

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:

The proposed amendment applies to all candidates who complete a New York State registered program leading to Provisional School Counselor certification and apply and qualify for the Provisional School Counselor Certificate prior to February 2, 2024, including those located in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

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

The purpose of the proposed amendment of section 80-2.1 of the Regulations of the Commissioner of Education is to extend the date by which candidates who complete a New York State registered program leading to Provisional School Counselor certification would need to apply and qualify for the Provisional School Counselor Certificate from February 2, 2023 to February 2, 2024. The proposed amendment ensures that these candidates can seamlessly obtain Provisional certification so that

there will be a larger pool of candidates to provide school counselor services. School counselor services are of critical importance, particularly given their important role in working with children who are dealing with challenges stemming from the COVID-19 pandemic.

The proposed amendment does not impose any reporting, recordkeeping, or other compliance or professional services on regulated parties.

3. COSTS:

The proposed amendment does not impose any additional costs on regulated parties.

4. MINIMIZING ADVERSE IMPACTS:

The proposed rule merely provides flexibility for qualified candidates who completed a registered program leading to Provisional School Counselor certification, as well as candidates who may still be matriculating in this type of program but will complete it by February 2, 2024, and will have no adverse economic impact on regulated parties, including those located in rural areas of the state. Therefore, no alternatives were considered.

5. RURAL AREA PARTICIPATION:

A Copy of the proposed amendment has been provided to the New York Association of Colleges for Teacher Education for review and comment, which have members located in rural areas.

**Job Impact Statement**

The purpose of the proposed amendment of section 80-2.1 of the Regulations of the Commissioner of Education is to extend the date by which candidates who complete a New York State registered program leading to Provisional School Counselor certification would need to apply and qualify for the Provisional School Counselor Certificate from February 2, 2023 to February 2, 2024. The proposed amendment ensures that these candidates can seamlessly obtain Provisional certification so that there will be a larger pool of candidates to provide school counselor services. School counselor services are of critical importance, particularly given their important role in working with children who are dealing with challenges stemming from the COVID-19 pandemic.

Because it is evident from the nature of the proposed amendment that it will have no impact on the existing number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken.

**EMERGENCY  
RULE MAKING**

**Education Requirements for Licensure as a Registered Professional Nurse and Licensed Practical Nurse**

**I.D. No.** EDU-18-23-00011-E

**Filing No.** 604

**Filing Date:** 2023-07-17

**Effective Date:** 2023-07-17

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

**Action taken:** Amendment of section 64.1 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207, 6504, 6506, 6507, 6905 and 6906

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

**Specific reasons underlying the finding of necessity:** The proposed rule eliminates the discrepancy in the manner in which nursing programs from other states are treated when it comes to satisfying the educational requirements for licensure as a registered professional nurse or licensed practical nurse.

To satisfy the education requirement necessary for licensure as a registered professional nurse (RN) or licensed practical nurse (LPN) in New York, for those individuals graduating from a nursing program in a different state, current regulation only requires graduation from a nursing program approved by another state's licensing authority. While the regulation does allow for the satisfaction of the educational requirements for nurse licensure by graduating from a school registered with the department or foreign nursing programs that are "satisfactory to the department," there is no similar requirement that a nursing program approved by the licensing authority of another state within the United States (or a territory/possession thereof) be registered with the department or be satisfactory to the department.

Staff have identified concerning trends with some out of state nursing schools. Additionally, a recent Federal investigation and series of indictments regarding the issuance of fraudulent nursing programs credentialed and approved by various institutions in Florida highlight the dangers presented by this regulatory loophole. "Operation Nightingale" uncovered an

alleged scheme involving numerous Florida-based schools that provided more than 7,600 fake diplomas and transcripts<sup>1</sup> to individuals that would eventually go on to seek licensure within the nursing profession in other states, including New York. The State of Florida Commission for Independent Education has determined that some of the implicated schools were operated in a manner contrary to the public health and welfare.

The ability of an individual to satisfy the education requirements for licensure as a RN or LPN by simply graduating from an out-of-state nursing program approved in another state makes New York susceptible to individuals trying to take advantage of the current educational standards and oversight in other states, which may be less stringent than those in New York. This puts New York citizens and employing institutions at risk. The proposed regulatory amendments close the loophole in the educational requirements for nursing by providing that nursing programs or any part thereof approved by another state that are determined not to be satisfactory to the department may not be used by an applicant to satisfy the education requirements for licensure as a nurse in New York.

The proposed amendment was presented to the Professional Practice Committee for recommendation to the Full Board for adoption as an emergency rule at the April 2023 meeting of the Board of Regents, effective April 18, 2023. Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (non-emergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the September 2023 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the September meeting, would be September 27, 2023, the date the Notice of Adoption would be published in the State Register.

However, the emergency rule will expire on July 16, 2023. Therefore, emergency action is necessary at the June 2023 meeting, effective July 17, 2023, for the preservation of the public health, safety, and general welfare in order to immediately permit the Department to reject out-of-state nursing programs approved in the original jurisdiction if a nursing program is determined not to be satisfactory to the department, and to ensure that the emergency action taken at the April meeting remains continuously in effect until the rule can be permanently adopted.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the September 2023 Regents meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rule making. However, since the second emergency action will expire before the September Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the September 2023 Regents meetings.

<sup>1</sup> <https://oig.hhs.gov/newsroom/media-materials/nightingale/>

**Subject:** Education requirements for licensure as a registered professional nurse and licensed practical nurse.

**Purpose:** To permit the Department to reject out-of-state nursing programs approved by the licensing authority of another state if a it is determined not to be satisfactory to the Department.

**Text of emergency rule:** 1. Subdivision (a) of section 64.1 of the Regulations of the Commissioner of Education is amended to read as follows:

(a) Registered professional nursing. To meet the professional education requirement for licensure, the applicant shall have graduated from:

- (1) ...
- (2) a program in nursing approved by the licensing authority in another state, territory or possession of the United States as preparation for practice as a registered professional nurse *unless such program or any part thereof has been determined not to be satisfactory to the department;*

or

- (3) ...
2. Subdivision (b) of section 64.1 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) Licensed practical nursing. To meet the education requirements for licensure, the applicant shall have graduated from high school or its equivalent, and shall have:

- (1) graduated from a program in nursing registered by the department or approved by the licensing authority in another state, territory, or possession of the United States as preparation for practice as a licensed practical nurse *unless such program or any part thereof has been determined not to be satisfactory to the department;*
- (2) ...
- (3) ...
- (4) ....

**This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. EDU-18-23-00011-EP, Issue of May 3, 2023. The emergency rule will expire September 14, 2023.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

#### Regulatory Impact Statement

##### 1. STATUTORY AUTHORITY:

Section 207 of the Education Law grants general rule-making authority to the Board of Regents to carry into effect the laws and policies of the State relating to education.

Section 6504 of the Education Law authorizes the Board of Regents to supervise the admission to and regulation of the practice of the professions.

Section 6506 of the Education Law authorizes the Board of Regents to supervise the admission to and the practice of the professions.

Paragraph (a) of subdivision (2) of section 6507 of the Education Law authorizes the Commissioner of Education to promulgate regulations in administering the admission to and the practice of the professions.

Section 6905 of the Education Law establishes the licensure requirements for registered professional nurses.

Section 6906 of the Education Law establishes the licensure requirements for licensed professional nurses.

##### 2. LEGISLATIVE OBJECTIVES:

Education Law Sections 6905(2) and 6906(2) require that an individual must have received an education in accordance with the Commissioner's regulations in order to obtain licensure as a registered professional nurse (RN) or licensed practical nurse (LPN) in New York State (NYS). Sections 64.1(a) and Section 64.1(b) of the Commissioner's regulations prescribe the educational requirements for an individual seeking a license as an RN or LPN.

While NYS programs must be registered with the Department and programs completed abroad must be found satisfactory by the Department, under current regulations, nursing programs completed in other states are sufficient to meet the professional education requirement so long as the programs are approved by the licensing authority of the state in which they are offered. There is no requirement that these out-of-state programs meet specific standards or be satisfactory to the Department. Staff-identified trends and recent events related to alleged fraud at multiple out-of-state nursing schools call into question the legitimacy and rigor of some out-of-state-schools. This highlights the fact that the Department would benefit from explicit authority to reject an applicant's education should the Department determine that an out-of-state program or any part thereof is not satisfactory to the Department.

The proposed amendment to subdivisions (a) and (b) of section 64.1 of the Commissioner's regulations is consistent with the above statutory authority and complies with the mandate contained therein, which requires the Commissioner's regulations to define the necessary educational requirements for licensure as an RN and LPN in NYS, by adding language that allows the Department to reject out-of-state nursing programs approved by the licensing authority of another state, if a nursing program or any part thereof is determined not to be satisfactory to the Department. This amendment will improve the Department's ability to protect the public by ensuring that RN and LPN licensure applicants, who graduated from out-of-state nursing education programs, meet the same minimum competency for licensure as applicants who received their education from a nursing education program registered with the Department or nursing education programs completed abroad, which have been found satisfactory by the Department.

##### 3. NEEDS AND BENEFITS:

The purpose of the proposed amendment is to conform subdivisions (a) and (b) of section 64.1 of the Commissioner's regulations as those two subdivisions relate to the educational requirements for licensure as an RN and LPN in NYS. Specifically, the proposed amendment eliminates the discrepancy in how nursing programs from other states are treated when it comes to meeting the educational requirement for licensure, explicitly stating that, notwithstanding approval by another state's licensing authority, if an out-of-state nursing program or any part thereof is not satisfactory to the Department it may not be used to satisfy the education requirement for licensure in this State.

Current regulation allows for an applicant to meet educational requirements for licensure as a registered professional or licensed practical nurse if they graduate from a nursing program registered in NYS or if they graduate from a foreign nursing program outside the United States (U.S.) that is satisfactory to the Department and has been certified to the Department as being preparation for practice as a registered professional/licensed practical nurse. However, to satisfy the educational requirement for licensure as an RN or a LPN in NYS, for those individuals graduating from a nursing program in a different state within the U.S., current regulation only requires graduation from a nursing program approved by that other state's licensing authority. There is no requirement that the nursing program approved by the licensing authority of another state be registered with or satisfactory to the Department.

4. COSTS:

(a) Costs to State government: There are no foreseeable additional costs to the State government associated with this proposed amendment.

(b) Costs to local government: There are no additional costs to local governments associated with this proposed amendment.

(c) Cost to private regulated parties: The proposed rule does not impose any additional costs on regulated parties beyond those imposed by statute. As required by existing statute (Education Law Sections 6905 and 6906), to satisfy the educational requirements for licensure as an RN or LPN, an individual must obtain a defined level of education. To satisfy those existing educational requirements, individuals seeking RN or LPN licensure have, and will continue, to incur costs associated with obtaining the necessary level of education.

(d) Cost to the regulatory agency: The proposed rule does not impose any foreseeable additional costs on the Department beyond those imposed by statute. Any associated costs to the Department will be offset by the fees charged to applicants for licensure as an RN or LPN and no significant cost will result to the Department.

5. LOCAL GOVERNMENT MANDATES:

The proposed rule does not impose any program, service, duty, or responsibility on local governments.

6. PAPERWORK:

There are no new forms, reporting requirements, or other recordkeeping associated with the proposed rule.

7. DUPLICATION:

There are no other state or federal requirements on the subject matter of the proposed rule. Therefore, the proposed rule does not duplicate any other existing NYS or federal requirements.

8. ALTERNATIVES:

There are no significant alternatives to the proposed rule, and none were considered.

9. FEDERAL STANDARDS:

Since there are no applicable federal standards, the proposed rule does not exceed any minimum federal standards for the same or similar subject areas.

10. COMPLIANCE SCHEDULE:

It is anticipated that the proposed rule will be presented for permanent adoption at the September 2023 Regents meeting. If adopted at the September 2023 Regents meeting, the proposed amendment will become effective as a permanent rule on September 27, 2023. It is anticipated that regulated parties will be able to comply with the proposed rule by the effective date.

**Regulatory Flexibility Analysis**

The proposed rule establishes a requirement that all out-of-state nursing education programs must meet specific standards or be satisfactory to the Department in order for registered professional nurse (RN) and licensed practical nurse (LPN) licensure applicants, who attended such programs, to use such education for New York State (NYS) licensure. NYS programs must be registered with the Department and programs completed abroad must be found satisfactory by the Department. However, under current regulations, nursing programs completed in other states are sufficient to meet the professional education requirement for licensure as long as the programs are approved by the licensing authority of the state in which they are offered. Currently, there is no requirement that these out-of-state programs must meet specific standards or be satisfactory to the Department. Department staff-identified trends and recent events related to alleged fraud at multiple out-of-state nursing schools call into question the legitimacy and rigor of some out of-state-schools. These trends and events highlighted the fact that the Department would benefit from explicit authority to reject an applicant's education should the Department determine that an out-of-state program or any part thereof is not satisfactory to it.

The proposed rule updates subdivisions (a) and (b) of section 64.1 of the Regulations of the Commissioner of Education by:

- adding language that allows the Department to reject out-of-state nursing programs approved by the licensing authority of another state, if a nursing program or any part thereof is determined not to be satisfactory to the Department.

The proposed rule will improve the Department's ability to protect the public by ensuring that RN and LPN licensure applicants, who graduated from out-of-state nursing education programs, meet the same minimum competency for licensure as applicants who received their education from a nursing education program registered with the Department or nursing education programs completed abroad, which have been found satisfactory by the Department.

Therefore, the proposed rule will not impose any new reporting, recordkeeping, or other compliance requirements, or have any adverse economic impact, on small businesses or local governments. Because it is evident from the nature of the proposed rule that it will not adversely affect small businesses or local governments, no affirmative steps were

needed to ascertain that fact, and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required, and one has not been prepared.

**Rural Area Flexibility Analysis**

The proposed amendment to the Regulations of the Commissioner of Education relates to the educational requirement for applicants seeking licensure as a registered professional or licensed practical nurse in New York State. The proposed amendment will apply to all applicants, who obtained their nursing education in an out of state program approved by the licensing authority of the state in which it was offered, and it will not impose any adverse economic impact in rural areas. Likewise, the proposed amendment will not impose any reporting, record keeping or other compliance requirements in rural areas. Therefore, no rural area flexibility analysis is required pursuant to Section 202-bb(4)(a) of the State Administrative Procedure Act, and none has been prepared.

**Job Impact Statement**

The proposed rule is necessary to establish a requirement that all out-of-state nursing education programs must meet specific standards or be satisfactory to the Department in order for registered professional nurse (RN) and licensed practical nurse (LPN) licensure applicants, who attended such programs, to use such education for New York State (NYS) licensure. NYS programs must be registered with the Department and programs completed abroad must be found satisfactory by the Department. However, under current regulations, nursing programs completed in other states are sufficient to meet the professional education requirement so long as the programs are approved by the licensing authority of the state in which they are offered. Currently, there is no requirement that these out-of-state programs meet specific standards or be satisfactory to the Department. Department staff-identified trends and recent events related to alleged fraud at multiple out-of-state nursing schools call into question the legitimacy and rigor of some out-of-state-schools. This highlighted the fact that the Department would benefit from explicit authority to reject an applicant's education should the Department determine that an out-of-state program or any part thereof is not satisfactory to it.

The proposed rule updates subdivisions (a) and (b) of section 64.1 of the Regulations of the Commissioner of Education by:

- adding language that allows the Department to reject out-of-state nursing programs approved by the licensing authority of another state, if a nursing program or any part thereof is determined not to be satisfactory to the Department.

The proposed rule eliminates the discrepancy in how nursing education programs from other states are treated when used by RN and LPN licensure applicants to meet the educational requirement for licensure in this State from applicants who obtained their nursing education from programs registered with the Department or completed abroad, which have been found satisfactory by the Department. The proposed rule will improve the Department's ability to protect the public by ensuring that RN and LPN licensure applicants, who graduated from out-of-state nursing education programs, meet the same minimum competency for licensure as applicants who received their education from a nursing education program registered with the Department or nursing education programs completed abroad, which have been found satisfactory by the Department.

Therefore, the impact of the proposed rule will not adversely impact, reduce, or restrict employment or job opportunities in NYS. Accordingly, a job impact statement is not required, and one has not been prepared.

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

**Academic Intervention Services**

**I.D. No.** EDU-31-23-00006-EP

**Filing No.** 617

**Filing Date:** 2023-07-18

**Effective Date:** 2023-07-18

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

**Proposed Action:** Amendment of section 100.2(ee) of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101, 207, 305, 308, 309 and 3204

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

**Specific reasons underlying the finding of necessity:** Ordinarily, pursuant to section 100.2(ee) of the Commissioner's regulations, schools are required to conduct a two-step identification process to identify those

students in need of academic intervention services (AIS). However, the spring 2023 Grades 3-8 English Language Arts (ELA) and Mathematics Tests were the first state assessments to measure the New York State (NYS) Next Generation Learning Standards. Because these are new tests measuring new learning standards, additional analyses and NYS educator input are necessary to establish the achievement standards (also known as “cut scores”) for performance on each of the tests. These steps are taking place over the summer and results on the ELA and Math Tests are expected to be available in fall 2023.

To ensure that schools are able to make programming decisions and determine which students will receive AIS prior to the first day of school, the Department proposes to provide flexibility in the identification process for AIS during the 2023-2024 school year and any other year where the results of the grades 3-8 assessments are not provided to schools prior to the beginning of the school year. Specifically, the Department proposes to amend section 100.2(ee) of the Commissioner’s regulations to provide that schools may, but are not required to, conduct the two-step identification process for grade 3-8 students where the results of the grades 3-8 assessments are not provided to schools prior to the beginning of the school year. Those schools that do not utilize the two-step identification process may make an identification based solely on district-developed procedures applicable to all grade 3-8 students.

Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (nonemergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the November 2023 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the November meeting, would be November 29, 2023, the date the Notice of Adoption would be published in the State Register.

Therefore, emergency action is necessary at the July 2023 meeting, effective July 18, 2023, for the preservation of the general welfare to immediately provide flexibility for the two-step identification process for academic intervention services (AIS) for students enrolled in grades 3-8 for the 2023-2024 school year, and any other school year where the results of the grades 3-8 assessments are not provided to schools prior to the beginning of the school year.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the November 2023 Regents meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rule making. However, since the emergency action will expire before the November Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the September 2023 Regents meeting.

**Subject:** Academic Intervention Services.

**Purpose:** To provide flexibility in the identification process for AIS during the 2023-2024 school year and any other year where the results of the grades 3-8 assessments are not provided to schools prior to the beginning of the school year.

**Text of emergency/proposed rule:** Clause (f) of subparagraph (ii) of paragraph (2) of subdivision (ee) of section 100.2 of the Regulations of the Commissioner of Education is amended to read as follows:

(f) Notwithstanding any other provision of this subparagraph [, schools]:

(i) Schools shall not be required to conduct the two-step identification process prescribed in clauses (a) and (b) of this subparagraph for [the 2020-21 school years due to the cancellation of State assessments for the 2019-20 school year] *school years in which the results of the grades 3-8 assessments are not provided to schools prior to the beginning of such school year.* [Schools] *In such school years, schools* may, but are not required to, conduct the two-step identification process prescribed in clauses (a) and (b) of this subparagraph [for the 2021-22 school year due to the limited administration of State assessments in the 2020-21 school year as a result of the State of emergency declared by the Governor for the COVID-19 crisis].

(ii) For all students who will be enrolled in grades 3 through 8 [for the 2020-21] *during a school year where the two-step identification process is not required pursuant to subclause (i) of this clause,* schools [shall] *which opt not to conduct the two-step identification process prescribed in clauses (a) and (b) of this subparagraph shall make such identification based solely on the district-developed procedures prescribed in clauses (b), (d) and (e) of this subparagraph.* [For schools that opt not to conduct the two-step identification process prescribed in clauses (a) and (b) of this subparagraph for the 2021-22 school year schools may make such identification based solely on the district-developed procedures prescribed in clauses (b), (d), and (e) of this subparagraph for all students who will be enrolled in grades 3 through 8 for the 2021-22 school year].

**This notice is intended:** to serve as both a notice of emergency adoption

and a notice of proposed rule making. The emergency rule will expire October 15, 2023.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Data, views or arguments may be submitted to:** Kathleen DeCataldo, Assistant Commissioner, Office of Student Support Services, NYS Education Department, 89 Washington Avenue, Room 318-M-EB, Albany, NY 12234, (518) 473-2890, email: REGCOMMENTS@nysed.gov

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

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

#### Regulatory Impact Statement

##### 1. STATUTORY AUTHORITY:

Education law § 101 continues existence of Education Department, with Board of Regents as its head, and authorizes Regents to appoint Commissioner of Education as Department’s Chief Administrative Officer, which is charged with general management and supervision of all public schools and educational work of State.

Education Law § 207 (not subdivided) empowers the Regents and Commissioner to adopt rules and regulations to carry out State education laws and functions and duties conferred on the Department.

Education Law § 305(1) and (2) provide that the Commissioner, as chief executive officer of the State’s education system, with general supervision over all schools and institutions subject to the Education Law, or of any statute relating to education, and responsibility for executing all educational policies of the Board of Regents.

Education Law § 308 empowers the Commissioner to cause to be instituted such proceedings and processes as may be necessary to properly enforce and give effect to any provision in the Education Law or in any other general or special law pertaining to the school system of the state or any part thereof or to any school district or city and to enforce any rule or direction of the regents.

Education Law § 309 provides that the schools of every union free school district and of every city in all their departments are subject to the visitation of the Commissioner and charges the Commissioner with the general supervision of their board of education and their management and conduct of all departments of instruction.

Education Law § 3204 provides that minors required to attend upon instruction pursuant to the Compulsory Education Law may attend at a public school or elsewhere and sets forth the requirements of such instruction.

##### 2. LEGISLATIVE OBJECTIVES:

The proposed amendment is consistent with the above statutory authority and is necessary to provide regulatory flexibility for the two-step identification process for the identification of grades 3 – 8 students to receive academic intervention services (AIS) for any school year where the results of the grade 3-8 assessments are not provided to schools prior to the beginning of the school year.

##### 3. NEEDS AND BENEFITS:

Ordinarily, pursuant to section 100.2(ee) of the Commissioner’s regulations, schools are required to conduct a two-step identification process to identify those students in need of AIS.<sup>1</sup> However, the spring 2023 Grades 3-8 English Language Arts (ELA) and Mathematics Tests were the first state assessments to measure the New York State (NYS) Next Generation Learning Standards. Because these are new tests measuring new learning standards, additional analyses and NYS educator input are necessary to establish the achievement standards (also known as “cut scores”) for performance on each of the tests. These steps are taking place over the summer and results on the ELA and Math Tests are expected to be available in fall 2023.

To ensure that schools are able to make programming decisions and determine which students will receive AIS prior to the first day of school, the Department proposes to provide flexibility in the identification process for AIS during the 2023-2024 school year and any other year where the results of the grades 3-8 assessments are not provided to schools prior to the beginning of the school year. Specifically, the Department proposes to amend section 100.2(ee) of the Commissioner’s regulations to provide that schools may, but are not required to, conduct the two-step identification process for grade 3-8 students where the results of the grades 3-8 assessments are not provided to schools prior to the beginning of the school year. Those schools that do not utilize the two-step identification process may make an identification based solely on district-developed procedures applicable to all grade 3-8 students.

##### 4. COSTS:

(a) Costs to State government: There are no additional costs to State government.



(b) Costs to local government: There are no additional costs to local government.

(c) Cost to private regulated parties: The proposed amendment does not impose any additional costs on regulated parties.

(d) Cost to the regulatory agency: There are no additional costs to the State Education Department.

#### 5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any program, service, duty, or responsibility on local governments beyond those imposed by State and federal statutes.

#### 6. PAPERWORK:

The proposed rule imposes no new reporting requirements or other paperwork requirements.

#### 7. DUPLICATION:

The proposed amendment does not duplicate any other existing State or Federal requirements.

#### 8. ALTERNATIVES:

The proposed amendment is necessary to provide regulatory flexibility for the two-step identification process for the identification of grades 3 – 8 students to receive academic intervention services (AIS) for any school year where the results of the grade 3-8 assessments are not provided to schools prior to the beginning of the school year. There are no significant alternatives to the proposed amendment and none were considered.

#### 9. FEDERAL STANDARDS:

There are no applicable Federal standards.

#### 10. COMPLIANCE SCHEDULE:

The emergency rule took effect. It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at its November 2023 meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. Because the emergency action will expire before the November 2023 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the September 2023 meeting. If adopted at the November 2023 meeting, the proposed amendment will become effective as a permanent rule on November 29, 2023. It is anticipated that regulated parties will be able to comply with the proposed rule by its effective date.

<sup>1</sup> The two-step identification process is as follows: first, all students performing at or below a certain scale score, established through a standard setting process conducted by the Department, on one or more of the State elementary assessments in English language arts or mathematics shall be considered for AIS. Students scoring at or above the scale score established by a standard setting panel and approved by the Commissioner are not required to receive AIS unless the school district determines that such services are needed. Second, districts must then use a district-developed procedure, to be applied uniformly at each grade level, for determining which identified students shall receive AIS after it considered a student's score on multiple measures of student performance.

#### **Regulatory Flexibility Analysis**

##### (a) Small Businesses:

The purpose of the proposed rule is to provide regulatory flexibility for the two-step identification process for the identification of grades 3 – 8 students to receive academic intervention services (AIS) for any school year where the results of the grade 3-8 assessments are not provided to schools prior to the beginning of the school year.

The proposed rule does not impose any adverse economic impact, reporting, record keeping or any other compliance requirements on small businesses. Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

##### (b) Local Governments:

#### 1. EFFECT OF RULE:

The purpose of the proposed rule is to provide regulatory flexibility for the two-step identification process for the identification of grades 3 – 8 students to receive AIS for any school year where the results of the grade 3-8 assessments are not provided to schools prior to the beginning of the school year. The proposed rule applies to each of the 731 public school districts in the State.

#### 2. COMPLIANCE REQUIREMENTS:

Ordinarily, pursuant to section 100.2(ee) of the Commissioner's regulations, schools are required to conduct a two-step identification process to identify those students in need of academic intervention services (AIS).<sup>1</sup> However, the spring 2023 Grades 3-8 English Language Arts (ELA) and Mathematics Tests were the first state assessments to measure the New York State (NYS) Next Generation Learning Standards. Because these are new tests measuring new learning standards, additional analyses and NYS educator input are necessary to establish the achievement standards (also

known as "cut scores") for performance on each of the tests. These steps are taking place over the summer and results on the ELA and Math Tests are expected to be available in fall 2023.

To ensure that schools are able to make programming decisions and determine which students will receive AIS prior to the first day of school, the Department proposes to provide flexibility in the identification process for AIS during the 2023-2024 school year and any other year where the results of the grades 3-8 assessments are not provided to schools prior to the beginning of the school year. Specifically, the Department proposes to amend section 100.2(ee) of the Commissioner's regulations to provide that schools may, but are not required to, conduct the two-step identification process for grade 3-8 students where the results of the grades 3-8 assessments are not provided to schools prior to the beginning of the school year. Those schools that do not utilize the two-step identification process may make an identification based solely on district-developed procedures applicable to all grade 3-8 students

#### 3. PROFESSIONAL SERVICES:

The proposed rule does not impose any additional professional service requirements on local governments.

#### 4. COMPLIANCE COSTS:

The proposed rule does not impose any costs beyond those imposed by State and federal statutes.

#### 5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed rule does not impose any additional technological requirements on school districts. Economic feasibility is addressed under the Compliance Costs section above.

#### 6. MINIMIZING ADVERSE IMPACT:

The proposed rule provides regulatory flexibility for the two-step identification process for the identification of grades 3 – 8 students to receive AIS for any school year where the results of the grade 3-8 assessments are not provided to schools prior to the beginning of the school year. The proposed rule will not have any adverse economic impact on local governments. Therefore, no significant alternatives to the proposed amendment and none were considered.

#### 7. LOCAL GOVERNMENT PARTICIPATION:

Comments on the proposed rule were solicited from school districts through the offices of the district superintendents of each supervisory district in the State and from the chief school officers of the five big city school districts.

<sup>1</sup> The two-step identification process is as follows: first, all students performing at or below a certain scale score, established through a standard setting process conducted by the Department, on one or more of the State elementary assessments in English language arts or mathematics shall be considered for AIS. Students scoring at or above the scale score established by a standard setting panel and approved by the Commissioner are not required to receive AIS unless the school district determines that such services are needed. Second, districts must then use a district-developed procedure, to be applied uniformly at each grade level, for determining which identified students shall receive AIS after it considered a student's score on multiple measures of student performance.

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

The purpose of the proposed rule is to provide regulatory flexibility for the two-step identification process for the identification of grades 3 – 8 students to receive academic intervention services (AIS) for any school year where the results of the grade 3-8 assessments are not provided to schools prior to the beginning of the school year.

Since the proposed amendment merely provides regulatory flexibility, the proposed amendment does not adversely impact regulated located entities in rural areas of New York State. Accordingly, no further steps were needed to ascertain the impact of the proposed amendment on entities in rural areas and none were taken. Thus, a rural flexibility analysis is not required and one has not been prepared.

#### **Job Impact Statement**

The purpose of the proposed rule is to provide regulatory flexibility for the two-step identification process for the identification of grades 3 – 8 students to receive academic intervention services (AIS) for any school year where the results of the grade 3-8 assessments are not provided to schools prior to the beginning of the school year.

Because it is evident from the nature of the proposed amendment that it will have no impact on the number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken.

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

**Occupational Therapists' Authority to Provide Treatment for a Limited Time Without a Referral**

**I.D. No.** EDU-31-23-00007-EP

**Filing No.** 620

**Filing Date:** 2023-07-18

**Effective Date:** 2023-07-18

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

**Proposed Action:** Addition of section 76.11 to Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207, 6504, 6506, 6507, 6509, 7901, 7902; L. 2022, ch. 601

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

**Specific reasons underlying the finding of necessity:** Historically, licensed occupational therapists could not provide treatment to patients without a referral from a physician or nurse practitioner. This requirement has limited patients' timely access to occupational therapy treatment. Section 1 of Chapter 601 of the Laws of 2022 (Chapter 601), effective March 31, 2023, addresses these issues and others by providing greater levels of care to patients by allowing them more direct access to occupational therapy services and reducing costs for both patients and insurance carriers. Chapter 601 also amended the Education Law to permit licensed occupational therapists to provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner, as long as certain requirements are met.

The proposed amendment adds a new section 76.11 to the Commissioner's regulations to implement the provisions of Chapter 601 by:

- permitting treatment to be rendered by a licensed occupational therapist for 10 visits, or 30 days, whichever occurs first, without a referral from a physician or nurse practitioner, provided that: (1) the licensed occupational therapist has practiced occupational therapy on a full time basis equivalent to not less than 3 years; and (2) each licensed occupational therapist provides written notice to each patient receiving treatment absent a referral from a physician or nurse practitioner that occupational therapy may not be covered by the patient's health care plan or insurer without such referral and that such treatment may be a covered expense if rendered pursuant to a referral.

In addition, the proposed amendment requires that all patient notice of advice forms include the following elements:

- a statement of such advice and a statement attesting that the patient has read the notice of advice form;
- the date treatment will begin;
- the patient's name and address;
- the patient's signature and date the patient signed the form;
- the treating occupational therapist's name and business address; and
- the treating occupational therapist's signature and the date the occupational therapist signed the form;
- a statement of such advice and a statement attesting that the patient has read the notice of advice form;
- the date treatment will begin;
- the patient's name and address;
- the patient's signature and date the patient signed the form;
- the treating occupational therapist's name and business address; and
- the treating occupational therapist's signature and the date the occupational therapist signed the form.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for adoption, after expiration of the required 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 202(1) and (5), would be the November 2023 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed amendment, if adopted at the November 2023 meeting, would be November 29, 2023, the date the Notice of Adoption would be published in the State Register.

Therefore, since Chapter 601 is already effective, emergency action is necessary at the July 2023 meeting, effective July 18, 2023, for the preservation of the public health and the general welfare in order timely implement the provisions of Chapter 601, which will provide greater levels of care to patients by allowing them more direct access to occupational therapy services and reduce costs for both patients and insurance carriers.

It is anticipated that the proposed amendment will be presented for per-

manent adoption at the November 2023 Regents meeting, which is the first scheduled meeting after the expiration of the 60-day public comment period mandated by SAPA for state agency rule making. However, since the emergency action will expire before the November 2023 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the September 2023 Regents meeting.

**Subject:** Occupational therapists' authority to provide treatment for a limited time without a referral.

**Purpose:** To implement section 1 of chapter 601 of the Laws of 2022.

**Text of emergency/proposed rule:** Section 76.11 of the Regulations of the Commissioner of Education is added to read as follows:

*76.11 Providing treatment in the practice of occupational therapy without referral*

*(a) In accordance with subdivision (2) of section 7901 of the Education Law, a licensed occupational therapist may provide a patient with treatment in the practice of occupational therapy without a referral from a physician or nurse practitioner, for 10 visits or 30 days, whichever occurs first, provided that the licensed occupational therapist meets the following requirements:*

*(1) the licensed occupational therapist has practiced occupational therapy on a full-time basis equivalent to not less than three years prior to beginning such treatment, meaning the licensed occupational therapist has completed at least 4,320 clock hours of occupational therapy practice over a minimum of 36 months anytime prior to beginning such treatment; and*

*(2) the licensed occupational therapist meets all requirements of subdivision (b) of this section relating to the notice of advice.*

*(b) Notice of advice. An occupational therapist providing treatment in the practice of occupational therapy without a referral from a physician or nurse practitioner, in accordance with subdivision (2) of section 7901 of the Education Law and the requirements of this section, shall advise the patient in writing prior to beginning treatment of the possibility that treatment may not be covered by the patient's health care plan or insurer without a referral from a physician or nurse practitioner and that such treatment may be a covered expense if rendered pursuant to a referral. This notice of advice shall be provided on a form, a copy of which shall be kept on file by the licensed occupational therapist as a patient record. A copy of this notice of advice shall be given to the patient. The notice of advice form shall include the following information:*

*(1) a statement of such advice and a statement attesting that the patient has read the notice of advice form;*

*(2) the date treatment will begin;*

*(3) the patient's name and address;*

*(4) the patient's signature and date the patient signed the form;*

*(5) the treating occupational therapist's name and business address;*

*and*

*(6) the treating occupational therapist's signature and the date the occupational therapist signed the form.*

**This notice is intended:** to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire October 15, 2023.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Data, views or arguments may be submitted to:** Sarah S. Benson, Deputy Commissioner, NYS Education Department, Office of the Professions, 89 Washington Avenue, 2nd Floor EB, West Wing, Albany, NY 12234, (518) 486-1727, email: REGCOMMENTS@nysed.gov

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

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

**Regulatory Impact Statement**

**1. STATUTORY AUTHORITY:**

Section 207 of the Education Law grants general rule-making authority to the Board of Regents to carry into effect the laws and policies of the State relating to education.

Section 6504 of the Education Law authorizes the Board of Regents to supervise the admission to and regulation of the practice of the professions.

Subdivision (1) of section 6506 authorizes the Board of Regents to promulgate rules to supervise the admission to and the practice of the professions.

Paragraph (a) of subdivision (2) of section 6507 of the Education Law authorizes the Commissioner to promulgate regulations in administering the admission to the practice of the professions.

Subdivision (9) of section 6509 of the Education Law authorizes the Board of Regents to define unprofessional conduct in the professions.

Subdivision (1) of section 7901 of the Education Law, as amended by Chapter 601 of the Laws of 2022, defines the scope of practice for the profession of occupational therapy.

Subdivision (2) of 7901 of the Education Law, as added by Chapter 601 of the Laws of 2022, permits licensed occupational therapists to provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner, as long as certain requirements are met.

Section 7902 of the Education Law defines the use of the title occupational therapist.

## 2. LEGISLATIVE OBJECTIVES:

The proposed rule is consistent with the above statutory authority and is necessary to implement Chapter 601 of the Laws of 2022 (Chapter 601), which amended the Education Law, effective March 31, 2023, to permit licensed occupational therapists to provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner, as long as certain requirements are met. The intent of Chapter 601 is to provide greater levels of care to patients by allowing them more direct access to occupational therapy services and reduce costs for both patients and insurance carriers.

As amended by Chapter 601, section 7901 of the Education Law permits licensed occupational therapists to provide treatment to patients for ten visits or thirty days, whichever occurs first, without a referral from a physician or nurse practitioner provided that:

- the licensed occupational therapist has practiced occupational therapy on a full-time basis equivalent to not less than three years; and
- each licensed occupational therapist provides written notice to each patient receiving treatment absent a referral from a physician or nurse practitioner, advising the patient that the occupational therapy may not be covered by the patient's health care plan or insurer without such referral and that such treatment may be a covered expense if rendered pursuant to a referral.

Chapter 601 also requires the occupational therapist to maintain, in a patient's records, a form attesting to the patient's notice of such advice. A copy of this notice of advice form must be provided to the patient, signed and dated by both the licensed occupational therapist and the patient, in a form prescribed by the Commissioner's regulations.

The proposed rule adds a new section 76.11 to the Commissioner's regulations to implement the provisions of Chapter 601. In addition, the proposed amendment requires that all patient notice of advice forms include the following elements:

- a statement of such advice and a statement attesting that the patient has read the notice of advice form;
- the date treatment will begin;
- the patient's signature and date the patient signed the form;
- the treating occupational therapist's name and business address; and
- the treating occupational therapist's signature and the date the occupational therapist signed the form.

## 3. NEEDS AND BENEFITS:

The proposed rule is necessary to implement Chapter 601, which amended the Education Law to permit licensed occupational therapists to provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner, as long as certain requirements are met. The proposed rule is consistent with the intent of Chapter 601, which is to provide greater levels of care to patients by allowing them more direct access to occupational therapy services and reduce costs for both patients and insurance carriers.

The proposed rule permits licensed occupational therapists to provide treatment to patients for ten visits or thirty days, whichever occurs first, without a referral from a physician or nurse practitioner provided that: (1) the licensed occupational therapist has practiced occupational therapy on a full-time basis equivalent to not less than three years; and (2) each licensed occupational therapist provides written notice to each patient receiving treatment absent a referral from a physician or nurse practitioner, advising the patient that the occupational therapy may not be covered by the patient's health care plan or insurer without such referral and that such treatment may be a covered expense if rendered pursuant to a referral.

The proposed rule further requires the occupational therapist to maintain, in a patient's records, a form attesting to the patient's notice of such advice and establishes the content requirements for the notice of advice forms.

## 4. COSTS:

(a) Costs to State government: There are no additional costs to state government.

(b) Costs to local government: There are no additional costs to local government.

(c) Cost to private regulated parties: The proposed amendment will not increase costs to private regulated parties. Therefore, there will be no additional costs to private regulated parties.

(d) Cost to regulating agency for implementation and continued administration of this rule: There are no additional costs to the regulating agency.

## 5. LOCAL GOVERNMENT MANDATES:

The proposed rule relates solely to regulations governing the ability of licensed occupational therapists to provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner, as long as certain requirements are met and does not impose any program, service, duty, or responsibility upon local governments.

## 6. PAPERWORK:

The proposed rule imposes a requirement that licensed occupational therapists, who provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner, must provide their patients with a patient notice of advice form that contain certain information.

## 7. DUPLICATION:

The proposed rule does not duplicate other existing state or federal requirements and is necessary to establish regulatory requirements for licensed occupational therapists, who provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner in New York State pursuant to Chapter 601.

## 8. ALTERNATIVES:

The proposed rule is necessary to implement Chapter 601. There are no significant alternatives to the proposed rule, and none were considered.

## 9. FEDERAL STANDARDS:

Since there are no applicable federal standards, the proposed amendment does not exceed any minimum federal standards for the same or similar subject areas.

## 10. COMPLIANCE SCHEDULE:

The emergency rule took effect July 18, 2023. It is anticipated that the proposed amendment will be presented to the Board of Regents for permanent adoption at the November 2023 Regents meeting, after publication in the State Register and the expiration of the 60-day public comment period required under the State Administrative Procedures Act. Because the action will expire before the November 2023 meeting, it is anticipated that an additional emergency action will be presented for adoption at the September 2023 Regents meeting. If adopted at the November meeting, the proposed rule will become effective on November 29, 2023. It is anticipated that regulated parties will be able to comply with the proposed rule by the effective date.

## Regulatory Flexibility Analysis

The proposed rule is necessary to implement Chapter 601 of the Laws of 2022 (Chapter 601), which amended the Education Law, effective March 31, 2023, to permit licensed occupational therapists to provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner, as long as certain requirements are met. The proposed rule is consistent with the intent of Chapter 601, which is to provide greater levels of care to patients by allowing them more direct access to occupational therapy services and reduce costs for both patients and insurance carriers.

The proposed rule permits licensed occupational therapists to provide treatment to patients for ten visits or thirty days, whichever occurs first, without a referral from a physician or nurse practitioner provided that: (1) the licensed occupational therapist has practiced occupational therapy on a full-time basis equivalent to not less than three years; and (2) each licensed occupational therapist provides written notice to each patient receiving treatment absent a referral from a physician or nurse practitioner, advising the patient that the occupational therapy may not be covered by the patient's health care plan or insurer without such referral and that such treatment may be a covered expense if rendered pursuant to a referral.

The proposed rule further requires the occupational therapist to maintain, in a patient's records, a form attesting to the patient's notice of such advice and establishes the content requirements for the notice of advice forms.

The proposed rule adds a new section 76.11 to the Commissioner's regulations to implement the provisions of Chapter 601. In addition, the proposed amendment requires that all patient notice of advice forms include the following elements:

- a statement of such advice and a statement attesting that the patient has read the notice of advice form;
- the date treatment will begin;
- the patient's signature and date the patient signed the form;
- the treating occupational therapist's name and business address; and
- the treating occupational therapist's signature and the date the occupational therapist signed the form.

The proposed rule does not impose any new reporting, recordkeeping, or other compliance requirements on small businesses or local governments or have any adverse economic impact on small businesses or local governments. Because it is evident from the nature of the proposed amendment that it will not adversely affect small businesses or local governments, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required, and one has not been prepared.

**Rural Area Flexibility Analysis**

The proposed rule is necessary to implement Chapter 601 of the Laws of 2022 (Chapter 601), which amended the Education Law, effective March 31, 2023, to permit licensed occupational therapists to provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner, as long as certain requirements are met. The proposed rule is consistent with the intent of Chapter 601, which is to provide greater levels of care to patients by allowing them more direct access to occupational therapy services and reduce costs for both patients and insurance carriers.

The proposed rule permits licensed occupational therapists to provide treatment to patients for ten visits or thirty days, whichever occurs first, without a referral from a physician or nurse practitioner provided that: (1) the licensed occupational therapist has practiced occupational therapy on a full-time basis equivalent to not less than three years; and (2) each licensed occupational therapist provides written notice to each patient receiving treatment absent a referral from a physician or nurse practitioner, advising the patient that the occupational therapy may not be covered by the patient's health care plan or insurer without such referral and that such treatment may be a covered expense if rendered pursuant to a referral.

The proposed rule further requires the occupational therapist to maintain, in a patient's records, a form attesting to the patient's notice of such advice and establishes the content requirements for the notice of advice forms.

The proposed rule adds a new section 76.11 to the Commissioner's regulations to implement the provisions of Chapter 601. In addition, the proposed amendment requires that all patient notice of advice forms include the following elements:

- a statement of such advice and a statement attesting that the patient has read the notice of advice form;
- the date treatment will begin;
- the patient's signature and date the patient signed the form;
- the treating occupational therapist's name and business address; and
- the treating occupational therapist's signature and the date the occupational therapist signed the form.

Chapter 601 does not provide any exceptions from the requirements, which include, but are not limited to, patient notice of advice form requirements, occupational therapist must meet in order to provide treatment to patients for ten visits or thirty days, whichever occurs first, without a referral from a physician or nurse practitioner occupational therapist patient notice of advice form for occupational therapists in rural areas. Thus, the proposed amendment does not adversely impact entities in rural areas of New York State because all New York State occupational therapists must comply with the same requirements. Accordingly, no further steps were needed to ascertain the impact of the proposed amendment on entities in rural areas and none were taken. Thus, a rural flexibility analysis is not required, and one has not been prepared.

**Job Impact Statement**

The proposed rule is necessary to implement Chapter 601 of the Laws of 2022 (Chapter 601), which amended the Education Law, effective March 31, 2023, to permit licensed occupational therapists to provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner, as long as certain requirements are met. The proposed rule is consistent with the intent of Chapter 601, which is to provide greater levels of care to patients by allowing them more direct access to occupational therapy services and reduce costs for both patients and insurance carriers.

The proposed rule permits licensed occupational therapists to provide treatment to patients for ten visits or thirty days, whichever occurs first, without a referral from a physician or nurse practitioner provided that: (1) the licensed occupational therapist has practiced occupational therapy on a full-time basis equivalent to not less than three years; and (2) each licensed occupational therapist provides written notice to each patient receiving treatment absent a referral from a physician or nurse practitioner, advising the patient that the occupational therapy may not be covered by the patient's health care plan or insurer without such referral and that such treatment may be a covered expense if rendered pursuant to a referral.

The proposed rule further requires the occupational therapist to maintain, in a patient's records, a form attesting to the patient's notice of such advice and establishes the content requirements for the notice of advice forms.

The proposed rule adds a new section 76.11 to the Commissioner's regulations to implement the provisions of Chapter 601. In addition, the proposed amendment requires that all patient notice of advice forms include the following elements:

- a statement of such advice and a statement attesting that the patient has read the notice of advice form;
- the date treatment will begin;
- the patient's signature and date the patient signed the form;
- the treating occupational therapist's name and business address; and

- the treating occupational therapist's signature and the date the occupational therapist signed the form.

It is not anticipated that the proposed rule will increase or decrease the number of occupational therapists jobs to be filled because, among other things, there is no means by which to estimate how many individuals may decide to submit occupational therapist licensure applications to the Department to become licensed in this State because New York State licensed occupational therapists are will be permitted to provide treatment to patients for a limited time period without a referral from a physician or nurse practitioner, as long as certain requirements are met. Therefore, the proposed rule will not have a substantial adverse impact on jobs and employment opportunities. Because it is evident from the nature of the proposed rule that it will not affect job and employment opportunities, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

**NOTICE OF ADOPTION****School Counselor Education Program General Registration Requirements**

**I.D. No.** EDU-13-23-00017-A

**Filing No.** 616

**Filing Date:** 2023-07-18

**Effective Date:** 2023-08-02

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

**Action taken:** Amendment of section 52.21(d)(1) of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101, 207, 208, 305, 308, 3001, 3004 and 3009

**Subject:** School counselor education program general registration requirements.

**Purpose:** To require school counselor programs which lead to Initial and Professional certification to provide training in: (1) school violence prevention and intervention, in accordance with Education Law § 3004; (2) the prevention and intervention of harassment, bullying an discrimination, in accordance with Education Law § 14; and (3) the identification and reporting of suspected child abuse or maltreatment, in accordance with Education Law § § 3003 and 3004.

**Text or summary was published** in the March 29, 2023 issue of the Register, I.D. No. EDU-13-23-00017-P.

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

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112 EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2026, 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.

**NOTICE OF ADOPTION****Corporal Punishment, Restraint, and Seclusion**

**I.D. No.** EDU-18-23-00008-A

**Filing No.** 619

**Filing Date:** 2023-07-18

**Effective Date:** 2023-08-02

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

**Action taken:** Repeal of section 19.5; addition of new section 19.5; amendment of sections 100.2, 200.1, 200.7, 200.15, and 200.22 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101, 207, 215, 305, 4401, 4402, 4403 and 4410

**Subject:** Corporal punishment, restraint, and seclusion.

**Purpose:** The proposed rule is necessary to clarify, streamline, and update the Regents Rules and the Commissioner's regulations relating to corporal

punishment to address the unsafe use of restraint and seclusion in schools and to ensure informed and sufficient protections; culturally responsive, strength-based and multi-tiered supports; and services and instruction that meet students' social, emotional, behavioral and academic needs.

**Substance of final rule:** A summary of the regulatory amendments to section 19.5 of the Regents Rules and sections 100.2, 200.1, 200.7, 200.15 and 200.22 of the Commissioner's regulations is as follows:

- Section 19.5 is expanded beyond the prohibition of corporal punishment and aversive interventions to also prohibit seclusion and prone restraint. The Department further recommends new protections and requirements authorizing the limited use of timeout and physical restraint.

- Subdivision (b) is amended to improve clarity and align the terms used in such section with the definitions used by the USDE, Health and Human Services, and Office for Civil Rights. For example:

- o The proposed definition of "school" covers the same entities currently covered in section 19.5.<sup>1</sup> The proposed rule clarifies that State-administered prekindergarten programs are also included therein.

- o The proposed definitions include practices that are prohibited by many other agencies, including corporal punishment, aversive interventions, seclusion, and prone restraint and define limited authorized use of restraint, timeout, physical escort, multi-tiered system of supports, and de-escalation.

- Subdivision (c) prohibits the use of corporal punishment, aversive interventions and seclusion on students. As noted above, the proposed inclusion of seclusion is an expansion of current section 19.5.

- Subdivision (d) indicates when and how timeout and physical restraint may be utilized. As noted above, prone restraints are prohibited. So, too, is the use of physical restraint in response to the destruction of property unless the property damage would result in imminent harm to the student or others. Additionally, this provision requires that:

- o same day notification be provided to parents/persons in parental relation following the use of timeout and/or physical restraint;

- o schools maintain documentation of each incident involving the use of timeout and/or physical restraint;

- o school administrators or designees debrief after each incident in which timeout and/or physical restraint is used;

- o school administrators or designees regularly review documentation on the use of timeout and physical restraint;

- o all staff receive annual training on the school's policies and procedures related to the use of timeout and physical restraint;

- o any staff member who may be called upon to implement timeout or physical restraint must receive annual, evidence-based training in safe and effective timeout and physical restraint procedures; and

- o each school adopt a written policy that establishes administrative practices and procedures regarding the use of timeout and physical restraint and prescribes certain provisions that must be included in the written policy. The written policy must be made public and posted on the school's website, if one exists.

- Subdivision (e) includes an annual reporting requirement.

- o Reporting requirements, which will take effect for the 2024-2025 school year, align state reporting to the federal Civil Rights Data Collection report and reduce the frequency and number of reports currently required of public schools by utilizing SED's Student Information Repository System (SIRS) to submit student-level data related to corporal punishment, aversive interventions, seclusion, timeout and physical restraint.

- o Beginning with the 2024-2025 school year, public schools will no longer be required to submit multiple office-specific reports created in the IRS Data Exchange and NYSED Application Business Portal's Monitoring and Vendor Performance System, such as the "Incidents of Complaints Regarding the use of Corporal Punishment biannual report" and "Emergency Intervention Survey of Approved Special Education Programs."

- Section 100.2 of the Commissioner's regulations is amended to:

- o remove the definition of corporal punishment and add a cross reference to the definition of such term in section 19.5;

- o beginning with the 2023-2024 school year, replace semi-annual reporting on the use of corporal punishment with the new annual reporting requirement under section 19.5 which requires reporting on the use of physical restraint and timeout; substantiated and unsubstantiated allegations of use of corporal punishment, mechanical restraint and other aversive interventions; prone physical restraint; and seclusion; and

- o require that school districts report electronic records for each student who was placed out of the district for educational services by the district committee on preschool special education.

- section 200.1 of the Commissioner's regulations is amended to revise the definition of "aversive intervention" consistent with the definition in section 19.5.

- Section 200.7 of the Commissioner's regulations is amended to:

- o remove the requirement for approved private schools to submit procedures for the use of aversive interventions to the Department as part of the approval process;

- o add the use of corporal punishment and seclusion to the list of unauthorized behavioral interventions that, if used by an approved private school, can result in denial of approval or reimbursement of public funds;

- o remove references to child-specific exceptions for the use of aversive interventions by approved private schools serving school age students with disabilities, State-operated schools, or State-supported schools;

- o add corporal punishment and seclusion to the list of prohibited behavioral techniques for approved preschool programs, approved private schools serving school age students with disabilities, State-operated schools, or State-supported schools may use to reduce or eliminate behaviors of students; and

- o remove the expired requirement for private schools to submit their written policies and procedures on behavioral interventions to the Department no later than August 15, 2006 if they are proposing to use, or continue to use, aversive interventions in a program for students with a child-specific exception.

- Section 200.15 of the Commissioner's regulations is amended to:

- o replace the term "emergency intervention" with "physical restraint" as defined in section 19.5; and

- o replace the phrase "time out room" with "timeout" and add a cross citation to the definition of timeout in section 19.5.

- Section 200.22 of the Commissioner's regulations is amended to:

- o remove references to the child specific exceptions for the use of aversive intervention and add corporal punishment, seclusion, and physical restraints, to the list of interventions that cannot be included in a behavioral intervention plan (BIP);

- o add the requirement that timeout must be used in conjunction with a BIP except for situations that create an immediate concern for the physical safety of a student or others;

- o eliminate the specific requirements for a school's policy and procedures regarding the use of timeout and clarify that the use of timeout must meet the requirements of section 19.5;

- o replace the term "emergency intervention" with "physical restraint";

- o indicate that physical restraint must only be used in situations in which immediate intervention involving the use of reasonable physical force is necessary to prevent imminent danger of serious physical harm to the student or others and it must be used consistent with the requirements in section 19.5;

- o require that staff who may be called upon to implement physical restraint to be provided with appropriate, evidence-based training in safe and effective physical restraint procedures consistent with the new requirements in section 19.5;

- o add that physical restraint cannot be used as a planned intervention on a student's individualized education program or BIP;

- o remove any child-specific exception to use aversive interventions to reduce or modify student behaviors; and

- o remove program standards for the use of aversive interventions.

<sup>1</sup> The regulations currently apply to school districts, boards of cooperative educational services (BOCES), charter schools, State-operated or State-supported schools, approved preschool programs, approved private schools, approved out-of-state day or residential schools, or registered nonpublic nursery, kindergarten, elementary or secondary schools in New York State.

**Final rule as compared with last published rule:** Nonsubstantial changes were made in sections 19.5(b)(9), (11), (c), (d)(2) and 200.7(a)(3).

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

#### Revised Regulatory Impact Statement

Since publication of a Notice of Emergency Adoption and Proposed Rule Making in the State Register on May 3, 2023, the following non-substantial revisions were made to the proposed rule:

- the definition of school in section 19.5(b)(9) has been revised to clarify that such definition includes registered nonpublic nursery schools, kindergartens, and high schools;

- a technical amendment was made to section 19.5(b)(11) to hyphenate "de-escalating" consistent with the term "de-escalation" in section 19.5(b)(3);

- the definition of timeout in section 19.5(b)(11) has been revised to clarify that using coping skills and other calming strategies are not considered timeout and to include a citation to subdivision (d) of such section, which prescribes the authorized use of timeout;

- a technical amendment was made to section 19.5(c) to insert the word "of", regarding the prohibition of the use of corporal punishment, aversive interventions, and seclusion (emphasis added);

- section 19.5(c) was also amended to clarify that the term “agent” includes, but is not limited to, school resource officers;
- duplicative subparagraph numbering was corrected in section 19.5(d)(2);
- technical amendments were made to section 19.5(d)(2)(vii) to: (1) require that a student only be evaluated after a restraint when an injury has been sustained or believed to have been sustained by a school nurse or other medical personnel; (2) clarify that “school nurse” means a school nurse pursuant to section 902(2)(b) of the Education Law; and (3) clarify that other medical personnel includes, physician, physician assistant, or nurse practitioner; and
- a technical amendment was made to remove the term “maladaptive” from section 200.7(a)(3) to be consistent with terminology used throughout the proposed rule.

The above revisions to the proposed rule do not require any revisions to the previously published Regulatory Impact Statement.

#### **Revised Regulatory Flexibility Analysis**

Since publication of a Notice of Emergency Adoption and Proposed Rule Making in the State Register on May 3, 2023, the following non-substantial revisions were made to the proposed rule as set for the in the Statement Concerning the Regulatory Impact Statement submitted herewith.

Such revisions to the proposed rule do not require any revisions to the previously published Regulatory Flexibility Analysis for Small Businesses and Local Governments.

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

Since publication of a Notice of Emergency Adoption and Proposed Rule Making in the State Register on May 3, 2023, the following non-substantial revisions were made to the proposed rule as set for the in the Statement Concerning the Regulatory Impact Statement submitted herewith.

Such revisions to the proposed rule do not require any revisions to the previously published Rural Area Flexibility Analysis.

#### **Revised Job Impact Statement**

The proposed rule is necessary to clarify, streamline, and update section 19.5 of the Regents Rules and sections 100.2, 200.1, 200.7, 200.15 and 200.22 of the Commissioner’s regulations relating to corporal punishment to address unsafe use of restraint and seclusion in schools and to ensure informed and sufficient protections; culturally responsive, strength-based and multi-tiered supports; and services and instruction that meet students’ social, emotional, behavioral and academic needs.

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

#### **Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2026, which is no later than the 3rd year after the year in which this rule is being adopted.

#### **Assessment of Public Comment**

This assessment summarizes the comments received on the proposed rule, published on May 3, 2023. Please refer to the full Assessment of Public Comment (APC) for the Department’s complete assessment of public comment at: <http://www.counsel.nysed.gov/rules/full-text-indices>.

COMMENT: Commenters supported the proposed amendment.

DEPARTMENT RESPONSE: Comments are supportive in nature; no response is necessary.

COMMENT: Commenters asked what formal communication will be provided to superintendents of schools and building principals regarding their roles and responsibilities in implementing the proposed amendments and whether districts will receive additional funds to respond to the proposed new mandates. Other commenters requested additional guidance.

DEPARTMENT RESPONSE: Information regarding the proposed rule will be distributed through SED’s weekly email announcement to all school districts and boards of cooperative educational services (BOCES). SED will consider issuing guidance to assist schools. SED cannot create or allocate funding in conjunction with a rulemaking.

COMMENT: Commenter requested clarification as to whether the new regulations apply to school resource officers (SRO)/special patrol officers (SPO), who operate under law enforcement. Another commenter suggested there be an allowance for the use of mechanical restraint, (i.e., handcuffs) when used by an SRO for emergency purposes only.

DEPARTMENT RESPONSE: The proposed rule applies to any teacher, administrator, officer, employee, or agent of a school, as defined in proposed section 19.5(b)(9). A non-substantial revision has been made to the proposed rule to clarify that “agent” includes, but is not limited to, school resource officers.

COMMENT: Commenters suggested that the regulations should include effective enforcement and accountability measures for schools that do not follow the rule.

DEPARTMENT RESPONSE: Violations of SED regulations may result in adverse findings in a regulatory proceeding or lawsuit and a willful violation of a regulation may result in the consequences described in Education Law section 306 (2): removal of school officers or withholding of State aid.

COMMENT: Commenters asked SED to consider how the proposed regulations affect approved preschool 4410 programs that are required to obtain day care center licensure.

DEPARTMENT RESPONSE: SED will coordinate with OCFS concerning implementation of the proposed regulations. To the extent that any provision of these regulations conflict, the higher standard that offers more protection to students will prevail.

COMMENT: Commenters made recommendations/request clarification regarding definitions to the terms “aversive interventions”, “physical escort”, “seclusion”, “timeout”. A commenter recommended that the reference to “brief physical prompts” be removed and addressed in training. Alternatively, the commenter suggests that a formal definition be added. A commenter recommends defining restraint (within the context of emergency interventions) to be consistent with federal law.

DEPARTMENT RESPONSE: SED has considered these recommendations but declines to make changes to the proposed rule as more fully set forth in the full text of the Department’s assessment of public comment (APC).

COMMENT: Commenter suggested that the prevention of property damage should be covered in training and not explicitly permitted to use physical restraint in the rule. Several other commenters expressed concern that the proposed regulations will serve to preclude school staff from intervening in a scenario in which a student is destroying school property, interrupting instruction, and provoking fear and anxiety in fellow students and staff and they would have no recourse other than calling law enforcement which could potentially escalate the situation to a criminal matter.

DEPARTMENT RESPONSE: The proposed amendment limits the use of physical restraint in response to the destruction of property only in those situations where the property damage would result in imminent harm to the student or others and when the student has not responded to positive, proactive intervention strategies.

COMMENT: Commenter suggested that the regulations allow agency- or student-specific allowances for the use of seclusion as an emergency intervention when other less restrictive interventions have been unsuccessful, and the student would require other emergency interventions beyond restraint. Another commenter described the “emergency intervention” language in section 200.22 as discriminatory and inappropriate as applied to students with disabilities. Another commenter recommended explicitly updating 200.22(c) and (d) with the provisions of proposed section 19.5, verbatim, as to avoid confusion.

DEPARTMENT RESPONSE: The proposed amendment revises section 200.22 to align with the requirements of proposed section 19.5 that apply to all students and replaces the term “emergency interventions” in section 200.22(d) with “physical restraint.” Seclusion was not permitted as an emergency intervention under the current regulations and continues to be prohibited under the proposed amendment, without exception.

COMMENT: Commenter questioned how provisions of the proposed rule precluding staff from restricting a student’s ability to communicate apply to students who use sign language or an assistive communication device.

DEPARTMENT RESPONSE: Any physical restraint techniques used with students who use sign language, or a communication device, must still allow the student the ability to communicate with staff, including the ability to communicate distress.

COMMENT: Commenters disagree with the rule’s prohibition on using physical restraint as a planned intervention on a student’s IEP, Section 504 accommodation plan, behavioral intervention plan (BIP), or other plan developed for a student by the school.

DEPARTMENT RESPONSE: Consistent with existing requirements relating to the use of emergency interventions, physical restraint cannot be used as a planned intervention. An individual student plan could describe how staff should interact with a particular student based on their individual behavioral and physical needs (e.g., types of restraints that are contraindicated for the student) if a situation arises that warrants the use of physical restraint. The proposed rule provides an exception to the use of timeout as part of a BIP for situations that pose an immediate concern for the physical safety of the student or others.

COMMENT: One commenter indicated that requiring a nurse to examine a student after restraint would create a need for additional funds.

DEPARTMENT RESPONSE: The decision to hire a school nurse is a budgetary decision made by a school. While the requirement to have a student suspected of injury assessed medically may create added costs, the

Department believes that ensuring the health and safety of students is of paramount importance.

COMMENT: Commenters made suggestions regarding same day notification to parents, record keeping, debriefing, and annual training.

DEPARTMENT RESPONSE: SED does not believe that changes to the proposed rule are necessary based on these comments as more fully explained in the full text of the APC.

COMMENT: Commenters requested clarification as to whether districts that do not use physical restraint need to develop a policy regarding physical restraint procedures.

DEPARTMENT RESPONSE: SED recommends that all schools develop a policy describing such prohibition to ensure staff are aware of the policy and know what to do in situations that pose an imminent danger of serious physical harm to the student or others.

COMMENT: Commenters requested clarification regarding the responsibility of districts of residence for the oversight of implementation and reporting data for State approved private school and preschool programs.

DEPARTMENT RESPONSE: The proposed rule requires districts to report data for all students for whom they have committee on special education (CSE) responsibility, including students placed by the CSE in educational programs outside the district.

COMMENT: Commenter states that the definition of deliberate inappropriate use of restraints in section 200.15 contemplates physical restraints being placed on an individual treatment plan or BIP, which is inconsistent with the rule's prohibition on placing restraints in such plans.

DEPARTMENT RESPONSE: The language referenced by the commenter is not new and is consistent with the Justice Center's definition of deliberate inappropriate use of restraints. The proposed rule codifies, in sections 19.5 and 200.22(d), SED's longstanding position that physical restraint cannot be used as a planned intervention.

COMMENT: One commenter described the "emergency intervention" language in section 200.22 as discriminatory and inappropriate towards students with disabilities.

DEPARTMENT RESPONSE: Section 200.22 has been revised to align with the requirements of proposed section 19.5 that apply to all students and replace the term "emergency interventions" in section 200.22(d) with "physical restraint." No other changes to the proposed rule are necessary.

COMMENT: Commenter suggested that any time a student is restrained, school officials must conduct a functional behavioral assessment (FBA) and develop a BIP within 20 school days. The commenter further recommends that such restraints be documented with fidelity and that data be collected regularly.

DEPARTMENT RESPONSE: These comments are outside the scope of the proposed rule.

COMMENT: Commenter noted corrections needed to proposed sections 19.5(c), 19.5(d)(2) and 100.2(bb)(2) relating to numbering and a missing preposition.

DEPARTMENT RESPONSE: SED has made the technical amendments suggested by the commenter as non-substantial revisions, as described above.

COMMENT: Commenter urged SED to support funding in the 2024 Budget to support the behavioral health needs of children and families and the Solutions Not Suspensions Act (S1040). Two commenters supported Assembly bill A3311 to end restraint and seclusion. Another commenter recommended that SED adopt language from Assembly bill A3311 bill in the proposed regulations.

DEPARTMENT RESPONSE: These comments are outside the scope of the proposed rule.

COMMENT: Commenter suggested eliminating the practice of "informal school removals" and requiring schools and districts to suspend students for a violation any time they want to send a student home following a restraint incident. Another commenter suggested that all students should have a crisis intervention team. A third commenter made recommendations regarding training and resources for early childhood education.

DEPARTMENT RESPONSE: These comments offer recommendations for issues outside the scope of the proposed rule.

## NOTICE OF ADOPTION

### Requirements for Admission to the Examination for Licensure as an Engineer

**I.D. No.** EDU-18-23-00009-A

**Filing No.** 621

**Filing Date:** 2023-07-18

**Effective Date:** 2023-08-02

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

**Action taken:** Amendment of section 68.3 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207, 6504, 6507, 7206; L. 2021, ch. 465

**Subject:** Requirements for admission to the examination for licensure as an engineer.

**Purpose:** To reflect the intent of chapter 465 of the Laws of 2021 by continuing to allow "all experience" pathway applicants to sit for the fundamentals of engineering examination.

**Text or summary was published** in the May 3, 2023 issue of the Register, I.D. No. EDU-18-23-00009-EP.

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

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

#### Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, 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.

## NOTICE OF ADOPTION

### Initial Reissuance, Provisional Renewal, and Time Extension Requirements

**I.D. No.** EDU-18-23-00012-A

**Filing No.** 618

**Filing Date:** 2023-07-18

**Effective Date:** 2023-08-02

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

**Action taken:** Amendment of sections 80-1.6, 80-1.7, 80-1.8, 80-5.9, 80-5.25 and 80-5.34 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101, 207, 208, 305, 308, 3001, 3004 and 3009

**Subject:** Initial reissuance, provisional renewal, and time extension requirements.

**Purpose:** To revise the initial reissuance, provisional renewal, and time extension requirements to ensue that educators have an opportunity to extent the validity period of their certificates during extenuating circumstances that may prevent them from completing the requirements for the Professional or Permanent certificate.

**Text or summary was published** in the May 3, 2023 issue of the Register, I.D. No. EDU-18-23-00012-P.

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

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112 EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

#### Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2026, which is no later than the 3rd year after the year in which this rule is being adopted.

#### Assessment of Public Comment

Since publication of the Notice of Proposed Rule Making in the State Register on May 3, 2023, the State Education Department received the following comment on the proposed amendment:

1. COMMENT: The commenter supports the proposed amendment and indicates that the current regulations for the reissuance of an Initial certificate may act as a barrier for educators who are highly qualified. The commenter states that the proposed reissuance regulations will remove inequitable barriers for those whom the Department has already deemed qualified to teach in New York State, but need additional time to complete three years of full-time employment and/or a master's degree. The commenter explains that the extension of the Initial certificate validity period will help teachers meet the requirements to continue their career as educators and expresses hope that the proposed amendment will also apply to refugees/immigrants who are waiting for a visa status change.

DEPARTMENT RESPONSE: This comment is supportive of the proposed rule; therefore, no changes are necessary. The proposed amendments to the requirements for the Time Extension, reissuance of an Initial

certificate, and renewal of a Provisional certificate do not preclude refugees/immigrants who are waiting for visa status change from applying.  
 2. COMMENT: The commenter expresses interest in the proposed amendment and how it could affect them personally. They describe how their school counselor certification expired, its validity was extended, and how they subsequently considered enrolling in a second master’s degree program in counseling. They assert that going back to school full-time and working full-time would present a hardship.

DEPARTMENT RESPONSE: This comment is supportive of the proposed rule; therefore, no changes are necessary. Individuals who are interested in determining their eligibility for the revised Initial Reissuance, Provisional Renewal, or Time Extension can review information about them on the Office of Teaching Initiatives website on or after the effective date of the proposed amendment on August 2, 2023, or contact the Office of Teaching Initiatives at tcert@nysed.gov.

## Department of Environmental Conservation

### EMERGENCY RULE MAKING

#### Regulations Governing the Recreational Fishing of Scup and Black Sea Bass

**I.D. No.** ENV-20-23-00001-E

**Filing No.** 602

**Filing Date:** 2023-07-14

**Effective Date:** 2023-07-14

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

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

**Statutory authority:** Environmental Conservation Law, sections 13-0105, 13-0340-e and 13-0340-f

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

**Specific reasons underlying the finding of necessity:** This rulemaking is necessary for New York State to implement and remain in compliance with recent Atlantic States Marine Fisheries Commission (ASMFC) changes to recreational Scup and Black Sea Bass harvest. The proposed regulations were developed in response to a March 2, 2023, decision by ASMFC and Mid-Atlantic Fishery Management Council (MAFMC) to require recreational harvest reductions for Scup and Black Sea Bass after multiple years exceeding the recreational harvest limit for both species coastwide.

The Department of Environmental Conservation (DEC) is adopting these changes in order to protect the general welfare of New York state citizens by complying with the ASMFC. If ASMFC determines that New York is non-compliant, it notifies the U.S. Secretary of Commerce. The Secretary could then promulgate and enforce a complete closure of New York’s Scup and Black Sea Bass fisheries if they concur with the non-compliance determination.

The management measures specified in this Notice of Emergency Adoption are already in effect. DEC originally submitted a Notice of Emergency Adoption and Proposed Rule Making to the Department of State on May 1, 2023, and the new regulations became effective that day. The public comment period for this rule ends on July 17, 2023. In order to be promulgated on time, the Notice of Adoption would have had to be filed on June 27, 2023, to allow 15 to 21 days to be published in the State Register before the original emergency adoption expired. Since the public comment period ends after this date, it is not possible to file the Notice of Adoption prior to the emergency rule’s expiration on July 30, 2023. This amendment is necessary for the State to maintain the current regulations and remain in compliance with ASMFC until a Notice of Adoption, already in progress, can be published and adopted.

**Subject:** Regulations governing the recreational fishing of scup and black sea bass.

**Purpose:** To revise regulations concerning the recreational harvest of scup and black sea bass in New York State.

**Text of emergency rule:** Part 40 of 6 NYCRR, titled “Marine Fish,” is amended as follows:

Table A in existing subdivision 40.1(f) is amended to read as follows:

Species Striped bass through Winter flounder remain unchanged.  
 Species Scup and Black sea bass are amended to read as follows:  
 40.1 (f) Table A – Recreational Fishing.

Species	Open Season	Minimum Length	Possession Limit
Scup (porgy) licensed party/charter boat anglers	[Jan 1] <i>May 1</i> – Aug. 31 Sept. 1 – Oct. 31 Nov. 1 – Dec 31	[9”] 10.5” TL [9”] 10.5” TL [9”] 10.5” TL	30 [50] 40 30
Scup (porgy) shore based anglers	[All year] <i>May 1 – Dec 31</i>	[10”] 9.5” TL	30
Scup (porgy) all other anglers	[All year] <i>May 1 – Dec 31</i>	[10”] 10.5” TL	30
Black sea bass	June 23 – Aug. 31 Sept. 1 – Dec. 31	[15”] 16.5” TL [15”] 16.5” TL	3 6

**This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. ENV-20-23-00001-EP, Issue of May 17, 2023. The emergency rule will expire September 11, 2023.

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

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

**Regulatory Impact Statement**

1. Statutory authority:

Environmental Conservation Law (ECL) § § 13-0105, 13-0340-e, and 13-0340-f authorize the New York State Department of Environmental Conservation (Department) to establish by regulation the open season, size, catch limits, possession and sale restrictions, and manner of taking for Scup and Black Sea Bass.

2. Legislative objectives:

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

3. Needs and benefits:

The proposed regulations were developed in response to the Atlantic States Marine Fisheries Commission (ASMFC) and Mid-Atlantic Fishery Management Council (MAFMC) requiring recreational harvest reductions for Scup and Black Sea Bass after multiple years of exceeding the recreational harvest limit for both species coastwide. The proposed amendments will implement the recreational harvest decreases required by ASMFC and MAFMC. For Black Sea Bass, changes are proposed to the size limit, and for Scup, changes are proposed to the size limit and possession limit.

The Department is adopting these changes in order to protect the general welfare of New York State, and particularly those who participate in these fisheries, by complying with ASMFC and MAFMC fishery management plan requirements. If ASMFC determines that New York is non-compliant, it sends notice of New York’s non-compliance to the U.S. Secretary of Commerce. The Secretary of Commerce could then promulgate and enforce a complete closure of New York’s Scup and Black Sea Bass recreational fisheries if they concur with ASMFC’s non-compliance determination.

4. Costs:

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

5. Local government mandates:

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

6. Paperwork:

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



- 7. Duplication:  
The amendment does not duplicate any state or federal requirement.
- 8. Alternatives:

New York State marine recreational fishers had an opportunity to comment on new recreational fishing measures for Scup and Black Sea Bass, including the measures proposed in this rulemaking, during the Marine Resource Advisory Council (MRAC) meeting on March 7, 2023, a public meeting on Black Sea Bass on February 27, 2023, and in a feedback survey distributed through the Department’s Saltwater Fishing and Boating newsletter and social media. Alternative management measures, which included various combinations of possession limits, size limits, and seasons, were suggested and discussed. While some fishers questioned why measures could not remain status quo, attendees generally favored the measures included in this rulemaking when compared to alternative options. Pursuant to ECL § 13-0105, a majority of MRAC members voted in favor of the proposed regulations in this rulemaking.

“No action” alternative: If New York were to not adopt regulations that reduced recreational Scup and Black Sea Bass recreational harvest in 2023, the State would be out of compliance with ASMFC requirements, which could result in the complete closure of New York’s Scup and Black Sea Bass fisheries.

- 9. Federal standards:  
The amendments to Part 40 are in compliance with the ASMFC and MAFMC’s Fishery Management Plans for Scup and Black Sea Bass.
- 10. Compliance schedule:

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

**Regulatory Flexibility Analysis**

- 1. Effect of rule:  
This rulemaking will implement new Atlantic States Marine Fisheries Commission (ASMFC) and Mid-Atlantic Fishery Management Council (MAFMC) requirements for recreational Scup and Black Sea Bass harvest.

The proposed rules for Scup and Black Sea Bass are more restrictive than regulations in place during 2022. In 2022, there were 477 licensed party and charter businesses, and a number of retail and wholesale marine bait and tackle shops operating in New York State. Data available from the National Oceanic and Atmospheric Administration’s 2022 Marine Recreational Information Program estimates that there were 1,773,356 trips targeting Scup and 634,139 trips targeting Black Sea Bass in New York during 2022. The proposed amendment increases the minimum length for Black Sea Bass, it also increases the minimum length for Scup for private and party/charter anglers, decreases the minimum size for shore-based anglers, and decreases the possession limit for Scup during the special party/charter season from 50 to 40. This could result in a loss of fishing opportunities and will decrease the number of these fish that can be harvested recreationally.

- 2. Compliance requirements:  
This rulemaking will not impose new compliance requirements for small businesses and local governments.
- 3. Professional services:  
This rulemaking will not impose any professional service requirements for small businesses and local governments.
- 4. Compliance costs:  
This rulemaking will not impose any new compliance costs for small businesses and local governments.
- 5. Economic and technological feasibility:

The proposed regulations do not require any expenditure on the part of affected businesses in order to comply with the changes. The proposed regulations may decrease the income of some party and charter businesses, marinas, and marine bait and tackle shops that depend upon the recreational Scup and Black Sea Bass fisheries.

- 6. Minimizing adverse impact:  
This rulemaking is necessary for New York State to remain in compliance with recent ASMFC and MAFMC changes to recreational Scup and Black Sea Bass harvest. The proposed regulations were developed in response to the ASMFC and MAFMC recreational harvest reductions for Scup and Black Sea Bass. The proposed amendment is consistent with these requirements and are therefore in compliance with the ASMFC and MAFMC.

Ultimately, if New York failed to adopt regulations that reduced recreational Scup and Black Sea Bass harvest in 2023, the State would be out of compliance with ASMFC and MAFMC requirements, which could result in the complete closure of New York’s Scup and Black Sea Bass fisheries. A closure would have a large economic impact on the commercial and recreational industries that rely on these fisheries.

- 7. Small business and local government participation:  
New York State marine recreational fishers had an opportunity to com-

ment on these new recreational fishing measures for Scup and Black Sea Bass, including the measures proposed in this rulemaking, during the Marine Resource Advisory Council Meeting on March 7, 2023, and the public meeting for Black Sea Bass on February 27, 2023, and a feedback survey distributed through NYSDEC Saltwater Fishing and Boating newsletter and social media. Alternative management measures, which included various combinations of possession limits, size limits, and seasons, were suggested and discussed. While some fishers questioned why measures couldn’t remain status quo, support was in favor of the measures included in this rulemaking when compared to alternative options. The proposed regulations in this rulemaking were agreed to by majority of the Marine Resource Advisory Council members on March 7, 2023.

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

Pursuant to the State Administrative Procedure Act § 202-b(1-a)(b) (SAPA), a cure period is not included in the rule because of the potential adverse impact on the resource. Cure periods for the illegal taking of fish or wildlife are not recommended. Immediate compliance is required to ensure that the general welfare of the public and the resource are both protected.

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

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

**Rural Area Flexibility Analysis**

The Department of Environmental Conservation (Department) has determined that this rule will not impose any adverse impacts on rural areas. This rulemaking only affects the Marine and Coastal District of the State; there are no rural areas within the Marine and Coastal District. The Scup and Black Sea Bass fisheries are entirely located within the Marine and Coastal District and are not located adjacent to any rural areas of the State. The proposed rule will not impose any reporting, record keeping, or other compliance requirements on public or private entities in rural areas. Since no rural areas will be affected by the proposed amendments to 6 NYCRR Part 40, the Department has determined that a Rural Area Flexibility Analysis is not required.

**Job Impact Statement**

The current 6 NYCRR section 40.1 describes open seasons, size, and catch limits for “marine fish.” The proposed rulemaking amends 6 NYCRR Part 40.1 to modify recreational harvest restrictions for Scup and Black Sea Bass. These amendments will change the size limit for Black Sea Bass, and for Scup, will change the size limit and possession limit. These proposed rules will apply solely to recreational anglers. A Job Impact Statement is not submitted with this proposal because the proposal would have no substantial adverse impact on existing or future jobs or employment opportunities.

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## Department of Financial Services

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

**Financial Statement Filings and Accounting Practices and Procedures**

**I.D. No.** DFS-31-23-00004-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 83 (Regulation 172) of Title 11 NYCRR.

**Statutory authority:** Financial Services Law, sections 202, 302; Insurance Law, sections 107(a)(2), 301, 307, 308, 1109, 1301, 1302, 1308, 1404, 1405, 1407, 1411, 1414, 1501, 1505, 3233, 4117, 4233, 4239, 4301, 4310, 4321-a, 4322-a, 4327, 6404; Public Health Law, art. 44

**Subject:** Financial Statement Filings and Accounting Practices and Procedures.

**Purpose:** To update reference to NAIC AP&P Manual as of date from March 2021 to March 2023, and other non-substantive changes.

**Text of proposed rule:** Section 83.2(c) is amended as follows:  
(c) To assist in the completion of the financial statements, the NAIC

also adopts and publishes from time to time certain policy, procedure, and instruction manuals. The latest of these manuals, the Accounting Practices and Procedures Manual as of March [2021] 2023<sup>1</sup> (accounting manual), includes a body of accounting guidelines referred to as statements of statutory accounting principles (SSAPs). The accounting manual shall be used in the preparation of quarterly statements and the annual statement for [2021] 2023, which will be filed in [2022] 2024.

Section 83.4(f) and (p) are amended as follows:

(f)(1) Paragraph 6 of SSAP No. 25, "Affiliates and Other Related Parties", is not adopted. Insurance Law section 1501(c) provides that the superintendent may determine upon application that any person does not, or will not upon the taking of some proposed action, control another person. 10 NYCRR 98-1.9(d) authorizes the Commissioner of Health to make a similar determination with respect to organizations with a certificate of authority pursuant to Public Health Law article 44.

(2) Paragraphs [9 and 10] 11 and 12 of SSAP No. 25 are not adopted. Insurance Law section 4310(b) provides that certain article 43 corporations described therein may invest, in the aggregate, not more than three percent of their admitted assets in obligations, shares or other securities issued by a parent corporation which is organized as a not-for-profit entity or a corporation which is an affiliate or will be an affiliate after direct or indirect acquisition by the parent corporation. Insurance Law section 1407(a)(4) prohibits accident and health insurers and property/casualty insurers from investing in obligations, shares or other securities issued by a parent corporation or a corporation which is an affiliate or will be an affiliate after direct or indirect acquisition by the insurer. Further, loans and advances between a domestic controlled insurer and any person in its holding company system are subject to the reporting and approval thresholds prescribed in Insurance Law section 1505. Insurance Law section 1411(f) prohibits loans to officers and directors, except as permitted under Insurance Law section 1411(h)(2).

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(p) Paragraph 9 of SSAP No. 73, "Health Care Delivery Assets and Leasehold Improvements in Health Care Facilities", is [not] adopted[,] with the following exception: Durable medical equipment, furniture, medical equipment and fixtures, and leasehold improvements shall be depreciated utilizing a depreciation schedule no less conservative than that set forth in the latest revision of ESTIMATED USEFUL LIVES OF DEPRECIABLE HOSPITAL ASSETS (REVISED 2018 EDITION).<sup>2</sup> The document may also be viewed at the New York State Department of Financial Services' New York City office at One State Street, New York, NY 10004. Lease improvements in health care facilities shall be amortized against net income over the shorter of their estimated useful life or the remaining life of the original lease excluding renewal or option periods, using methods detailed in SSAP No. 19.

<sup>1</sup> ACCOUNTING PRACTICES AND PROCEDURES MANUAL AS OF MARCH [2021] 2023. © Copyright 1999 – [2021] 2023 by National Association of Insurance Commissioners, Kansas City, Missouri.

<sup>2</sup> Reproduced, with permission, from Estimated Useful Lives of Depreciable Hospital Assets, Revised 2018 Edition. Copyright 2018 by Health Forum, Inc. All right reserved. Printed with permission of Health Forum, Inc., in Chicago.

*Text of proposed rule and any required statements and analyses may be obtained from:* Michael Campanelli, New York State Department of Financial Services, One State Street, New York, NY 10004, (212) 480-5290, email: Michael.Campanelli@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 amendment of the rule that adopts the most recent edition of the Accounting Practices and Procedures Manual as of March 2023 ("2023 Accounting Manual"), published by the National Association of Insurance Commissioners ("NAIC"), and replaces the rule's current reference to the NAIC's Accounting Practices and Procedures Manual as of March 2021. The rule also makes non-substantive changes to subdivisions (f) and (p) of section 83.4 by updating the numbering of the paragraphs referenced in SSAP 25 of the 2023 Accounting Manual and clarifying language.

Adoption of the rule is necessary for the Department of Financial Services ("Department") to maintain its accreditation status with the NAIC. NAIC accreditation is a certification given to a state insurance regulator once the regulator has demonstrated that it has met and continues to meet baseline solvency regulation standards and various legal, financial, and organizational standards as determined by a committee of its peers.

The Department determines this rule to be a consensus rule, as defined

in State Administrative Procedure Act ("SAPA") § 102(11), and it is proposed pursuant to SAPA § 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, and a Rural Area Flexibility Analysis.

#### Job Impact Statement

This rulemaking will not have any impact on jobs and employment opportunities, including self-employment opportunities. The amendment adopts the most recent edition published by the National Association of Insurance Commissioners ("NAIC") of the Accounting Practices and Procedures Manual as of March 2023 ("2023 Accounting Manual"), replacing the rule's current reference to the Accounting Practices and Procedures Manual as of March 2021. The rule also makes non-substantive changes to subdivisions (f) and (p) of section 83.4 by updating the numbering of the paragraphs referenced in SSAP 25 of the 2023 Accounting Manual and clarifying language.

Adoption of the rule is necessary for the Department of Financial Services to maintain its accreditation status with the NAIC. NAIC accreditation is a certification given to a state insurance regulator once the regulator has demonstrated that it has met and continues to meet baseline solvency regulation standards and various legal, financial, and organizational standards as determined by a committee of its peers.

## New York State Gaming Commission

### ERRATUM

A Notice of Proposed Rule Making, I.D. No. SGC-29-23-00004-P, regarding Attending Veterinarian Examinations in Thoroughbred Racing, published in the July 19, 2023, issue of the *State Register*, contained a formatting error. Rule text in section 4007.5(a), "No horse shall be qualified to start in any race unless entered by a licensed owner and in the charge of a licensed trainer," was inadvertently italicized. Only new material being proposed to be added to NYCRR should be italicized and this sentence already appears in the current section 4007.5 of Title 9 NYCRR.

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

#### Sports Wagering Advertising and Marketing

I.D. No. SGC-31-23-00010-P

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

**Proposed Action:** Amendment of section 5329.1; addition of sections 5329.37 and 5330.45 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), (24), 1307(1), (2)(p), 1367(4), (13), 1367-a(4)(a)(iii), (xiv), (xv), (e); L. 2021, ch. 59, part Y, section 7

**Subject:** Sports wagering advertising and marketing.

**Purpose:** To regulate advertising, marketing and promotions concerning sports wagering.

**Text of proposed rule:** Section 5329.1 of 9 NYCRR would be amended, and new sections 5329.37 and 5330.45 would be added to 9 NYCRR, to read as follows:

§ 5329.1. Definitions.

(a) *Affiliate marketing partner means an entity or person who promotes, refers potential customers to, or conducts advertising, marketing or branding on behalf of, or to the benefit of, a casino sports wagering licensee or sports pool vendor pursuant to an agreement with such licensee or vendor. This definition shall not apply to general news media that are not focused on gaming, gambling or wagering matters.*

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Current subdivisions in section 5329.1 would be re-lettered as (b) through (q).

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§ 5329.37. Advertising, marketing and promotions.

(a) *Advertisements generally.*

(1) *Advertisements and promotions used by a casino sports wagering licensee or sports pool vendor shall comply with Racing, Pari-Mutuel Wa-*

gaming and Breeding Law section 1363 and comply with the responsible gaming requirements set forth in section 5325.6 of this Subchapter.

(2) Advertisements and promotions used by a casino sports wagering licensee or sports pool vendor shall disclose the identity of the casino sports wagering licensee or sports pool vendor.

(3) Each casino sports wagering licensee or sports pool vendor shall be responsible for the content and conduct of any and all advertising, marketing or branding done on its behalf or to its benefit, whether conducted by such licensee, an employee or agent of such licensee, or an affiliated entity of agent of such licensee pursuant to contract or agreement.

(4) No person who, or entity that, is not a casino sports wagering licensee or sports pool vendor shall advertise sports gambling in the State, unless the advertisement disclaims conspicuously that the wagering offerings are not available in the State.

(5) No person or entity shall advertise forms of illegal gambling in the State, unless the advertisement disclaims conspicuously that the wagering offerings are not available in the State.

(6) No casino sports wagering licensee or sports pool vendor may enter into an agreement with an affiliate marketing partner when the manner of compensation for such services is prohibited by Racing, Pari-Mutuel Wagering and Breeding Law section 1341(1).

(b) False, deceptive or misleading statements.

(1) No advertisement or promotion for sports wagering, including any material published or disseminated by an affiliate marketing partner, shall contain false, deceptive or misleading statements or elements, including, without limitation, those concerning:

- (i) chances of winning;
- (ii) the number of winners; or
- (iii) the rules, terms or conditions of wagering.

A false, deceptive or misleading statement or element includes, without limitation, one that reasonably would be expected to confuse or mislead patrons in order to induce them to engage in sports wagering.

(2) A casino sports wagering licensee or sports pool vendor shall not, directly or indirectly (such as through an affiliate marketing partner):

- (i) promote irresponsible or excessive participation in sports wagering;
- (ii) suggest that social, financial or personal success is guaranteed by engaging in sports wagering;
- (iii) imply or promote sports wagering as free of risk in general or in connection with a particular promotion or sports wagering offer;
- (iv) describe sports wagering as “free”, “cost free” or “free of risk” if the patron needs to incur any loss or risk the patron’s own money to use or withdraw winnings from the wager;
- (v) encourage patrons to “chase” losses or re-invest winnings;
- (vi) suggest that betting is a means of solving or escaping from financial, personal, or professional problems;
- (vii) portray, suggest, condone or encourage sports wagering behavior as a rite of passage or signifier of reaching adulthood or other milestones;
- (viii) portray, suggest, condone or encourage sports wagering behavior that is socially irresponsible or could lead to financial, social or emotional harm;
- (ix) state or imply that the chances of winning increase with increased time spent on sports wagering or increased money wagered; or
- (x) be placed on any website or printed page or medium devoted primarily to responsible gaming.

(3) A casino sports wagering licensee, sports pool vendor, or affiliate marketing partner, shall not use misleading embedded keywords or similar methods in its platform to:

- (i) attract persons under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1), self-excluded contestants or persons who are or may be problem gamblers; or
- (ii) accomplish any other misleading or deceptive purpose.

(4) Each affiliate marketing partner shall disclose in its media, in a reasonably prominent manner (e.g., after a writer’s byline, after editorial content, in an “about” link on a webpage that is accessible from the page on which editorial content appears), whether such affiliate marketing partner has agreed to promote, refer potential customers to, or conduct advertising, marketing or branding on behalf of, or to the benefit of, one or more casino sports wagering licensees or sports pool vendors. Each casino sports wagering licensee or sports pool vendor shall cause each of its affiliate marketing partners to comply with this paragraph.

(c) Marketing and promotions.

(1) In connection with the marketing, promoting, advertising or offering of any promotion or displaying or offering of such on a casino sports

wagering licensee’s or sports pool vendor’s platform or platforms, or on any platform or platforms over which a casino sports wagering licensee or sports pool vendor exercises actual or constructive control, such licensee shall:

(i) clearly and conspicuously disclose material facts, terms and conditions of the promotion to potential contestants and adhere to such terms;

(ii) clearly and conspicuously disclose to consumers material limitations to the promotion;

(iii) obtain express informed consent from any consumer who must deposit money to take advantage of the promotion; and

(iv) if an offer requires a patron to wager a specific dollar amount to receive the complimentary item or promotional credit, the amount that the patron is required to wager of the patron’s own funds shall be disclosed in the same size and style of font as the amount of the complimentary item or promotional credit, and the complimentary item or promotional credit shall not be described as free.

(2) No casino sports wagering licensee or sports pool vendor, or any employee, agent or vendor thereof, shall advise or encourage individual patrons to place a specific wager of any specific type, kind, subject or amount. The prohibition in this paragraph shall not apply to general advertising or promotional activities.

(3) Each direct advertisement of sports wagering shall clearly and conspicuously describe a method by which an individual may opt out of receiving future direct advertisements. Any request to opt out must be accomplished as soon as practicable and, in any event, no later than 15 days from the date of such request. If a direct advertisement is sent via electronic mail, the described opt-out method must include either an electronic mail address that will accomplish such opt-out or a link to an online website address at which such opt-out may be accomplished as simply as practicable. A direct advertisement sent other than by electronic mail shall include at least one of the following methods to opt out:

- (i) telephone;
- (ii) regular United States mail;
- (iii) online website address or mobile application at which such opt-out may be accomplished as simply as practicable; or
- (iv) electronic mail.

(d) Federal rules. A casino sports wagering licensee or sports pool vendor shall follow all rules concerning endorsements, including, without limitation, rules of the Federal Trade Commission.

(e) Marketing to underage persons. A casino sports wagering licensee or sports pool vendor shall not allow, conduct or participate in any advertising, marketing or branding for sports wagering that is aimed at persons under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1).

(1) Design. No sports wagering message shall be designed to appeal primarily to those below the legal age for sports wagering by depicting cartoon characters or by featuring entertainers or music that appeal primarily to audiences under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1), nor should any message suggest or imply that persons under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1) engage in sports wagering.

(2) Composition of audience. Sports wagering advertising and marketing shall not be placed in broadcast, cable, radio, print or digital communications where the reasonably foreseeable percentage of the composition of the audience that is persons under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1) is greater than the percentage of the population in the State that is under such age, such population as measured by the most recent competed decennial census.

(3) Use of logos, trademarks and brand names. No sports wagering messages, including logos, trademarks or brand names, shall be used or licensed for use on clothing, toys, games or game equipment intended primarily for persons below the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1). To the extent that promotional products carry sports wagering messages or brand information, a sports pool licensee and its employees shall use commercially reasonable efforts to distribute such products only to those who have reached the legal age for sports wagering.

(4) College and university media. Sports wagering shall not be promoted or advertised in college- or university-owned news assets (e.g., school newspapers, radio, telecasts) or advertised on college or university campuses, except that generally available advertising that is not targeted to the area of a college or university campus shall not be prohibited by this paragraph.

(5) *Depiction of underage persons.* No advertisement for sports wagering shall depict a person under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1); students; schools or colleges; or school or college settings, except where such image may incidentally depict a person under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1) or is an image of a professional athlete during a type of sporting event on which wagering is permitted.

(6) *Endorsements.* No advertisement for sports wagering shall state or imply an endorsement by a person under the wagering minimum age set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1) (other than professional athletes); college athletes; schools or colleges; or college athletic associations.

(f) *Age notices in online content.* Owned websites or profiles that include sports betting content, including social media pages and sites, shall include a reminder of the legal age for sports wagering in the State.

(g) *Retention.* A registrant shall maintain records of each television, radio, print, digital or other advertisement for a period of at least four years from the date such advertisement last appears and shall make each such record available to the commission upon request.

(h) *Direction to cease.* Any person or entity, upon notice from the commission, shall cease, as expeditiously as possible, to offer advertising, marketing or a promotion that violates this section.

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§ 5330.45. Advertising, marketing and promotions.

The provisions of section 5329.37 of this Subchapter are incorporated herein and shall apply also to each mobile sports wagering licensee and mobile sports wagering vendor licensee.

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

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

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

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

#### Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** Racing, Pari-Mutuel Wagering and Breeding Law (“Racing Law”) section 104(19) grants authority to the Gaming Commission (“Commission”) to promulgate rules and regulations that it deems necessary to carry out its responsibilities.

Racing Law section 104(24) authorizes the Commission to regulate sports wagering.

Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1307(2)(p) authorizes the Commission to govern the gaming-related advertising of licensees, their employees and agents, with the view toward assuring that such advertisements are not deceptive.

Racing Law section 1367(4) authorizes the Commission to promulgate regulations to govern the conduct of sports wagering.

Racing Law sections 1367(13) and 1367-a(4)(a)(xiv) and (xv) authorize the Commission to promulgate rules concerning responsible play and problem gaming information in regard to mobile sports wagering.

Racing Law section 1367-a(4)(a)(iii) authorizes the Commission to promulgate rules concerning prohibiting minors from participating in sports wagering.

Racing Law section 1367-a(4)(e) provides that mobile sports wagering operators shall not target prohibited sports bettors, minors, or self-excluded persons.

Section 7 of Part Y of Chapter 59 of the Laws of 2021 authorizes the Commission to promulgate any rules and regulations it deems necessary to regulate mobile sports wagering.

2. **LEGISLATIVE OBJECTIVES:** The above referenced statutory provisions carry out the legislature’s stated goals “to tightly and strictly” regulate casinos “to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state.” The regulation of sports wagering advertising, marketing, and promotions helps protect consumers and contributes to the discouragement of participation by underage persons and the development of problem gaming behaviors among young adults.

3. **NEEDS AND BENEFITS:** The proposed rules are necessary because statutes direct the Commission to implement statutory requirements through rulemaking and develop regulations in regard to sports wagering advertising, marketing, and promotions. The proposed rules are tailored to protect consumers and contribute to the discouragement of participation

by underage persons and the development of problem gaming behaviors among young adults.

Peer-reviewed research suggests that young people are particularly susceptible to developing problem gambling behaviors and are particularly influenced by advertising and marketing messages. Globally, up to 12% of youth and young adults experience gambling problems and up to 14% are at risk of developing them. Calado et al., “Prevalence of adolescent problem gambling: a systematic review of recent research,” 33 J. GAMBLING STUD. 397 (2017); Turner et al., “Traumatic brain injuries and problem gambling in youth: evidence from a population-based study of secondary students in Ontario, Canada,” 15 PLOS ONE (2020). The International Center for Responsible Gambling states that studies show anywhere from 2 to 7% of young people experience a gambling addiction, compared to about 1% of adults, and that an estimated 6% to 15% of youth have gambling problems that are less severe, while 2% to 3% percent of adults fall into that category. ICRG, “Talking with children about gambling” fact sheet. Youth and young adults are increasingly turning to online gambling, Shi et al., “A perspective on age restrictions and other harm reduction approaches targeting youth online gambling, considering convergences of gambling and videogaming,” 11 FRONTIERS IN PSYCHIATRY (2020), and problematic gambling is more prevalent among youth who gamble online. Floros et al., “Adolescent online gambling in Cyprus: associated school performance and psychopathology,” 31 J. GAMBLING STUD. 367 (2015). Early involvement in gambling may be predictive of experiencing gambling harms later in life. Freund et al., “Exposure to other people’s gambling and gambling behaviors in Australian secondary school students,” PSYCHOLOGY OF ADDICTIVE BEHAVIORS (2022); Shaffer et al., “The epidemiology of college alcohol and gambling policies,” 2 HARM REDUCTION J. 1 (2005). Comparatively fewer colleges and universities have policies on gambling activity, compared to alcohol policies, which are ubiquitous. Shaffer et al. There are legitimate concerns about problem gambling risks among young people that regulation could address.

Reasonable restrictions on advertising and marketing directed to more vulnerable young people are regulations tailored to address these risks, as are requiring responsible gambling messaging. Exposure to gambling advertising is associated with more positive gambling-related attitudes, greater gambling intentions and increases in problem gambling behavior. Bouguettaya et al., “The relationship between gambling advertising and gambling attitudes, intentions and behaviours: a critical and meta-analytic review,” 31 CURRENT OPINION IN BEHAVIORAL SCIENCES 89 (2020). A German research study with 13-25-year-olds found a positive correlation between exposure to gambling advertising and gambling frequency, noting that a resulting perception from advertisements is that gambling leads to winning money and having fun. Clemens et al., “Exposure to gambling advertisements and gambling behavior in young people,” 33 J. GAMBLING STUDIES 1 (2017). Influences from advertising are associated with increased gambling problems among those who bet on sports. Freund et al., “The prevalence and correlates of gambling in Australian secondary school students,” 38 J. GAMBLING STUD. 1173 (2022); Lamont and Hing, “Sports betting motivations among young men: an adaptive theory analysis,” 42 LEISURE SCIENCES 185 (2020); Nyemcsok et al., “Viewing young men’s online wagering through a social practice lens: implications for gambling harm prevention strategies,” 33 CRITICAL PUB. HEALTH 241 (2023). Sponsorship of sports teams can communicate that betting is a harmless activity, like watching sports can be. Pitt et al., “Factors that influence children’s gambling attitudes and consumption intentions: lessons for gambling harm prevention research, policies and advocacy strategies,” 14 HARM REDUCTION J. 11 (2017). Young people’s awareness of gambling marketing can lead them to believe that gambling is a normal part of sports and that gambling has little risk. Djohari et al., “Recall and awareness of gambling advertising and sponsorship in sport in the UK: a study of young people and adults,” 16 HARM REDUCTION J. 24 (2019). People with gambling problems are significantly more likely than other gamblers to be influenced by gambling promotions and incentives. Gainsbury et al., “How risky is Internet gambling? A comparison of subgroups of Internet gamblers based on problem gambling status,” 17 NEW MEDIA & SOCIETY 861 (2015).

To address the risks that targeted advertising and marketing to young people pose, the proposed regulations would: prohibit advertising, marketing or branding aimed at underage persons; prohibit the use of designs to appeal primarily to underage persons by depicting cartoon characters or by featuring entertainers or music that appeal primarily to underage audiences; prohibit advertising and marketing where the reasonably foreseeable percentage of the composition of the audience that is underage is greater than the percentage of the population of the State that is underage; prohibit sports wagering messaging, logos, trademarks or brand names on items intended primarily for underage persons; prohibit promotion or advertisement of sports wagering in college- or university-owned news assets or advertised on college or university campuses, other than generally

available advertising that is not targeted to such areas; generally prohibit the depiction of underage persons, students, school or colleges, or school or college settings; and generally prohibit advertising containing endorsements by underage persons, college athletes, schools or colleges or college athletic associations.

The Commission is aware of dozens of complaints from sports wagering customers claiming to have been misled or deceived about wagers or promotions offered. Accordingly, the proposed rules would prohibit false, deceptive or misleading statements or elements. Various elements of the American Gaming Association's Responsible Code for Sports Wagering, which at least several current Commission licensees voluntarily agreed to abide by, would be incorporated into Commission rules. Marketing and promotions would be required to clearly and conspicuously disclose material facts, terms and conditions and adhere to such terms, clearly and conspicuously disclose to consumers material limitations of a promotion, and prominently disclose any associated required wager amount in connection with a promotion. Responsible gaming would be promoted by prohibiting licensees and vendors from advising and encouraging individual patrons, in targeted communications, to place specific wagers or types of wagers. Licensed operators would be required to provide individuals with an option to opt-out of future direct advertisements, as an element of promoting responsible play. Making these reasonable requirements applicable to all sports wagering operators, and not just those who are American Gaming Association members, would promote uniformity in good practices across all regulated parties.

Regulated parties would be required to retain records of advertising, to assist the Commission in investigating compliance.

Responsible play would be encouraged by prohibiting licensees to enter into agreements with third parties known as affiliate marketing partners to conduct advertising and marketing, where the manner of compensation for such services is prohibited by Racing, Pari-Mutuel Wagering and Breeding Law section 1341(1), thus appropriately disincentivizing such third parties from targeting those most vulnerable to problem gambling tendencies. Responsible gaming advertising restrictions would apply also to such affiliate marketing partners. Affiliate marketing partners would be required to disclose, in a reasonably prominent manner, whether such affiliate marketing partner has an agreement with a sports wagering operator. Sports wagering operators also would be required to cause their affiliate marketing partners to comply with such disclosure requirements.

#### 4. COSTS:

(a) Costs to the regulated parties for the implementation of and/or continuing compliance with this rule: The anticipated cost of implementing and complying with the proposed regulations is negligible.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The costs to the Commission for the implementation of and continued administration of the rules will be negligible given that all such costs are the responsibility of the licensed parties. These rules will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Commission's experience regulating gaming activities within the State.

5. LOCAL GOVERNMENT MANDATES: There are no local government mandates associated with these rules.

6. PAPERWORK: The rules are not expected to impose any significant paperwork or reporting requirements on the regulated entities.

7. DUPLICATION: The rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. ALTERNATIVES: The alternative of not proposing this rulemaking was considered and rejected. The proposed rules are necessary to protect consumers from false, deceptive, or misleading statements and contribute to the discouragement of participation by underage persons and the development of problem-gaming behaviors among young adults.

9. FEDERAL STANDARDS: There are no federal standards applicable to the regulation of gaming facilities or mobile sports wagering operators in New York; it is purely a matter of New York State law.

10. COMPLIANCE SCHEDULE: The Commission anticipates that the affected parties will be able to achieve compliance with these rules upon adoption.

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

The proposed rules will not have any adverse impact on small businesses, local governments, jobs or rural areas. These rules are intended to promote public confidence and trust in the credibility and integrity of mobile sports wagering and sports wagering at casinos in New York State.

The proposed rules do not impact local governments or small businesses as no local government or small business holds a mobile sports wagering license or sports pool license and no local government or small business is anticipated to be a mobile sports wagering or sports pool

vendor or participate in the advertising, marketing and promotions of such entities.

The proposed rules impose no adverse impact on rural areas. The rules apply uniformly throughout the state.

The proposed rules will have no adverse impact on job opportunities.

These rules will not adversely impact small businesses, local governments, jobs, or rural areas. Accordingly, a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, and Job Impact Statement are not required and have not been prepared.

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

#### **Comprehensive Regulations for Interactive Fantasy Sports**

**I.D. No.** SGC-29-22-00010-RP

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

**Proposed Action:** Addition of sections 5600.1 to 5613.4 to Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1405(1) and (2)(g)

**Subject:** Comprehensive regulations for interactive fantasy sports.

**Purpose:** To regulate interactive fantasy sports in New York.

**Substance of revised rule (Full text is posted at the following State website: <https://www.gaming.ny.gov/proposedrules.php>):** These proposed new rules would implement Interactive Fantasy Sports ("IFS") contests in compliance with Article 14 of the Racing, Pari-Mutuel Wagering and Breeding Law. The proposal contains the following parts:

Part 5600 (General): Definitions applicable to Chapter VI of the regulations.

Part 5601 (Registration of Interactive Fantasy Sports Operators): Procedures governing the application form, the filing, processing, investigation and determination of IFS registration applications and the issuance of registrations. Officers and directors of an applicant as well as direct and indirect owners above certain thresholds would be investigated for suitability, applying statutory disqualifying criteria as well as whether participation in IFS would be inconsistent with the public interest, convenience or necessity of the best interests of IFS generally. Proposed contest types and internal controls would be required to be disclosed. Disclosure would be required concerning special purpose entities. Applicants denied a registration would have the right to request a de novo hearing pursuant to Commission procedures. The Commission would be permitted to grant an application, grant an application with conditions or deny an application.

Part 5602 (Permissible Contests): Criteria for permissible contests. These would include statutory standards as well as a requirement that contests shall not be based on proposition betting and shall not have the effect of mimicking proposition betting. Contests in which a contestant chooses whether an individual athlete or a single team will surpass an identified statistical achievement would be prohibited. Contest types would be subject to approval by the Commission, including proposals to offer contests for a sport, league, association or organization not previously offered, allowing the Commission to gauge corruption risk to underlying athletic competitions. Registrants would be required to disclose fees, the value of prizes offered, how many contestants have entered each contest and the amount of prizes distributed following the conclusion of each contest. Registrants would be required to identify any highly experienced player entering a contest. The proposed rule would prescribe a maximum number of entries per contestant in any contest.

Part 5603 (Requirements for Contests): Required disclosures to contestants. These rules are designed to assist contestants in understanding fully the nature and rules of the contests they may enter. Required information would include data on relevant rates of success of contestants, identification of experience level of contestants and lock times for contest rosters. Prohibited contestants, including employees of registrants and athletes and officials of underlying athletic competitions, would be prohibited from disclosing insider information to potential contestants. Registrants would be prohibited from knowingly permitting a prohibited player associated with such registrant from making any such insider disclosure and would be required to take reasonable measures to prevent any such disclosures. To ensure that contest entries are based on skill, auto-picks of roster athletes for an IFS entry would be prohibited, but an assisted-draft mode would be permitted if based on automated selection based on criteria set by the contestant. Unauthorized computer scripts would be prohibited. Registrants would be prohibited from offering credit.

Part 5604 (Restrictions on play): Registrants would be required to adopt procedures to prevent play by prohibited contestants, such as employees of registrants and their families, athletes in underlying athletic events,

sports agents and team and leagues employees and minors. Registrants would be strictly liable for violations, but would have the opportunity to present mitigating factors in regard to a violation, such as good-faith reliance on false or misleading information provided by the prohibited person and good-faith compliance with appropriate internal controls designed to prevent play by a prohibited person. Mandatory, escalating sanctions for violations are proposed. A registrant would be required to submit a compulsive play plan and implement self-exclusion procedures. A registrant would be authorized to exclude a contestant from the registrant's platform, such as for violations of disclosed terms and conditions of participation. Prizes won by prohibited persons would be null and void and, if discovered within one year, would require a registrant to recalculate contest winnings and compensate other contestants appropriately.

**Part 5605 (Accounting Controls):** Registrants would be required to have annual independent audits conducted of their financial statements and file such audited statements with the Commission. Registrants would be required to submit a copy of the management letter of an independent auditor listing any internal control or operational weaknesses and recommendations for improvement. The Commission would be authorized to order a registrant to conduct an additional review of internal controls, at the registrant's expense, and take appropriate corrective action. Certain accounting records would be required to be prepared and maintained. Registrants would be required to establish a special purpose entity to hold contestant funds in trust to establish protections from mismanagement of such funds and protect them from a registrant's creditors. The Commission would report irregularities in regard to the management of contestant trust monies to the Gaming Inspector General and to appropriate law enforcement officials for possible action in regard to the embezzlement of such funds. Registrants would have the option of posting an appropriate bond in lieu of establishing a contestant trust account. Registrants would be required to establish anti-money laundering policies, procedures and controls.

**Part 5606 (Internal Controls):** A registrant would be required to submit for Commission approval a system of internal controls, including a cybersecurity program, data retention requirements and complaint resolution procedures.

**Part 5607 (Advertising and Marketing):** Advertisements would be required to contain a compulsive play assistance message. Other requirements and restrictions would apply to advertising and marketing promotions to foster transparency and avoid association with minors.

**Part 5608 (Misconduct, Associations and Duties to Promote Integrity):** Registrants would be prohibited from associations with illegal gamblers. Registrants would be required to disclose material facts to the Commission in regard to dishonest and unlawful acts and suspicious activity.

**Part 5609: (Reporting and Auditing):** Registrants would have a continuing duty to disclose to the Commission any material change in business form or activity. The Commission would be authorized to require a registrant to engage, at the registrant's expense, an independent firm to review compliance with law and regulation. The Commission would be permitted to require a registrant to provide certification from an independent testing laboratory that the registrant's platform performs as such registrant represents to the public. The Commission would be permitted to require a registrant to engage an independent monitor acceptable to the Commission to supervise the registrant's operations, compliance or other activities.

**Part 5610 (Taxes and Fees):** The proposal would prescribe procedures for tax reporting and collection.

**Part 5611 (Financial Stability):** A registrant would be required to demonstrate and maintain financial stability.

**Part 5612 (Complaints):** A registrant would be required to establish procedures for receiving and resolving promptly consumer complaints.

**Part 5613 (Penalties and Sanctions):** The Commission would be permitted to suspend or revoke registrations and impose and collect fines for violations of law or regulations.

**Revised rule compared with proposed rule:** Substantial revisions were made in sections 5600.1, 5603.1, 5605.6, 5612.2, 5602.1, 5604.1, 5606.3 and 5613.3.

**Text of revised proposed rule and any required statements and analyses may be obtained from** Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

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

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

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

A revised regulatory impact statement (RIS) is not required for this revised rulemaking because changes made to the last published rule do not necessitate revision to the previously published RIS.

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

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not

required for this revised rulemaking because it will not adversely affect small businesses, local governments, rural areas, or jobs.

The revised rulemaking would implement the statutory mandates for permitting interactive fantasy sports (IFS) contests to be offered in New York. A dominant share of the IFS market is held by two large out-of-state IFS companies, which offer IFS contests to participants from various jurisdictions with similar regulatory requirements. The other IFS companies are much smaller and have only a few (typically five or ten) employees. The impact of this proposal on small businesses and jobs, by implementing statutory mandates and consumer protections, is minimal.

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

#### **Assessment of Public Comment**

Six public comments were received, four from current interactive fantasy sports ("IFS") temporary permittees (DraftKings Inc., FanDuel, Inc., Fantasy Football Players Championship and Yahoo Fantasy Sports LLC); one from Fantasy Sports & Gaming Association, a trade association that claims to represent more than 150 companies offering fantasy sports contests to consumers; and one from Vivid Seats LLC, a company that is not current temporarily permitted in New York but that may wish to seek registration as an IFS operator after the Commission adopts regulations.

A commenter objected to proposed Rule 5601.1(a), which sets forth who is required to register. The Commission believes that the suggested revision would conflict with Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 1402(1)(a).

Commenters objected to the definition of "dormant account" in proposed Rule 5600.1(b)(6). The Commission agrees and proposes a revised Rule 5600.1(b)(6).

A commenter objected to the ownership disclosure requirements in proposed Rule 5601.1(b). The Commission believes that Racing Law section 1403 requires disclosures concerning "ultimate equitable owners" of registrant applicants.

A commenter objected to proposed Rule 5602.1(a)(4), which would make explicit that contests shall not be based on proposition betting or contests that have the effect of mimicking proposition betting. The Commission believes that a contest offering that is essentially sports betting, which is authorized for licensees and regulated pursuant to Racing Law Article 13 (not Article 14), cannot properly be characterized as IFS simply because an operator labels it as such.

A commenter objected to proposed Rule 5602.1(c)(3), concerning the relationship between prize value and the number of contestants. The Commission believes the proposed rule is consistent with the requirements of Racing Law section 1404(1)(n).

A commenter suggested revisions to proposed Rule 5602.1(d)(1), concerning contests with exactly 100 entries. The Commission agrees and proposes a revised Rule 5602.1(d)(1).

Commenters suggested a revision to proposed Rule 5602.2, concerning Commission approval of contest types. The Commission disagrees, because analysis of whether a proposed IFS contest conforms with statute and regulation is of utmost regulatory importance.

Commenters suggested that proposed Rule 5603.2(a)(2) be amended to account for the categorization of a contestant who has entered exactly 1,000 contests. The Commission agrees and proposes a revised Rule 5603.2(a)(2).

A commenter suggested amending proposed Rule 5603.1(g)(1), concerning disclosure of rates of success of contestants, and another commenter suggested eliminating proposed Rule 5603.1. The Commission agrees with the suggestion to amend and proposes a revised Rule 5603.1(g)(1).

A commenter suggested that the disclosure of rules for breaking contest ties, as required by proposed Rule 5603.1(a)(11), be permitted to be contained in an operator's terms of use instead of contest rules. The Commission believes that requiring a contestant to consult two sources of authority—contest rules as well as terms of use—to determine the rules of a contest would be burdensome on, and potentially confusing to, contestants.

A commenter requested clarification that the prohibition in proposed Rule 5603.5(a) against "autopicks" would not preclude the use of pre-draft rankings or a "snake draft" feature. The Commission believes that the autopick prohibition is necessary because statute and caselaw require IFS to be skill-based, and a contestant would be exercising no skill if the contestant's roster were chosen by an IFS operator's algorithm. The proposed Rule would not preclude the use of pre-draft rankings, nor would it prohibit a "snake draft" feature.

A commenter objected to the requirement in proposed Rule 5604.1(b)(1) for an operator to provide a toll-free number. The Commission agrees and proposes a revised Rule 5604.1(b)(1).

Commenters objected to the provision of proposed Rule 5604.1(d) that

would make an operator strictly liable for allowing prohibited persons to enter its contests. The Commission believes that preventing prohibited persons from contests is an important policy goal of Article 14 and the proposed regulations. It is appropriate that an operator be strictly liable for allowing prohibited play, while mitigating any penalty or sanction when the operator can demonstrate its good-faith reliance and compliance as set forth in the proposed rule. Commission staff would evaluate any each case individually based on its merits and would have the ability to exercise discretion in determining a regulatory response.

Commenters objected to proposed Rule 5604.1(f), concerning disclosure of an operator's personnel in aid of preventing prohibited play. The Commission believes that, because Racing Law section 1401(14)(a) defines "prohibited player" to include "any member, officer, employee or agent of an operator or registrant," the proposed regulation provides a mechanism to collect the identities of such prohibited players to enable the Commission to develop a database to disseminate to IFS operators to assist them in implementing the statutory requirement to exclude prohibited players.

A commenter suggested that the requirement in proposed Rule 5604.2(c) to display a compulsive-play-assistance toll-free number approved by the Commission be modified to allow for either a local or national toll-free number. The Commission believes that the New York State Hope Line, developed by the Office of Addiction Services and Supports, is an important and valuable resource that needs to be made available explicitly to New York customers to mitigate appropriately the risk of compulsive play. The statute explicitly refers to resources for compulsive play "in New York state."

A commenter objected to proposed Rule 5604.3(d), expressing concern about the sensitivity of customer data. The Commission believes the proposed rule merely requests more detailed information than the aggregate number of self-excluded contestants, which can assist the Commission in its efforts to implement and regulate self-exclusion practices. The Commission is bound by New York's Personal Privacy Protection Law, which governs the protection of personal information.

A commenter objected to proposed Rule 5604.4(e), expressing concern about the sensitivity of customer data. The Commission believes the reporting requirement would enable staff to monitor the frequency of IFS operators excluding contestants and the reasons therefore, which would aid appropriate regulation. The Commission is bound by New York's Personal Privacy Protection Law.

A commenter objected to proposed Rule 5605.1, concerning audited financial statements. The Commission believes that auditing is an important control process that would aid in the regulation of IFS and that it would be useful for the Commission to have the power to require an audit to aid in Commission regulation.

Commenters objected to proposed Rules 5605.5 and 5605.6, concerning special purpose entities. The Commission believes that the proposed methods would best enhance protection of contestant funds in the event of bankruptcy or operator malfeasance or misfeasance. A segregated bank account controlled by the operator itself would afford no bankruptcy protection for a contestant.

Commenters suggested that proposed Rule 5605.6(a)(2) would require separate bank accounts in order for customers' funds to be held in trust. The Commission believes that contestant funds could be held in one trust bank account, with each contestant's funds being deemed to be a separate trust within such bank account. Strict trust accounting principles would be required to maintain the integrity of each contestant's funds.

Commenters suggested that the return of a customer's funds, as required by proposed Rule 5605.6(d), be required ordinarily to be accomplished in five business days, rather than two, to allow for the accomplishment of know-your-customer and fraud-prevention procedures. The Commission agrees and proposes a revised Rule 5605.6(d).

Commenters suggested eliminating the specific minimum anti-money-laundering ("AML") requirements beyond proposed Rule 5605.10(a)(1) or eliminating AML requirements entirely. The Commission believes that money-laundering compliance is an important policy consideration with IFS, whether the federal Bank Secrecy Act does or does not impose specific AML requirements on an IFS operator. For example, IFS operators often allow for "closed" contests among acquaintances, operated by an IFS registrant. Money changing hands among contestants in such a closed system does present an AML risk, even in a season-long contest. The proposed regulations specifically allow for an IFS operator to tailor its AML program to the particular risks posed by the contests it offers. An IFS operator's AML compliance officer need not be a full-time role, and the required audits would be for compliance with the operator's own policies, which it will have tailored to its particular needs and risks. The proposed annual compliance statement is intended to heighten the awareness of a registrant of the need to maintain vigilance in this important area of concern and is a minimal paperwork burden. Staff does not believe that an IFS operator's AML program, tailored to the risks its contests may cre-

ate, would impose any unduly burdensome or costly compliance requirements on an IFS operator.

A commenter objected to the definition of "cybersecurity event" in proposed Rule 5600.1(b)(5) and to the requirement to report material cybersecurity events to the Commission at least every two years, as set forth in proposed Rule 5606.2(c)(6). The Commission does not interpret the proposed regulation to require reporting of cybersecurity events unrelated to IFS operations. The proposed Rule would not require an IFS operator to hire a separate chief information security officer, but, rather, would require an operator to designate someone to perform that role, in order to ensure that appropriate cybersecurity measures are in place.

A commenter suggested eliminating the requirement in proposed Rule 5606.3(c)(6) to notify the Commission within 48 hours of any adjustment made to a customer's account in response to a customer complaint. The Commission believes that prompt resolution of customer complaints is important to maintain the public perception of confidence in the integrity of IFS, but agrees that reporting to the Commission of adjustments made to customers' account could be required to be made less frequently and, accordingly, proposes a revised Rule 5606.3(c)(6).

A commenter suggested that proposed Rule 5607.1(a) regulating advertisements be limited to advertisements specifically targeting persons located in New York and that a typographical error in a cross-reference should be corrected. The revised proposal corrects the cross-reference. The Commission believes that IFS advertisements that reasonably are anticipated to be seen in New York should be regulated appropriately.

Commenters suggested that proposed Rule 5607.1(e) be revised to exclude requiring compulsive-play assistance messaging on a customer account page, on contest entry pages and on an operator's social-media sites, limiting such messaging to each landing page and homepage. A commenter suggested a revision to proposed Rule 5607.3(a)(1) and (2) governing promotion disclosures, to allow for hyperlinking to full terms and conditions. The Commission believes that while access to the full terms and conditions is essential, consumer protection would be enhanced if an IFS operator were required to clearly and conspicuously disclose "material" terms to potential customers, as a customer may be reluctant to peruse a link to full terms and conditions.

Commenters objected to proposed Rule 5609.2. The Commission believes that the proposed rule would not require routine independent compliance reviews. Rather, it would give the Commission discretion to require such a review. The Commission believes that eliminating this discretionary power would be detrimental to appropriate regulation.

Commenters objected to the requirement in proposed Rule 5609.3 that an independent testing laboratory certify that a registrant's platform performs as the registrant represents to the public. The Commission believes that independent laboratory testing is commonplace in gaming and is available for IFS as well. Allowing testing to be performed by an entity that is not independent may compromise public confidence in the integrity of IFS.

A commenter objected to proposed Rule 5611.1(b). The Commission believes the financial and administrative burden would be minimal for an IFS operator of commercially reasonable size and would be an appropriate control to minimize risk from a smaller operator that regulatory costs might not be paid as required.

A commenter objected to proposed Rule 5612.1, concerning operator investigation of complaints. The Commission disagrees with lengthening the time period for addressing customer complaints, because prompt resolution of complaints would promote public confidence in the integrity of IFS. The Commission agrees, however, that there should be a mechanism to relax such requirements in unusual circumstances and, accordingly, proposes a revised Rule 5612.2(d).

A commenter objected to proposed Rule 5613.3(b). The Commission agrees to limit the rule's scope to New York and, accordingly, proposes a revised Rule 5613.3(b).

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## Department of Health

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

#### Expanded Syringe Access Programs (ESAPs)

I.D. No. HLT-31-23-00008-P

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

**Proposed Action:** Amendment of section 80.137 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 3308 and 3381

**Subject:** Expanded Syringe Access Programs (ESAPs).

**Purpose:** To remove the requirement that ESAPs may only furnish a quantity of 10 or fewer syringes at a time.

**Text of proposed rule:** Paragraph (1) of subdivision (a) of Section 80.137 is amended to read as follows:

(1) Authorized provider for the purposes of this section shall mean any of the following [who have registered with the Department]:

\* \* \*

Subdivisions (b) through (g) of Section 80.137 are amended to read as follows:

(b) [Registration.

(1) Authorized providers must register with the Department in order to sell or furnish hypodermic needles and/or syringes without a prescription pursuant to this section.

(2) Authorized providers must register with the Department in order to accept hypodermic needles and/or syringes for purposes of disposal. Failure of an entity to register shall not affect its obligations to accept needles and syringes originating from a private residence when such entity is already obliged to do so pursuant to Section 1389-dd of the Public Health Law.

(3) Registration shall be limited to authorized providers in good standing and will consist of submission to the Department of a completed application in a form prescribed by the commissioner, and receipt of the acceptance from the commissioner of such registration, prior to the initiation of the selling or furnishing of hypodermic needles and syringes without a prescription and/or accepting hypodermic needles and/or syringes for disposal.

(4) The registration form must include, at a minimum, the following information:

(i) the name, address, license number, telephone number and fax number (if available) of the authorized provider;

(ii) the name, address, telephone and electronic mail address, if available, of the individual designated by the authorized provider to have administrative responsibility for the provider's participation in the expanded syringe access program;

(iii) an attestation that the authorized provider will abide by the provisions of this section and the provisions contained in the registration form with regard to the selling or furnishing of hypodermic needles or syringes without a prescription;

(iv) a description of how the registrant will cooperate in the safe disposal of used hypodermic needles or syringes, or will provide such services (pharmacies and health care practitioners are not required to provide such services); and

(v) the signature of the individual authorized to sign the registration form on behalf of the applicant.

(5) The registration period shall commence upon the acceptance of such registration by the commissioner and shall remain valid for a period to coincide with the maximum allowed at the time of registration under Section 3381 of the Public Health Law or until notice of termination by the Department. Authorized providers shall notify the Department of any changes in the information provided to the Department. Changes or corrections to such information shall be submitted to the Department by the completion of a revised registration form as soon as possible but no later than 30 days after such change. Should an authorized provider choose to withdraw its registration, written notification of such intent must be provided to the Department. Such withdrawal shall not be effective until receipt of such written notice is acknowledged by the Department in writing.

(6) The name, address, and telephone number of the authorized provider may be used in the development of, or included in, a registry of authorized providers for the purpose of informing consumers of available authorized providers for the purposes of sale, furnishing, and/or disposal, as specified on the registration form.

(c) Upon the finding of a violation of this section or when a registrant is no longer in good standing, the commissioner may suspend, for a period up to one year, an authorized provider's ability to sell or furnish hypodermic needles or syringes, or to accept hypodermic needles or syringes for disposal under this Section.] Entities [otherwise] obliged to accept hypodermic needles or syringes for disposal pursuant to Section 1389-dd of the Public Health Law shall not be relieved from such obligation.

[(d)] (c) Requirements for authorized providers for the purpose of selling and furnishing of hypodermic needles and syringes without a prescription.

(1) [After acceptance of the registration by the commissioner, an] *an*

authorized provider may obtain and possess such hypodermic syringes and needles for such purpose, provided that:

(i) such sale or furnishing shall only be to a natural person eighteen years of age or older; and

(ii) [each sale or furnishing is limited to a quantity of ten or less; and

(iii)] the sale or furnishing shall be accompanied by a safety insert as described in paragraph (a)(2) of this section. Such insert shall be attached to or included in the hypodermic syringe and/or needle packaging, or provided in brochure form, at the point of sale or furnishing.

(2) In addition, a pharmacy[:

(i) shall not advertise to the public the availability for retail or furnishing of hypodermic syringes and needles without a prescription; provided, however, that in-store signage indicating that hypodermic syringes and needles may be purchased without a prescription, and which is consistent with guidance issued by the Department, shall not be considered advertising to the public; and

(ii) shall, at any location where hypodermic syringes and needles are kept for retail furnishing, store such syringes and needles in a manner that makes them available only to authorized personnel and not openly available to customers.

[(e)] (d) Authorized providers that accept needles and/or syringes for purposes of disposal shall adhere to State and local public health and environmental conservation laws, rules, and regulations related to the disposal of regulated medical waste.

[(f)] (e) Possession. A natural person 18 years of age or older may obtain and possess hypodermic syringes and needles obtained pursuant to this section.

[(g)] (f) Applicability. The provisions of this section shall not apply to any sale, furnishing, or possession of hypodermic needles or syringes which is lawful under section 3381(a) or (b) of the Public Health Law.

**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: regsqa@health.ny.gov

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

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

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

#### **Regulatory Impact Statement**

Statutory Authority:

Under New York State Public Health Law (PHL) Section 3308(2), the New York State Department of Health Commissioner is authorized to make any rules, regulations and determinations which may be necessary or proper to supplement the provisions of PHL Article 33 (Controlled Substances). Under PHL Section 3381(3) and (4), NYSDOH has specific authority to establish regulations for expanded syringe access programs (ESAPs), which are pharmacies, health care facilities and health care practitioners that furnish syringes without a prescription.

Legislative Objectives:

Laws of 2021, Chapter 433, § 4, amended PHL Section 3381 removing the limitation that ESAPs only furnish a quantity of 10 or fewer syringes at a time, the requirement that ESAPs register with the Department, and the prohibition on advertising the availability of syringes.

The legislative objective was to expand the availability of clean syringes in order to prevent the spread of communicable diseases caused by the reuse of syringes.

Needs and Benefits:

This regulation implements Laws of 2021, Chapter 433, § 4, to remove regulatory requirements that make it more difficult for individuals to get clean syringes. New York State needs to remove these legal barriers to ensure that people do not reuse syringes, a practice that increases morbidity and mortality. In particular, this regulation is needed to decrease the spread of HIV and hepatitis C virus (HCV).

Costs:

Costs to Regulated Parties:

This regulation imposes no costs on regulated parties. It reduces regulation of syringes.

Costs to State and Local Governments:

This regulation imposes no costs on State and local governments. It reduces regulation of syringes.

Paperwork:

This regulation creates no new paperwork requirements.

Local Government Mandates:

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



**Duplication:**

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

**Alternatives:**

The alternative to this regulatory is to not conform the regulations with Chapter 433, § 4 of the Laws of 2021. This is not a viable alternative as the Department of Health is obligated to implement these legislative amendments. This regulation is further necessary to expand the availability of clean syringes in order to prevent the spread of communicable diseases caused by the reuse of syringes.

**Federal Standards:**

This regulation is consistent with federal standards.

**Compliance Schedule:**

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

**Regulatory Flexibility Analysis**

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

**Rural Area Flexibility Analysis**

A Rural Area Flexibility Analysis for these amendments is not being submitted because amendments will not impose any adverse impact or significant reporting, 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 amendments.

**Job Impact Statement**

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

rate purposes, the Company’s service territory is currently divided into Service Area 1 and Service Area 2, which is comprised of Merrick and Sea Cliff customers. The Company estimates that the requested increase in revenues would result in a total monthly bill increase for an average residential customer in Service Area 1 of approximately \$18.32 (or 39 percent), \$15.74 (or 42 percent) for Merrick customers, and \$7.37 (or 13 percent) for Sea Cliff customers. Liberty NYW states that the major drivers of the requested increase include capital investments and cost recovery for new initiatives intended to improve the service provided to its customers, including 17 new local job positions. The initial suspension period for the proposed filing runs through September 30, 2023.

The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject, or modify in whole or in part, the action proposed and may also resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

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

**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.

(23-W-0235SP1)

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## Public Service Commission

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

**Proposed Major Rate Increase**

**I.D. No.** PSC-31-23-00002-P

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

**Proposed Action:** The Commission is considering a proposal filed by Liberty Utilities (New York Water) Corp. to make changes in the rates, charges, rules and regulations as contained in tariff schedule, P.S.C. No. 1 — Water.

**Statutory authority:** Public Service Law, sections 5 and 89-c

**Subject:** Proposed major rate increase.

**Purpose:** To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

**Public hearing(s) will be held at:** 10:30 a.m., Oct. 23, 2023 at Department of Public Service, 19th Fl. Board Rm., Three Empire State Plaza, Albany, NY and continuing daily as needed (Evidentiary Hearing)\*

\*On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, notification of any subsequent scheduling changes will be available at the DPS website ([www.dps.ny.gov](http://www.dps.ny.gov)) under Case 23-W-0235.

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

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

**Substance of proposed rule:** The Commission is considering a proposal filed on May 4, 2023 by Liberty Utilities (New York Water) Corp. (Liberty NYW or the Company) to increase its annual water revenues for the rate year, or 12 months ending March 31, 2025, as contained in P.S.C. No. 1 – Water.

Liberty NYW is requesting an increase in annual revenues of approximately \$39.75 million, or 34.24 percent in total revenues. For

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

**Petition for a Special Permit Exemption from Odorization Requirements**

**I.D. No.** PSC-31-23-00001-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 Linde Inc. requesting a special permit for an exemption of its hydrogen transmission pipeline from the odorization requirements in 16 NYCRR section 255.625.

**Statutory authority:** Public Service Law, sections 65 and 66

**Subject:** Petition for a special permit exemption from odorization requirements.

**Purpose:** To determine if the granting of the special permit is in the public interest.

**Substance of proposed rule:** The Commission is considering a petition filed by Linde Inc. (Petition) on June 9, 2023 for a special permit related to an exemption of its hydrogen transmission pipeline from the odorization requirements in 16 NYCRR § 255.625.

The Petition states that Linde operates a 0.9 mile long hydrogen transmission pipeline located in the City of Niagara Falls and, although the pipeline has a design pressure of up to 246 pounds per square inch gauge (psig), it is generally operated at 8 psig. The Petition notes that the pipeline transfers captured hydrogen from a neighboring business to Linde’s facility where the hydrogen is purified for sale to third parties, only a short portion of the pipeline is above ground, there is one emergency isolation valve located on property which Linde tests annually, and the pipeline is remotely monitored, with a local technician present for emergency response.

After a record and field audit performed by Department of Public Service Staff (Staff) for the 2020 and 2021 audit years, Staff informed Linde that pursuant to Commission regulation 16 NYCRR § 255.625(a), the hydrogen transported in the pipeline must be odorized. Arguing that odorization of hydrogen is not feasible, the Petition

requests a special permit exempting Linde's pipeline from the odorization requirement and proposes alternative measures to ensure public safety. The Petition states that odorization of hydrogen is not possible because any known odorant would freeze during the purification process and create blockages in the system. The Petition further states that, if a suitable odorant could be found, Linde's system would have to be modified to allow for the odorant to be introduced into the pipeline and then removed before storage, which would require additional purification facilities and an increase in production waste.

The Petition proposes an alternative that would limit operating pressure in the pipeline to 25 psig, increase the frequency of leakage surveys from once every 15 months to four times each calendar year, increase the use of pipeline markers to enhance damage prevention, procure an additional leak detection device to keep on site, and maintain records of compliance for five years.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

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

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

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(23-M-0311SP1)

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Incidental Regulation for a Water-Works Corporation

**I.D. No.** PSC-31-23-00003-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 from Pearl River Campus, LLC requesting an order to provide incidental regulation as a water-works corporation.

**Statutory authority:** Public Service Law, sections 2(2-a), (3), (4), (13), (22) and 89-c

**Subject:** Incidental regulation for a water-works corporation.

**Purpose:** To determine if incidental regulation is in the public interest.

**Substance of proposed rule:** The Public Service Commission (Commission) is considering a petition (Petition) from Pearl River Campus, LLC (Pearl River) on June 14, 2023 requesting an order to provide incidental regulation as a water-works corporation under Public Service Law (PSL) § 89-c.

Pearl River owns and operates a 207-acre industrial and commercial park known as the Hudson Valley iCampus in the Towns of Orange-town and Clarkstown, Rockland County (Business Campus). The Business Campus was previously part of a larger, 230-acre office park, with Pearl River acquiring the Business Park in 2015 and the prior owner, Wyeth Holdings LLC (Wyeth), a subsidiary of Pfizer Inc. (Pfizer), retaining ownership of the remaining 23-acre parcel (Wyeth/Pfizer Parcel).

The Petition states that Pearl River operates and maintains extensive water distribution and electric/steam generation and distribution facilities in the Business Campus, and currently provides electric, steam, and water service to its tenants in the Business Park, and electric and water service to buildings on the Wyeth/Pfizer Parcel. According to the Petition, the buildings on the Wyeth/Pfizer Parcel remain integrated into Pearl River's electric and water distribution systems on the Busi-

ness Campus and cannot reasonably be separated from that existing distribution infrastructure for direct connection to the relevant local utilities, Orange and Rockland Utilities, Inc. and Veolia Water New York, Inc. (Veolia). Regarding water service, the Petition states that Veolia provides water to the Business Campus through four mains. Due to the design of the water distribution system, Pearl River provides water to the buildings on the Wyeth/Pfizer Parcel, which do not have direct connections or customer accounts with Veolia. The Petition states that Pearl River provides water to the Wyeth/Pfizer Parcel at the same rate that Veolia charges Pearl River, and the income from providing water service to the Wyeth/Pfizer Parcel is less than one percent of its total annual revenues.

The Petition argues that Pearl River qualifies for incidental regulation under PSL § 89-c(11), which is applicable where "the owning, operating, managing or controlling of ... water system by any ... corporation is wholly subsidiary and incidental to the other business carried on by it...." According to the Petition, Commission precedent holds that a regulated business is incidental to a non-regulated business when revenues associated with the regulated business are below ten percent of the entity's non-regulated business. The Petition also argues that Pearl River's arrangement with Wyeth is consistent with Commission precedent holding that, where rates are negotiated with a sophisticated business entity, additional consumer protections are not required. Based on those considerations, the Petition asserts that Pearl River qualifies for incidental regulation, which exempts a water-works corporation from keeping accounts according to Commission regulation, filing annual reports, and filing rate tariffs.

Separately, the Petition requests a declaratory ruling that Pearl River is not subject to Commission regulation as a result of its ownership and operation of a 20.35 megawatt combined electricity and steam co-generation facility (Facility), which is used to provide electric and steam service to the Business Campus, and electric service to the Pfizer/Wyeth Parcel. Specifically, the Petition argues that the Facility qualifies as a "co-generation facility" under PSL § 2(2-a), and consequently, Pearl River's ownership and operation of the Facility exempts it from the definitions of "electric corporation," "steam corporation," "corporation," and "person" under PSL § 2(13), 2(22), 2(3), and 2(4), respectively.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto:john.pitucci@dps.ny.gov)

**Data, views or arguments may be submitted to:** Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

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

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

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(23-M-0337SP1)

## Office of Temporary and Disability Assistance

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

#### Temporary Assistance (TA) Resource Limits and New York Achieving a Better Life Experience (NY ABLE) Program Accounts

I.D. No. TDA-31-23-00005-P

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

**Proposed Action:** Amendment of section 352.23(b); addition of section 352.23(b)(12) to Title 18 NYCRR.

**Statutory authority:** Social Services Law, sections 20(3)(d), 34(3)(f), 131(1), 131-n(1)(a), (e), (k); L. 2022, ch. 56, part U; L. 2019, ch. 329

**Subject:** Temporary Assistance (TA) resource limits and New York Achieving a Better Life Experience (NY ABLE) program accounts.

**Purpose:** To up date State regulations consistent with statutory amendments to SSL section 131-n(1)(a) and (k).

**Text of proposed rule:** Part 352 of Title 18 NYCRR is amended as follows:

Subdivision (b) of § 352.23 of Title 18 NYCRR is amended to read as follows:

(b) The amount of real and personal property, including liquid assets, that can be reserved for each public assistance household must not be in excess of [\$2,000 equity value] \$2,500 for applicants, except that for applicant households in which any member is age 60 or over or is disabled, such resources must not exceed [\$3,000] \$3,750, or \$10,000 for recipient households, excluding only:

Paragraph (2) of subdivision (b) of § 352.23 of Title 18 NYCRR is amended to read as follows:

(2) one automobile, up to [\$10,000 fair market value, through March 31, 2017; one automobile, up to \$11,000 fair market value, from April 1, 2017 through March 31, 2018; and one automobile, up to] \$12,000 fair market value, [beginning April 1, 2018 and thereafter,] or such other higher dollar value as the local social services district may elect to adopt. *If the fair market value of the vehicle exceeds \$12,000, or a higher dollar value as adopted by the local social services district, the amount of equity in the vehicle must be determined. The vehicle's equity value must be applied against the applicable resource limits outlined in this subdivision.* However, if the automobile is especially equipped with apparatus for individuals with a disability, the apparatus must not increase the value of the vehicle;

Paragraphs (10)-(11) of subdivision (b) of § 352.23 of Title 18 NYCRR are amended and a new paragraph (12) of subdivision (b) of § 352.23 of Title 18 NYCRR is added to read as follows:

(10) funds in an individual development account; [and]

(11) earned income tax credits[.]; and

(12) funds in a New York achieving a better life experience (ABLE) savings account established in accordance with article eighty-four of the mental hygiene law.

**Text of proposed rule and any required statements and analyses may be obtained from:** Richard P. Rhodes, Jr., Office of Temporary and Disability Assistance, 40 North Pearl Street, 16-C, Albany, NY 12243-0001, (518) 486-7503, email: richard.rhodesjr@otda.ny.gov

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

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

#### Regulatory Impact Statement

##### 1. Statutory authority:

Social Services Law (SSL) § 20(3)(d) authorizes the Office of Temporary and Disability Assistance (OTDA) to promulgate regulations to carry out its powers and duties.

SSL § 34(3)(f) requires the Commissioner of OTDA to establish regulations for the administration of public assistance (PA) within the State.

SSL § 131(1) requires social services districts (districts), insofar as funds are available, to provide adequately for those unable to maintain themselves, in accordance with the provisions of the SSL.

SSL §§ 131-n(1)(a) and (k), as amended by Part U of Chapter 56 of the Laws of 2022 and Chapter 329 of the Laws of 2019, allows for the disregard of certain resources in calculating the amount of benefits of any

household under the PA program. SSL §§ 131-n(1)(a) allows for the disregard of cash and liquid or nonliquid resources up to \$2,500 for applicants, \$3,750 for applicants in households in which any member is 60 years of age or older or is disabled, or \$10,000 for recipients. SSL § 131-n(1)(k) allows for the disregard of funds in a New York Achieving a Better Life Experience (NY ABLE) savings account established in accordance with Article 84 of the Mental Hygiene Law.

SSL § 131-n(1)(e) allows for the disregard of one automobile, up to \$12,000 fair market value (FMV), beginning April 1, 2018 and thereafter, or such other higher dollar value as the district may elect to adopt.

##### 2. Legislative objectives:

It was the intent of the Legislature in enacting the above statutes that the Office establish rules, regulations, and policy so that adequate provision is made for those persons unable to provide for themselves so that, whenever possible, such persons can be restored to a condition of self-sufficiency.

##### 3. Needs and benefits:

Part U of Chapter 56 of the Laws of 2022 amends §§ 131-n(1)(a) to allow for the disregard of cash and liquid or nonliquid resources up to \$2,500 for applicants, \$3,750 for applicants in households in which any member is 60 years of age or older or is disabled, or \$10,000 for recipient households; it also amends SSL § 131-n(1)(j) to reference the disregard for NY ABLE savings accounts as a standalone paragraph (k). Chapter 329 of the Laws of 2019 requires funds deposited in a NY ABLE account to be disregarded for resource and asset test calculations of PA applicants and recipients. OTDA is promulgating the regulatory amendments to reflect these statutory changes.

The regulatory amendments would also have the additional benefit of aligning the State regulations with an Opinion and Order from the Appellate Division, Third Department in *Stewart v. Roberts*, 163 AD3d 89, 92-93 (3d Dept 2018), mod on other grounds 193 AD3d 121 (3d Dept 2021), which held, among other things, that the extent to which the FMV of an automobile exceeds the amount exempted is an available resource for the purposes of determining an applicant's eligibility for PA and must be measured by the applicant's equity interest therein.

##### 4. Costs:

The proposed regulatory amendments are consistent with SSL § 131-n(1)(e), and would conform State regulations with the statutory amendments to SSL § 131-n(1)(a) and (k); insofar as the proposed regulatory amendments are merely clarifying in nature, there would be no additional fiscal impact upon the State or districts, beyond those associated with the statutory amendments which are already accounted for in the State budget.

##### 5. Local government mandates:

The proposed regulatory amendments are intended merely to update the current State regulations to reflect the statutory amendments to SSL § 131-n(1)(a) and (k) and would impose no additional district mandates.

##### 6. Paperwork:

The proposed regulatory amendments are intended merely to update the current State regulations to reflect the statutory amendments to SSL § 131-n(1)(a) and (k) and would impose no additional paperwork requirements.

##### 7. Duplication:

The proposed regulatory amendments would not duplicate, overlap, or conflict with any existing federal or State law or regulation.

##### 8. Alternatives:

An alternative to the proposed regulatory amendments would be to refrain from adopting them. However, if the proposed regulatory amendments are not adopted, there would be resulting inconsistencies between the SSL and the current State regulations. The resulting inconsistencies would be contrary to law. Consequently, OTDA does not consider such inaction to represent a viable alternative to adopting the proposed regulatory amendments.

##### 9. Federal standards:

The proposed regulatory amendments would not conflict with federal standards for PA.

##### 10. Compliance schedule:

The proposed regulatory amendments are clarifying in nature, designed to update State regulations consistent with the statutory amendments to SSL § 131-n(1)(a) and (k). Because districts are already in compliance with the proposed regulatory amendments, a compliance schedule is unnecessary.

#### Regulatory Flexibility Analysis

A RFASBLG is not required for the proposed regulatory amendments because the proposed regulatory amendments would neither have an adverse impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon small businesses or local governments. The purpose of the proposed regulatory amendments is clarifying in nature, merely to update State regulations consistent with the statutory amendments made to Social Services Law (SSL) § 131-n(1)(a) and (k). The proposed regulatory amendments are consistent with SSL § 131-n(1)(e), and would conform State regulations with the statutory amend-

ments to SSL § 131-n (1)(a) and (k); insofar as the proposed regulatory amendments are merely clarifying in nature, there would be no additional fiscal impact upon the social services districts.

For the reasons described above, as it was evident from the proposed regulatory amendments that they would not have an adverse impact or impose reporting, recordkeeping, or other compliance requirements, no further measures were needed to ascertain those facts and, consequently, none were taken.

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

A RAFA is not required for the proposed regulatory amendments because the proposed regulatory amendments would neither have an adverse impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon public or private entities in rural areas. The purpose of the proposed regulatory amendments is clarifying in nature, merely to update State regulations consistent with the statutory amendments made to Social Services Law (SSL) § 131-n(1)(a) and (k). The proposed regulatory amendments are consistent with SSL § 131-n(1)(e), and would conform State regulations with the statutory amendments to SSL § 131-n (1)(a) and (k); insofar as the proposed regulatory amendments are merely clarifying in nature, there would be no additional fiscal impact upon the social services districts.

For the reasons described above, as it was evident from the proposed regulatory amendments that they would not have an adverse impact upon or impose reporting, recordkeeping, or other compliance requirements upon public or private entities in rural areas, no further measures were needed to ascertain those facts and, consequently, none were taken.

#### ***Job Impact Statement***

A JIS is not required for the proposed regulatory amendments because the proposed regulatory amendments would not have a substantial adverse impact on jobs and employment opportunities in the public or private sectors of the State. The purpose of the proposed regulatory amendments is clarifying in nature, merely to update State regulations consistent with the statutory amendments made to Social Services Law (SSL) § 131-n(1)(a) and (k). The proposed regulatory amendments are consistent with SSL § 131-n(1)(e), and would conform State regulations with the statutory amendments to SSL § 131-n (1)(a) and (k); insofar as the proposed regulatory amendments are merely clarifying in nature, there would be no additional fiscal impact upon the social services districts (districts).

For the reasons described above, the proposed regulatory amendments would not substantively affect the jobs or employment opportunities in the private sector or at the State or district levels, nor would the proposed regulatory amendments impose any new annual costs or administrative burdens upon the districts.

**HEARINGS SCHEDULED  
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
<b>Environmental Conservation, Department of</b>		
ENV-25-23-00010-P .....	Repeal of Obsolete Rules and to Make All Necessary Attendant Revisions	Virtual via WebEx—Aug. 22, 2023, 1:00 p.m.
<b>Public Service Commission</b>		
PSC-21-23-00005-P .....	Proposed Major Increase in VWNYS Annual Base Rate Revenues	Department of Public Service, 19th Fl. Board Rm., Three Empire State Plaza, Albany, NY—August 2, 2023, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)*  *On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 23-W-0111.
PSC-28-23-00024-P .....	Proposed Major Rate Increase	Department of Public Service, 19th Fl. Board Rm., Three Empire State Plaza, Albany, NY—October 10, 2023, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)*  *On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 23-G-0225.
PSC-28-23-00025-P .....	Proposed Major Rate Increase	Department of Public Service, 19th Fl. Board Rm., Three Empire State Plaza, Albany, NY—October 10, 2023, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)*  *On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 23-G-0226.
PSC-31-23-00002-P .....	Proposed Major Rate Increase	Department of Public Service, 19th Fl. Board Rm., Three Empire State Plaza, Albany, NY—October 23, 2023, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)*  *On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 23-W-0235.
<b>State, Department of</b>		
DOS-27-23-00016-P .....	Implementation of State Environmental Quality Review Act (SEQR)	Department of State, 99 Washington Ave., Rm. 505, Albany, NY—September 6, 2023, 10:00 a.m.



**ACTION PENDING INDEX**

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

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

For additional information concerning any of the proposals

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

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

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

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

AGE-02-23-00020-P	..... 01/11/24	Nutrition Program	The purpose of this rule is to update the regulations governing the Nutrition Program
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**AGRICULTURE AND MARKETS, DEPARTMENT OF**

AAM-22-23-00001-P	..... 05/30/24	Amendments to the Box Tree Moth Quarantine	To expand the BTM quarantine to include additional counties, require pre-notification of certain shipments, and add an exemption
AAM-29-23-00001-P	..... 07/18/24	Avian influenza control measures.	To remove a duplicative definition and clarify requirements for the movement of live poultry.
AAM-30-23-00007-P	..... 07/25/24	Agriculture water standards for growing, harvesting, packing, and holding of produce for human consumption.	To incorporate by reference 21 CFR Part 112, Subpart E, containing agricultural water standards.

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

ASA-24-23-00021-P	..... 06/13/24	Voluntary certification of Recovery Residences in NYS.	This Part establishes requirements for recovery residences certified by the Office of Addiction Services and Supports (OASAS).
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**AUDIT AND CONTROL, DEPARTMENT OF**

AAC-27-23-00004-P	..... 07/04/24	Special Accidental Death Benefits	To prescribe requirements for reimbursing special accidental death benefits.
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**CANNABIS MANAGEMENT, OFFICE OF**

OCM-49-22-00024-EP	..... 12/07/23	Violations, Hearings and Enforcement	The proposed rule establishes parameters around violations, hearings, and enforcement creating requirements intended to further protect public health, safety, and welfare by preventing unlawful cannabis or unsafe practices from entering the marketplace
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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CANNABIS MANAGEMENT, OFFICE OF</b>			
OCM-50-22-00010-RP	12/14/23	Adult-Use Cannabis	To regulate, control, and tax adult-use cannabis, generate significant new revenue, invest in communities and people most impacted by cannabis criminalization, reduce participation in the unlawful market, create new industries, and increase employment
OCM-14-23-00011-P	04/04/24	Cannabis Research License	The proposed rule establishes the application process, requirements and prohibitions associated with the Cannabis Research License
<b>CHILDREN AND FAMILY SERVICES, OFFICE OF</b>			
CFS-14-23-00010-P	04/04/24	Updates to foster care rates	To update various rules related to foster care rates and to make technical corrections
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-19-23-00001-P	05/09/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-19-23-00002-P	05/09/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-19-23-00003-P	05/09/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-19-23-00004-P	05/09/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-19-23-00005-P	05/09/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-19-23-00006-P	05/09/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-19-23-00007-P	05/09/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-19-23-00008-P	05/09/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-19-23-00009-P	05/09/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-19-23-00010-P	05/09/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-19-23-00011-P	05/09/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-19-23-00012-P	05/09/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-23-23-00001-P	06/06/24	Paid family leave	To provide a grant of up to twelve weeks of paid family leave for a qualifying event for subject employees in M/C positions.
CVS-24-23-00001-P	06/13/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-24-23-00002-P	06/13/24	Jurisdictional Classification	To classify a position in the non-competitive class



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-24-23-00003-P	06/13/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-24-23-00004-P	06/13/24	Jurisdictional Classification	To delete positions from and to classify positions in the non-competitive class
CVS-24-23-00005-P	06/13/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-24-23-00006-P	06/13/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-24-23-00007-P	06/13/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-23-00008-P	06/13/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-24-23-00009-P	06/13/24	Jurisdictional Classification	To classify positions in the exempt class and to classify positions in the non-competitive class
CVS-24-23-00010-P	06/13/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-24-23-00011-P	06/13/24	Jurisdictional Classification	To delete a subheading and positions from and to classify a subheading and positions in the exempt and non-competitive classes
CVS-24-23-00012-P	06/13/24	Jurisdictional Classification	To delete a position from the non-competitive class
CVS-24-23-00013-P	06/13/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-24-23-00014-P	06/13/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-24-23-00015-P	06/13/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-24-23-00016-P	06/13/24	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-24-23-00017-P	06/13/24	Jurisdictional Classification	To classify a position in the exempt class and to delete a position from the non-competitive class
CVS-24-23-00018-P	06/13/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-23-00019-P	06/13/24	Jurisdictional Classification	To classify a position in the exempt class and to classify a position in the non-competitive class
CVS-24-23-00020-P	06/13/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-28-23-00001-P	07/11/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-28-23-00002-P	07/11/24	Jurisdictional Classification	To classify a position in the exempt class and to classify positions in the non-competitive class
CVS-28-23-00003-P	07/11/24	Jurisdictional Classification	To classify a position in the non-competitive class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-28-23-00004-P	07/11/24	Jurisdictional Classification	To classify a position in the exempt class and to classify positions in the non-competitive class
CVS-28-23-00005-P	07/11/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-28-23-00006-P	07/11/24	Jurisdictional Classification	To delete positions from and to classify positions in the labor class
CVS-28-23-00007-P	07/11/24	Jurisdictional Classification	To delete a position from the non-competitive class
CVS-28-23-00008-P	07/11/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-28-23-00009-P	07/11/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-28-23-00010-P	07/11/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-28-23-00011-P	07/11/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-28-23-00012-P	07/11/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-28-23-00013-P	07/11/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-28-23-00014-P	07/11/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-28-23-00015-P	07/11/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-28-23-00016-P	07/11/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-28-23-00017-P	07/11/24	Jurisdictional Classification	To delete positions from and to classify positions in the exempt and non-competitive classes
CVS-28-23-00018-P	07/11/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-28-23-00019-P	07/11/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-28-23-00027-P	07/11/24	Jurisdictional Classification	To classify positions in the non-competitive class
<b>COMMISSIONER OF PILOTS, BOARD OF</b>			
COP-28-23-00022-P	07/11/24	Adding controls relating to recreational crafts/yachts, and the resources necessary to govern their use in the harbor.	To compensate pilots who are asked to tend to recreational crafts in the harbor.
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-31-22-00002-P	08/03/23	Privileged Correspondence	To update law changes regarding correspondence from CANY
CCS-19-23-00013-P	05/09/24	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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-27-23-00002-P	07/04/24	Revocation hearing locations	To provide for locations at which revocation hearings may be scheduled.
<b>CRIMINAL JUSTICE SERVICES, DIVISION OF</b>			
CJS-16-23-00008-EP	04/18/24	FIREARM LICENSING APPEALS	Set forth an appeal process for when there is a denial of a firearms application, renewal, or recertification, or revocation
<b>EDUCATION DEPARTMENT</b>			
EDU-04-23-00006-ERP	01/25/24	Removes requirement that a postdoctoral general practice or specialty dental residency program experience be clinically based	To implement Chapter 613 of the Laws of 2022.
EDU-09-23-00029-P	02/29/24	Licensure of licensed behavior analysts and certification of behavior analyst assistants	To implement Chapter 818 of the Laws of 2021 and Chapter 641 of the Laws of 2022 and align provisions with national standards.
EDU-09-23-00031-RP	05/01/24	Special education due process hearings.	To amend due process hearing procedures relating to extensions, mediation and resolution, rules of conduct, and use of in-person, teleconference, and videoconference hearings
EDU-13-23-00018-P	03/28/24	Mental health practitioners' diagnostic privilege.	To implement sections 2 and 3 of Chapter 230 of the Laws of 2022.
EDU-18-23-00010-EP	05/02/24	Deadline to apply and qualify for the provisional school counselor certificate.	See attached.
EDU-18-23-00011-EP	05/02/24	Education requirements for licensure as a registered professional nurse and licensed practical nurse	See attached.
EDU-22-23-00007-P	05/30/24	Employment of substitute teachers.	To make permanent substitute teaching flexibility for school districts and BOCES.
EDU-22-23-00008-EP	05/30/24	Extending a flexibility for incidental teaching.	To extend flexibility for incidental teaching through the 2023-2024 school year.
EDU-22-23-00009-EP	05/30/24	Licensing examination and testing accommodations in the profession of architecture.	To conform NYS architecture licensure requirements with national standards set by the National Council of Architectural Registra
EDU-22-23-00010-P	05/30/24	New York State Learning Standards	Updating to Reflect Current New York State Learning Standards
EDU-26-23-00011-EP	06/27/24	Temporary practice by certain U.S. servicemembers andservicemembers' spouses licensed or certified in another state.	To implement section 19 of Public Law 117-333.
EDU-26-23-00012-EP	06/27/24	Requiring concussion management protocols in nonpublic schools.	To implement Chapter 617 of the Laws of 2022.
EDU-26-23-00013-EP	06/27/24	Universal Prekindergarten Program (UPK) Staffing Qualifications	To implement Part A of Chapter 56 of the Laws of 2022
EDU-26-23-00014-P	06/27/24	Requirements for the endorsement of a certificate as a school counselor	To align the pathways for certification for school counselor candidates with the pat

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>EDUCATION DEPARTMENT</b>			
EDU-26-23-00015-P	06/27/24	Registration and operation of central fill pharmacies.	To establish parameters for the central fill pharmacy model.
EDU-31-23-00006-EP	08/01/24	Academic Intervention Services	See attached.
EDU-31-23-00007-EP	08/01/24	Occupational therapists' authority to provide treatment for a limited time without a referral.	To implement section 1 of Chapter 601 of the Laws of 2022.
<b>ELECTIONS, STATE BOARD OF</b>			
SBE-06-23-00012-EP	02/08/24	Provides for adjustment of campaign finance limits resulting from changes in the consumer price index	To adopt regulation specifically required by Election Law 14-114 (e)
SBE-13-23-00004-P	03/28/24	Procedures for failure to file enforcement proceedings.	Establishes expedited procedure for exclusively failure to file proceedings.
SBE-16-23-00005-EP	04/18/24	Amends the objection regulations of the New York State Board of Elections to conform with statutory changes.	Conforming regulations to requirements of Chapter 744 Laws of 2022 and Chapter 77 Laws of 2023.
SBE-16-23-00006-EP	04/18/24	Provides for gender designations on party position petitions and ballots in conformance with election law.	Effectuates Chapter 231 Laws of 2022 to allow for gender designations on party position petitions and ballots.
SBE-16-23-00007-EP	04/18/24	Provides for change to petition coversheets to facilitate ballot access and notice to candidates by email.	Effectuates Chapter 744 Laws of 2022 and Chapter 77 Laws of 2023 regarding notice to candidates by email.
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
*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-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-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
ENV-52-22-00015-EP	02/29/24	Advanced Clean Car (ACC) Standards	To adopt California's Advanced Clean Cars II (ACC II) Program regulations
ENV-52-22-00016-EP	02/28/24	Medium- and Heavy-Duty Diesel Vehicle emission standards	To update Medium and- Heavy-Duty Diesel Vehicle emission standards and adopt CA's Heavy-Duty Omnibus and Phase 2 GHG regulations
ENV-10-23-00001-P	03/07/24	Regulations governing fisheries management of American shad in the Delaware River and cobia	Limit recreational harvest of species to ensure sustainability and consistency with interstate and federal FMPs
ENV-15-23-00006-P	06/14/24	Class SA, SB, SC and I saline waters of the State.	Amend the water quality standards protective of shellfishing and recreation in the State's saline waters.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
ENV-20-23-00001-EP	05/16/24	Regulations governing recreational fishing of scup and black sea bass	To reduce the recreational harvest of scup and black sea bass in New York
ENV-22-23-00002-P	07/31/24	Recreational shark management	To protect prohibited sharks from harvest and establish gear restrictions and handling requirements
ENV-25-23-00001-P	06/20/24	Sanitary Control Over Shellfish	Enhance the protection of public health, safety, and welfare for all consumers of raw or undercooked shellfish.
ENV-25-23-00010-P	08/21/24	The repeal of obsolete rules and to make all necessary attendant revisions.	The repeal of obsolete rules and to make all necessary attendant revisions.
ENV-27-23-00003-EP	07/04/24	Regulations governing recreational fishing for striped bass.	To amend 6 NYCRR Parts 10 and 40 pertaining to recreational regulations for striped bass.
ENV-30-23-00001-EP	07/25/24	Sanitary Condition of Shellfish Lands and Certification of Shellfish Lands.	To reclassify underwater shellfish lands and update certification requirements to protect public health and general welfare.
<b>ETHICS AND LOBBYING IN GOVERNMENT, COMMISSION ON</b>			
ELG-15-23-00007-EP	04/11/24	Publicly available information and documents and records access requests.	Provides clarity and guidance on the process for requesting and accessing information, documents and records of the Commission.
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
DFS-45-22-00025-RP	11/09/23	Cybersecurity Requirements for Financial Services Companies	To ensure that DFS-regulated entities most effectively address new and evolving cybersecurity threats.
DFS-21-23-00002-P	05/23/24	Pharmacy Benefits Bureau; Pharmacy Benefit Manager Assessments; Filings and Other Requirements for Issuance et al.	To establish rules for PBMs re: assessments, license requirements, and reporting and record keeping, and to clarify definitions.
DFS-27-23-00017-EP	07/04/24	Minimum Provisions for Automobile Liability Insurance Policies	To conform to changes to the Insurance Law regarding supplemental spousal liability insurance
DFS-31-23-00004-P	08/01/24	Financial Statement Filings and Accounting Practices and Procedures	To update reference to NAIC AP&P Manual as of date from March 2021 to March 2023, and other non-substantive changes.
<b>GAMING COMMISSION, NEW YORK STATE</b>			
*SGC-29-22-00010-RP	10/18/23	Comprehensive regulations for interactive fantasy sports	To regulate interactive fantasy sports in New York.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>GAMING COMMISSION, NEW YORK STATE</b>			
SGC-50-22-00009-P	12/14/23	Purchase location requirements for lottery courier services	To facilitate the proper sale of lottery tickets to generate revenue for education
SGC-29-23-00004-P	07/18/24	Attending veterinarian examinations in Thoroughbred racing.	To decrease the risks of injury to racehorses.
SGC-31-23-00010-P	08/01/24	Sports wagering advertising and marketing.	To regulate advertising, marketing and promotions concerning sports wagering.
<b>GAMING FACILITY LOCATION BOARD, NEW YORK</b>			
GFB-04-23-00001-P	01/25/24	Minimum capital investment for additional gaming facility	To establish a minimum capital investment amount for additional gaming facilities
GFB-04-23-00002-P	01/25/24	License fee for additional gaming facility	To establish a license fee for additional gaming facilities
<b>GENERAL SERVICES, OFFICE OF</b>			
GNS-28-23-00023-P	07/11/24	Prohibited and Controlled Activities	To correct an unintended erroneous citation.
GNS-29-23-00003-P	07/18/24	Service-Disabled Veteran-Owned Business Enterprises	To make amendments to definitions and statutory references in order to remain consistent with new statutory changes.
<b>HEALTH, DEPARTMENT OF</b>			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
*HLT-23-22-00001-ERP	09/06/23	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-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-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-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-51-22-00006-P	12/21/23	Adult Care Facilities	To ensure consistency with various policy interpretations & compliance with the federal home&community based settings final rule
HLT-12-23-00001-P	03/21/24	Contingent Reserve Requirements for Managed Care Organizations (MCOs)	Maintains the contingent reserve requirement at 7.25% through 2023 applied to the Medicaid Managed Care, HIV SNP & HARP programs
HLT-12-23-00013-P	04/12/24	Newborn Hearing Screening	To improve follow-up after newborn hearing screening and articulate reporting requirements

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
HLT-14-23-00009-P	04/04/24	Assisted Living Residences	To update admission, operator authority, personnel, environmental standards&resident protections for assisted living residences.
HLT-15-23-00008-P	04/11/24	Inclusion of a Health Equity Impact Assessment as Part of the Certificate of Need Process	To ensure community members and stakeholders are meaningfully engaged and considered in proposed facility projects
HLT-16-23-00004-P	04/18/24	Investigation of Communicable Disease	Control of communicable disease
HLT-16-23-00018-P	04/18/24	Utilization Reviews	To decrease the administrative burden on enrolled Medicaid fee-for-service members and providers
HLT-18-23-00013-P	05/02/24	Update Standards for Adult Homes and Standards for Enriched Housing Programs	To address changes required to achieve & sustain compliance with the federal Home & Community Based Settings final rule.
HLT-18-23-00014-P	05/02/24	Standards for Tissue Banks and Nontransplant Anatomic Banks	To remove discriminatory requirements pertaining to reproductive tissue and make technical corrections.
HLT-22-23-00011-P	05/30/24	Perinatal Services, Perinatal Regionalization, Birthing Centers and Maternity Birthing Centers	To update the regulatory requirements of birthing hospitals and centers to meet current standards of clinical care
HLT-25-23-00002-P	06/20/24	Humane Euthanasia of Animals	To provide for the humane euthanasia of animals.
HLT-26-23-00001-P	06/27/24	Removal of the COVID-19 Vaccine Requirement for Personnel in Covered Entities	To remove the COVID-19 Vaccine Requirement for Personnel in Covered Entities
HLT-31-23-00008-P	08/01/24	Expanded Syringe Access Programs (ESAPs)	To remove the requirement that ESAPs may only furnish a quantity of 10 or fewer syringes at a time.
<b>HOUSING AND COMMUNITY RENEWAL, DIVISION OF</b>			
HCR-35-22-00004-P	11/15/23	The City Rent and Eviction Regulations governing rent control in New York City.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
HCR-35-22-00005-P	11/15/23	The Emergency Tenant Protection Regulations regulating residential rents and evictions.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
HCR-35-22-00006-P	11/15/23	The State Rent and Eviction Regulations governing statewide rent control.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
HCR-35-22-00007-P	11/15/23	The Rent Stabilization Code regulating residential rents and evictions.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
<b>LAW, DEPARTMENT OF</b>			
LAW-12-23-00006-P	03/21/24	Presumptive cases of gross disparity under the price gouging law.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>LAW, DEPARTMENT OF</b>			
LAW-12-23-00007-P	03/21/24	Presumptive unfair leverage for large enterprises or enterprises with large market share under the price gouging law.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00008-P	03/21/24	Presumptive cases of gross disparity for purposes of the price gouging statute.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00009-P	03/21/24	Application of price gouging prohibition to parties within the chain of distribution.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00010-P	03/21/24	Application of the price gouging law to dynamic pricing.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00011-P	03/21/24	Presumptive cases of unfair leverage for purposes of the price gouging law.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00012-P	03/21/24	Costs not within the control of the defendant for purposes of the price gouging law.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
<b>LONG ISLAND POWER AUTHORITY</b>			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment
*LPA-37-18-00018-P	exempt	The treatment of energy storage in the Authority's Tariff for Electric Service	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap
*LPA-09-20-00010-P	exempt	To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory	To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets
*LPA-28-20-00033-EP	exempt	LIPA's late payment charges, reconnection charges, and low-income customer discount enrollment	To allow waiver of late payment and reconnection charges and extend the grace period for re-enrolling in customer bill discounts



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>LONG ISLAND POWER AUTHORITY</b>			
*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
<b>MENTAL HEALTH, OFFICE OF</b>			
OMH-46-22-00012-P	..... 11/16/23	Administrative Compensation	To Repeal Part 513 as Executive Order 38 has sunset
<b>NIAGARA FALLS WATER BOARD</b>			
*NFW-04-13-00004-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
NFW-52-22-00004-EP	..... exempt	Adoption of Rates, Fees, and Charges	To pay for increased costs necessary to operate, maintain, and manage the system, and to meet covenants with the bondholders.
<b>OGDENSBURG BRIDGE AND PORT AUTHORITY</b>			
*OBA-33-18-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
*OBA-07-19-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
<b>PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR</b>			
PDD-10-23-00002-EP	..... 03/07/24	General Purposes and Certification of the Facility Class Known as Individualized Residential Alternatives	To increase IRA capacity in cases of emergent circumstances
PDD-21-23-00004-P	..... 05/23/24	Waiver eligibility	To use gender neutral language and coincide with SSL 366(7-a)(b)
PDD-28-23-00026-P	..... 07/11/24	Supported Employment	To update requirements of supported employment

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>POWER AUTHORITY OF THE STATE OF NEW YORK</b>			
*PAS-01-10-00010-P	..... exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter

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<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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.

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<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	..... exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00008-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	..... exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	..... exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures	To improve gas safety performance
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator	To consider waiver of RG&E's tariffed definition of emergency generator

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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)
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*PSC-20-17-00008-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles	To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel
*PSC-20-17-00010-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel
*PSC-21-17-00013-P	..... exempt	The establishment and implementation of Earnings Adjustment Mechanisms	To consider the establishment and implementation of Earnings Adjustment Mechanisms
*PSC-21-17-00018-P	..... exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement
*PSC-22-17-00004-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry	Improved data access



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-26-17-00005-P	..... exempt	Notice of Intent to submeter electricity	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York
*PSC-34-17-00011-P	..... exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver
*PSC-37-17-00005-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-39-17-00011-P	..... exempt	Whether to direct New York State Electric & Gas to complete electric facility upgrades at no charge to Hanehan	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan
*PSC-42-17-00010-P	..... exempt	Petition for rehearing of negative revenue adjustment and contents of annual Performance Report	To consider NFGD's petition for rehearing
*PSC-48-17-00015-P	..... exempt	Low Income customer options for affordable water bills	To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs
*PSC-50-17-00017-P	..... exempt	New Wave Energy Corp.'s petition for rehearing	To consider the petition for rehearing filed by New Wave Energy Corp.
*PSC-50-17-00018-P	..... exempt	Application of the Public Service Law to DER suppliers	To determine the appropriate regulatory framework for DER suppliers
*PSC-50-17-00019-P	..... exempt	Transfer of utility property	To consider the transfer of utility property
*PSC-50-17-00021-P	..... exempt	Disposition of tax refunds and other related matters	To consider the disposition of tax refunds and other related matters
*PSC-51-17-00011-P	..... exempt	Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project	To consider Con Edison's petition for the recovery of costs for implementing the JFK Project
*PSC-04-18-00005-P	..... exempt	Notice of intent to submeter electricity	To consider the notice of intent of Montante/ Morgan Gates Circle LLC to submeter electricity
*PSC-05-18-00004-P	..... exempt	Lexington Power's ZEC compliance obligation	To promote and maintain renewable and zero-emission electric energy resources
*PSC-06-18-00012-P	..... exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria
*PSC-06-18-00017-P	..... exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity
*PSC-07-18-00015-P	..... exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades	To consider AEC's petition requesting resolution of their billing dispute with National Grid
*PSC-11-18-00004-P	..... exempt	New York State Lifeline Program	To consider TracFone's petition seeking approval to participate in Lifeline

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-13-18-00015-P	..... exempt	Eligibility of an ESCO to market to and enroll residential customers	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension
*PSC-13-18-00023-P	..... exempt	Reconciliation of property taxes	To consider NYAW's request to reconcile property taxes
*PSC-14-18-00006-P	..... exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment	To ensure that consumer bills are based on accurate measurements of gas usage
*PSC-18-18-00009-P	..... exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	..... exempt	Whether to impose consequences on Aspurity for its non-compliance with Commission requirements	To ensure the provision of safe and adequate energy service at just and reasonable rates
*PSC-24-18-00013-P	..... exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements	To promote and maintain renewable and zero-emission electric energy resources
*PSC-28-18-00011-P	..... exempt	Storm Hardening Collaborative Report	To ensure safe and adequate gas service
*PSC-29-18-00008-P	..... exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	..... exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00015-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and energy efficiency protections are in place
*PSC-34-18-00016-P	..... exempt	Deferral of pre-staging and mobilization storm costs	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs
*PSC-35-18-00003-P	..... exempt	Con Edison's 2018 DSIP and BCA Handbook Update	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00005-P	..... exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers
*PSC-35-18-00006-P	..... exempt	National Grid's 2018 DSIP and BCA Handbook Update	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00008-P	..... exempt	Central Hudson's 2018 DSIP and BCA Handbook Update	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00010-P	..... exempt	O&R's 2018 DSIP and BCA Handbook Update	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-39-18-00005-P	..... exempt	Participation in New York State Lifeline Program	To encourage enhanced services for low-income customers
*PSC-40-18-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018
*PSC-42-18-00011-P	..... exempt	Voluntary residential beneficial electrification rate design	To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers
*PSC-42-18-00013-P	..... exempt	Petition for clarification and rehearing of the Smart Solutions Program Order	To address the increased demand for natural gas in the Con Edison's service territory and the limited pipeline capacity
*PSC-44-18-00016-P	..... exempt	Petition for approval of gas metering equipment	To ensure that customer bills are based on accurate measurements of gas usage
*PSC-45-18-00005-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
*PSC-01-19-00013-P	..... exempt	Order of the Commission related to caller ID unblocking	To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County
*PSC-03-19-00002-P	..... exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings	To reduce damage to underground utility facilities by requiring certain training and approving training curricula
*PSC-04-19-00004-P	..... exempt	Con Edison's petition for the Gas Innovation Program and associated budget	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals
*PSC-04-19-00011-P	..... exempt	Update of revenue targets	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues
*PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects
*PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements	To insure the provision of safe and adequate energy service at just and reasonable rates
*PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program	To encourage enhanced services for low-income customers
*PSC-09-19-00010-P	..... exempt	Non-pipeline alternatives report recommendations	To consider the terms and conditions applicable to gas service
*PSC-13-19-00010-P	..... exempt	New Commission requirements for gas company operator qualification programs	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities
*PSC-19-19-00013-P	..... exempt	Proposed merger of three water utilities into one corporation	To determine if the proposed merger is in the public interest
*PSC-20-19-00008-P	..... exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-20-19-00010-P	..... exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
*PSC-31-19-00013-P	..... exempt	Implementation of Statewide Energy Benchmarking	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-32-19-00012-P	..... exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources
*PSC-38-19-00002-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-39-19-00018-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-41-19-00003-P	..... exempt	A voluntary residential three-part rate that would include fixed, usage and demand charges	To provide qualifying residential customers with an optional three-part rate
*PSC-46-19-00008-P	..... exempt	Wappingers Falls Hydroelectric LLC's facility located in Wappingers Falls, New York	To promote and maintain renewable electric energy resources
*PSC-08-20-00003-P	..... exempt	PSC regulation 16 NYCRR § 86.3(a)(2) and 86.3(b)(2)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-10-20-00003-P	..... exempt	The Commission's statewide low-income discount policy	To consider modifications to certain conditions regarding utility low-income discount programs
*PSC-12-20-00008-P	..... exempt	Delivery rates of Corning Natural Gas Corporation	Whether to postpone the implementation of a change in rates that would otherwise become effective on June 1, 2020
*PSC-15-20-00011-P	..... exempt	To modify the terms and conditions under which gas utilities provide service to electric generators	To provide clarity and uniformity to the provision of gas service to electric generators
*PSC-16-20-00004-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by Central Hudson
*PSC-18-20-00015-P	..... exempt	Participation of Eligible Telecommunications Carriers (ETCs) in New York State Lifeline Program	Commission will consider each petition filed by an ETCs seeking approval to participate in the NYS Lifeline program
*PSC-19-20-00004-P	..... exempt	Clarification of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether energy service companies should be permitted to bank RECs to satisfy their renewable energy requirements
*PSC-19-20-00005-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation	To provide cost recovery for new DLM programs and prevent double compensation to participating customers
*PSC-19-20-00009-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation	To consider revisions to P.S.C. No. 10 - Electricity, and P.S.C. No. 12 - Electricity
*PSC-25-20-00010-P	..... exempt	Whitepaper regarding energy service company financial assurance requirements	To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-25-20-00016-P	..... exempt	Modifications to the Low-Income Affordability program	To address the economic impacts of the COVID-19 pandemic
*PSC-27-20-00003-P	..... exempt	To make the uniform statewide customer satisfaction survey permanent	To encourage consumer protections and safe and adequate service
*PSC-28-20-00022-P	..... exempt	Compensation of distributed energy resources	To ensure just and reasonable rates, including compensation, for distributed energy resources
*PSC-28-20-00034-P	..... exempt	Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act	To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals
*PSC-34-20-00005-P	..... exempt	Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers	To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory
*PSC-38-20-00004-P	..... exempt	The annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-20-00008-P	..... exempt	Availability of gas leak information to the public safety officials.	Facilitate availability of gas leak information to public safety officials by gas corporations
*PSC-45-20-00003-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-46-20-00005-P	..... exempt	The recommendations of the DPS Staff report to improve Hudson Valley Water's service	To determine if approving the DPS Staff's recommendations is in the public interest
*PSC-48-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether Chief Energy Power, LLC should be permitted to offer green gas products to mass market customers
*PSC-48-20-00007-P	..... exempt	Tariff modifications to change National Fuel Gas Distribution Corporation's Monthly Gas Supply Charge provisions	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-51-20-00009-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether petitioner should be permitted to offer its "Energy Savings Program" to mass market customers
*PSC-51-20-00014-P	..... exempt	Electric system needs and compensation for distributed energy resources	To ensure safe and adequate service and just and reasonable rates, including compensation, for distributed energy resources
*PSC-01-21-00004-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether petitioner should be permitted to offer its Home Warranty product to mass market customers
*PSC-04-21-00016-P	..... exempt	Request for a waiver	To consider whether good cause exists to support a waiver of the Commission's Test Period Policy Statement
*PSC-09-21-00005-P	..... exempt	Utility capital expenditure proposal	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-13-21-00016-P	..... exempt	Revised distribution strategies and reallocation of remaining funding	To ensure the appropriate use of funding reserved for gas safety programs

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-17-21-00005-P	..... exempt	Submetering equipment	To consider use of submetering equipment and if it is in the public interest
*PSC-17-21-00006-P	..... exempt	Community Choice Aggregation and Community Distributed Generation	To consider permitting opt-out Community Distributed Generation to be offered as the sole product in an aggregation
*PSC-17-21-00007-P	..... exempt	Utility studies of climate change vulnerabilities	To assess the need for utilities to conduct distinct studies of their climate change vulnerabilities
*PSC-18-21-00006-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-21-21-00019-P	..... exempt	Utility capital expenditure proposal	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-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-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-37-21-00010-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

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-37-21-00012-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether Catalyst should be permitted to offer its Community Distributed Generation product to mass market customers
*PSC-38-21-00006-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-38-21-00007-P	..... exempt	Electric metering equipment	To consider use of electric submeter and ensure that consumer bills will be based on accurate measurements of electric usage
*PSC-39-21-00007-P	..... exempt	The proposed alternative method of account identification	To facilitate secure customer data exchanges between the utility or provider and energy service entities
*PSC-46-21-00014-P	..... exempt	Waiver of tariff rules and a related Commission regulation	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest
*PSC-47-21-00003-P	..... exempt	Utility processes for customers to consent to sharing data with third parties and how consent options will be communicated	To develop standardized consent requirements that will increase customer familiarity with appropriate data sharing and access
*PSC-47-21-00005-P	..... exempt	Utility processes for customers to consent to sharing data with third parties and how consent options will be communicated	To develop standardized consent requirements that will increase customer familiarity with appropriate data sharing and access
*PSC-48-21-00007-P	..... exempt	Verizon’s Performance Assurance Plan	To consider whether to retire the Performance Assurance Plan
*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-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-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-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-13-22-00009-P	..... exempt	Proposed major rate increase in Con Edison's delivery revenues of approximately \$1.2 billion (or 11.2% in total revenues)	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-13-22-00011-P	..... exempt	Positive revenue adjustments associated with emergency response, damage prevention and leak management for 2020	To consider a rehearing petition
*PSC-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-19-22-00022-P	..... exempt	Modification of Con Edison's electric tariff	To either eliminate or waive a provision of the Standby Service Offset Tariff
*PSC-20-22-00009-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-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-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-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-30-22-00009-P	..... exempt	Establishment of the regulatory regime applicable to a battery storage project.	To ensure appropriate regulation of an electric corporation.



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-31-22-00005-P	..... exempt	Proposed major rate increase in NYSEG's electric delivery revenues of approximately \$274 million (or 16.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-22-00006-P	..... exempt	Proposed major rate increase in NYSEG's gas delivery revenues of approximately \$43.4 million (or 9.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-22-00007-P	..... exempt	Proposed major rate increase in RG&E's gas delivery revenues of approximately \$37.7 million (or 9.7% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-22-00009-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-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-34-22-00005-P	..... exempt	Transfer of a Certificate of Environmental Compatibility and Public Need.	Consideration of whether the proposed transfer is in the public interest.
PSC-37-22-00005-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.
PSC-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-38-22-00004-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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-39-22-00007-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-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-42-22-00019-P	..... exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
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-46-22-00006-P	..... exempt	PSC Regulations 16 NYCRR 86.3(a)(1), 86.3(a)(2), 86.3(b)(2), 86.4(b).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-46-22-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-46-22-00010-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
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-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-49-22-00022-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.
PSC-51-22-00003-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-51-22-00004-P	..... exempt	Waiver of a pipeline safety regulation.	Whether the waiver of the regulation is in the public interest.
PSC-52-22-00011-P	..... exempt	The Integrated Energy Data Resource platform.	To consider customer consent and utility liability issues related to the Integrated Energy Data Resource.
PSC-52-22-00014-P	..... exempt	Extension of regulatory deadline.	Whether it is in the public interest to extend the regulatory deadline for Keystone Homes, Inc.'s housing development.
PSC-01-23-00009-P	..... exempt	Transfer of direct ownership of cable television facilities and 5 municipal franchises.	To ensure performance in accordance with applicable cable laws, regulations and standards in the public interest.
PSC-01-23-00014-P	..... exempt	Interconnection costs.	To consider a petition requesting relief from interconnection costs assigned by NYSEG.
PSC-01-23-00017-P	..... exempt	Interconnection costs.	To consider a petition requesting relief from interconnection costs assigned by NYSEG.
PSC-01-23-00018-P	..... exempt	Lease of certain real property.	To determine whether to provide written consent for the proposed transfer of certain real property.
PSC-01-23-00019-P	..... exempt	Energy efficiency and building electrification programs.	To identify and implement potential changes to the energy efficiency and building electrification programs .
PSC-02-23-00021-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-02-23-00023-P	..... exempt	Long-term gas system planning.	To consider and review long-term gas system planning.
PSC-02-23-00025-P	..... exempt	Proposed major rate increase in Con Edison's annual revenues by \$137 million.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-03-23-00004-P	..... exempt	Updated recommendations for the solicitation, procurement, and/or installation of qualified energy storage systems.	To encourage energy storage deployment and establish an updated 2030 target and deployment program.
PSC-04-23-00008-P	..... exempt	Updates to guidance for electric utility Distributed System Implementation Plans (DSIPs).	Development of updated guidance and directives for utility DSIPs for improving utility planning and operations functions.
PSC-04-23-00009-P	..... exempt	Gas metering equipment.	To consider use of volume corrector and ensure that consumer bills will be based on accurate measurements of gas usage.
PSC-04-23-00011-P	..... exempt	Proposal by electric utilities for a coordinated grid planning process.	To identify local transmission investments necessary to achieve the the State's clean energy and climate goals.
PSC-05-23-00001-P	..... exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00002-P	..... exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00004-P	..... exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00005-P	..... exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00006-P	..... exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00008-P	..... exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00009-P	..... exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00012-P	..... exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00014-P	..... exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00015-P	..... exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-08-23-00002-P	..... exempt	Transfer of direct ownership of cable television facilities and three municipal franchises	To ensure performance in accordance with applicable cable laws, regulations and standards in the public interest.
PSC-09-23-00021-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-09-23-00022-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-09-23-00023-P	..... exempt	Electric metering equipment.	To consider use of electric metering equipment and ensure consumer bills are based on accurate measurements of electric usage.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-09-23-00024-P	..... exempt	Development periods for residential developments.	To consider waiving the five-year limit on development periods impacted by COVID-19, extending it by one year.
PSC-09-23-00026-P	..... exempt	Electric metering equipment.	To consider use of electric meter and ensure that consumer bills will be based on accurate measurements of electric usage.
PSC-09-23-00027-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-11-23-00002-P	..... exempt	Modifications to the Electric Vehicle Make-Ready Program.	To deploy the infrastructure needed to meet the State's goals of 850,000 EVs by 2025 and recommend appropriate utility roles.
PSC-13-23-00020-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-13-23-00021-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-13-23-00022-P	..... exempt	The applicable regulatory regime under the Public Service Law for the owner of an energy storage facility.	Consideration of a lightened regulatory regime for the owner of an approximately 150 MW energy storage facility.
PSC-14-23-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-14-23-00007-P	..... exempt	Waiver of 16 NYCRR Sections 86.3(a)(1), 86.3(a)(2), 86.3(b)(2).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-14-23-00008-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-15-23-00002-P	..... exempt	Community Choice Aggregation	To determine if Mid-Hudson Energy Transition Inc. should operate as a Community Choice Aggregation Administrator.
PSC-16-23-00009-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-16-23-00010-P	..... exempt	Marginal Cost of Service studies.	To identify appropriate inputs and methodologies for preparing Marginal Cost of Service studies.
PSC-16-23-00011-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-16-23-00012-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-16-23-00013-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-16-23-00014-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-16-23-00015-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-16-23-00016-P	..... exempt	Intra-corporate merger of FirstEnergy's four distribution operating companies.	To consider whether an intra-corporate merger of FirstEnergy's four distribution companies is in the public interest.
PSC-16-23-00017-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-17-23-00002-P	..... exempt	Tariff filing.	To consider whether the proposed tariff revisions are in the public interest.
PSC-17-23-00003-P	..... exempt	Issuance of securities and other forms of indebtedness.	To determine if the issuance of funding for capital needs and a surcharge mechanism is in the public interest.
PSC-17-23-00004-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 the public interest.
PSC-18-23-00001-P	..... exempt	A request for waiver of negative revenue adjustments.	Whether it is in the public interest to waive the negative revenue adjustments for NYSEG and RGE.
PSC-18-23-00002-P	..... exempt	Consideration of the Audit Implementation Plan and audit recommendations.	To ensure that recommendations issued in a management and operations audit are appropriately addresses and implemented.
PSC-18-23-00003-P	..... exempt	PSC regulations 16 NYCRR 86.3(a)(2); 86.3(b)(2); and 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting/upgrade.
PSC-18-23-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-18-23-00005-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-18-23-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-18-23-00007-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-19-23-00014-P	..... exempt	Demand Charge Rebates and Commercial Managed Charging Programs.	To consider Demand Charge Rebate and Commercial Managed Charging Program design characteristics and program operations.
PSC-19-23-00015-P	..... exempt	Electric metering equipment.	To consider use of metering equipment and ensure that consumer bills will be based on accurate measurements of electric usage.
PSC-19-23-00016-P	..... exempt	Transfer of transportation asset.	To determine whether to authorize the transfer of the transportation asset and the proper accounting for the transaction.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-19-23-00017-P	..... exempt	Minor water rate filing to increase annual revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-19-23-00018-P	..... exempt	Demand Charge Rebate and draft tariff leaves.	To consider Demand Charge Rebate design characteristics and program operations and associated draft tariff leaves.
PSC-19-23-00019-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-19-23-00020-P	..... exempt	Demand Charge Rebate and draft tariff leaves.	To consider Demand Charge Rebate design characteristics and program operations and associated draft tariff leaves.
PSC-19-23-00021-P	..... exempt	Demand Charge Rebate, Commercial Managed Charging Program, PPI Program, BIR Quick Charging Program, and draft tariff leaves.	To consider Demand Charge Rebate, newly proposed program design, operations, and associated draft tariff leaves.
PSC-19-23-00022-P	..... exempt	Disposition of a New York State sales and use tax refund.	To determine the just and reasonable disposition of tax refunds.
PSC-19-23-00023-P	..... exempt	Demand Charge Rebate and draft tariff leaves.	To consider Demand Charge Rebate design characteristics and program operations and associated draft tariff leaves.
PSC-19-23-00024-P	..... exempt	The applicable regulatory regime under the Public Service Law for the owner of an energy storage facility.	Consideration of a lightened regulatory regime for the owner of an approximately 110 MW energy storage facility.
PSC-20-23-00002-P	..... exempt	The CBC charge used to recover the costs for certain energy efficiency and other public policy benefit programs.	To ensure the CBC is consistently applied statewide and to provide Distributed Energy Resource projects with market certainty.
PSC-20-23-00003-P	..... exempt	Transfer in ownership of interconnection facilities.	To determine if the transfer is in the public interest.
PSC-21-23-00005-P	..... exempt	Proposed major increase in VVNY's annual base rate revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-21-23-00006-P	..... exempt	Community Choice Aggregation.	To determine if ProjectEconomics d/b/a PowerMarket shall operate as a Community Choice Aggregation Administrator.
PSC-22-23-00003-P	..... exempt	Minor gas rate filing to increase annual gas revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-22-23-00004-P	..... exempt	Long-Term Indebtedness, Preferred Stock, Hybrid Securities, and to enter into derivative instruments.	To consider if RG&E's request for authority to issue and sell Long-Term Indebtedness is in the public interest.
PSC-22-23-00005-P	..... exempt	Modification of Gas Business Enablement program key performance indicators.	To determine whether the proposed modifications to certain GBE KPIs are reasonable.
PSC-22-23-00006-P	..... exempt	Transfer of gas facilities.	To determine whether to authorize the transfer of gas facilities and the proper accounting for the transaction.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-23-23-00002-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 the public interest.
PSC-23-23-00003-P	..... exempt	Implementation of a new CSS above the current \$421 million cap.	To provide Con Edison with authority to continue to capitalize costs to implement a new CSS.
PSC-23-23-00004-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 the public interest.
PSC-23-23-00005-P	..... exempt	Transfer of street lighting facilities.	To consider whether the transfer of street lighting facilities is in the public interest.
PSC-23-23-00006-P	..... exempt	Modify certain tariff provisions to adjust the timing of a surcharge.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-24-23-00022-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer of lighting facilities and the proper accounting for the transaction.
PSC-24-23-00023-P	..... exempt	Deferral of costs for later collection from ratepayers.	To determine whether it is reasonable to authorize the deferral of costs associated with a gas demand response pilot program.
PSC-24-23-00024-P	..... exempt	Audit Implementation Plan and audit recommendations.	To ensure that recommendations issued in a management and operations audit are appropriately addresses and implemented.
PSC-24-23-00025-P	..... 06/13/24	Prohibition of utilities engaging in detrimental conduct towards a residential customer	To provide the utilities the implementation and enforcement rules designed to prevent harassment of residential customers
PSC-25-23-00003-P	..... exempt	Community Choice Aggregation.	To determine the appropriate requirements to be placed on Community Choice Aggregation solicitations and service agreements.
PSC-25-23-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-25-23-00005-P	..... exempt	Community Choice Aggregation.	To evaluate whether the Expanded Solar for All program could be scaled Statewide.
PSC-25-23-00006-P	..... exempt	Community Choice Aggregation.	To determine the appropriate requirements to be placed on Community Choice Aggregation outreach and education plans.
PSC-25-23-00007-P	..... exempt	Termination of the PPI Program and deployment of the EVLMTI Program in the Joint Utilities' service territories.	To consider the transition from the PPI to the EVLMTI program including design characteristics and program operations.
PSC-25-23-00008-P	..... exempt	Long-term gas system planning for Con Edison and O&R.	To consider and review long-term gas system planning for Con Edison and O&R.
PSC-25-23-00009-P	..... exempt	Community Choice Aggregation.	To determine if Local Power LLC shall operate as a Community Choice Aggregation Administrator.



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-26-23-00002-P	..... exempt	Tier 1 projects awarded a Renewable Energy Certificate purchase and sale agreement and currently under development.	To consider modification to existing Tier 1 Renewable Energy Certificate purchase and sale agreements.
PSC-26-23-00003-P	..... exempt	Sunrise Wind LLC's Offshore Wind Renewable Energy Certificate Purchase and Sale Agreement.	To consider modification to the Offshore Wind Renewable Energy Certificate Purchase and Sale Agreement.
PSC-26-23-00004-P	..... exempt	Empire Offshore Wind LLC and Beacon Wind LLC's Offshore Wind Renewable Energy Certificate Purchase and Sale Agreements.	To consider modification to the Offshore Wind Renewable Energy Certificate Purchase and Sale Agreements.
PSC-26-23-00005-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections, and energy efficiency protections are in place.
PSC-26-23-00006-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-26-23-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-26-23-00008-P	..... exempt	Authority to issue and sell Long-Term Indebtedness, and to enter into multi-year credit agreements.	To fund improvements to the Company's plant, refund existing debt, and ensure cash flow for day-to-day operations.
PSC-26-23-00009-P	..... exempt	Issuance of securities and other forms of indebtedness.	To provide funding for capital needs, including construction, and refinancing of maturing debt.
PSC-26-23-00010-P	..... exempt	Petition to modify the SIC tariff statement.	To consider whether amending the SIC mechanism is in the public interest.
PSC-27-23-00005-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-27-23-00006-P	..... exempt	A proposed methodology for annual greenhouse gas emissions inventory reporting.	To consider whether the proposed Green House Gas Inventory Report will provide sufficient emissions information.
PSC-27-23-00007-P	..... exempt	Utilities' DEI Plans.	To consider the sufficiency of the plans and whether to require additional working group sessions and reporting.
PSC-27-23-00008-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, and consumer protections are in place.
PSC-27-23-00009-P	..... exempt	Reinstate funding mechanism.	To determine if reinstating the proposed funding mechanism is in the public interest.
PSC-27-23-00010-P	..... exempt	Request of NYISO to incur indebtedness.	To ensure that debt financing is used reasonably and appropriately.
PSC-27-23-00011-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, and consumer protections are in place.
PSC-27-23-00012-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-27-23-00013-P	..... exempt	The proposed Greenhouse Gas Emissions Reduction Pathways Study.	To consider whether the proposed Study is sufficient and whether to proceed with the Study.
PSC-27-23-00014-P	..... exempt	Lightened regulatory regime and financing petition.	Consideration of a lightened regulatory regime and financing for the owner of a wind energy and transmission facility.
PSC-27-23-00015-P	..... exempt	The Tier 4 renewable energy certificate purchase and sale agreement modifications.	To consider modification to the existing Tier 4 renewable energy certificate purchase and sale agreement.
PSC-28-23-00024-P	..... exempt	Proposed major rate increase.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-28-23-00025-P	..... exempt	Proposed major rate increase.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-29-23-00006-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-29-23-00007-P	..... exempt	Reconciliation mechanism.	To limit any further near-term customer bill impacts.
PSC-30-23-00002-P	..... exempt	Proposed revisions to the Companies' firm gas demand response programs for the 2023 - 2024 winter season and going forward.	To determine if the Companies' proposed modifications to their firm gas demand response programs are in the public interest.
PSC-30-23-00003-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-30-23-00004-P	..... exempt	Proposed transfer of the Company's capital stock.	To determine if transfer of the Company's capital stock to the Purchaser is in the public interest.
PSC-30-23-00005-P	..... exempt	Proposed revisions to National Grid's firm gas demand response programs for the 2023 - 2024 winter season and going forward.	To determine if National Grid's proposed modifications to its demand response programs are in the public interest.
PSC-30-23-00006-P	..... exempt	Lease of certain real property.	To consider whether to the authorize the proposed transfer of real property.
PSC-31-23-00001-P	..... exempt	A petition for a special permit exemption from odorization requirements.	To determine if the granting of the special permit is in the public interest.
PSC-31-23-00002-P	..... exempt	Proposed major rate increase.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-23-00003-P	..... exempt	Incidental regulation for a water-works corporation.	To determine if incidental regulation is in the public interest.
<b>STATE, DEPARTMENT OF</b>			
DOS-27-23-00016-P	..... 09/05/24	Implementation of State Environmental Quality Review Act (SEQR)	To amend and update that State Fire Prevention and Building Code Council's regulations for implementation of SEQR

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>STATE UNIVERSITY OF NEW YORK</b>			
SUN-29-23-00005-P	07/18/24	Certificates of residence for nonresident community college students.	To clarify procedures for certificate of residence issuance for nonresident community college students.
<b>TAXATION AND FINANCE, DEPARTMENT OF</b>			
*TAF-46-20-00003-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period January 1, 2021 through March 31, 2021
TAF-21-23-00001-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.	To set the sales tax component and the composite rate per gallon for the period July 1, 2023 through September 30, 2023.
<b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>			
TDA-21-23-00003-P	05/23/24	See attached addendum	To update State regulations relative to such interviews, screenings and assessments consistent with applicable State law.
TDA-31-23-00005-P	08/01/24	Temporary Assistance (TA) resource limits and New York Achieving a Better Life Experience (NY ABLE) program accounts	To up date State regulations consistent with statutory amendments to SSL § 131-n(1)(a) and (k)
<b>THRUWAY AUTHORITY, NEW YORK STATE</b>			
THR-01-23-00001-P	01/04/24	Toll rate adjustments on the New York State Thruway system.	To provide for toll rate adjustments necessary to support the Authority's financial obligations.
<b>TRANSPORTATION, DEPARTMENT OF</b>			
TRN-27-23-00001-P	07/04/24	Child Safety Zones	To add violent crimes statistics and the density of vacant buildings or structures to the creation of child safety zones.
<b>TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY</b>			
TBA-09-23-00018-P	exempt	A proposal to establish a new crossing charge schedule for use of bridges and tunnels operated by TBTA.	A proposal to fund ongoing operations.
<b>VICTIM SERVICES, OFFICE OF</b>			
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.



# ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

## SEALED BIDS

### PROVIDE SUB-BASEMENT MOISTURE MITIGATION Manhattan Psychiatric Center New York, New York County

Sealed bids for Project No. M3110-C, for Construction Work, Sub-Basement Moisture Mitigation, Buildings No. 102 & 106, Manhattan Psychiatric Center, 102 Rivers Edge Road, 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 Office of Mental Health, until 2:00 p.m. on Wednesday, August 16, 2023 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 \$58,500 for C).

Further, Project Labor Agreement (PLA) Projects require a completed form BDC 59P (Project Labor Agreement List of Subcontractors) be filled out and submitted in accordance with Document 002221, Supplemental Instructions to Bidders – PLA. 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 \$1,000,000 and \$2,000,000 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.

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 301 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 August 4, 2023 at OGS/TDX Field Office, Manhattan Psychiatric Center, 102 Rivers Edge Road, Wards Island, NY 10035. 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 Irene Gomez (212-655-8484) 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). 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 3 of the Veterans’ Services 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, downloading, and Electronic Bidding from OGS Design & Construction's Electronic Bidding service, Bid Express.

Registration along with viewing, downloading, and electronic bidding can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an e-mail to [support@bidexpress.com](mailto:support@bidexpress.com), or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to [DCPlans@ogs.ny.gov](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By OGS - Design & Construction Group

**REPLACE  
ROOF/SIDING**  
Elmira Correctional Facility  
Elmira, Chemung County

Sealed bids for Project No. Q1842-C, comprising a contract for Construction Work, Replace Roof & Siding, Building 59, Elmira Correctional Facility, 1879 Davis Street, Elmira (Chemung County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Corrections and Community Supervision, until 2:00 p.m. on Wednesday, August 16, 2023, 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 \$25,500 for C).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$500,000 and \$1,000,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Cook, Jessica Hoffman, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <https://ogs.ny.gov/ACPL/>

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for in-

flation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

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

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

The substantial completion date for this project is 421 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 August 3, 2023, at the OGS Office Trailer at Elmira Correctional Facility, 1879 Davis Street, Elmira, 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 Chris Robertson, (607-734-0592) 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 3 of the Veteran's Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 3% for the C trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing, downloading, and Electronic Bidding from OGS Design & Construction's Electronic Bidding service, Bid Express.

Registration along with viewing, downloading, and electronic bidding can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an e-mail to [support@bidexpress.com](mailto:support@bidexpress.com), or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to [DCPlans@ogs.ny.gov](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By OGS - Design & Construction Group

**PROVIDE**  
**OFFICE RENOVATIONS**  
 Department of Motor Vehicles Lease  
 Hauppauge, Suffolk County

Sealed bids for Project Nos. 46082-C and 46082-E, comprising separate contracts for Construction Work, and Electrical Work, Provide Office Renovations, DMV Lease, Hauppauge, 250 Veterans Highway, Hauppauge, (Suffolk 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 Motor Vehicles, until 2:00 p.m. on Wednesday, August 9, 2023 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 \$48,700 for C, and \$20,200 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 \$1,000,000 and \$2,000,000 for C, 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.

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 248 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 July 27, 2023 at the OGS Regional Office, 250 Veterans Memorial Highway, Rm 4A-11, Hauppauge, NY 11788. 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 Christian Holderer (518-801-3223) 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 an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE") participation and 5% 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 3 of the Veteran's Services 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, and 3% 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, downloading, and Electronic Bidding from OGS Design & Construction's Electronic Bidding service, Bid Express.

Registration along with viewing, downloading, and electronic bidding can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an e-mail to [support@bidexpress.com](mailto:support@bidexpress.com), or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to [DCPlans@ogs.ny.gov](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By OGS - Design & Construction Group





# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

## PUBLIC NOTICE

### Office Of Parks, Recreation and Historic Preservation

Pursuant to section 14.07 of the Parks, Recreation and Historic Preservation Law, the Office of Parks, Recreation and Historic Preservation hereby gives notice of the following:

In accordance with subdivision (c) of section 427.4 of title 9 NYCRR notice is hereby given that the New York State Board for Historic Preservation will be considering nomination proposals for listing of properties in the State and National Register of Historic Places at a meeting to be held on Thursday, September 7, 2023 at Philipse Manor Hall State Historic Site, 29 Warburton Ave, Yonkers, NY 10701.

The following properties will be considered:

1. Gates Circle Medical Office, Buffalo, Erie County
2. Tanker Mary A. Whalen, ex S.T. Kiddoo Amendment, Brooklyn, Kings County
3. Papscanee Island Historic District, Towns of East Greenbush and Schodack, Rensselaer County
4. H.A. Moyer Factory Complex (Boundary Increase and Additional Documentation), Syracuse, Onondaga County
5. Mount Hope-Highland Historic District Boundary Increase/Amendment, Rochester, Monroe County
6. Azalea-Highland Park Terrace Historic District, Rochester, Monroe County
7. Ellwanger & Barry-Highland Park Historic District, Rochester, Monroe County
8. Wadhams Grange Hall, Westport, Essex County
9. Standard Gage Company Plant, Poughkeepsie, Dutchess County
10. Main Mall Historic District (Boundary Increase), Poughkeepsie, Dutchess County
11. Central Harlem North Historic District, New York County
12. 287 Broadway, New York County

13. William Ulmer Brewery, Kings County
14. Talmud Torah Atereth Israel, Kings County
15. Marshall & Son Warehouse, Syracuse, Onondaga County
16. Thomson District No.10 School, Greenwich, Washington County

To be considered by the board, comments may be submitted to Daniel Mackay, Deputy Commissioner for Historic Preservation and Deputy State Historic Preservation Officer, Division for Historic Preservation, Peebles Island, P.O. Box 189, Waterford, New York 12188-0189, no later than Wednesday, September 6 may be submitted in person at the meeting by contacting Daniel Mackay at the same address no later than September 6.

*For further information, contact:* Daniel Mackay, Deputy Commissioner for Historic Preservation and Deputy State Historic Preservation Officer, Division for Historic Preservation, Peebles Island, P.O. Box 189, Waterford, NY 12188-0189, (518) 268-2171

## PUBLIC NOTICE

Department of State  
F-2023-0204 (DA)

Date of Issuance – August 2, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2023-0204, Lauren Frances Andria is proposing to construct a new 168' x 4' fixed dock at 183 South Country Road, Town of Southampton, Suffolk County (Fish Creek).

The stated purpose of the proposed action is for water access.

The applicant's consistency certification and supporting information are available for review at:

<https://dos.ny.gov/system/files/documents/2023/08/f-2023-0204.pdf> or at <https://dos.ny.gov/public-notices>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or September 1, 2023.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: [CR@dos.ny.gov](mailto:CR@dos.ny.gov)

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2023-0496 (DA)

Date of Issuance – August 2, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The United States Department of the Interior - National Park Service has determined that the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the New York State Coastal Management Program. The applicant's consistency determination and accompanying supporting information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue in Albany, New York.

The National Park Service (NPS) at Gateway National Recreation Area (GATE) proposes to rehabilitate and repair the mile-long concrete boardwalk to remedy existing structural damage and deterioration that poses a safety hazard to park visitors walking, biking, and rollerblading on the boardwalk and accessing Riis Beach. The project also includes the construction of a new universally accessible ramp (964.75 square foot) to enhance beach access for disabled visitors and compliant with the Americans with Disabilities Act of 1990 (ADA).

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/08/f-2023-0496da.pdf>

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 from the date of publication of this notice, or September 1, 2023.

*Comments should be addressed to:* Department of State, Office of Coastal, Local Government and Community Sustainability, One Commerce Plaza, 99 Washington Ave., Suite 1010, Albany, NY 12231, (518) 474-6000, Fax (518) 474-6572

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2023-0498 (DA)

Date of Issuance – August 2, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The National Oceanic and Atmospheric Administration has determined that the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the New York State Coastal Management Program. The applicant's supporting information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue in Albany, New York.

The New England Fishery Management Council (NEFMC) proposes to designate a Habitat Area of Particular Concern (HAPC) in offshore waters of Southern New England. The HAPC is to provide additional conservation focus on important cod spawning grounds and areas of complex habitat within and adjacent to offshore wind development areas. This action is a framework adjustment for the following fishery management plans (FMP): The Northeast Multispecies FMP; Atlantic Sea Scallop FMP; Monkfish FMP; Northeast Skate Complex FMP; and Atlantic Herring FMP. The Essential Fish Habitat (HAPC) area is designated EFH for the following species that occupy complex habitats: Atlantic cod egg, larvae, juveniles, and adults; Atlantic herring eggs; Atlantic Sea scallop eggs, juveniles, and adults; little skate juveniles and adults; monkfish juveniles and adults; ocean pout eggs, juveniles, and adults; red hake juveniles and adults; winter flounder eggs, juveniles, and adults; and winter skate juveniles and adults.

Some of these focal species for this HAPC have overfished stocks in Southern New England. These include Georges Bank Atlantic cod, ocean pout, Southern New England/Mid-Atlantic winter flounder, southern red hake, and Atlantic herring. Other species are at higher levels of abundance and are important to regional fisheries, including monkfish, little skate, winter skate, and sea scallops. Even though these species are not overfished and are not experiencing overfishing, they are still important to protect from offshore development impacts to ensure long-term sustainability. The HAPC designation would support the EFH consultation process in providing justification of conservation recommendations that would avoid, minimize, and/or mitigate impacts to complex and cod spawning habitats.

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/08/f-2023-0498da.pdf>

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 from the date of publication of this notice, or August 17, 2023.

*Comments should be addressed to:* Department of State, Office of Coastal, Local Government and Community Sustainability, One Commerce Plaza, 99 Washington Ave., Suite 1010, Albany, NY 12231, (518) 474-6000, Fax (518) 474-6572

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2023-0507 (DA)

Date of Issuance – August 2, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

New York State Homes and Community Renewal (HCR) on behalf of the U.S. Department of Urban Development (HUD) has determined that the proposed activity complies with and will be conducted in a manner consistent to the maximum extent practicable with the approved New York State Coastal Management Program. The agency's consistency determination and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2023-0507(DA), New York State HCR proposed to provide HUD Federal Housing Trust Fund money to RUPCO, Inc to construct a 3-story building for persons 62 or older with 57 residential units, on a 5.36-acre site off of Argent Drive in the Town of Lloyd, Ulster County. The building will include a community room, outdoor patio, common laundry area, computer lab, bike room, and an elevator. Public water and sewer are available at the site. Site work will include clearing, grading and excavation, construction of driveways, parking areas and sidewalks, finish grading and landscaping.

The agency's consistency determination and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/08/f-2023-0507.pdf> or at <https://dos.ny.gov/public-notices>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30-days from the date of publication of this notice, or September 1, 2023.

*Comments should be addressed to:* Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: [CR@dos.ny.gov](mailto:CR@dos.ny.gov)

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

**PUBLIC NOTICE**  
Department of State  
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.

2023-0355 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at Three Whitman Lane, Village of Dryden, County of Tompkins, State of New York.

2023-0356 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at Four Whitman Lane, Village of Dryden, County of Tompkins, State of New York.

2023-0357 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at Seven Whitman Lane, Village of Dryden, County of Tompkins, State of New York.

2023-0358 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at Eight Whitman Lane, Village of Dryden, County of Tompkins, State of New York.

2023-0359 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 11 Whitman Lane, Village of Dryden, County of Tompkins, State of New York.

2023-0360 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 12 Whitman Lane, Village of Dryden, County of Tompkins, State of New York.

2023-0361 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 10 Keats Way, Village of Dryden, County of Tompkins, State of New York.

2023-0362 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 14 Keats Way, Village of Dryden, County of Tompkins, State of New York.

2023-0363 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 20 Keats Way, Village of Dryden, County of Tompkins, State of New York.

2023-0364 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 26 Keats Way, Village of Dryden, County of Tompkins, State of New York.

2023-0365 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 27 Keats Way, Village of Dryden, County of Tompkins, State of New York.

2023-0366 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 32 Keats Way, Village of Dryden, County of Tompkins, State of New York.

2023-0367 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 33 Keats Way, Village of Dryden, County of Tompkins, State of New York.

2023-0368 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 44 Keats Way, Village of Dryden, County of Tompkins, State of New York.

2023-0369 in the Matter of Conifer Realty LLC, 1000 University Avenue, Suite 500, Rochester, NY 14607, for a variance concerning safety requirements, for portable fire extinguisher adjacent to residential range. Involved is a multifamily residential apartment building approximately 8,000 square feet located at 40 Keats Way, Village of Dryden, County of Tompkins, 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.

2023-0370 Matter of Nassau Expeditors Inc., Scott Tirone, 75 Albertson Avenue, Albertson, NY 11507, for a variance concerning safety requirements, including height under projection. Involved is an existing dwelling located at Three Bayview Court, Town of North Hempstead, County of Nassau, 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.

2023-0371 In the matter of Chad Cooke, Commissioner of Saratoga

County Department of Public Works, 3654 Galway Road, Ballston Spa, NY, 12020 for a variance concerning life safety requirements for sprinkler system and foam suppression system requirements for fire suppression system replacement a an existing aircraft hangar located at 405 Greenfield Avenue, Town of Milton, County of Saratoga, 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.

2023-0372 in the Matter of Pinto Family Irrevocable Trust, Kathryn A. Pinto, PO Box 75, Port Ewen, NY 12466, for a variance concerning safety requirements, including ceiling height. Involved is a one family dwelling located at Five Alfred Drive, Town of Poughkeepsie, NY 12603, County of Dutchess, State of New York.

2023-0373 in the Matter of Aedifex LLC, Peter Berghane, 340 Nash Road, North Salem, NY 10560, for a variance concerning safety requirements, including ceiling height. Involved is a one family dwelling located at 313 Nash Road, Town of North Salem, NY 10560, County of Westchester, State of New York.

2023-0374 in the Matter of 352 Blauvelt LLC, Motty Waldman, 125 Horton Drive, Monsey, NY 10952, for a variance concerning safety requirements, including sloped property. Involved is a three family dwelling located at 352 Blauvelt Road, Town of Ramapo, NY 10952, County of Rockland, State of New York.

# EXECUTIVE ORDERS

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## **Executive Order No. 3.21: Continuing the Declaration of Disaster Emergency**

WHEREAS, pursuant to Executive Order 211, issued July 6, 2021, a statewide disaster was declared across the State due to gun violence;

NOW, THEREFORE, I, KATHY HOCHUL, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Article 2-B of the Executive Law, do hereby extend the state disaster emergency as set forth in Executive Order 211, as continued in Executive Order 3.20, and continue the terms, conditions, and suspensions contained in Executive Order 211 and its successors, until July 15, 2023.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany this fifteenth day of June in the year two thousand twenty-three.

*BY THE GOVERNOR*  
/S/ Kathy Hochul  
/s/ Karen Persichilli Keogh  
*Secretary to the Governor*

## **Executive Order No. 3.22: Continuing the Declaration of Disaster Emergency**

WHEREAS, pursuant to Executive Order 211, issued July 6, 2021, a statewide disaster was declared across the State due to gun violence;

NOW, THEREFORE, I, KATHY HOCHUL, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Article 2-B of the Executive Law, do hereby extend the state disaster emergency as set forth in Executive Order 211, as continued in Executive Order 3.21, and continue the terms, conditions, and suspensions contained in Executive Order 211 and its successors, until August 13, 2023.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany this fourteenth day of July in the year two thousand twenty-three.

*BY THE GOVERNOR*  
/S/ Kathy Hochul  
/s/ Karen Persichilli Keogh  
*Secretary to the Governor*

## **Executive Order No. 4.22: Continuing the Declaration of a Statewide Disaster Emergency Due to Healthcare Staffing Shortages in the State of New York**

WHEREAS, there are staffing shortages in hospitals and other healthcare facilities and they are expected to continue;

WHEREAS, severe understaffing in hospitals and other healthcare facilities is expected to continue to affect the ability to provide critical care and to adequately serve vulnerable populations;

WHEREAS, there is an immediate and critical need to supplement staffing to assure hospitals and healthcare facilities can provide care;

NOW, THEREFORE, I, Kathy Hochul, Governor of the State of

New York, by virtue of the authority vested in me by the New York State Constitution and the laws of the State of New York, do hereby extend the state disaster emergency as set forth in Executive Order 4, as continued by its successors, and do hereby continue the terms, conditions, and suspensions contained in Executive Order 4 and its successors, until June 22nd, 2023.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany this eighth day of June in the year two thousand twenty-three.

*BY THE GOVERNOR*  
/S/ Kathy Hochul  
/s/ Karen Persichilli Keogh  
*Secretary to the Governor*

## **Executive Order No. 28.2: Declaring a Disaster Emergency in the State of New York**

WHEREAS, pursuant to sections 362 and 365 the Public Health Services Act (42 U.S.C § § 362 and 365, and the implementing regulation at 42 C.F.R. § 71.40, on August 2, 2021 the Director of the United States Center for Disease Control (“CDC”) issued a *Public Health Reassessment and Order Suspending the Right to Introduce Certain Person from Countries Where a Quarantinable Communicable Disease Exists* (the “Title 42 Order”);

WHEREAS, the Title 42 Order prohibits migration into the United States by “covered noncitizens” traveling from Canada or Mexico (regardless of their country of origin) who would otherwise be introduced into a congregate setting in a port of entry or U.S. Border Patrol station at or near the U.S. land and adjacent coastal borders;

WHEREAS, even with the Title 42 Order in place, large numbers of migrants with immediate housing and service needs have arrived in the City and State of New York over the last several months: as of May, the City of New York, alone, was providing temporary housing for 36,738 migrants from the southern border, a number that had increased by 12,279 individuals since January 2023; including by an additional 1,578 individuals in just a week.

WHEREAS, the Title 42 Order is expiring on May 11, 2023, and, upon the expiration of the Title 42 Order, it is anticipated there will be a surge of migration into the United States resulting in the imminent arrival of individuals to the City and State of New York at an increased rate of what is expected to be several thousand additional people seeking shelter each week;

WHEREAS, federal support is critical to support the City of New York and other local governments within the State that lack the infrastructure, facilities, and resources necessary to meet the immediate humanitarian demand to house and meet other basic needs of the large numbers of migrant arrivals; and

WHEREAS, the arrival of increased numbers of migrants seeking shelter in the City and State of New York is expected to exacerbate an already large-scale humanitarian crisis and create a disaster emergency to which local governments are unable to adequately respond, creating a threat to health and safety, which could result in the loss of life or property; and

NOW, THEREFORE, I, KATHY HOCHUL, Governor of the State

of New York, by virtue of the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, do hereby extend the State Disaster Emergency as declared in Executive Order 28, and do hereby continue the terms, conditions, and suspensions contained in Executive Order 28 and its successors, until July 26, 2023.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany this twenty-sixth day of June in the year two thousand twenty-three.

*BY THE GOVERNOR*

/S/ Kathy Hochul

/s/ Karen Persichilli Keogh

*Secretary to the Governor*

#### **Executive Order No. 29: Declaring a Disaster Emergency in the Counties of Ontario and Orange**

WHEREAS, on July 9, 2023 and continuing thereafter, severe thunderstorms have created hazardous conditions in New York State posing an imminent danger to public transportation, utility service, public health, and public safety systems in the Counties of Ontario and Orange;

WHEREAS, the storms are producing torrential downpours, high winds, and flash flooding, resulting in downed trees, road closures, travel disruptions, power outages, and damage to public and private property throughout the State, which pose a threat to the public health and safety;

NOW, THEREFORE, I, KATHY HOCHUL, Governor of the State of New York, by virtue of the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, do hereby find that a disaster is occurring for which the affected local governments are unable to respond adequately. Therefore, I hereby declare a State Disaster Emergency effective July 9, 2023 for the Counties of Ontario and Orange. This Executive Order shall be in effect through August 8, 2023; and

FURTHER, pursuant to Section 29 of Article 2-B of the Executive Law, I direct the implementation of the State Comprehensive Emergency Management Plan and authorize, effective July 9, 2023, State agencies as necessary, and the American Red Cross, to take appropriate action to protect State property and to assist affected local governments and individuals in responding to and recovering from this disaster, and to provide such other assistance as necessary to protect the public health and safety;

IN ADDITION, this declaration satisfies the requirements of 49 C.F.R. 390.23(a)(1)(A), which provides relief from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSR). Such relief from the FMCSR is necessary to ensure that crews can clear vital roadways and hasten the movement of utility power restoration crews into New York State;

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany this ninth day of July in the year two thousand twenty-three.

*BY THE GOVERNOR*

/S/ Kathy Hochul

/s/ Karen Persichilli Keogh

*Secretary to the Governor*

#### **Executive Order No. 29.1: Declaring a Disaster Emergency in Several Counties of New York State**

WHEREAS, on July 10, 2023, and continuing thereafter, severe thunderstorms have created hazardous conditions in New York State posing an imminent danger to public transportation, utility service, public health, and public safety systems in counties throughout the State;

WHEREAS, the storms are producing torrential downpours, high winds, and flash flooding, resulting in downed trees, road closures, travel disruptions, power outages, and damage to public and private property throughout the State, which pose a threat to the public health and safety;

NOW, THEREFORE, I, KATHY HOCHUL, Governor of the State of New York, by virtue of the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, do hereby find that a disaster is occurring for which the affected local governments are unable to respond adequately. Therefore, I hereby continue the State Disaster Emergency in Ontario and Orange Counties, as declared in Executive Order No. 29, and declare a State Disaster Emergency effective July 10, 2023, for the Counties of Albany, Broome, Cayuga, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Oneida, Onondaga, Oswego, Otsego, Putnam, Rensselaer, Rockland, St Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, and Yates. This Executive Order shall be in effect through August 9, 2023; and

FURTHER, pursuant to Section 29 of Article 2-B of the Executive Law, I direct the implementation of the State Comprehensive Emergency Management Plan and authorize, effective July 10, 2023, State agencies as necessary, and the American Red Cross, to take appropriate action to protect State property and to assist affected local governments and individuals in responding to and recovering from this disaster, and to provide such other assistance as necessary to protect the public health and safety;

IN ADDITION, this declaration satisfies the requirements of 49 C.F.R. 390.23(a)(1)(A), which provides relief from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSR). Such relief from the FMCSR is necessary to ensure that crews can clear vital roadways and hasten the movement of utility power restoration crews into New York State;

FURTHER, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through August 9, 2023, the following laws to the extent necessary to respond immediately and adequately to protect public health and safety due to the aforementioned emergency:

- Section 112 of the State Finance Law, to the extent consistent with Article V, Section I of the State Constitution, and to the extent necessary to add additional work, sites and time to State contracts;

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany this tenth day of July in the year two thousand twenty-three.

*BY THE GOVERNOR*

/S/ Kathy Hochul

/s/ Karen Persichilli Keogh

*Secretary to the Governor*

# COURT NOTICES

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## AMENDMENT OF RULE

### Uniform Rules for the Supreme and County Courts

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby amend Rule 28 of section 202.70(g) of the Uniform Rules for the Supreme and County Courts (Rules of Practice for the Commercial Division), effective immediately, to read as follows (additions underlined, deletions in strikethrough). This order supersedes a prior Administrative Order (AO/165/23).

Rule 28. Pre-Marking of Exhibits. Counsel for the parties shall consult prior to the pre-trial conference and shall in good faith attempt to agree upon the exhibits that will be offered into evidence without objection. [At the pre-trial conference date, each side shall then mark its exhibits into evidence] *and shall pre-mark all exhibits* as to which no objection has been made *for introduction into evidence*. [All exhibits] *Counsel shall also mark [A]all* exhibits not consented to [shall be marked] for identification only. *Counsel asserting objections to the introduction of any proposed exhibit shall be prepared to state the objection with specificity at the pre-trial conference or such other time as the court directs. The pre-marked exhibits as to which there is no dispute shall be marked into evidence, unless the court directs otherwise.* If the trial exhibits are voluminous *or in a digital or other format that creates practical marking issues*, counsel shall consult the clerk of the part for guidance. [The court will rule upon the objections to the contested exhibits at the earliest possible time.] Exhibits not previously *identified* [demanded] which are to be used solely for *impeachment*, credibility or rebuttal need not be pre-marked.

