
NEW YORK STATE
REGISTER

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

For notices published in this issue:

- the 60-day period expires on April 11, 2021
- the 45-day period expires on March 27, 2021
- the 30-day period expires on March 12, 2021

**ANDREW M. CUOMO
GOVERNOR**

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SECRETARY OF STATE**

NEW YORK STATE DEPARTMENT OF STATE

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NEW YORK STATE REGISTER

Be a part of the rule making process!

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

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

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

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

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

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

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

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

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

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

Office of Children and Family Services

EMERGENCY RULE MAKING

Maintenance Reimbursement for Residential CSE Programs When a Student Has Been Absent from the Program for More Than 15 Days

I.D. No. CFS-49-20-00006-E

Filing No. 29

Filing Date: 2021-01-20

Effective Date: 2021-01-20

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

Action taken: Amendment of Part 628 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20, 34 and 153

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

Specific reasons underlying the finding of necessity: The Office of Children and Family Services (Office) finds that immediate emergency adoption of these regulations is necessary to protect the general welfare of children that are determined to be in need of highly specialized educational residential services by local school districts' Committee on Special Education (CSE), due to the intensity of their mental health, developmental or behavioral health needs. The purpose of this rule is to remove an existing regulatory barrier that precludes maintenance reimbursement for residential CSE programs when a student has been absent from the program for more than 15 days, in recognition that widespread, unanticipated absences

in excess of 15 days have occurred in residential CSE programs as a result of COVID-19 and the state of emergency declared in relation to the pandemic within New York.

Specifically, this rule would authorize reimbursement for residential CSE maintenance where there has been an absence in excess of 15 days and such absence was directly related to a state of emergency and determined by the local department of social services to be necessary for the health and safety of a child. Residential CSE providers receive tuition and maintenance reimbursement for the cost of the special education programs. The maintenance reimbursement attendant to the residential component of CSE placement are regulated by the Office and are made on a per-diem basis for the present year's care days but are reflective of the prior year's operating costs of the programs.

Sufficient capacity at residential CSE programs is crucial to maintain the availability of these placements for children who are determined by a CSE to need these services to receive a free and appropriate public education. This rule is required on an expedited basis to preserve the availability of residential CSE placements and to remove existing regulatory barriers to receiving reimbursement that the programs may rely on to continue to operate, as a result of an absence resulting from a state of emergency where the absence was necessary for the health and safety of a particular child.

Subject: Maintenance reimbursement for residential CSE programs when a student has been absent from the program for more than 15 days.

Purpose: Remove an existing regulatory barrier that precludes maintenance reimbursement for residential CSE programs.

Text of emergency rule: Paragraph (4) of subdivision (a) of section 628.3 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(4) Reimbursement of expenditures for care of a child in either direct or indirect care shall not include per diem costs of absences, except as follows:

- (i) all weekend visits;
- (ii) all school and religious holidays;
- (iii) vacation--up to 15 days per calendar year, excluding weekend visits;

- (iv) all organized school trips;
- (v) detention--up to seven consecutive days;
- (vi) running away--up to seven consecutive days;
- (vii) home on trial--up to seven consecutive days;
- (viii) absences due to hospitalization--up to 15 days per calendar year, except that in cases in which a child is diagnosed as having acquired immune deficiency syndrome (AIDS) or AIDS related complex (ARC) or has tested positive for human immune deficiency virus (HIV) or any infection with the probable causative agent of AIDS, the maximum number of absences per each episode of hospitalization for which reimbursement shall be available is as follows:

(a) up to 30 days of absence for children residing in a group home, group residence, agency boarding home, institution or approved residential school for the handicapped prior to the hospitalization; and

(b) up to 60 days of absence for children residing in a foster family boarding home prior to the hospitalization. Reimbursement in such cases shall include both administrative expenses and the pass-through payment to the foster parent;

(ix) visits to potential foster or adoptive parents--up to seven consecutive days per visit; [and]

(x) respite care and service provided pursuant to Part 435 of this Title[.]; and

(xi) in relation to absence of a child with a disability placed by a school district pursuant to section forty-four hundred five of the Education Law, where such absence was after April 1, 2020, and directly resulting from an emergency where a declaration of emergency has been issued by the state or federal government, and such absence is necessary for the health and safety of any child, as determined by the relevant local department of social services.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. CFS-49-20-00006-EP, Issue of December 9, 2020. The emergency rule will expire March 20, 2021.

Text of rule and any required statements and analyses may be obtained from: Frank J Nuara, Associate Attorney, Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (914) 589-3096, email: regcomments@ocfs.ny.gov

Regulatory Impact Statement

1. Statutory authority:

The Office of Children and Family Services (OCFS) has the authority to regulate rates for residential placements of children through Social Services Law section 153. The regulatory change adds a limited additional consideration for when an absence from such residential placement would be reimbursable by the local department of social services (LDSS) and the applicable school district.

2. Legislative objectives:

The legislative objectives in enacting Social Services Law section 153 was to establish requirements to govern appropriate claiming, reimbursements, advances and disallowances of specified expenditures by LDSSs, including, among other things, maintenance costs for residential Committee on Special Education (CSE) placements.

3. Needs and benefits:

The purpose of this rule is to amend a specific provision in regulation that has created an impediment for non-profit providers that provide residential educational programs for children with disabilities in seeking reimbursement from LDSSs and school districts for services provided to these children throughout the pandemic. These children are determined to be in need of these highly specialized educational residential services due to the intensity of their mental health, developmental or behavioral health needs by local school districts' CSEs.

When the Governor issued the state of emergency in March, several parents made the decision to take their child home out of fear of them contracting the virus in the residential education setting. The majority of the not for profits continued providing remote services to the children and their families understanding that the children would be returning to their campuses when safe to do so. Due to OCFS's regulation limiting absences to 15 days, providers have been unsuccessful in their attempts to seek reimbursement resulting in an estimated \$12M loss that continues to accrue, according to data provided by the Council of Family and Child Caring Agencies (COFCCA).

Payment for these residential educational placements are made by the LDSS in the first instance and then the applicable local school district reimburses the LDSS a portion of these costs (approximately 47%). Because OCFS is not a party to the reimbursement, but rather merely the agency that sets and approves the reimbursement rate, OCFS proposes to amend the regulation such that a reimbursement for residential placement during this state of emergency may be authorized, but is not expressly mandated. The proposal would remove the barrier created by the previously narrow set of exceptions and allow the programs to seek reimbursement.

4. Costs:

This rule would not mandate any new costs or payments on the State, local governments, OCFS or regulated entities, but instead would remove barriers that would preclude payment for absences that have resulted from COVID-19 where failure to make these payments may result in an unanticipated savings for a LDSS or a local school district.

5. Local government mandates:

This change enacts no new mandates on local governments. Instead, this regulatory package will allow flexibility for the LDSS when faced with a state of emergency.

6. Paperwork:

It is anticipated that this rule, would at most, result in minimal new paperwork related to claiming requirements, if at all.

7. Duplication:

No duplication of requirements is associated with this rule.

8. Alternatives:

The possibility of not adopting any regulatory change was considered. In light of COVID-19, OCFS determined to pursue this path as the existing regulatory language was inflexible and has precluded any maintenance reimbursement for residential CSE placements where the absence exceeded 15 days, creating unique and unforeseeable fiscal challenges for residential CSE providers.

9. Federal standards:

This rule provides for appropriate care and services for children with special needs. This is not in excess of any federal standard.

10. Compliance schedule:

As this rule provides flexibility to existing regulatory requirements,

compliance and applicability of the rule is determined by the LDSS on a case by case, as needed, basis.

Regulatory Flexibility Analysis

1. Effect of rule:

This rule will provide flexibility that would allow for the absence of children with disabilities from residential programs during a state of emergency when such absence in is the best interests of the children and approved by the local department of social services.

The local government entities that are impacted are local departments of social services (LDSSs). There are 58 LDSSs in New York State. The small business that may be impacted are the non-profit programs that provide residential committee on special education (CSE) placements in New York State. It is estimated that there are seven residential CSE programs in the state that are small businesses.

The impact this rule will have on these entities is positive as the rule provides flexibility to extend the option to seek reimbursement for absences in the event of a national or state declaration of emergency.

2. Compliance requirements:

It is anticipated that there would be minimal record keeping or reporting associated with this rule.

3. Professional services:

There are no new professional services anticipated to be required as a result of this rule.

4. Compliance costs:

There are no new anticipated compliance costs associated with this rule.

5. Economic and technological feasibility:

There are no economic or technological issues with implementation rule.

6. Minimizing adverse impact:

This rule has been written to minimize adverse economic impacts on LDSSs and local school districts. Specifically, the rule removes a barrier to reimbursement for certain expenditures but does not mandate payment. Any payment a LDSS chooses to pay, pursuant to these regulatory provisions, would reduce unanticipated savings a LDSS or school district may have otherwise realized attendant to COVID-19.

7. Small business and local government participation:

OCFS is in regular communication with the non-profit entities and LDSSs impacted by this rule. The Council on Family and Child Caring Agencies (COFCCA), which is the umbrella organization representing some of the non-profit entities impacted by this rule, has strongly urged OCFS to remove the regulatory barrier that precluded reimbursements for residential CSE placements when a child had been absent for longer than 15 days due as a result of unanticipated absences resulting from COVID-19.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

This rule is applicable in all rural areas of the state. It is estimated that there are 34 residential CSE providers in New York State with 9 residential CSE providers estimated to be located in rural areas of the state. This rule does not impact any additional school districts beyond those that are already impacted by the existing statutory and regulatory provisions, which are applicable statewide, including in all rural areas.

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

It is anticipated that there would be minimal new reporting, record keeping, or compliance requirements associated with this rule. There are also no new professional services anticipated to be required as a result of this rule.

3. Costs:

This rule does not mandate any new costs, but would authorize local departments of social services (LDSS) to make reimbursements for maintenance payments for residential Committee on Special Education (CSE) placements when a child has been absent from a program for more than 15 days when the absence was directly related to a state of emergency and determined to be necessary for the health and safety of the child. Any instance where a LDSS chooses to make reimbursement under the flexibility afforded by the rule would be reflective of costs that would have already been budgeted for and would have occurred absent a declared state of emergency. If a local district chooses to reimburse expenditures under the flexibility afforded by the rule, it may impact costs for local school districts, but such expenditures would have already been budgeted for.

4. Minimizing adverse impact:

There is no adverse economic impact for rural areas anticipated with this rule.

5. Rural area participation:

OCFS is in regular communication with the non-profit entities and LDSSs impacted by this rule. The Council on Family and Child Caring Agencies (COFCCA), which is the umbrella organization representing

some of the non-profit entities impacted by this rule, has repeatedly and strongly urged OCFS to take regulatory action on this issue to remove the barrier to reimbursement imposed by the existing regulation. OCFS has had several conversations with the State Education Department on these issues to preserve the availability of residential CSE services. This consultation encompasses impacted entities in both rural and non-rural areas of the state.

Job Impact Statement

1. Nature of impact:
It is anticipated that this rule will not have any impact on jobs and employment opportunities attendant to public and non-profit entities.
2. Categories and numbers affected:
It is anticipated that the rule does not impact any employment positions.
3. Regions of adverse impact:
There are no anticipated adverse impacts of this rule for any region of the state.
4. Minimizing adverse impact:
There are no anticipated adverse employment impacts associated with this rule. This rule provides flexibility in providing for additional days of absence from a residential placement when such absence is in the best interests of a child during a state of emergency and approved by the local county department of social services.
5. Self-employment opportunities:
There are no anticipated adverse impacts of this rule on any self-employment opportunities in the state.

Assessment of Public Comment

The agency received no public comment.

Department of Civil Service

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-06-21-00001-P

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

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

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

Subject: Jurisdictional Classification.

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

Substance of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Labor under the subheading "Administration - General," by deleting therefrom the positions of Assistant Director, Office of Employer Relations; Deputy Inspector General; Director, Office of Employer Relations (2) and Special Federal Relations Representative and by increasing the number of positions of Special Assistant from 34 to 39; and

Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Labor, by adding thereto the positions of Public Information Specialist 1 (Digital Content) (4), Public Information Specialist 2 (Digital Content) (2) and Public Information Specialist 3 (Digital Content) (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Regulatory Flexibility Analysis

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

previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-06-21-00002-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Substance of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of State under the subheading "Office of Renewable Energy Siting," by increasing the number of positions of Assistant Program Manager from 3 to 4 and Special Assistant from 1 to 2.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-06-21-00003-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To delete a position from and classify a position in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Mental Hygiene under the subheading "Office of Mental Health," by decreasing the number of positions of Assistant Public Information Officer from 2 to 1 and by increasing the number of positions of Special Assistant from 4 to 5.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-06-21-00004-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from the non-competitive class.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Family Assistance under the subheading "Office of Children and Family Services," by deleting therefrom the positions of Coordinator, Title IV-E Operations (OCFS) (1) and Wilderness Challenge Aide; in the Executive Department under the subheading "Division of Homeland Security and Emergency Services," by deleting therefrom the positions of Communications Specialist (DHSES) (2); and, in the Department of Labor under the subheading "Workers' Compensation Board," by deleting therefrom the positions of Hearing Attendant (62).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-06-21-00005-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Westchester County under the subheading "Department of Information Technology," by adding thereto the position of Program Administrator (Graphics) (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-21-00001-P, Issue of January 13, 2021.

State Commission of Correction

NOTICE OF ADOPTION

Disciplinary and Administrative Segregation of Inmates in Special Housing

I.D. No. CMC-35-19-00002-A

Filing No. 79

Filing Date: 2021-01-26

Effective Date: 2021-02-10

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

Action taken: Amendment of sections 7006.9(a)(5), 7013.2(h), 7013.6(a)(1), (b), 7040.2, 7040.7(b), 7041.2(a)(4), 7070.2(c)(11), 7070.7(a), 7075.4(b), addition of sections 7075.2(h)-(j) and 7075.4(g)-(k) to Title 9 NYCRR.

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

Subject: Disciplinary and administrative segregation of inmates in special housing.

Purpose: Prohibit the segregation of vulnerable inmates, and to standardize allowable uses and duration of special housing segregation.

Text or summary was published in the March 11, 2020 issue of the Register, I.D. No. CMC-35-19-00002-P.

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

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

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2026, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The New York State Commission of Correction (hereinafter "Commission") received formal comments from members of the public, advocacy groups, elected officials, and representatives providing correctional health services.

A preponderance of the comments received expressed the same opinion, that the proposed regulations are inadequate as compared to the provisions of the previously-proposed Humane Alternatives to Long-Term (HALT) Solitary Confinement Act, that establishes a maximum of 15 consecutive days in solitary confinement, prohibits the use of solitary confinement for incarcerated individuals 21 and younger, and requires congregate programming for out-of-cell time. The Commission was urged to reformulate the regulations to mirror, and that the New York State Legislature should adopt, the HALT Act. Specifically, comments received wanted the proposed regulations to limit the circumstances in which solitary confinement can be imposed, limit the amount of time that may be spent in solitary confinement, establish a public reporting requirement, prohibit restricting diets as a form of punishment, speed up the proposed implementation timeline for limiting solitary confinement, and protect vulnerable age groups from solitary confinement.

Correction Law section 137(6), applicable to local correctional facilities by means of Correction Law section 500-k, permits correction officials to "keep any inmate confined in a cell or room ... for such period as may be necessary for maintenance of order or discipline." The New York State Court of Appeals has held that the Correction Law thus gives correction officials "broad discretion in the formulation and implementation of policies relating to security and to the disciplining of inmates [emphasis added]." *Arteaga v. State*, 72 N.Y.2d 212, 217 (1988); see also *Allah v. Coughlin*, 190 A.D.2d 233, 236 (3d. Dept. 1993).

While Correction Law section 45(6) provides the authority to promulgate rules and regulations establishing minimum standards for the care, custody, correction, treatment, supervision and discipline of incarcerated individuals in local correctional facilities, the Commission must also consider that such regulations shall apply equally to each facility throughout the state. Presently, the jails of 62% of upstate counties have less than 200 beds, and 40% of upstate counties have less than 150 beds.

Unlike state prisons, many local county jails, particularly the small upstate jails, do not have a sufficient number of separate and distinct housing units to establish residential rehabilitation units, or other separate forms of incarcerated individual housing necessary to comport with the confinement restrictions set forth in the proposed HALT Act. Similarly, county jails differ greatly from state prisons with respect to the frequency of incarcerated individual admissions and discharges, criminal court appearances and transport, family and counsel visitation, emergency hospital transports, etc., making the regular and sustained incarcerated individual programming required by the proposed HALT Act impracticable. Nevertheless, it is the goal of the Commission, in promulgating the present regulations, to limit the use of cell confinement in special housing units to only those instances required to preserve the safety and security of the facility and its staff and incarcerated individuals.

Some commenters expressed concern that these regulations did not limit back-to-back sanctions of solitary confinement, did not cap the cumulative use of isolation, and did not go far enough in limiting the amount of time that could be spent in solitary. Similarly, many commenters believed the regulations granted the chief administrative officer "unchecked discretion" in extending periods of confinement. However, the proposed regulations provide that no incarcerated individual shall be subject to segregation in special housing for longer than necessary and for any six month period, effective on and after April 1, 2021 for no more than 90 days, effective on and after October 1, 2021, for no more than 60 days, and effective on and after April 1, 2022 for no more than 30 days, absent "an immediate or continuing unacceptable threat to the safety of staff or other incarcerated individuals or to the security of the facility." Additionally, it is the Commission's intention, by adopting the regulations, to ensure that determinations to confine incarcerated individuals to special housing are justified and documented, reviewed on a timely basis to assess if continuation is warranted, and reported to the Commission. Thereafter, the Commission's ability to monitor and oversee such confinement will be sufficient to identify and investigate potential abuses.

Commenters also asked the Commission to limit all administrative segregation, limit the use of keeplock and prevent administrative segregation from being used for protective custody purposes. On June 5, 2019, the Commission's regulations governing incarcerated individual's cell confinement and essential service deprivation became effective. Those regulations focused on limiting both disciplinary and administrative segregation to the least amount of time necessary to maintain the safety, security and good order of the facility.

Several commenters bemoaned the lack of regulation to provide for required programming of confined incarcerated individuals during their "out-of-cell" time. Likewise, a few commenters suggested that the state should implement alternatives to solitary confinement, with one commenter suggesting a program like the Resolve to Stop the Violence Project (RSVP) in San Francisco jails, which "immerses residents in an intensive program including most of the day out-of-cell, group discussions, classes, counseling, and meetings with victims of violence." For the reasons noted above with respect to the proposed HALT Act legislation, such a requirement is currently impracticable.

A handful of commenters stated that the proposed regulations do not create transparency and oversight. One commenter suggested that in order to address this, the Commission "should post reporting data on its website, assess local correctional facilities' implementation of the regulations, and report on its findings." The Commission provides oversight as it currently evaluates, investigates, and oversees correctional facilities to ensure they are meeting the minimum standards created by the Commission. As these proposed regulations are implemented, the Commission will continue to ensure that each facility meets the minimum standard created and the mission of the Commission to provide for a safe, stable and humane correctional system is carried out. The Commission also issues an annual report, available on our website, that identifies which minimum standards are assessed by the Commission each year.

Commenters also requested that correctional staff receive training on identifying signs of mental health decompensation and on guidelines for when a mental health referral is warranted. Per Executive Law § 837-a, the responsibility for the administration of training programs for local correction officers is assigned to the Division of Criminal Justice Services, Municipal Police Training Council and Office of Public Safety. In addition, one commenter requested that medical and mental health assessments be completed prior to segregation and then regularly during periods of segregation in order to ascertain if an individual should be excluded from segregation due to mental illness. Currently, the Correction Law and Commission regulations require any incarcerated individual confined to a cell, after a 24-hour period, to be visited and assessed daily by a qualified medical professional.

One commenter asked the Commission to adopt a clear definition for "a mental or physical disability" or "a serious mental illness," as they believed without such definition corrections staff will not correctly identify

these populations. The proposed regulations were drafted to allow qualified health staff at each facility to determine which individuals have a mental or physical disability or a serious mental illness.

Received comments from representatives providing correctional health services noted two main concerns, that “healthcare providers participating in decisions concerning the penalty process of an inmate is against medical ethical opinions” and that “healthcare practitioners are not able to predict the effects and outcomes of solitary confinement on any individual and may face potential liability by participating in the process. This action would potentially result in the medical staff determining the housing and safety status of an inmate.” As drafted, while the regulation requires consultation with qualified health staff, the determination to continue or cease confinement is made by the facility’s chief administrative officer; therefore, the healthcare professional is not determining the housing or safety status of the incarcerated individual.

Lastly, one correctional health service provider also commented that “local health departments providing jail medical services were not given the opportunity to provide input before these regulations were implemented.” As published, the Notice of Proposed Rulemaking invited public comment from August 28, 2019 to October 27, 2019 and was open to any member of the public, including local health departments, to provide comment.

State Board of Elections

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Related to Establishing a Cure Process for Absentee Ballots

I.D. No. SBE-06-21-00015-EP

Filing No. 85

Filing Date: 2021-01-26

Effective Date: 2021-01-26

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

Proposed Action: Addition of section 6210.21 to Title 9 NYCRR.

Statutory authority: Election Law, section 3-102(17); L. 2020, ch. 141

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

Specific reasons underlying the finding of necessity: The Commissioners determined that it is necessary for the preservation of the general welfare that this amendment be adopted on an emergency basis as authorized by section 202(6) of the State Administrative Procedure Act, effective immediately upon filing with the Department of State. This amendment is adopted as an emergency measure because time is of the essence and to adopt the regulation in the normal course of business would be contrary to the general welfare. Chapter 141 of the Laws of 2020 requires that State Board of Elections to implement a cure process for absentee ballots. There are two special elections that will occur in New York City in February 2021. In order to ensure that a cure process is implemented in time for these elections, an emergency adoption is necessary.

Subject: Related to establishing a cure process for absentee ballots.

Purpose: Establishes a cure process for absentee ballots.

Text of emergency/proposed rule: Part 6210 of 9 NYCRR is amended to add thereto section 6210.21 as follows:

6210.21 Absentee Ballot Envelope Cures

(a) Curable Absentee Ballot Envelope Defects.

The following are curable defects related to an absentee ballot affirmation envelope:

- (1) the affirmation envelope is unsigned; or
- (2) an affirmation ballot envelope signature does not correspond to the registration signature and thus does not appear to verify the voter; or
- (3) the affirmation envelope does not have the required witness to a mark; or
- (4) the ballot is returned without an affirmation envelope in the return envelope; or
- (5) the affirmation envelope is signed by the person that has provided assistance to the voter but is not signed or marked by the voter him/herself; or
- (6) the voter has failed to sign the affirmation envelope and someone else has signed the affirmation (i.e. POA).

(b) Notice to the Voter.

Upon a bipartisan determination of the board of elections that any of the curable conditions in subdivision (a) have occurred, within one day of making such determination, the board of elections shall mail the voter a notice explaining the reason for such rejection and the procedure to cure the rejection.

The notice shall be sent to the absentee voter’s address indicated in the registration records and, if different, the mailing address indicated on the absentee ballot application.

The board of elections shall also attempt to contact the voter by electronic mail and telephone, if such information is available to the board in the voter’s registration information or absentee application, to notify the voter of the deficiency and the opportunity and the process to cure the deficiency. If more than one email address is available to the board, send the notice to all email addresses in the voter’s file. Any notification attempted by email shall include a copy of the notice and cure affirmation. If more than one phone number is available to the board, contact each phone number in the voter’s file.

To the extent practicable, the board shall make at least three attempts, over at least two days, at different times of the day to contact the voter by telephone.

If upon reaching the actual voter and confirming the voter’s identity by asking their name, date of birth, and voter registration address, the absentee voter then provides an email address to which such cure affirmation may be emailed, the board shall send the cure affirmation to the voter via email.

(c) Form of Cure Affirmation.

The voter may cure the aforesaid defects by filing a duly signed affirmation attesting to the same information required by the affirmation envelope and attesting that the signer of the affirmation is the same person who submitted such absentee ballot. The board shall include the form of such affirmation with the notice to the voter. The affirmation shall be substantially in the form promulgated by the New York State Board of Elections.

(d) Deadlines for Cure.

Pre-election

The cure affirmation shall be filed (postmarked if by mail) with the Board of Elections on or before either the last day to apply for an absentee ballot or seven business days after notification by mail, whichever is later.

Such cures may be filed with the boards of elections by email, facsimile, in person or by mail; provided, however, if the voter’s application for the absentee ballot did not contain a “wet” signature the cure affirmation must be filed with the board by mail or personal delivery.

Post-election

The cure affirmation shall be filed in the same method as pre-election cures, however, they shall be filed within seven business days after notification by mail.

(e) Determination of Cure.

Provided the board determines that such affirmation remedies the curable defect, the rejected ballot shall be reinstated and duly canvassed at the time of canvass. If the board of elections is split as to the sufficiency of the cure affirmation, such envelope shall be set aside for three days and then canvassed unless the board is directed otherwise by court order.

(f) Notice of Any Rejection.

When the board of elections invalidates an absentee ballot envelope for any reason that is not otherwise curable, and this determination is made prior to election day, the voter shall be notified by mail, and email where available, of the rejection of their ballot. The rejection notification shall be sent within one business day of such rejection. To the extent practicable, this notice shall inform the voter of options still available to them to vote.

When the board of elections invalidates an absentee ballot envelope for any reason that is not otherwise curable, and this determination is made after election day, the voter shall be notified by mail, or email where available, of the rejection of their ballot. No rejection notification shall be required when an absentee ballot is deemed invalid because the voter has voted in person on election day or during early voting.

Whenever a cure affirmation is submitted prior to the day of election and is found to be insufficient, to the extent practicable the board of elections shall forthwith inform the voter of such finding and shall advise the voter of all then existing options for voting.

(g) Special Provision Related to Unsealed Envelope.

If an absentee ballot affirmation envelope is received by the board of elections prior to the election and is found to be unsealed and thus invalid, the board shall forthwith notify the voter of such defect and notify the voter of other options for voting, and, if time permits, provide the voter with a new absentee ballot.

Notwithstanding the foregoing paragraph, if the unsealed affirmation envelope is received in a fully sealed, but not taped (unless required for envelope construction) outer mailing envelope, such ballot envelope shall be treated as a ballot filed without an affirmation envelope and shall be curable by the filing of the cure affirmation. The affirmation envelope shall

be immediately sealed by the board of elections without examining the ballot therein.

(h) *Signature Comparison Standards, Procedure and Training.*

Prior to any staff person being assigned to do signature reviews, they shall be trained and prepared for such task in accordance with guidance developed by the State Board of Elections.

When a bipartisan staff team makes a preliminary ruling that the signature on the absentee affirmation does not match the voter registration signature on file, the decision shall be elevated to a manager. The bipartisan team of managers has full authority to overrule the initial determination of invalidity. If the managerial team, after reviewing the affirmation signature and all signature exemplars that the board has on file, affirms the initial finding of a signature mismatch, the cure procedures outlined above shall be followed. If the initial signature comparison is conducted by the commissioners of the board of elections, managerial review of their initial determination of a mismatch shall not be required and the cure procedures outlined above shall be followed.

When verifying signatures, the bipartisan team shall keep in mind that everyone writes differently, and no one signs his or her name exactly the same way twice. Some variation in signatures is to be expected. There are many factors that can lead to signature variance, including but not limited to age, disability, underlying health conditions, writing implement/surface and level of concentration. The bipartisan team shall presume that the documents were signed by the same person. If any differences observed can be reasonably explained, the signature should be accepted.

(i) *Additional Instructions For Absentee Ballot Envelopes As To Circumstances Not Requiring Cure.*

Absentee ballot envelopes are not invalid and do not require a cure under these circumstances:

(1) *Undated or Wrongly Dated Voter Signature.* An absentee ballot affirmation envelope that is undated or clearly has the wrong date (i.e. the wrong year or month) by the voter is not invalid, provided it is postmarked on or prior to Election Day and is otherwise received timely by the board of elections.

(2) *Misplacement of Signature or Mark.* A voter who signs or marks the ballot affirmation envelope at a place on the envelope other than the designated signature line shall not be invalidated for this reason. The signature or mark need only appear on the same envelope as the affirmation.

(3) *Use of Ink or Pencil.* A voter may use any combination of ink (of any color) or pencil to complete the ballot envelope.

(4) *Extrinsic Materials Exception.* Any papers found in the affirmation envelope with the ballot shall not void the ballot if the papers are materials from the board of elections, such as instructions or an application sent by the board of elections.

(5) *Envelope Irregularities.* Any extrinsic marks or tears on the ballot envelope that appear to be there as a result of the ordinary course of mailing and/or transmittal, shall not invalidate the ballot.

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 April 25, 2021.

Text of rule and any required statements and analyses may be obtained from: Nicholas R. Cartagena, New York State Board of Elections, 40 N. Pearl Street, Suite 5, Albany, NY 12207, (518) 474-2063, email: nicholas.cartagena@elections.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: Section 2 of Chapter 141 of the Laws of 2020 provides that: "(t)he state board of elections shall promulgate rules and regulations to implement this act (a cure process for absentee ballots)." Election Law § 3-102(17) authorizes the State Board of Elections to "perform such other acts as may be necessary to carry out the purposes of this chapter."

2. Legislative objectives: The legislative objective furthered by the proposed regulation is to provide voters an opportunity to cure deficiencies regarding absentee ballots, consistent with Chapter 141 of the Laws of 2020.

3. Needs and benefits: Chapter 141 of the Laws of 2020 requires that the State Board "promulgate rules and regulations to implement (a cure process for absentee ballots)." According to the justification section of the bill memo of this chapter: "(m)any voters will utilize absentee ballots in order to safely exercise their constitutional right to participate in their democracy during the COVID-19 pandemic. Providing absentee voters with the opportunity to cure or address certain deficiencies will ensure that technicalities that make it difficult for absentee ballots to be counted will be addressed not just during this pandemic, but also in our elections going forward."

4. Costs: The regulatory amendments are required by Chapter 141 of the Laws of 2020. The implementation of the proposed regulations will result in additional costs to local county boards of election, as local county boards will have to contact and mail notices to voters where a determination is made that an absentee ballot envelope is deficient. In 2018, in New York State, 9,321 absentee ballots were determined to be invalid. The cost of mailing a notice to these voters would have been \$5,126.55 statewide. This cost would have been interspersed throughout the 58 local boards of elections.

5. Local government mandates: As noted in the Costs section, pursuant to Chapter 141 of the Laws of 2020 and Election Law § 9-209(3) and (3-a), county boards of election are charged with notifying voters when it is determined that an absentee ballot envelope is deficient.

6. Paperwork: This proposal imposes no new reporting or regulatory filing requirements.

7. Duplication: There is no jurisdictional duplication created by this rulemaking.

8. Alternatives: The alternative is to have no regulation; however, as a consequence, the State Board would not be in compliance with Chapter 141 of the Laws of 2020.

9. Federal standards: The proposed regulations do not duplicate or conflict with any federal regulations.

10. Compliance schedule: Compliance will be required immediately upon publication of Emergency Rulemaking.

Regulatory Flexibility Analysis

1. Effect on Small Businesses and Local Governments

Local boards of elections will be affected by the proposed regulations. There are 58 local boards of elections.

2. Compliance Requirements

The proposed regulations implement Election Law § 9-209(3) and (3-a) with respect to establish a cure process for absentee ballots. Pursuant to statute, the regulations require county boards of elections to notify voters when it is determined that their affidavit ballot envelope is deficient and provide such voters with an opportunity to cure such deficiencies. First, the board must mail a notice to the voter. Additionally, the board must call and email the voter if such information is available on the voter's registration data. To the extent practicable, the board is to make at least three attempts, over at least two days, at different times of the day, to contact the voter by telephone.

Further, the regulation provides that voters whose ballots are not curable and are rejected are notified. The regulation also provides standards related to unsealed absentee ballot envelopes, signature matching, and instructions related to absentee ballots not requiring a cure.

3. Professional Services

It is anticipated that the requirements imposed by the proposed regulations will be implemented by existing local board of elections work staff.

4. Compliance Costs

The regulatory amendments are required by Chapter 141 of the Laws of 2021 and Election Law § 9-209(3) and (3-a). The implementation of the proposed regulations will result in additional costs to local county boards of election, as local county boards will have to notify voters when it is determined that an absentee ballot envelope is deficient. In 2018, in New York State, 9,321 absentee ballots were determined to be invalid. The cost of mailing a notice to these voters would have been \$5,126.55 statewide. This cost would have been interspersed throughout the 58 local boards of elections.

5. Economic and Technological Feasibility

Upon making a determination that an absentee ballot envelope is deficient, a local board of elections must mail the voter a notice, and send a notice to the voter via electronic mail and telephone, if such information is available to the board in the voter's registration information or absentee application. However, there should not be any economic or technological compliance burdens to achieving compliance.

6. Minimizing Adverse Impact

The standards set forth in the proposed regulations reflect requirements as prescribed in Chapter 141 of the Laws of 2020 and Election Law § 9-209(3) and (3-a). The State Board is available to answer inquiries from local boards of elections regarding compliance with the requirements as laid out in statute and the proposed amendments.

7. Small Business and Local Government Participation

The State Board of Elections will inform commissioners of each local County Board of Elections in the State of New York of the amendments to the regulations that are necessitated by Chapter 141 of the Laws of 2020.

Rural Area Flexibility Analysis

Effect on Rural Areas:

Rural areas are defined as counties with a population less than 200,000 and, for counties with a population greater than 200,000, includes towns with population densities of 150 persons or less per square mile. The following 44 counties have a population less than 200,000:

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

The following 9 counties have certain townships with population densities of 150 persons or less per square mile:

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

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

Pursuant to statute, the regulations require county boards of elections to notify voters when it is determined that their affidavit ballot envelope is deficient and provide such voters with an opportunity to cure such deficiencies. First, the board must mail a notice to the voter. Additionally, the board must call and email the voter if such information is available on the voter's registration data. To the extent practicable, the board is to make at least three attempts, over at least two days, at different times of the day, to contact the voter by telephone.

Further, the regulation provides that voters whose ballots are not curable and are rejected are notified. The regulation also provides standards related to unsealed absentee ballot envelopes, signature matching, and instructions related to absentee ballots not requiring a cure.

Costs:

In 2018, 1,973 absentee ballots were determined invalid in rural counties. If all of these voters were given notice, it would have cost rural counties \$1,085.15 to mail voters a notice, using the current postage rate of 55 cents. The cost of printing the notice and envelopes is nominal.

Minimizing Adverse Impact:

As statute requires that voters be mailed a cure notice when it is determined that an absentee ballot is deficient, the Board of Elections has determined that there is no feasible mechanism to minimize any potential adverse impact.

Rural Area Participation:

The Board conducted a presentation via Zoom at the Election Commissioners' Association January conference on January 21, 2021, which detailed recent Election Law changes, including the absentee ballot cure process as required by this amendment and Chapter 141 of the Laws of 2020. The majority of local boards of elections commissioners were present at this conference. The Board will continue to accept input from local boards of elections regarding this amendment.

Job Impact Statement

Under SAPA 201-a(2)(a), when it is apparent from the nature and purpose of the rule that it will not have a substantial adverse impact on jobs and employment opportunities, the agency may file a Statement in Lieu of. This rulemaking, as is apparent from its nature and purpose, will not have an adverse impact on jobs or employment opportunities. The proposed amendment provides a cure process for voters when an absentee ballot envelope is determined to be deficient. This rulemaking imposes no regulatory burden on any facet of job creation or employment.

Department of Environmental Conservation

NOTICE OF ADOPTION

Stationary Combustion Installations

I.D. No. ENV-36-19-00003-A

Filing No. 77

Filing Date: 2021-01-26

Effective Date: 30 days after filing

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

Action taken: Repeal of Subpart 227-1; addition of new Subpart 227-1 to Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 19-0311, 71-2103 and 71-2105

Subject: Stationary Combustion Installations.

Purpose: Update permit references, rule citations, monitoring, recordkeeping, reporting requirements, and lower emission limits.

Text of final rule: Existing 6 NYCRR Subpart 227-1, Stationary Combustion Installations is repealed. A new Subpart 227-1, Stationary Combustion Installations is added as follows:

Section 227-1.1 Definitions.

The definitions within Part 200, Part 201, and Subpart 227-2 of this Title apply to this Subpart.

Section 227-1.2 Applicability and Prohibitions.

(a) This Subpart applies to stationary combustion installations except for those stationary combustion installations that are subject to new source performance standards under 40 Code of Federal Regulation (CFR) 60 and/or national emissions standards for hazardous air pollutants under 40 CFR 63, where the particulate matter standards established in the above regulations are equal to or more stringent than the particulate matter emission standards established in this Subpart.

(b) No owner or operator shall construct, install, or modify, or cause to be constructed, installed, or modified, any hand fed stationary combustion installation designed to fire bituminous coal.

Section 227-1.3 Particulate emissions.

(a) Upon promulgation of this regulation, no owner or operator of an existing stationary combustion installation which fires oil or oil in combination with other liquid or gaseous fuels shall be allowed to emit particulate matter in excess of 0.10 pound per million Btu heat input. Within four years of the promulgation of this regulation, no owner or operator of an existing stationary combustion installation firing solid fuel shall be allowed to emit particulate matter in excess of 0.10 pound per million Btu heat input. Upon the commencement of operation, no owner or operator of a new stationary combustion installation shall be allowed to emit particulate matter in excess of 0.10 pound per million Btu heat input. The above emission limits apply to stationary combustion installations with a maximum heat input capacity equal to or exceeding:

(1) 1 million Btu per hour firing any amount of solid fuel; or

(2) 50 million Btu per hour firing oil or oil in combination with other liquid or gaseous fuels.

(b) When two or more stationary combustion installations are connected to a common air cleaning device and/or stack, the total heat input of all the connected emission sources shall be the heat input for the purpose of determining the applicability of subdivision (a) of this Section, unless there is a limit in the facility's permit that prohibits operation of the connected emission sources below the specified heat inputs in subdivision (a) of this Section.

(c) All stationary combustion installations subject to the requirements of this subpart shall perform an annual tune-up of their equipment.

Section 227-1.4 Opacity.

(a) No owner or operator shall operate a stationary combustion installation which exhibits greater than 20 percent opacity (six-minute average), except for one six-minute period per hour of not more than 27 percent opacity.

(b) Compliance with the opacity standard may be determined by:

(1) conducting observations in accordance with 40 CFR 60 Appendix A Method 9 (See Table 1, section 200.9 of this Title);

(2) evaluating Continuous Opacity Monitoring System (COMS) re-

cords and reports as per Procedure 3 – Quality Assurance Requirements for Continuous Opacity Monitoring Systems at Stationary Sources of 40 CFR Part 60 Appendix F, Procedure – 3 (See Table 1, section 200.9 of this Title); and/or

(3) considering any other credible evidence.

Section 227-1.5 Compliance testing, monitoring, and recordkeeping.

(a) The owner or operator of a new solid fuel fired stationary combustion installation must conduct an initial compliance test within 180 days of the commencement of operation of the new stationary combustion installation to determine compliance with the applicable particulate matter emission limit as prescribed in this Subpart. The owner or operator of an existing solid fuel fired stationary combustion installation must conduct a compliance test within four years of the promulgation of this regulation. After the initial compliance test, all solid fuel fired stationary combustion installations must conduct periodic compliance tests at least once during the term of the permit. Prior to each test, the owner or operator of a solid fuel fired stationary combustion installation must meet the following criteria:

(1) submit a compliance test protocol to the department for approval at least 30 days prior to emission testing. The conditions of the testing, including the representative loads of operation the testing will be conducted at, and the locations of the sampling devices must be acceptable to the department; and

(2) follow the procedures set forth in 40 CFR 60, Appendix A Method 5 (See Table 1, section 200.9 of this Title), or any other method acceptable to the department and the administrator for determining compliance with the appropriate particulate matter emission limit in section 227-1.3 of this Subpart;

(3) submit a compliance test report containing the results of the emission test to the department for approval no later than 60 days after completion of the emission test.

(b) Monitoring requirements.

(1) Any owner or operator of a stationary combustion installation (excluding combustion turbines) or a group of stationary combustion installations with a total maximum heat input capacity exceeding 250 million Btu per hour shall install, operate, and properly maintain (in accordance with manufacturer's instructions), accurate COMS that satisfy the criteria in either 40 CFR 60 Appendix B (See Table 1, section 200.9 of this Title) or a department approved case-by-case method for continuously monitoring and recording opacity. Stationary combustion installations required to install COMS shall operate the COMS during all periods of oil and/or solid fuel firing.

(2) Each owner or operator required to operate a COMS in accordance with paragraph (1) of this subdivision shall submit an accurate excess emissions and monitoring system performance report to the department for each calendar year quarter. All reports shall be certified by a responsible corporate official as true, accurate and complete and postmarked by the 30th day following the end of each calendar quarter. The quarterly excess emissions report shall be submitted in a form acceptable to the department and shall include the following minimum information:

(i) the magnitude, date and time of each six-minute block average during which the average opacity of emissions exceeds 20 percent, except for one six-minute block average per hour not to exceed 27 percent;

(ii) identification of the specific cause and corrective action taken for each period of excess emission;

(iii) identification of all periods of COMS downtime, including the date, time and duration of each inoperable period, and the cause and corrective action for each COMS downtime period;

(iv) the total time in which the COMS are required to record data during the reporting period;

(v) the total number of exceedances and the duration of exceedances expressed as a percentage of the total time in which the COMS are required to record data; and

(vi) such other things as the department may deem necessary, proper or desirable in order to enforce article 19 of the Environmental Conservation Law or the rules promulgated thereunder.

(3) Any owner or operator of a stationary combustion installation (excluding combustion turbines) or a group of stationary combustion installations firing oil or oil in combination with other liquid or gaseous fuels with a total maximum heat input capacity of at least 50 million Btu per hour shall keep vendor certified fuel receipts which contain the sulfur content of the oil being fired as required in 6 NYCRR Subpart 225-1 of this Chapter.

(c) Recordkeeping.

(1) All records, department approved compliance testing protocols, and test results must be maintained on site or at an alternative location, as approved by the department, for a minimum of five years.

(2) Stationary combustion installations required to maintain a COMS must maintain a record of all measurements made by the COMS and the hours of COMS downtime.

(3) Facilities required to conduct annual tune-ups must maintain records of each annual tune-up for all subject stationary combustion installations at the facility.

Section 227-1.6 Severability. Each provision of this Subpart shall be deemed severable. In the event that any provision of this Subpart is held to be invalid the remainder of this Subpart shall continue in full force and effect.

Final rule as compared with last published rule: Nonsubstantial changes were made in sections 200.9, 227-1.2(a), 227-1.3(a) and 227-1.5(a).

Text of rule and any required statements and analyses may be obtained from: Mike Jennings, NYSDEC, Division of Air Resources, 625 Broadway Albany, NY 12233-3254, (518) 402-8403, email: air.regs@dec.ny.gov

Additional matter required by statute: Pursuant to Article 8 of the State Environmental Quality Review Act, a Short Environmental Assessment Form, a Negative Declaration and a Coastal Assessment Form have been prepared and are on file.

Summary of Revised Regulatory Impact Statement

INTRODUCTION

The New York State Department of Environmental Conservation (Department) is proposing to repeal and replace 6 NYCRR Subpart 227-1, "Stationary Combustion Installations" as well as attendant provisions under Part 200, "General Provisions" (collectively, Subpart 227-1). Currently, Subpart 227-1 establishes emission limits for particulate matter (PM) on oil fuel (including oil which is fired in combination with other liquid and gaseous fuels), and solid fuel (any amount) fired stationary combustion installations. Subpart 227-1 also establishes an opacity limit for all stationary combustion installations.

The Department is revising Subpart 227-1 to lower PM emission limits for existing and new stationary combustion installations except for those sources subject to new source performance standards under 40 Code of Federal Regulation (CFR) 60 and/or national emissions standards for hazardous air pollutants under 40 CFR 63, where the particulate matter standards are equal to or more stringent than the particulate matter emission standards established in this Subpart. These revisions will also correct minor typographical errors and update the regulation to incorporate changes to the air permitting regulations that have occurred over the past twenty years. In addition, the Department is revising Part 200 to incorporate by reference the applicable federal rule provisions.

As required by the Clean Air Act (CAA), the Department will incorporate the revisions to Subpart 227-1 and the attendant revisions to Part 200 into New York's State Implementation Plan (SIP) and provide the revised SIP to U.S. Environmental Protection Agency (EPA) for review and approval. The SIP is directed at maintaining the PM national ambient air quality standard (NAAQS) and fulfilling the Department's obligations under the regional haze SIP submitted to the EPA on March 15, 2010. These revisions are not a mandate on local governments. It applies to any entity that owns or operates a stationary combustion installation as set forth in the regulations.

STATUTORY AUTHORITY

The statutory authority for these revisions is found in the New York State Environmental Conservation Law (ECL): sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 19-0311, 71-2103, and 71-2105.

Based on the above-referenced sections, the Department has very broad authority to regulate air pollution from portable or stationary sources, including the promulgation of 6 NYCRR Subpart 227-1 entitled "Stationary Combustion Installations".

LEGISLATIVE OBJECTIVES

Article 19 of the ECL was adopted for the purpose of safeguarding the air resources of New York State from pollution. To facilitate this purpose, the Legislature bestowed specific powers and duties on the Department including the power to formulate, adopt, promulgate, amend, and repeal regulations for preventing, controlling or prohibiting air pollution. This authority also specifically includes promulgating rules and regulations for preventing, controlling or prohibiting air pollution in such areas of the state as shall or may be affected by air pollution, and provisions establishing areas of the state and prescribing for such areas (1) the degree of air pollution or air contamination that may be permitted therein, and (2) the extent to which air contaminants may be emitted to the air by any air contamination source. In addition, this authority also includes the preparation of a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of any new air pollution recognizing various requirements for different areas of the state.

The legislative objectives underlying the statutes are directed toward protection of the environment and public health. The proposed rulemaking will further the state's goals by reducing air pollution, specifically PM emissions, a criteria pollutant and a precursor to PM-2.5, which in turn is a precursor to visibility-impairing haze from the majority of oil firing stationary sources.

NEEDS AND BENEFITS

There are many environmental benefits inherent in the reductions of PM that do not explicitly relate to visibility improvement. These reductions will lead to advances in health protection as well. In addition to experiencing improved visibility, forested areas such as the Adirondack Park will benefit from reduced PM acid deposition impacts. These environmental impacts could also be expected to translate into economic benefits from increased public use of a cleaner and visibly healthier park.

Elevated PM levels are of concern for the New York City metropolitan area, which has been designated, until recently, as non-attainment for the annual and 24-hour PM-2.5 NAAQS. PM consists of microscopic solid or liquid particles and is the major cause of the regional haze issue. PM can be emitted directly from stationary sources or comprised of nitrate and sulfate particles formed through reactions involving NOx and SO2 in the atmosphere. These particles are small enough to be inhaled into the lungs and can even enter the bloodstream. Ongoing scientific studies show that particulate inhalation, similarly to ozone, leads to health problems such as coughing, difficulty breathing, aggravated asthma, and a higher likelihood for other respiratory disorders. Increased PM exposure may even cause premature death in those with existing heart or lung disease.

The revisions to Subpart 227-1 are intended to reduce the emission of PM that are the precursors of PM-2.5 below the present levels. Regulatory efforts such as the NSPS and NESHAP programs, past NYS and federal fuel PM emission limits for stationary and mobile sources, and efforts like the Clean Air Interstate Rule have had a significant effect on air quality and health. The proposed PM limits in this rule are expected to further reduce monitored values of PM-2.5, and to enable and maintain attainment of the NAAQS. The proposed PM emission limits will reduce actual PM emissions throughout NYS by two to five tons per day.

Stakeholder Meetings:

The Department held stakeholder meetings on July 26th through July 28th, 2017 in Albany, NY, New York City, NY and Avon, NY, respectively. The Department sent a fact sheet out to interested parties including the environmental justice community. Several of the interested parties attended each of these meetings where they asked questions and provided comments on the draft regulatory language.

COSTS

Costs to Regulated Parties and Consumers:

For oil fired stationary combustion installation control costs, there is a direct correlation between the sulfur content of fuel oil and PM emissions. The USEPA's 5th Edition AP-42 Final Section for External Combustion Sources (AP-42) emission factors for residual oil contain a sulfur-in-fuel component. Since the 2013 revision of Subpart 225-1 lowered the sulfur-in-fuel requirements for fuel oil (both residual and distillate oils), the emission factor derived from AP-42 would be lower than the Subpart 227-1 revised prescribed PM emission limit of 0.1 pounds per million Btu for oil fired stationary combustion installations.

The AP-42 distillate oil PM emission factors are also lower than the prescribed Subpart 227-1 PM emission limits. Based on these factors, the Department does not believe that there will be a need to install PM emission controls on oil fired stationary combustion installations as a result of these proposed revisions to Subpart 227-1. Therefore, the Department's proposed PM emission limit for oil fired stationary combustion installations will not cause any new control costs to be incurred by the sources subject to the proposed regulation.

For solid fuel fired stationary combustion installation control costs, there are several control technologies that may be used to control PM emissions from solid fuel stationary combustion installations. The following table lists the control types and costs for installing PM controls on solid stationary combustion installations of 10 mmBtu/hr or smaller heat input:

Control Type	Removal Effectiveness (%)	Installation Costs (\$)	Annual Operations/Maintenance Costs (\$)
Cyclone	50	7,000 - 10,000	< 1,000
Multi-Clone	75	10,000 – 16,000	< 1,000
Core Separator	60	100,000	Unknown
ESP	90	60,000 – 175,000	1,000 – 3,000 + electricity costs
Fabric Filter	98	80,000 – 135,000	10,000

For solid fuel fired stationary combustion installations greater than 10 mmBtu/hr heat input the cost figures can be conservatively increased one time for every 10 mmBtu/hr increase in heat input. Therefore, the cost

figure would double for a 20 mmBtu/hr heat input stationary combustion installation, while tripling for a 30 mmBtu/hr heat input combustion installation. The life span of these control devices has been conservatively estimated to be 20 years.

Both oil and solid fuel fired stationary combustion installations will be required to perform annual tune-ups. Solid fuel fired stationary combustion installations will be required to conduct emissions compliance testing at least once during the term of their permit. Annual tune-ups cost between \$1,000.00 and \$5,000.00 per tune-up, depending on the size of the source. Compliance tests cost between \$5,000.00 and \$10,000.00 per test, depending on the size of the source and complexity of the test set-up based on source configuration.

Costs to State and Local Governments:

New York State and local governments may incur increased control and compliance testing costs associated with this proposed regulation. There will also be minimal new recordkeeping and annual tune-up requirements imposed on local governments as a result of this proposed rule-making. Based on the Department's permitting data, there are a total of 56 Title V permits, 104 state facility permits, and 760 registrations at New York State and local government facilities. Approximately 210 of these facilities contain stationary combustion installations where the requirements of Subpart 227-1 are applicable. Of the 210 affected facilities 180 contain oil fired stationary combustion installations while there are 30 facilities that fire wood for fuel. Therefore, over 85 percent of the affected New York State and local government facilities will incur minimal costs to comply with the proposed rulemaking.

Costs to the Regulating Agency:

The Department will face some initial administrative costs associated with the application review and permitting of the new PM limits. Minimal additional monitoring, recordkeeping, and reporting requirements are being proposed under this rule-making. Therefore, minimal additional costs will be incurred by the regulating agency based on these factors.

LOCAL GOVERNMENT MANDATES

This is not a mandate on local governments. Local governments have no additional compliance obligations as compared to other subject entities. Also, no additional monitoring, recordkeeping, reporting, or other requirements will be imposed on local governments under this rulemaking.

PAPERWORK

The proposed changes to Subpart 227-1 will create no additional paperwork for the facilities subject to the requirements of this rule.

DUPLICATION

The proposed revisions to Subpart 227-1 do not duplicate, overlap, or conflict with any other State or federal requirements.

ALTERNATIVES

The Department evaluated the following alternatives:

(1) Take no action: This alternative could prevent New York State from complying with its obligations under the CAA. If the Department does not implement this regulation, the state would not be able to meet its obligations to maintain attainment with the PM-2.5 standard, nor would it reduce the regional haze impacts in the northeast. The reduction in PM emission limits will directly result in reductions of PM, PM-10, and PM-2.5. Therefore, the "Take no action" alternative has been rejected.

(2) Partial revision of the current regulation: The Department could revise Subpart 227-1 to only correct the typographical errors and update the permitting language contained in the regulation. However, the Subpart 227-1 PM emission limits were last revised in 1971 and are over 45 years old, and do not lend favorably to the state's air quality goals that were discussed earlier. These limitations are based on combustion and control technologies that are 50 years old. Therefore, based on the vast improvements in both combustion and control technologies the "partial revision" alternative has been rejected.

FEDERAL STANDARDS

The proposed revisions to Subpart 227-1 do not exceed any minimum federal standards.

COMPLIANCE SCHEDULE

The compliance date for existing solid fuel fired stationary combustion installations, including the installation of any required controls and the completion of compliance testing, is four years from the effective date of the revisions. For existing stationary combustion installations which fire oil or oil in combination with other liquid or gaseous fuels, compliance is required on the effective date of the regulation. The compliance date for new stationary combustion installations will be upon the commencement of operation.

Revised Regulatory Flexibility Analysis

EFFECT OF RULE

The Department proposes to revise Subpart 227-1, "Stationary Combustion Installations" as well as attendant provisions under Part 200, "General Provisions" (collectively, Subpart 227-1). The proposed rulemaking will apply statewide. Small businesses are those that are independently owned, located within New York State (NYS), and that employ 100 or fewer

persons. The proposed revisions to the Subpart 227-1 requirements flow from the state's obligations under the federal Clean Air Act. Therefore, the proposed revisions do not constitute a mandate on local governments. The Subpart 227-1 requirements apply equally to every facility that contains a stationary combustion installation in New York State. The proposed revisions will not affect small businesses or local governments differently from any other source subject to this rule.

COMPLIANCE REQUIREMENTS

The proposed rule will lower particulate matter (PM) emission limits, correct typographical errors, and update the regulation to incorporate changes to the air permitting regulations. Minimal additional monitoring, recordkeeping, and reporting requirements are being proposed under this rule-making.

PROFESSIONAL SERVICES

The proposed rule will lower PM limits. No changes will be made in the monitoring, recordkeeping, or reporting requirements in the current version of Subpart 227-1. Facilities subject to this rule are simply required to comply with the new lower PM emission limits. Based on the requirement to meet lower PM emission limits the Department expects that some small businesses and/or local governments will need to hire additional professional services to comply with the provisions of the proposed rule.

COSTS

Solid fuel fired (any amount) stationary combustion installations subject to the Subpart 227-1 provisions may incur increased control costs associated with this proposed regulation. Depending on the size of the affected emission source and type of control required to meet the prescribed limit of the proposed regulation the costs incurred may vary greatly. The annualized cost control range, which includes installation, operations, maintenance (including annual tune-ups), and monitoring costs is based on a 20-year control life and has been calculated to be between \$1,250.00 and \$20,500.00 per individual emission source.

There are no projected control costs associated with oil fired (this includes oil fired in combination with other liquid and gaseous fuels) stationary combustion installations. There will be minimal new costs associated with compliance testing (once during the term of the permit or registration), recordkeeping, and annual tune-ups that are required under the proposed regulation. The annualized cost for these sources has been calculated to be between \$1,250.00 and \$5,500.00 per individual emission source.

Based on the Department's permitting data, there are a total of 56 Title V permits, 104 state facility permits, and 760 registrations at New York State and local government facilities. Approximately 210 of these facilities contain stationary combustion installations where the requirements of Subpart 227-1 are applicable. The vast majority of the 210 affected facilities contain oil fired stationary combustion installations (approximately 180 facilities). The Department has issued permits or registrations to 51 facilities throughout the State that employ 76 wood fired emission sources. These emission sources range in size from 1.4 mmBtu/hr heat input to 855 mmBtu/hr heat input and burn wood chips, hogged wood fuel, and wood pellets. Of these 51 facilities 30 are owned by New York State or local governments. Therefore, over 85 percent of the affected New York State and local government facilities will incur minimal costs to comply with the proposed rulemaking.

MINIMIZING ADVERSE IMPACT

The Department does not expect any particular adverse impacts on small businesses and local governments throughout New York State. Subpart 227-1 is a statewide regulation. Its requirements are the same for all facilities. The Department does not anticipate small businesses or local governments to be impacted differently than other sources subject to the proposed revisions to Subpart 227-1.

SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

The Department held stakeholder meetings (including environmental justice outreach) on July 26th through July 28th, 2017 in Albany, NY, New York City, NY and Avon, NY, respectively. The Department sent a fact sheet out to interested parties, including the environmental justice community. Several of the interested parties attended each of these meetings where they asked questions and provided comments on the draft regulatory language. The meetings were held to give representatives from the affected small business and local government representatives an opportunity to meet with Department staff and discuss various issues during the rulemaking process. The Department will also hold public hearings and seek comments on Subpart 227-1 throughout New York State and will notify small business and local government representatives as part of this proposed rulemaking.

ECONOMIC AND TECHNOLOGICAL FEASIBILITY

The Department has determined that the control technologies available for affected emission sources are both economically and technologically feasible.

CURE PERIOD OR AMELIORATIVE ACTION

The Department is not including a cure period in this rulemaking. The purpose of this regulation is to provide timely emissions reductions, delaying enforcement of the regulation adversely affects such emissions reductions.

Revised Rural Area Flexibility Analysis

TYPES AND ESTIMATED NUMBERS OF RURAL AREAS

The proposed rule (Subpart 227-1) is not expected to have a substantial adverse impact on rural areas in New York State (NYS). Rural areas are defined as rural counties in New York State that have populations of less than 200,000 people, towns in non-rural counties where the population densities are less than 150 people per square mile, and villages within those towns. The proposed rulemaking will apply statewide and thus all affected stationary combustion installations throughout the state will be equally affected.

REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES

The proposed rule will lower particulate matter (PM) emission limits, correct typographical errors, and update the regulation to incorporate changes to the air permitting regulations. Minimal additional recordkeeping and reporting requirements are being proposed under this rule-making.

COSTS

Solid fuel fired (any amount) stationary combustion installations subject to the Subpart 227-1 provisions may incur increased control costs associated with this proposed regulation. Depending on the size of the affected emission source and type of control required to meet the prescribed limit of the proposed regulation the costs incurred may vary greatly. The annualized cost control range, which includes installation, operations, maintenance (including annual tune-ups), and monitoring costs is based on a 20-year control life, and has been calculated to be between \$1,250.00 and \$20,500.00 per individual emission source.

There are no projected control costs associated with oil fired (this includes oil fired in combination with other liquid and gaseous fuels) stationary combustion installations. There will be minimal new costs associated with compliance testing (once during the term of the permit or registration), recordkeeping, and annual tune-ups that are required under the proposed regulation. The annualized cost for these sources has been calculated to be between \$1,250.00 and \$5,500.00 per individual emission source.

MINIMIZING ADVERSE IMPACT

The Department does not expect any adverse impacts on rural areas of the state. There will be positive environmental impacts from the regulation in rural areas. Rural areas should witness improved visibility with an associated decrease in airborne PM.

Subpart 227-1 is a statewide regulation. Its requirements are the same for all affected facilities, and rural areas are impacted no differently than other areas in New York State.

RURAL AREA PARTICIPATION

The Department held stakeholder meetings on July 26th through July 28th, 2017 in Albany, NY, New York City, NY and Avon, NY, respectively. The Department sent a fact sheet out to interested parties, including the environmental justice community. Several of the interested parties attended each of these meetings where they asked questions and provided comments on the draft regulatory language. These meetings included the rural-area stakeholders as well as industry representatives. The Department will also hold public hearings and seek comments on Subpart 227-1 in the upstate and other rural areas as part of this proposed rulemaking.

Revised Job Impact Statement

The edits made to the Express Terms do not require any changes to the JIS.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

During the public comment period for the proposed revisions to 6 NYCRR Subpart 227-1, the Department received a total of five comment letters. The Department parsed the comments into the following categories and prepared responses for each comment. This document summarizes those comments.

General:

The Department received comments on the number of wood-burning facilities affected by the proposed regulation, clarity on permit renewals, emissions from residential sectors, adverse impacts, and expenses required to achieve environmental benefits. Based on these comments, the Department clarified both the Regulatory Impact Statement (RIS) and the Regulatory Flexibility Analysis for Small Businesses and Local Governments to include the number of wood-burning facilities affected by the proposed changes.

The revisions to Subpart 227-1 lower PM emission limits for existing and new stationary combustion installations that are not subject to an equivalent or more stringent federal new source performance standard (NSPS) and/or national emissions standard for hazardous air pollutants (NESHAP). Currently, there is no NSPS for commercial/industrial/institutional wood burning sources in the 1 to 10 mmBtu/hr size range. Under Subpart 227-1, the current PM standard of 0.6 lbs/mmBtu for these size sources was developed over 40 years ago. Facilities that seek to replace existing wood burning sources have no incentive to purchase state-of-the-art equipment with controls. Therefore, as emissions of PM from residential sources decreases, the percentage of the emissions from the commercial/industrial/institutional will increase, if no new requirements are promulgated.

Annual Tune-ups:

The Department received comments requesting that wood burning sources smaller than 2 mmBtu/hr heat input be exempt from field testing of emissions, be required to only meet the annual tune-up provisions, or be exempted entirely from the regulation.

The Department's response states that periodic emissions testing will demonstrate if a source is complying with the required emission standards, and also indicate how much a source's performance may have degraded from the time it was originally installed. The current version of the regulation requires wood burning sources one mmBtu/hr or greater to meet an emission limit. Based on the current applicability and requirements, the Department stated that it could not "back slide" and exempt these sources or remove emission limit requirements.

Applicability:

The Department received comments requesting clarification regarding rule applicability. The express terms state that sources subject to equivalent or more stringent federal requirement are not subject to the requirements of the proposed Subpart. Clarifying language was added to the RIS to address these comments.

In particular, the Department responded to a comment concerning opacity requirements for certain fuels. The Subpart 227-1 opacity standard applies to all stationary combustion installations, regardless of the type of fuel combusted. This requirement has been in effect since the original regulation was promulgated on August 12, 1972.

The Department also responded to a comment to explain that this rulemaking eliminates the duplication of requirements in Subpart 227-1 from those in federal regulations. Any emission source at an affected facility that is subject to an NSPS or NESHAP which requires equivalent or more stringent emission standards than those proposed in Subpart 227-1 is not subject to the requirements of Subpart 227-1.

Cost:

The Department received comments stating that the cost estimates cited in the RIS are not accurate. The Department responded that the cost figures cited in the RIS were based on vendor data from the NYSERDA report.

Also regarding costs, the Department stated that while there may be varying costs associated with this rulemaking, each affected installation will need to individually evaluate the options available to them and determine the best course of action necessary to achieve compliance with the proposed emission standards.

Several comments stated that some existing wood-fired systems could not meet the required emission limit within two years of adoption of the rule and requested that the Department extend the compliance period of the proposed regulation. Upon review, the Department agrees and has revised the express terms and RIS to reflect this. The compliance period was extended for an additional two years.

Emission Limits:

Two commenters requested that the Department consider increasing the proposed PM limit from 0.1 lbs/mmBtu to 0.2 lbs/mmBtu. Based on the NYSERDA report, the Department believes that the 0.1 pounds per mmBtu limit is reasonable, achievable and practical.

The Department also received comments stating that the proposed particulate matter limit was significantly lower than the current regulation's particulate matter limit and that control devices would need to be installed to meet the proposed limit. The Department agrees with the comments and has increased the proposed compliance period from two years to four years to allow an adequate amount of time for affected facilities to install any necessary control equipment.

Greenhouse Gases (GHGs):

The Department received a comment stating that the proposed regulation will disproportionately and adversely affect rural areas with small commercial facilities (schools, hospitals, light manufacturing, etc.). Thus, causing an increase in GHGs. The Department responded that these types of facilities are generally located in the higher density areas of a rural community and have the highest impact on sensitive receptors like children and sick/infirm people. The Department stated that it has received complaints regarding health impacts at several wood burning systems that were installed at schools in rural areas. The Department determined that

due to poor siting and design, these incorrectly installed systems were negatively impacting the health of the nearby receptors, such as school children.

The Department received a comment that the proposed regulation would cause the landfilling of wood normally burned for fuel, which would create significant amounts of methane, a GHG that is roughly 30-times more potent than CO₂. The Department responded there are other uses for wood residues besides direct burning or landfilling, such as mulching or sending the product to wood pellet manufacturing facilities. While methane is a more potent GHG than carbon dioxide, it takes many years for wood to decompose and convert to methane gas, burning wood instantaneously creates carbon dioxide emissions, and methane created in landfills can be recovered for other productive uses.

Stakeholder Notification:

In response to stakeholder notification, the Department stated that due to the unknown number of impacted facilities throughout the State, stakeholder notifications were sent to several entities representing potentially impacted facilities, such as the New York State Business Council (Business Council) and other identified entities. The Department relies on these entities to inform their members of stakeholder meetings that may affect their operations. As required, all members of the public are notified and given the opportunity to comment during the rulemaking process.

Testing/Test Methods:

The Department received a comment stating that source testing is too expensive for small systems since boilers will not perform with wood fuel outside of the required specifications and advanced boilers will operate consistently over their lifetimes with very similar combustion characteristics.

The Department responded by stating that source testing is currently required either once every five years for Title V facilities or once every ten years for State facility and registered facility permits. The Department shared the cost range provided by the United States Environmental Protection Agency (EPA) which incorporates incidental expenses such as travel. The Department also cited the importance of source testing, which may indicate equipment degradation and potential emission increases over time.

In response to a request to use alternative testing methods, the Department stated that the rule allows a source to request a Department-approved alternative testing method. One Commenter requested that the Department accept EPA Method 28 and/or EN303-5 test methods because they could be used for several units in each size category, thus reducing costs for compliance and allowing rural residents to purchase wood fueled units at a much lower cost. The Department explained that the test methods cited by the commenter are not applicable to Subpart 227-1 sources since those methods apply to residential wood burning heating system smaller than the 1 mmBtu/hr minimum heat input, which are not regulated under this rule.

NOTICE OF ADOPTION

New Source Review Requirements for Proposed New Major Facilities and Major Modifications to Existing Facilities

I.D. No. ENV-06-20-00020-A

Filing No. 78

Filing Date: 2021-01-26

Effective Date: 30 days after filing

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

Action taken: Amendment of Part 231 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 71-2103 and 71-2105

Subject: New Source Review requirements for proposed new major facilities and major modifications to existing facilities.

Purpose: To conform to federal NSR rule requirements and related court rulings, correct typographical errors, and clarify rule language.

Substance of final rule: The Department of Environmental Conservation (Department) is proposing to amend Parts 200 and 231 of Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York, entitled "General Provisions" and "New Source Review of New and Modified Facilities" respectively.

The Part 200 amendments will incorporate by reference updated versions of 40 Code of Federal Regulations (CFR) Part 51 Appendix W: Guideline on Air Quality Models of the EPA and the list of Global Warming Potentials found in 40 CFR Part 98 Table A-1.

Existing Subparts 231-1 and 231-2 will be revised to correct typographical errors.

Existing Subpart 231-3 will be revised for clarification and to correct typographical errors.

Existing Subpart 231-4 will be revised to clarify definitions of Baseline actual emissions, Baseline area, Minor facility baseline date, Net emission increase, Nonattainment contaminant, Regulated NSR contaminant, and Source reduction. Definitions for "CO₂ equivalent" and "Subject to regulation" will be added and inserted alphabetically. Subpart 231-4 will also be revised to correct a typographical error.

Existing Subpart 231-5 will be revised to remove references to inter-pollutant trading ratios to offset direct emissions of particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers (PM-2.5) precursors and replace references to NYSDEC Guidelines on Dispersion Modeling Procedures for Air Quality Impact Analysis.

Existing Subpart 231-6 will be revised to remove references to inter-pollutant trading ratios to offset direct emissions of PM-2.5 precursors, replace references to NYSDEC Guidelines on Dispersion Modeling Procedures for Air Quality Impact Analysis, and correct typographical errors.

Existing Subpart 231-7 will be revised to clarify the requirement to establish the potential to emit of contaminants in a permit condition and correct typographical errors.

Existing Subpart 231-8 will be revised to remove the ability to use the netting provisions for greenhouse gases and correct typographical errors.

Existing Subpart 231-9 will be revised to clarify the reporting and notification requirements for plantwide applicability limits and correct typographical errors.

Existing Subpart 231-10 will be revised to remove references to inter-pollutant trading ratios to offset direct emissions of PM-2.5 precursors, clarify that the location requirements of all programs must be satisfied when using a oxides of nitrogen (NO_x) offset for multiple programs, clarify that decreases do not need to be included in a Part 201 permit for the creation of Emission Reduction Credits (ERCs), specify that sources with a variance for Reasonably Achievable Control Technology (RACT) can only obtain ERCs based on the statutory RACT limit, remove references to replacement of emission sources, and correct typographical errors.

Existing Subpart 231-11 will be revised to update references to Part 201 and clarify the reasonable possibility provisions.

Existing Subpart 231-12 will be revised to replace references to NYSDEC Guidelines on Dispersion Modeling Procedures for Air Quality Impact Analysis, replace the Significant Monitoring Concentration for PM-2.5 with a value of zero, add 1-hour Significant Impact Levels (SILs) for SO₂ and NO_x, clarify that impacts below the SILs are not always adequate, and correct typographical errors.

Existing Subpart 231-13 will be revised to remove references to specific PM-2.5 precursors, remove the reference to a major facility threshold for greenhouse gases, state netting is not allowed for greenhouse gases, update the table of global warming potentials, and correct typographical errors.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 231-1.9, 231-4.1(b)(40), (50), 231-10.3(b)(2), 231-12.2(a), 231-13.2, 231-13.4, 231-13.5, 231-13.6 and 231-13.7.

Text of rule and any required statements and analyses may be obtained from: Steve Yarrington, NYSDEC, Division of Air Resources, 625 Broadway, Albany, NY 12233-3254, (518) 402-8403, email: air.regs@dec.ny.gov

Additional matter required by statute: Pursuant to Article 8 of the State Environmental Quality Review Act, a Short Environmental Assessment Form, a Negative Declaration and a Coastal Assessment Form have been prepared and are on file.

Summary of Revised Regulatory Impact Statement

STATUTORY AUTHORITY

The statutory authority for these regulations is found in the New York State Environmental Conservation Law (ECL) sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 71-2103 and 71-2105.

LEGISLATIVE OBJECTIVES

Articles 1, 3 and 19 of the ECL set the overall legislative policy of reducing air pollution and providing clean air for the citizens of New York, as well as authorize the Department to adopt and enforce regulations to meet State and federal legislative objectives.

The federal Clean Air Act (Act or CAA) and its amendments are aimed at improving the quality of the Nation's air. The Act directs EPA to adopt public health- and welfare-based National Ambient Air Quality Standards (NAAQS) and requires states to develop SIPs which prescribe the measures needed to attain the NAAQS. The Act also mandates that SIPs contain a permitting program and a procedure to review new or modified air pollution sources.

On November 17, 2010, EPA approved New York's NSR program and

delegated authority to the Department to implement and enforce the program. The Department implements the NSR program under 6 NYCRR Part 231, which includes requirements for Prevention of Significant Deterioration (PSD) attainment area sources and Nonattainment New Source Review nonattainment area sources.

To meet the legislative objectives of the State and ensure that New York's NSR program remains consistent with the requirements of the Act, federal implementing regulations, and related court rulings, the Department is revising Part 231 as detailed below.

NEEDS AND BENEFITS

The Department is undertaking this rulemaking in response to EPA's June 1, 2016 SIP approval letter which indicated that portions of Part 231 required revision. Once these revisions are adopted through this rulemaking, Part 231 will be consistent with federal NSR rules - which will allow EPA to grant full approval of the State's Part 231 SIP approval request. The following paragraphs outline the various provisions of Part 231 that will be revised in this rulemaking.

Greenhouse Gases

On June 23, 2014, the U.S. Supreme Court issued a decision in *Utility Air Regulatory Group v. EPA* which held that EPA may not require a stationary source to obtain an NSR or Title V permit solely on the basis of its GHG emissions (EPA refers to these types of sources as "GHG-only" sources). The Court also held that EPA may continue to require limitations on a source's GHG emissions, based on the application of Best Available Control Technology (BACT), if the source is required to have a PSD permit anyway due to emissions of other pollutants (EPA refers to these types of sources as "anyway" sources).

In response to the *Utility Air Regulatory Group v. EPA* decision, EPA issued a Guidance Memorandum for the interim processing of federal PSD and Title V permits. EPA stated that it will no longer apply or enforce those PSD and Title V federal regulatory provisions, or EPA-approved SIP provisions invalidated by the Court pertaining to "GHG-only" sources. EPA stated that it would continue to require "anyway" sources to apply BACT to their GHG emissions and will continue to use the 75,000 tons per year (tpy) significance threshold as its de minimis level for BACT applicability. On October 15, 2014, the Department issued a discretionary enforcement letter in accordance with the *Utility Air Regulatory Group v. EPA* decision and EPA's July 24, 2014 Guidance Memorandum.

Consistent with the Guidance Memorandum, EPA finalized rulemakings on May 7, 2015 and August 19, 2015 to allow EPA and delegated authorities to rescind Title V and PSD permits for facilities and modifications that were major only for GHGs. EPA also removed the major source applicability threshold for PSD of 100,000 tpy of carbon dioxide equivalents in the August 19, 2015 rulemaking.

In accordance with the Supreme Court ruling and attendant changes to the federal rule, the Department is revising Part 231 to remove the applicability of NSR to a stationary source when the source's major source status is based solely on its GHG emissions. Similarly, the Department is revising the applicability of NSR to modifications at existing major facilities so that a modification is not considered a major modification under Part 231 based solely on its GHG emissions.

Inter-Pollutant Trading Ratios

On July 21, 2011, EPA issued its memorandum "Revised Policy to Address Reconsideration of inter-pollutant Trading Provisions for Fine Particles (PM-2.5)". That memorandum states that the preferred trading ratios set forth in EPA's May 16, 2008 final rule were no longer acceptable without a suitable demonstration that the ratios will not cause a violation in the specific nonattainment area. As a result, the Department is revising Part 231 to remove the EPA's preferred PM-2.5 inter-pollutant trading ratios for NO_x and sulfur dioxide in accordance with the EPA memorandum.

Significant Impact Levels and Significant Monitoring Concentration for PM-2.5

In another Court decision, *Sierra Club v. EPA*, the U.S. Court of Appeals for the District of Columbia Circuit vacated and remanded to EPA two portions of the PSD regulation regarding PM-2.5. The decision requires EPA to remove the provision that automatically exempts sources from CAA requirements if projected impacts are below Significant Impact Levels (SILs) for PM-2.5 or allows sources to avoid a one-year preconstruction air quality continuous monitoring requirement using a Significant Monitoring Concentration (SMC) for PM-2.5. The Department is revising Part 231 to conform to draft guidance issued by EPA on May 20, 2014, in order to comply with the Court's remand. In particular, the Department is replacing the SMC for PM-2.5 with a value of zero. Also, the Department reviewed EPA's draft guidance regarding PM-2.5 SILs and determined that the values included in Part 231 are still valid and no revisions are necessary.

Global Warming Potentials

In accordance with EPA's Part 231 SIP approval letter, the Department is also updating references to GWPs under Table 9 of Subpart 231-13 to match EPA's current list (See Table A-1, Subpart A of 40 CFR Part 98).

DEC Guidelines on Dispersion Modeling Procedures for Air Quality Impact Analysis

Also, in accordance with EPA's SIP approval letter, the Department is revising Part 231 to remove existing references to NYSDEC Guidelines on Dispersion Modeling Procedures for Air Quality Impact Analysis since the document can be changed without EPA review and, therefore, automatically approved into the New York SIP.

Use of NO_x Offsets as Precursors to both Ozone and PM-2.5

To further address EPA's SIP approval letter, the Department is revising Part 231 to clarify that a facility must meet all applicable location requirements to use NO_x offsets in areas of New York State that are designated nonattainment for both ozone and PM-2.5 in section 231-5.5 or 231-6.6.

COSTS

Regulated industries are already required to obtain permits, keep records, submit reports, and comply with the provisions of Parts 201 and 231. Any increase in burden on regulated industries under this proposal is expected to be minor. The costs associated with incremental increases in activities already performed at facilities to comply with permitting regulations are also expected to be minimal.

The economic impacts will not apply to small businesses due to the nature of the regulation. The proposed regulation applies to major facilities and modifications to existing minor facilities that, in and of themselves, would exceed major source thresholds.

The impact to publicly owned facilities (State and local government owned), by the proposed changes to the NSR regulations, will be minimal. Most publicly owned facilities are minor in nature and would not be required to apply advanced emission control technologies. Modifications at most of the publicly owned facilities would likely be minor and not trigger the applicability to NSR.

LOCAL GOVERNMENT MANDATES

The adoption of the proposed amendments to Part 231 are not expected to result in any additional burdens on State or local governments beyond those currently incurred to comply with the requirements of the existing NSR process under Subpart 201-6 and Part 231. The proposed amendments do not constitute a mandate on State and local governments. NSR requirements apply equally to every entity that owns or operates a source that proposes a project with emissions greater than the applicability thresholds of Part 231.

PAPERWORK

The proposed amendments to Part 231 are not expected to entail any significant additional paperwork for the Department, industry, or State and local governments beyond that which is already required to comply with the Department's existing permitting program under Subpart 201-6 and existing NSR regulations under Part 231.

DUPLICATION

This proposal is not intended to duplicate any other federal or State regulations or statutes. The proposed revisions to Part 231 will conform to the regulation to the federal requirements and attendant court decisions.

ALTERNATIVES

No other reasonable alternatives exist regarding the issues identified by EPA. In order for Part 231 to be approved into New York's SIP, the changes outlined in EPA's SIP approval letter must be included in this rulemaking. Failure to comply with EPA's request may result in EPA imposing a Federal Implementation Plan with the necessary changes included.

FEDERAL STANDARDS

The proposed revisions to Part 231 are consistent with federal NSR standards.

COMPLIANCE SCHEDULE

The proposed revisions do not create new compliance requirements or the need for a compliance schedule. The regulation will take effect 30 days after final publication in the State Register. Permits for new facilities and permit modifications for existing facilities will continue to be addressed upon submittal of a permit application by the facility owner and reviewed by the Department in accordance with applicable law.

Revised Regulatory Flexibility Analysis

EFFECTS OF RULE:

The New York State Department of Environmental Conservation (Department) proposes to revise 6 NYCRR Parts 200 and 231. The proposed rulemaking will apply statewide. The Department is undertaking this rulemaking in order to conform to federal New Source Review (NSR) rule requirements and related court rulings. On October 12, 2011, the Department submitted a revised State Implementation Plan (SIP) to the United States Environmental Protection Agency (EPA) that included revisions to Part 231 based on 2008 and 2010 amendments to the federal NSR rule. On June 1, 2016, EPA indicated in its SIP approval letter that certain portions of Part 231 required revision before they could be included in New York's SIP.

The revisions to Part 231 do not substantially alter the requirements for the permitting of new and modified major stationary sources which are currently in effect in New York State. The revisions leave intact the major

NSR requirements for application of Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) as appropriate, modeling, and emission offsets. As a result of this rulemaking, emissions of Greenhouse Gases (GHGs) alone will not trigger NSR permitting requirements. GHGs will only be subject to NSR if the new or modified facility is subject to the Prevention of Significant Deterioration provisions and GHGs emissions are greater than the significant project threshold in Table 6 of Subpart 231-13. The list of Global Warming Potentials in Table 9 of Subpart 231-13 will also be updated to match EPA's current list in their Mandatory Greenhouse Gas Reporting rule, 40 CFR Part 98 Table A-1. The specified precursors for particulate matter or particles with an aerodynamic diameter less than or equal to 2.5 micrometers (PM-2.5) will be removed and replaced with generic references to applicable precursors and the Significant Monitoring Concentration for PM-2.5 will be replaced with a value of zero. Many of the significant requirements are not changing: new or modified major facilities will still have to undertake applicability reviews and in appropriate cases submit permit applications and undertake control technology reviews. These revisions will also correct existing typographical errors identified after the previous Part 231 rulemaking was completed and clarify specific sections of existing Part 231. The Department does not anticipate that any of the proposed rule revisions would adversely affect small businesses or local governments in the State.

COMPLIANCE REQUIREMENTS:

There are no specific requirements in this rulemaking which apply exclusively to small businesses or local governments. As described above, the revisions to Part 231 do not substantially alter the requirements for the permitting of new and modified major stationary sources which are currently in effect in New York State. Accordingly, these requirements are not anticipated to place any undue burden of compliance on small businesses and local governments. This proposed rulemaking is not a mandate on local governments. It applies to any entity that owns or operates a source that proposes a project with emissions greater than the applicability thresholds of this regulation.

PROFESSIONAL SERVICES:

The professional services for any small business or local government that is subject to Part 231 are not anticipated to significantly change from the type of services which are currently required to comply with NSR requirements. The need for consulting engineers to address NSR applicability and permitting requirements for any new major facility or major modification proposed by a small business or local government will continue to exist.

COMPLIANCE COSTS:

Regulated industries are already required to obtain permits, keep records, submit reports and comply with the provisions of Parts 201 and 231. Any increase in burden on regulated industries under this proposal is expected to be minor. The costs associated with incremental increases in activities already performed at facilities to comply with permitting regulations are also expected to be minimal.

The economic impacts will not apply to small businesses due to the nature of the regulation. The proposed regulation applies to major facilities and modifications to existing minor facilities that, in and of themselves, would exceed major source thresholds.

The impact to publicly owned facilities (State and local government owned), by the proposed changes to the NSR regulations, will be minimal. Most publicly owned facilities are minor in nature and would not be required to apply advanced emission control technologies. Modifications at most of the publicly owned facilities would likely be minor and not trigger the applicability to NSR.

ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed revisions do not substantially alter the requirements for subject facilities as compared to those requirements that currently exist. The revisions leave intact the major NSR requirements for application of LAER or BACT as appropriate, modeling, and emission offsets. Therefore, the Department believes there are no additional economic or technological feasibility issues to be addressed by any small business or local government that may be subject to the proposed rulemaking.

MINIMIZING ADVERSE IMPACT:

The proposed rulemaking revisions as described above are not expected to create significant adverse impacts on any small business or local government. The proposed revisions will not alter the way the current regulations are implemented.

SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION:

The Department held a stakeholder webinar on March 27, 2019 to present the proposed changes to the public and regulated community. The Department also provided small businesses and local governments the opportunity to submit comments during the public comment period.

Revised Rural Area Flexibility Analysis

TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:

The New York State Department of Environmental Conservation

(Department) proposes to revise 6 NYCRR Parts 200 and 231. The proposed rulemaking will apply statewide and all rural areas of New York State will be affected. The Department is undertaking this rulemaking in order to conform to federal New Source Review (NSR) rule requirements and related court rulings. On October 12, 2011, the Department submitted a revised State Implementation Plan (SIP) to the United States Environmental Protection Agency (EPA) that included revisions to Part 231 based on 2008 and 2010 amendments to the federal NSR rule. On June 1, 2016, EPA indicated in its SIP approval letter that certain portions of Part 231 required revision before they could be included in New York's SIP.

The revisions to Part 231 do not substantially alter the requirements for the permitting of new and modified major stationary sources which are currently in effect in New York State. The revisions leave intact the major NSR requirements for application of Lowest Achievable Emission Rate or Best Available Control Technology as appropriate, modeling, and emission offsets. As a result of this rulemaking, emissions of Greenhouse Gases (GHGs) alone will not trigger NSR permitting requirements. GHGs will only be subject to NSR if the new or modified facility is subject to the Prevention of Significant Deterioration provisions and GHGs emissions are greater than the significant project threshold found in Table 6 of Subpart 231-13. The list of Global Warming Potentials in Table 9 of Subpart 231-13 will also be updated to match EPA's current list in their Mandatory Greenhouse Gas Reporting rule, 40 CFR 98 Table A-1. The specified precursors for particulate matter or particles with an aerodynamic diameter less than or equal to 2.5 micrometers (PM-2.5) will be removed and replaced with generic references to applicable precursors and the Significant Monitoring Concentration for PM-2.5 will be replaced with a value of zero. Many of the significant requirements are not changing: new or modified major facilities will still have to undertake applicability reviews and in appropriate cases submit permit applications and undertake control technology reviews. These revisions will also correct existing typographical errors identified after the previous Part 231 rulemaking was completed and clarify specific sections of existing Part 231. The Department does not anticipate that any of the proposed rule revisions would adversely affect rural areas in the State.

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

There are no specific requirements in this rulemaking which apply exclusively to rural areas of the State. As described above, the revisions to Part 231 do not substantially alter the requirements for the permitting of new and modified major stationary sources which are currently in effect in New York State. As such, the professional services that will be needed by any facility located in a rural area are not anticipated to significantly change from the type of services which are currently required to comply with NSR requirements.

COSTS:

Regulated industries are already required to obtain permits, keep records, submit reports and comply with the provisions of Parts 201 and 231. Any increase in burden on regulated industries under this proposal is expected to be minor. The costs associated with incremental increases in activities already performed at facilities to comply with permitting regulations are also expected to be minimal. No specific additional costs will be incurred by rural areas of the State.

MINIMIZING ADVERSE IMPACT:

The proposed rulemaking revisions as described above are not expected to create significant adverse impacts on rural areas. The proposed revisions will not alter the way the current regulations are implemented.

RURAL AREA PARTICIPATION:

The Department held a stakeholder webinar on March 27, 2019 to present the proposed changes to the public and regulated community. The Department also provided residents of rural areas of the State the opportunity to submit comments during the public comment period.

Revised Job Impact Statement

The edits made to the Express Terms do not require any changes to the JIS.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

Comment 1: The newly added section 231-4.1(b)(4)(i)(e) provides clarifications related to the determination of baseline actual emissions for multiple emission sources that had shutdown at a facility, but which are not part of a proposed modification. While, it is not clearly stated, it's the understanding of the Environmental Protection Agency (EPA) that in this newly added section, the New York State Department of Environmental Conservation (Department) meant to refer to those emission sources which shut down (i.e., decreased their emissions) during the contemporaneous period of a certain proposed modification. This new clause should be

revised to add language to clarify that it also applies to (1) multiple emissions sources that decrease their emissions by means other than shutdowns, and (2) multiple emission sources that increase their emissions during the contemporaneous period of a certain proposed modification. (Commenter 1)

Response to Comment 1: The proposed changes to the definition of baseline actual emissions were intended to clarify that as long as the facility is not proposing a modification, baseline period determinations are completely independent. Since it is possible that multiple emission sources could take limits on their emissions simultaneously, the definition has been revised to not be exclusively for shutdown sources. The magnitude of an emission increase is determined when the increase occurs. Therefore, no revisions to the definition of baseline actual emissions is required for emission increases.

Comment 2: The newly added section 231-4.1(b)(11) needs to be clearer as to how carbon dioxide (CO₂) equivalents should be calculated. (Commenter 1)

Response to Comment 2: The proposed definition of CO₂ equivalent (CO₂e) was moved from Part 200 where it was added in 2011. Since there have been no issues implementing the definition, no changes will be made now.

Comment 3: We recommend adding a definition for greenhouse gases (GHGs) under Subpart 231-4. (Commenter 1)

Response to Comment 3: The term Greenhouse Gases is not specific to Part 231 and is defined at section 200.1(cu).

Comment 4: The newly added section at 231-4.1(b)(50)(i), which establishes the applicability criteria when GHGs emissions at a new major facility would be subject to regulation, should be revised by removing the reference to the calculation of emission increases in accordance with the project emission potential provisions of paragraph 41 since that is only applicable to existing sources. (Commenter 1)

Response to Comment 4: Existing minor facilities are covered by subparagraph (i) of the subject to regulation definition and are allowed to use project emission potential for calculating emission increases. The definition has been revised to state that that portion of the definition pertains to existing minor facilities.

Comment 5: Based on EPA's review, the language in section 231-8.7(a) could be interpreted to mean that a proposed modification must equal or exceed the significant net emission increase first and then Best Available Control Technology (BACT) applies to each emission source within that proposed modification. However, a proposed modification that would result in a significant net emissions increase, could include both, emission sources that increase their emissions, and emission sources that decrease their emissions. (Commenter 1)

Response to Comment 5: Only sources that increase emissions are part of the modification. A source that decreases emissions can be used in a netting analysis but would not be considered part of the modification and not subject to the requirement to install BACT.

Comment 6: Section 231-8.7(a) provides that in case of GHGs, BACT applies if the proposed modification experiences a significant emission increase, but it doesn't require a significant net emission increase. The Department should clarify whether its intention is to apply BACT to GHGs without a significant net emission increase in GHGs. (Commenter 1)

Response to Comment 6: The Department's intention is to apply BACT for GHGs for projects that increase GHG emissions by more than the significant project threshold of 75,000 tons and also result in another contaminant being subject to the Prevention of Significant Deterioration (PSD) regulation. Since netting requires a ton per year limit and increases of GHGs less than 75,000 tons per year do not meet the definition of subject to regulation, it is the Department's determination that GHGs are not subject to netting. Otherwise, a permit condition would be required limiting a contaminant that does not meet the definition of regulated NSR contaminant. Also, revised section 231-8.2 states our intention to not allow netting for GHGs.

Comment 7: EPA recommends revising Part 231 to be clear that particulate matter less than 2.5 micrometers (PM-2.5) nonattainment provisions would only apply when New York State or a portion of the State will become nonattainment for PM-2.5. (Commenter 1)

Response to Comment 7: The applicability of the Department's nonattainment NSR regulation is based on the definition of nonattainment area at section 200.1(av). Any changes to nonattainment designations will be made to that definition.

Comment 8: The revised section 231-9.5 (g)(v) 'Reporting and notification requirements' provision of the proposed Part 231 deleted this clause: "or the number determined by method included in the permit, as provided by." Given that the deletion appears to be inconsistent with the requirements at 40 CFR § 52.21(aa)(14)(i)(f), please provide the rationale for the deletion. (Commenter 1)

Response to Comment 8: The requirements have not changed. The provision to use a method included in the permit is found in section 231-

9.5(e)(7) which is referenced in section 231-9.5(g)(v). It was determined that repeating that requirement was unnecessary.

Comment 9: EPA recommends including a definition for the term “RACT [Reasonably Available Control Technology] variance” which is used in the newly added provision at section 231-10.3(c) or indicate other New York air regulations that define the term RACT variance. (Commenter 1)

Response to Comment 9: The term “RACT variance” has been replaced with a reference to a source specific RACT determination in 231-10.3(b)(2)(i)(c’).

Comment 10: Two scenarios or provisions where there is a reasonable possibility that a project that is not part of a major modification (where an insignificant modification occurs), which were included in the State Implementation Plan (SIP) approved Part 231 version, were removed from the proposed revised Part 231 version. Thus, please provide a justification for removing the two provisions, and a demonstration that the revised section 231-11.2 of the proposed Part 231 is at least as stringent as the federal PSD regulations. (Commenter 1)

Response to Comment 10: The applicability of the reasonable possibility requirements has not changed. The prior version of section 231-11.2(b) stated that it was applicable to a modification that did not exclude emissions and was less than 50 percent of the threshold or to a modification that did exclude emissions and, when those emissions were added to the project’s emissions, was less than 50 percent of the threshold. In either case, it is only applicable if emissions are less than 50 percent of the threshold. Therefore, there is no need to distinguish the two scenarios. Thus, only one scenario was proposed that covered both projects that exclude emissions and those that do not. The language in section 231-11.2(c) was revised in a similar way.

Comment 11: EPA would like to bring to the Department’s attention that the PM-2.5 annual average Significant Impact Level (SIL) value of 0.3 µg/m³ has been modified by EPA for attainment areas. However, in 2013, due to a lawsuit from the Sierra Club, the D.C. Circuit vacated and remanded in part the PM-2.5 SIL. EPA thereafter did more evaluation and analyses and recommended a value of 0.2 µg/m³ for the annual SIL. An April 17, 2018 guidance document from EPA notes that States may use other values up to 0.3 µg/m³. (Commenter 1)

Response to Comment 11: The Department is aware of the April 17, 2018 guidance and has determined that the PM-2.5 SIL value of 0.3 µg/m³ is still valid for New York State.

Comment 12: The proposed Part 231 does not include a SIL for ozone. However, since in practice New York State does not have any ozone attainment areas (due to the ozone transport region) it may not be relevant at this time. (Commenter 1)

Response to Comment 12: The Department agrees that a SIL for ozone is not relevant until such time that ozone is treated as an attainment contaminant in New York State.

Comment 13: Regarding the added text in section 231-12.7 “Significant impact levels for facilities located in attainment areas” of the proposed Part 231 that says, “the lesser of” and “or the difference between the NAAQS [National Ambient Air Quality Standard] and background concentration for that regulated NSR [New Source Review] contaminant” are incorrect and should be removed. The text was correct without the additions. (Commenter 1)

Response to Comment 13: It is the Department’s determination that ambient concentrations should remain below the NAAQS whenever possible. Therefore, since a project’s maximum impact could be below an applicable SIL but still cause an ambient concentration greater than the NAAQS when added to the background concentration, the proposed revision was added to guard against this possibility.

Comment 14: Table 5 of section 231-13.5 should include a major facility threshold for GHGs of 75,000 tpy of CO₂e, so that it will be consistent with section 231-4 (b)(50) ‘Subject to regulation’ that states that a new major facility with a potential to emit of 75,000 tpy of CO₂e, which is major for a regulated NSR contaminant other than GHGs, is major for GHGs. (Commenter 1)

Response to Comment 14: Since GHGs alone are no longer considered in determining if a facility or project is subject to PSD, there is no representative major facility threshold for GHGs. Once one regulated NSR contaminant exceeds an applicable threshold in section 231-13.5, emissions for all other regulated NSR contaminants are compared to the values in section 231-13.6 which includes the 75,000 ton threshold for GHGs.

Comment 15: Based on our review, Part 231 does not establish that 40 tpy of sulfur dioxide (SO₂) or oxides of nitrogen (NO_x) represent significant emissions or significant net increases for PM-2.5 emissions. Thus Part 231 should be revised to address this issue. (Commenter 1)

Response to Comment 15: Section 231-13.6 Table 6 has been revised to list SO₂ and NO_x as precursors to PM-2.5 with 40 tpy thresholds.

Comment 16: While the term potential to emit is used in several places within Part 231, there is no definition of potential to emit included in Part

231. We recommend either including a potential to emit definition in Subpart 231-4 or referring to other New York State regulations which include such definition. (Commenter 1)

Response to Comment 16: The term potential to emit is not specific to Part 231 and is defined at section 200.1(b).

Comment 17: While Part 231 refers to “project threshold” and “significant project threshold” in several places, Part 231 does not define these terms. We recommend revising Subpart 231-4 by including definitions for “project threshold” and “significant project threshold”. (Commenter 1)

Response to Comment 17: Tables in Subpart 231-13 are included for the various significant project thresholds and are referenced throughout Part 231. The Department has determined that no additional definitions are necessary.

Comment 18: Part 231 refers to the following terms: emission source, existing emission source, and new emission source in various provisions; however, it appears that these terms were not defined in Part 231. (Commenter 1)

Response to Comment 18: The term emission source is not specific to Part 231 and is defined at section 200.1(f). The terms existing and new do not have any special meaning for Part 231. If a source is at the facility prior to a modification, it is existing; if it is added in a modification, it is new. Similarly, if a facility is already permitted, it is existing; if it has never been permitted, it is new.

Comment 19: Based on our review, the criteria at 40 CFR § 52.21(b)(23)(iii) related to Class I areas was omitted from, both, the SIP approved Part 231 version and proposed Part 231 revisions. The Department should add this provision to Part 231 or provide justification why this provision should not be included in Part 231. (Commenter 1)

Response to Comment 19: There are no Class I areas located within 10 kilometers of New York State. Therefore, that provision is not applicable.

NOTICE OF ADOPTION

Above Referenced Parts Make Up the Department’s Operating Permit Program

I.D. No. ENV-17-20-00005-A

Filing No. 76

Filing Date: 2021-01-26

Effective Date: 30 days after filing

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

Action taken: Amendment of Parts 200, 201, 212 and 621 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 3-0301, 19-0103, 19-0105, 19-0301, 19-0302, 19-0303, 19-0305, 19-0311, 70-0109, 71-2103 and 71-2105; Clean Air Act, sections 501-507

Subject: Above referenced Parts make up the Department’s operating permit program.

Purpose: The purpose of this rulemaking is to improve the clarity and consistency of the Department’s operating permit program.

Substance of final rule: The New York State Department of Environmental Conservation (Department) is proposing to revise its Operating Permit Program as set forth in Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (6 NYCRR) Parts 200, General Provisions; 201, Permits and Registrations; 212, Process Operations; and 621, Uniform Procedures (collectively, Part 201).

The proposed revisions to Part 200 revise the definition of ‘emergency power generating stationary internal combustion engine’ to allow operation for more than 500 hours during a declared state disaster emergency as defined under Section 28 of the New York State Executive Law. It also modifies the definition of ‘combustion installation’ and adds the definitions of ‘fossil fuel’ and ‘furnace’, which are being removed from Paragraph 201-2.1(b).

The proposed revisions to Part 621 correct minor language inconsistencies in Subdivision 621.4(g). The renewal application deadlines specified in Paragraph 621.11(a)(1) are being revised to be consistent with Part 201. Finally, the language of Subdivision 621.11(i) is being revised to be consistent with Part 201.

Subdivision 621.4(g) is revised to remove an outdated reference to 6 NYCRR Part 215. Subparagraph 621.4(g)(2)(ii) is revised to refer to air state facility permits and correct a reference to Part 201. Clauses 621.4(g)(2)(v)(‘a’) and 621.4(g)(2)(v)(‘b’) are deleted. Paragraph 621.11(a)(1) is revised to clarify the renewal application deadlines for air state facility, Title V facility, and Title IV facility permits. Subdivision 621.11(i) is revised to clarify the public noticing requirements for air permits containing emission caps.

Subdivision 212-1.4(a) is revised to clarify its requirements. Subdivision 212-1.4(k) is revised to address toxic emissions from the iron and steel industry. Paragraph 212-1-5(e)(2) is revised to include an alternative toxic impact assessment method. Table 2 in Section 212-2.2 is revised to be consistent with Table 1 in Subpart 201-9 and to reflect the latest toxicological information. Table 6 in Subdivision 212-2.5(b) is revised to show permissible emission rates consistent with the formula presented in that Subdivision.

Subdivision 201-1.2(b) is revised and reworded to more clearly state its requirements. Sections 201-1.4, 201-1.5, 201-1.11, 201-1.12, and 201-1.13 are revised to more clearly state their requirements. Finally, a new Section 201-1.16 is added to specify certain criteria that owners or operators of research and development activities must meet to qualify for exemption from permitting requirements.

The definition of 'emergency' in Paragraph 201-2.1(b)(12) is revised to more clearly indicate situations that qualify as an emergency under Part 201. Paragraphs 201-2.1(b)(16) and 201-2.1(b)(17) are repealed and reserved. An extraneous sentence is removed from Paragraph 201-2.1(b)(20) to clarify its meaning. References to greenhouse gas emissions are removed from Paragraph 201-2.1(b)(21). Paragraph 201-2.1(b)(22) is revised to more clearly indicate situations that qualify as a malfunction under Part 201. Paragraph 201-2.1(b)(23) is repealed and reserved. Paragraph 201-2.1(b)(24) is revised to indicate that portable emission sources that remain at the same facility for 12 consecutive months will be treated as stationary emission sources. Paragraph 201-2.1(b)(26) is revised to include registrations. Paragraph 201-2.1(b)(29) is revised to more clearly indicate what qualifies as a temporary emission source. Finally, Paragraphs 201-2.1(b)(30), 201-2.1(b)(31), and 201-2.1(b)(32) are repealed.

Section 201-3.1 is revised to clarify its requirements and intent. Paragraph 201-3.2(c)(1) is revised to clarify the specific types of combustion installations that qualify for exemption. Paragraph 201-3.2(c)(6) is revised to remove engine test cells from the exempt activity. Paragraph 201-3.2(c)(13) is revised to clarify the emissions threshold for exempt graphic arts facilities. Paragraph 201-3.2(c)(21) is revised to remove liquid asphalt storage tanks from the exempt activity and add biodiesel storage tanks. Paragraph 201-3.2(c)(25) is revised to add liquid asphalt storage tanks to the exempt activity. Paragraph 201-3.2(c)(29) is revised to clarify which types of crushing operations qualify for exemption. Paragraph 201-3.2(c)(36) is revised to exclude plastic extrusion processes using halogenated polymers from the exempt activity. Paragraph 201-3.2(c)(40) is revised to clarify that laboratory operations producing commercial quantities of materials are not considered to be exempt. Paragraph 201-3.2(c)(44) is repealed and reserved. Paragraph 201-3.2(c)(46) is revised to include natural gas and methane fuel cells as an exempt activity. A new Paragraph 201-3.2(c)(49) is added to list covered manure storage exhausting to a flare or other appropriate control device as an exempt activity. A new Paragraph 201-3.2(c)(50) is added to list coffee roasting processes with a maximum operating capacity of less than 25 tons per year of green coffee beans as exempt activities. A new Paragraph 201-3.2(c)(51) is added to list process emission sources at breweries with total beer and malt liquor production less than 60,000 barrels per year as exempt activities. A new Paragraph 201-3.2(c)(52) is added to list process emission sources at wineries with total wine and brandy production less than 700,000 gallons per year as exempt activities. A new Paragraph 201-3.2(c)(53) is added to list process emission sources at distilleries with less than 10,000 distiller's bushels of grain input per year as exempt activities. A new Paragraph 201-3.2(c)(54) is added to list process emission sources at lumber drying kilns with an annual throughput of untreated wood less than 275,000 board feet as exempt activities.

Paragraph 201-3.3(c)(8) is revised to include nail salons as a trivial activity. Paragraph 201-3.3(c)(28) is repealed and replaced with an activity that applies to sub-slab depressurization systems. Paragraph 201-3.3(c)(29) is revised to clarify its intent. Paragraph 201-3.3(c)(30) is revised to clarify its intent. Paragraph 201-3.3(c)(41) is revised to remove tub grinders and construction and demolition waste crushers from the trivial activity. It is also revised to specifically exclude construction and demolition waste crushers and automotive and scrap metal shredding operations from the trivial activity. Paragraph 201-3.3(c)(63) is revised to more clearly indicate that the trivial activity does not apply to surface coating operations at woodworking facilities. Existing Paragraph 201-3.3(c)(84) is repealed and replaced with new language indicating that laser and plasma cutters and trimmers using appropriate emission control devices that do not emit hazardous air pollutants are considered trivial activities. Paragraph 201-3.3(c)(85) is repealed and reserved.

Paragraph 201-4.1(a)(2) is revised to replace the reference to 'persistent, bioaccumulative, and toxic compounds' with 'high toxicity air contaminants'. Further, Paragraph 201-4.1(a)(2) is revised to more clearly indicate that emissions of high toxicity air contaminants from combustion sources and exempt and trivial activities are not included in the facility

wide total when determining air facility registration applicability. Subdivision 201-4.2(d) is revised to more clearly indicate that an air facility registration must be issued by the Department prior to the commencement of construction of a new or modified facility or emission source. Subdivision 201-4.2(e) is revised to preserve an existing reference to the effective date of the 2013 revisions made to Subpart 201-4. Subdivision 201-4.2(f) is revised to indicate that the Department may withdraw or revoke air facility registrations in a manner that is consistent with the procedures set forth in 6 NYCRR Part 621. Paragraph 201-4.3(a)(1) is revised to more clearly state the identification information that must be provided with registration applications. Paragraph 201-4.3(a)(5) is revised to replace the reference to 'persistent, bioaccumulative, and toxic compounds' with 'high toxicity air contaminants'. Subdivision 201-4.4(a) is repealed. Subdivision 201-4.4(b) is renumbered as Subdivision 201-4.4(a) and revised to include a permit transfer application as part of the material that must be submitted following a change in facility ownership. Subdivision 201-4.5(a) is repealed and replaced with a new Subdivision 201-4.5(a) that more clearly states the purpose and applicability of cap-by-rule. Paragraph 201-4.5(j)(1) is renumbered as Subdivision 201-4.5(k).

Paragraph 201-5.1(a)(3) is revised to replace the reference to 'persistent, bioaccumulative, and toxic compounds' with 'high toxicity air contaminants'. Further, Paragraph 201-5.1(a)(3) is revised to more clearly indicate that emissions of high toxicity air contaminants from combustion sources and exempt and trivial activities are not included in the facility wide total when determining state facility permit applicability. Existing Subdivision 201-5.1(b) is revised to more clearly state that construction or modification may not commence until a state facility permit is issued by the Department. Paragraph 201-5.2(b)(8) is revised to replace the reference to 'persistent, bioaccumulative, and toxic compounds' with 'high toxicity air contaminants'. A new Subdivision 201-5.2(d) is added to state that renewal applications for state facility permits containing emissions caps are subject to public noticing requirements as described in 6 NYCRR Part 621. Subdivision 201-5.3(b) is revised to clarify which state facility permits are subject to recall as described in the Subdivision. Existing Section 201-5.4 is repealed and replaced with a new Section 201-5.4 that changes the modification procedures for state facility permits. The new Section 201-5.4 differentiates between significant and minor state facility permit modifications and establishes the necessary procedures for their review and issuance. Section 201-5.4 also describes appropriate procedures for certain changes at facilities holding a state facility permit that may be made without a permit modification in certain situations and following appropriate advance notification procedures. Finally, Section 201-5.4 allows the Department to require a permit modification for changes that would otherwise be subject to the advance notification provisions if an adverse environmental impact exists.

Subdivision 201-6.1(a) is revised to more clearly indicate that the described facilities may not be constructed or operated without first obtaining a Title V permit. Paragraph 201-6.2(a)(2) is revised to require the submission of a complete application prior to the commencement of construction of new or modified emission units that would make an existing facility subject to Title V permitting requirements. Paragraph 201-6.2(a)(2) is further revised to require the submission of a Title V permit application within one year of the commencement of operation of the new or modified emission units if the facility was issued an air state facility permit to construct. Subparagraph 201-6.2(d)(3)(i) is revised to replace the reference to 'persistent, bioaccumulative, and toxic compounds' with 'high toxicity air contaminants'. Subparagraph 201-6.4(c)(3)(i) is revised to require that electronic monitoring reports be submitted in a format acceptable to the Department. Existing Subdivision 201-6.4(f) is repealed and replaced with a new Subdivision 201-6.4(f) that more clearly describes operational flexibility requirements for Title V permits. The new Subdivision 201-6.4(f) outlines the procedures facility owners and operators must follow to establish alternate operating scenarios and operational flexibility protocols should they choose to do so. Subdivision 201-6.5(c) is revised to reference the emergency defense provisions of Section 201-1.5 as they are better described at that Section.

Subdivision 201-7.1(c) is revised to more clearly describe the information that must be included in applications proposing one or more emissions caps.

Existing Subpart 201-9 is repealed and replaced to be consistent with Table 2 in 6 NYCRR Part 212-2.2.

A new Subpart 201-10 is added to include a severability clause for Part 201.

Final rule as compared with last published rule: Nonsubstantial changes were made in sections 200.1(db), (dc), 201-4.1(a)(2), 201-5.1(a)(3), 212-1.2 and 212-1.4(k).

Text of rule and any required statements and analyses may be obtained from: Mark Lanzafame, P.E., NYSDEC, Division of Air Resources, 625 Broadway, Albany, NY 12233-3254, (518) 402-8403, email: air.regs@dec.ny.gov

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

Summary of Revised Regulatory Impact Statement

The New York State Department of Environmental Conservation (Department) is proposing revisions to its Operating Permitting Program (OPP). The OPP sets forth the regulatory requirements and procedures for owners and operators of air contamination sources applying for and obtaining a permit or registration from the Department for the construction and operation of the source. The OPP is authorized under Section 19-0311 of the New York State Environmental Conservation Law (ECL) and implemented by the Department through Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Parts 200, General Provisions; 201, Permits and Registrations; and 621, Uniform Procedures (collectively, Part 201). This rulemaking will revise Part 201 to clarify certain requirements, provide consistent implementation of the OPP across the state, streamline the air permitting process, and facilitate the ease of use and timely administration of the OPP. Additionally, this proposal will modify 6 NYCRR Section 212-2.2, Table 2 – High Toxicity Air Contaminant (HTAC) list, to be consistent with Table 1 of Subpart 201-9. Finally, this proposal will also make minor changes to 6 NYCRR Part 212 to improve the clarity of its requirements.

1. STATUTORY AUTHORITY

The statutory authority for these regulations is found in Sections 1-0101, 3-0301, 19-0103, 19-0105, 19-0301, 19-0302, 19-0303, 19-0305, 19-0311, 70-0109, 71-2103, and 71-2105 of the ECL, and Sections 501-507 (Title V) of the Clean Air Act (CAA or Act).

2. LEGISLATIVE OBJECTIVES

The CAA Amendments of 1990 established federal standards for state OPPs in order to fulfill the Act's environmental protection goals. Title V established standard requirements for state OPPs to ensure that major sources of air pollution complied with the requirements of the Act, along with any federal standards promulgated by EPA (Environmental Protection Agency) to protect air quality. Title V requires states to establish a permit program implementing the requirements of the Act and requires EPA to review and approve the program. The OPP must address both large and small sources of air pollution and provide a basis for implementing and enforcing federal and state regulations.

Articles 1 and 3 of the ECL define the legislative policy objective of reducing air pollution and providing clean air for the citizens of New York and provide authority for the Department to adopt and enforce regulations to accomplish these objectives. Additionally, Article 19 of the ECL was enacted to safeguard the air quality of the state from pollution, ensure the protection of public health and the welfare of the people of the State and, to that end, require the use of all available practical and reasonable methods to prevent and control air pollution in the State. In furtherance of these objectives, ECL Article 19 grants specific powers and duties to the Department, including the authority to promulgate regulations requiring sources of air pollution to obtain permits and registrations from the Department and the authority to control and abate new and existing sources of air pollution.

3. NEEDS AND BENEFITS

Need for Revisions to the OPP

In 2013, the Department adopted revisions to Part 201 which updated its requirements, improved its clarity and consistency, and made the air permitting process easier to implement. Despite the overall success of this rulemaking, the Department identified items that need additional clarification. The Department has received feedback from the regulated community regarding ways to improve implementation of Part 201. Accordingly, the Department is proposing to amend Parts 200, 201, 212, and 621 to ensure that the OPP is as efficient and up to date as possible, and that it is implemented consistently across the state.

Benefits of Air Permitting Program Revisions

Adopting the proposed revisions will allow the Department to further streamline the air permitting process and provide clarity to the requirements. As a result, the OPP will become more efficient and easier to implement, thus reducing the compliance burden on both the Department and regulated facilities. In addition, this proposal will allow the Department to better fulfill its mandate to protect the citizens and environment of the state by updating the list of HTACs to be consistent with the most recent toxicological data.

Proposed Amendments to Part 200

The Department is proposing to amend Part 200.1(cq) by revising the definition of 'emergency power generating stationary internal combustion engine' to allow emergency engines to operate more than 500 hours per year during a declared state of emergency. The Department did not intend to prohibit the operation of these engines during such an emergency. The Department is also proposing to amend Part 200.1(l) by revising the definition of 'combustion installation' to add "other solid, liquid, and gaseous fuels" to those listed. The Department is also proposing to relocate the

definitions of the terms 'fossil fuel' and 'furnace' from Subpart 201-2 to Part 200.1.

Proposed Amendments to Part 621

Subdivision 621.4(g) will be revised to provide clarity and conform these provisions with the requirements of Part 201. Specifically, the proposed revisions will correct several minor inconsistencies in regulatory citations and language making it easier to understand and implement.

In addition, the proposal will correct an inconsistency with the renewal provisions for air state facility permits. Existing Paragraph 621.11(a)(1) states that renewal applications for non-major (i.e. state facility) air permits are due no later than 30 days prior to the expiration date of the permit. This is inconsistent with Subdivision 201-5.2(c), which states that renewal applications for state facility permits must be submitted no later than 180 days prior to the expiration date of the permit. It is the Department's intent that renewal applications for state facility permits be submitted as described in Subdivision 201-5.2(c).

Proposed Amendments to Part 201

Minor language revisions throughout Part 201 are being proposed. Further, the definitions of 'permit shield', 'Title V facility permit', 'Title V facility permit modification', and 'Title V facility permit revision' are being removed as those terms are more clearly described elsewhere within Part 201.

The proposal will add a new Section 201-1.16 addressing research and development (R&D) activities. These activities are currently exempt from permitting in situations where products are not being produced for commercial sale. An increase in R&D activities being conducted throughout the State necessitates a more thorough review of these activities and their emissions.

Several exempt and trivial activities will be updated to make it easier to determine whether an emission source qualifies for exemption. The Department is proposing a new exempt activity that applies to wood and lumber drying kilns processing 275,000 board feet or less of untreated wood on an annual basis. The Department is also proposing a new exempt activity that applies to coffee roasting processes with a maximum operating capacity of 3 kilograms or less per batch and 25 tons or less per year of green coffee beans. The proposed revisions also include three new exempt activities for certain small beverage alcohol production facilities. Finally, a new exemption for covered manure storage exhausting to a flare is proposed.

The proposed revisions to Section 201-3.2 will reduce the maximum size for exempt liquid asphalt storage tanks from 300,000 barrels (12,600,000 gallons) to 10,000 gallons and add biodiesel storage tanks to the exempt activity.

Finally, the Department is proposing to revise a trivial activity that applies to certain solid waste handling operations. This activity was revised during the 2013 revisions to Part 201 to include tub grinders and construction and demolition waste crushers. It has become clear that both activities can be a significant source of nuisance dust and are therefore not appropriately classified as trivial activities.

Subdivision 201-4.5(a) will be clarified. The Department does not intend to prevent facility owners or operators from registering because they cannot cap-by-rule to avoid a state VOC RACT regulation. Such a facility could cap-by-rule in order to avoid major facility status while still complying with VOC RACT requirements.

Section 201-5.2 will be amended to state that state facility permits containing emissions caps must be publicly noticed when they are renewed or modified.

The modification procedures for state facility permits will be restructured. These new provisions mirror the modification provisions for Title V facility permits by addressing significant and minor modifications, allowing the Department to act more quickly on certain modification applications. Proposed Section 201-5.4 also includes provisions for changes that can be made at permitted facilities without a permit modification.

Subdivision 201-6.4(f) outlines the procedures for implementing operational flexibility at Title V facilities. This section will be revised to clarify its intent and simplify implementation.

The group of compounds listed as persistent, bioaccumulative and toxic compounds will be renamed as HTACs in order to be consistent with Part 212. This change does not affect the requirements for calculating HTAC emissions when determining what type of permit is required for a facility. Additionally, the Department has reevaluated the list of HTACs based on the latest available data, resulting in several changes to the listed compounds.

Proposed Amendments to Part 212

The Department is proposing to update Table 2 – HTAC list, in Section 212-2.2 to be consistent with Table 1 in Subpart 201-9.

Subdivision 212-1.4(k) will be revised to address mercury and other toxic emissions from the iron and steel industry.

Paragraph 212-1.5(e) will be revised to simplify the toxic impact assessment requirements in certain situations.

Subdivision 212-2.5(a) will be revised to remove a duplicative entry from Table 5.

4. COSTS

The Department does not anticipate any increase in costs to the regulated community as a result of this rulemaking. Affected facilities are already required to pay applicable fees, monitor operations, and operate pollution control equipment. Further, many of these facilities already employ the necessary staff required to complete these tasks. Any increase in costs to the regulated community due to the HTAC list changes is expected to be minimal.

An informal survey of facility owners and operators conducted in 1996 by the New York State Environmental Facilities Corporation (EFC) determined the average cost of applying for a minor facility permit in two different regions of the state: downstate and upstate. When updated to 2017 dollars, the costs for state facility permit and registration applications in the downstate region ranged from \$1,600 to \$7,700 per emission point. In the upstate region, these costs are estimated at \$1,900 to \$4,300. Some facilities may choose to hire a consulting firm to assist with this process. The Department estimates that the cost of hiring a consulting firm is approximately \$6,000.

5. PAPERWORK

The proposed changes are not expected to increase the amount of paperwork required from affected facilities.

6. LOCAL GOVERNMENT MANDATES

The proposed revisions do not create any local government mandates and are not expected to result in any additional burdens to State or local governments.

7. DUPLICATION

The proposal does not duplicate any state or federal regulations or statutes. The final rule will conform to the requirements of the Act and the ECL.

8. ALTERNATIVES

The only alternative to this proposal is to take no action, which will have several negative consequences. Confusing language will remain in the regulations, resulting in inconsistent implementation and a lengthier permitting process. The mass emission thresholds for HTACs will remain inconsistent with the current assessment of their relative risk, potentially requiring the owner or operator of a facility emitting these compounds to unnecessarily obtain a state facility permit at a greater cost.

9. FEDERAL STANDARDS

The proposed revisions to Part 201 are consistent with federal standards and fulfill the Department's obligations under the Act.

The proposed revisions to Part 212 use federal NESHAP standards as a floor and build upon them to ensure that all air toxic emissions are appropriately regulated.

10. COMPLIANCE SCHEDULE

The proposed revisions do not result in the establishment of any compliance schedules. The regulation will take effect 30 days after publication in the State Register.

Revised Regulatory Flexibility Analysis

The New York State Department of Environmental Conservation (Department) is proposing several revisions to its Operating Permitting Program (OPP). The OPP sets forth the regulatory requirements and procedures to allow owners and operators of an air contamination source to apply for and obtain a permit or registration from the Department for the construction and operation of such sources. The OPP is authorized under Section 19-0311 of the New York State Environmental Conservation Law (ECL) and implemented by the Department through Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Parts 200, General Provisions; 201, Permits and Registrations; and 621, Uniform Procedures (collectively, Part 201). This rulemaking will revise Part 201 to clarify certain requirements, provide consistent implementation of the OPP across the state, streamline the air permitting process, and facilitate the ease of use and timely administration of the OPP. Additionally, this proposal will modify 6 NYCRR Section 212-2.2, Table 2 – High Toxicity Air Contaminant (HTAC) list, to make it consistent with Table 1 of Subpart 201-9. Finally, this proposal will also make several minor changes to 6 NYCRR Part 212 to clarify its requirements.

1. EFFECT OF RULE

The proposed revisions to Part 201 are not expected to adversely affect small businesses and local governments. The owner or operator of an air emission source is required to obtain and comply with a permit or registration for that source. Small businesses and local governments are currently required to comply with this requirement under the existing Part 201. The proposed revisions will make the terms and conditions of Part 201 easier to understand and implement, simplifying the compliance process.

2. COMPLIANCE REQUIREMENTS

Small businesses and local governments that own or operate a non-exempt stationary emission source are currently required to complete and file an appropriate permit or registration application for the construction

and operation of that facility. Once a permit or registration is issued, the facility owner or operator is required to comply with all terms and conditions of that permit or registration, and ensure that it accurately reflects facility operations. This requirement will not change as a result of these proposed revisions.

3. PROFESSIONAL SERVICES

Small businesses and local governments are able to comply with the requirements of Part 201 without contracting with any professional services. In some cases, however, small businesses and local governments may choose to hire a private consulting firm to assist them with meeting their obligations under Part 201. The decision to employ a consulting firm is voluntary, and any associated costs are incurred at the discretion of the affected facility.

4. COMPLIANCE COSTS

Compliance costs for small businesses and local governments are not expected to increase as a result of the proposed revisions. A more detailed analysis of the costs associated with this rulemaking is presented in the Regulatory Impact Statement.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

The proposed revisions to Part 201 do not contain any additional technological requirements for affected facilities. Also, the Department does not expect a significant change in the economic feasibility of Part 201 as a result of these revisions. Affected facilities are currently required to obtain permits and registrations from the Department. Several thousand facilities of various sizes are currently operating in compliance with Part 201 throughout the State. This is expected to continue after these proposed revisions are promulgated.

6. MINIMIZING ADVERSE IMPACT

The proposed revisions to Part 201 are not expected to have an adverse impact on small businesses and local governments. New and existing facilities are already required to comply with the current version of Part 201, and the scope of the regulation is not changing as a result of the proposed revisions. These proposed revisions are intended to simplify the permitting process by making it easier to understand and more efficient.

To assist small businesses with environmental compliance, the Department provides free and confidential support through the Small Business Environmental Assistance Program (SBEAP), administered by the New York State Environmental Facilities Corporation. Interested facility owners and operators can contact SBEAP staff for free and confidential assistance filing permit and registration applications, as well as for advice and strategies for maintaining compliance with environmental regulations. This program provides small businesses with a cost saving option while ensuring that they are in compliance with the requirements of Part 201.

The proposed revisions will also add an alternative compliance option for facilities required to develop a Toxic Impact Assessment (TIA) pursuant to Paragraph 212-1.5(e)(2). This alternative compliance option would allow the facility owner or operator to demonstrate compliance with Part 212 by showing that the facility's emissions are below the applicable HTAC thresholds rather than by completing an air dispersion modeling analysis and TIA. As a result, the facility owner or operator would avoid the potentially high cost of performing the air dispersion modeling.

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

As stated above, small businesses and local governments are not expected to be directly affected by the proposed revisions to Part 201. The Department conducted stakeholder outreach to all facilities potentially affected by this proposal, including national and local associations and manufacturers, and have given stakeholders several opportunities to participate in the development of the proposed rule. Potentially affected entities, including those involved in small businesses and local governments, were given the opportunity to review and comment on the draft rulemaking in accordance with State rulemaking requirements, and all comments received were considered during the development of the proposed requirements.

8. CURE PERIOD OR AMELIORATIVE ACTION

No additional cure period or other opportunity for ameliorative action is included in this rulemaking. This proposal will not result in immediate violations or impositions of penalties for existing facilities.

9. INITIAL REVIEW

The initial review of these rules shall occur no later than the third calendar year after the year in which it is adopted.

Revised Rural Area Flexibility Analysis

The New York State Department of Environmental Conservation (Department) is proposing several minor revisions to its Operating Permitting Program (OPP). The OPP sets forth the regulatory requirements and procedures to allow owners and operators of an air contamination source to apply for and obtain a permit or registration from the Department for the construction and operation of such sources. The OPP is authorized under Section 19-0311 of the New York State Environmental Conservation Law (ECL) and implemented by the Department through Title 6 of

the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Parts 200, General Provisions; 201, Permits and Registrations; and 621, Uniform Procedures (collectively, Part 201). This rulemaking will revise Part 201 to clarify certain requirements, provide consistent implementation of the OPP across the state, streamline the air permitting process, and facilitate the ease of use and timely administration of the OPP. Additionally, this proposal will modify 6 NYCRR Section 212-2.2, Table 2 – High Toxicity Air Contaminant (HTAC) list, to make it consistent with Table 1 of Subpart 201-9. Finally, this proposal will also make several minor changes to 6 NYCRR Part 212 to improve the clarity of its requirements.

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS

Part 201 applies to the owner or operator of any facility operating one or more stationary emission sources in New York State. Affected facilities range in scale from small industries with a handful of emission sources, to large scale industries with hundreds of emission sources. Affected facilities are located in communities throughout the state, including rural areas. The owner or operator of such a facility is already required to comply with the permitting and registration provisions of the existing Part 201. This proposal seeks to modify and update those provisions in order to make them easier to understand and implement. These changes are expected to result in increased efficiency at regulated facilities, potentially decreasing compliance costs. Accordingly, no adverse impacts on rural areas are anticipated due to this rulemaking.

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

Facility owners and operators that are subject to the requirements of Part 201 are required to obtain a facility permit or registration from the Department based on the facility's potential to emit. Once issued, the permit or registration contains terms and conditions that the facility owner or operator is required to adhere to in order to demonstrate continuous compliance with state and federal rules and regulations that apply to the operation of that facility. Part 201 applies to all facilities operating stationary emission sources, regardless of their location. The proposed revisions will increase the clarity and efficiency of the rule, making compliance easier and more efficient for facility owners and operators.

Owners and operators of facilities subject to Part 201 may choose to hire a private consulting firm to assist them with meeting their obligations under Part 201. The decision to employ a consulting firm is voluntary, and any associated costs are incurred at the discretion of the affected facility.

3. COSTS

A detailed analysis of the costs for complying with the requirements of Part 201 can be found in the Regulatory Impact Statement for this rulemaking and is incorporated here. The annualized compliance costs and application preparation costs described in that analysis are expected to be comparable to those of affected facilities located in rural areas. The proposed revisions to Part 201 will increase the clarity and efficiency of the air permitting program, potentially leading to cost savings over the current regulation.

4. MINIMIZING ADVERSE IMPACT

The Department does not anticipate any adverse impacts to rural areas as a result of this proposal. Permitting sources of air pollution regardless of ownership or location is necessary to ensure that they are operated in a way that protects the public health and the environment. In addition, the proposed revisions to Part 201 will make it easier for facility owners and operators to understand and comply with its requirements.

The proposed revisions will add a new exempt activity for covered manure storage systems equipped with flares. These systems are becoming increasingly prevalent at farms statewide as part of an effort to reduce methane emissions from their operations. As an exempt activity, such a system would not be required to obtain an air facility registration or air pollution control permit, making it easier for interested farms to purchase and install such a system. Additionally, this proposed exemption will eliminate any air pollution control permitting costs associated with a cover and flare system.

The proposed revisions will also add an alternative compliance option for facilities required to develop a Toxic Impact Assessment (TIA) pursuant to Paragraph 212-1.5(e)(2). This alternative compliance option would allow the facility owner or operator to demonstrate compliance with Part 212 by showing that the facility's emissions are below the applicable HTAC thresholds rather than by completing an air dispersion modeling analysis and TIA. As a result, the facility owner or operator would avoid the potentially high cost of performing the air dispersion modeling.

5. RURAL AREA PARTICIPATION

The Department conducted stakeholder outreach to all facilities potentially affected by this proposal, including those that are located in rural areas. Potentially affected entities, including those located in rural areas of the state, were provided the opportunity to review and comment on the draft rulemaking in accordance with State rulemaking requirements, and the Department considered all comments received during the formal comment period as it developed the revisions contained within this rulemaking.

Revised Job Impact Statement

The edits made to the Express Terms do not require any changes to the JIS.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

Section 200.1 Definitions

1. Comment: The proposed language of paragraphs 200.1(cy) and 200.1(cz) appears to replace the existing definitions of 'stationary internal combustion engine' and 'stationary reciprocating internal combustion engine' with 'fossil fuel' and 'furnace', respectively. Commenter 2

Response to Comment 1: This is not intentional and has been addressed. This rulemaking will add the proposed definitions of 'fossil fuel' and 'furnace' to the end of the definitions listed in Section 200.1. No definitions in Section 200.1 are being removed.

Section 201-2.1 Definitions

2. Comment: The proposed language of paragraph 201-2.1(b)(22) defines 'malfunction' as "any sudden, infrequent, and not reasonably preventable failure of an air cleaning device or air contamination source to operate in compliance with all applicable Parts of this Title, not including failures that are caused entirely or partially by improper maintenance, careless operation, or other preventable conditions." Please provide clarification for the underlined portions of this proposed language. Commenter 2

Response to Comment 2: The owner or operator of an air contamination source and/or air cleaning device is generally required to operate and maintain that equipment in a manner that is consistent with good engineering practices, manufacturer's specifications, and all applicable requirements. However, equipment can fail unpredictably despite the best efforts of the owner or operator, causing or contributing to an exceedance of an emission standard or permit limit. In such situations, the owner or operator may wish to assert that a malfunction occurred when reporting the resulting noncompliance.

In general, failures that are reoccurring or due to negligent operation and maintenance of the equipment are not considered to be malfunctions. For example, if an engine fails because the operator neglected to change the crankcase oil at the maintenance interval specified by the manufacturer, it would not be considered a malfunction. Such a failure is 'reasonably preventable' because the engine would not have failed if the oil was changed at the proper intervals.

3. Comment: The proposed language of paragraph 201-2.1(b)(24) states that a portable emission source "shall be treated as a stationary emission source if it remains at the same facility for 12 consecutive months". Please clarify whether this applies to portable emission sources that are operated for 12 consecutive months or if it would apply to portable emission sources that are stored at a location for deployment to other facilities as needed. Commenter 2

Response to Comment 3: The proposed language of Paragraph 201-2.1(b)(24) considers whether the portable emission source was operated at the facility at any point during the previous 12 consecutive months. If the emission source was operated and it remained at the facility for 12 consecutive months, it would be treated as a stationary source for permitting purposes. Emission sources that are not operated at the facility where they are stored would not become subject to permitting as stationary sources.

Research and Development Activities

4. Comment: Clarification is needed on the determination of appropriate control devices for research and development activities. Commenter 1

Response to Comment 4: In general, the Department determines that control equipment is appropriate for a given emission source on a case-by-case basis. This determination considers factors such as any applicable requirements, the process being controlled, the emissions resulting from that process, and the technical feasibility of control equipment for that process. These determinations have been integral to the application of various exempt and trivial activities for decades and are also critical for other regulatory programs such as the evaluation and control of process operations under Part 212. The proposed language of Paragraph 201-1.16(a)(2) does not change the Department's existing approach to these determinations.

5. Comment: Facilities that exceed the major source thresholds in Paragraph 201-2.1(b)(21) should not be subject to proposed Paragraph 201-1.16(a)(3) because emissions from research and development activities will not have any effect on regulatory applicability. Commenter 1

Response to Comment 5: As discussed in the Regulatory Impact Statement, the Department has determined that it is appropriate and necessary for facilities to quantify emissions from research and development activities. The commenter suggests that major facilities are already required to obtain a Title V permit, and therefore that emissions exceeding

the major facility threshold would have no net effect on the facility's permit. However, this does not consider other potentially applicable regulatory programs such as the control of High Toxicity Air Contaminants pursuant to Part 212. Further, certain applicable requirements (e.g. National Emission Standards for Hazardous Air Pollutants (NESHAP)) apply to major and/or area sources of hazardous air pollutants regardless of their exemption status from Part 201. Accordingly, it is possible that an operation otherwise conducted for research and development is subject to a federal NESHAP and would need to be included in the facility's permit.

Operational Flexibility

6. Comment: We support the proposed reduction to the operational flexibility notification period from 30 days to 15 days. Commenter 1

Response to Comment 6: The Department thanks you for your comment.

Air State Facility Permit Modifications

7. Comment: Permit changes such as the removal of equipment or changes in the method of operation that result in less stringent monitoring, recordkeeping, or reporting requirements should not qualify as significant modifications. Commenter 1

Response to Comment 7: The proposed language of Subparagraph 201-5.4(b)(1)(ii) is intended to apply to physical changes or changes in the method of operation that result in less stringent monitoring, recordkeeping, or reporting requirements. If an emission source will be permanently shut down, the Department would not view that change as significant in most cases. Similarly, a permanent change in the method of operation for a given emission source such as permanently removing the capability to fire number 2 fuel oil from a dual fuel boiler would also not be considered significant.

The key to this concept is that the change is permanent, and the affected equipment will not be operated following the change. A change such as the removal of a control device where the previously controlled emission source will still be operated following the change would generally be considered significant. Similarly, changes in the method of operation of equipment that will still be operated following the change and that result in less stringent monitoring, recordkeeping, or reporting requirements would also generally be considered significant.

Department staff are available to discuss planned projects in advance of application submittal if the facility owner or operator is unsure whether a given change would be considered significant.

Malfunctions and Start-up/Shutdown Activities

8. Comment: It is unclear whether proposed subdivision 201-1.4(b) requires facilities to prepare a list of all theoretically possible maintenance and start-up/shutdown scenarios for each emission source in which an emission standard exceedance could potentially occur. If so, the creation of this list would be extremely burdensome and time consuming for large facilities. Commenter 1

Response to Comment 8: The proposed language of subdivision 201-1.4(b) requires the facility owner or operator to compile and maintain records of maintenance and start-up/shutdown activities only when they are expected to result in an exceedance of an applicable emission standard (i.e. when the maintenance or start-up/shutdown activity that is expected to result in the exceedance is imminent). The facility owner or operator need not prepare a list of possible scenarios in advance to demonstrate compliance with this requirement.

Air Facility Registration Modifications

9. Comment: The Department should allow facilities proposing modifications to their air facility registration to proceed with the modification if the new registration is not received within 30 days of the Department's receipt of the modification application as is allowed by proposed 201-5.4(c)(3) for state facility permits and existing 201-6.6(c)(5) for Title V facility permits. Commenter 2

Response to Comment 9: The provisions of proposed paragraph 201-5.4(c)(3) and existing paragraph 201-6.6(c)(5) specifically apply to minor modifications to air state facility and Title V permits, respectively. The Department does not differentiate between minor and significant modifications for air facility registrations. Accordingly, a similar provision allowing the facility owner or operator to commence a minor modification at a registered facility 30 days after the Department's receipt of the application is not consistent with the modification provisions for registrations.

List of Commenters

1. Eastman Kodak Company
2. New York City Department of Environmental Protection

Department of Financial Services

EMERGENCY RULE MAKING

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

I.D. No. DFS-06-21-00014-E

Filing No. 80

Filing Date: 2021-01-26

Effective Date: 2021-01-26

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

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

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 301, 3216, 3217, 3221 and 4303

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

Specific reasons underlying the finding of necessity: Governor Andrew M. Cuomo declared a state of emergency on March 7, 2020, which has been extended, to help New York more quickly and effectively contain the spread of the novel coronavirus ("COVID-19"). While the COVID-19 pandemic has had an immeasurable impact on all New Yorkers, the impact on essential workers, including health care workers, first responders and other frontline essential workers, has been especially difficult as they have been required to directly interact with the public while working during this public health emergency, exposing themselves and their families to incremental risks, to ensure that essential services continue to be available for all New Yorkers. For health care workers and first responders, in particular, witnessing the devastating effects of COVID-19 firsthand can take an emotional and psychological toll. This amendment prohibits authorized insurers and health maintenance organizations (collectively, "health care plans") that provide comprehensive coverage for hospital, surgical, or medical care from imposing, and provides that no essential worker shall be required to pay, copayments, coinsurance, or annual deductibles (unless required by federal law for a high deductible health plan) for mental health services rendered by in-network providers on an outpatient basis for essential workers. The amendment requires every health care plan to provide written notification of the requirements of the amendment to its in-network mental health providers ("providers") to ensure that the providers do not require an insured to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed pursuant to the amendment.

Given the continued toll this crisis has had on essential workers, including health care workers, first responders and other frontline essential employees, it is essential that these workers have access to mental health services. The waiver of copayments, coinsurance, and annual deductibles for in-network mental health services rendered by in-network providers on an outpatient basis is necessary to ensure that these workers have no barriers to the care they need.

To ensure that essential workers have access to mental health services, it is imperative that this amendment be promulgated on an emergency basis for the preservation of public health and general welfare.

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

Purpose: To waive copayments, coinsurance, and annual deductibles for essential workers for in-network outpatient mental health services.

Text of emergency rule: Section 52.16(r) is added as follows:

(r)(1) *No policy or contract delivered or issued for delivery in this State that provides comprehensive coverage for hospital, surgical, or medical care shall impose, and no essential worker shall be required to pay, copayments, coinsurance, or annual deductibles for an in-network outpatient mental health service, unless the policy or contract is a high deductible health plan as defined in Internal Revenue Code section 223(c)(2), in which case the service may be subject to such plan's annual deductible if otherwise required by federal law.*

(2) *An insurer shall provide written notification, which may include e-mail, to its in-network outpatient mental health providers that they shall not collect any deductible, copayment, or coinsurance from an essential worker in accordance with this subdivision. Such notice shall include the definition of essential worker.*

(3) *Essential worker means:*

(i) individuals who are or were, on or after March 7, 2020, employed as health care workers, first responders, or in any position within a nursing home, long-term care facility, or other congregate care setting, including:

- (a) correction/parole/probation officers;
- (b) direct care providers;
- (c) firefighters;
- (d) health care practitioners, professionals, aides, and support staff (e.g., physicians, nurses, and public health personnel);
- (e) medical specialists;
- (f) nutritionists and dietitians;
- (g) occupational/physical/recreational/speech therapists;
- (h) paramedics/emergency medical technicians;
- (i) police officers;
- (j) psychologists/psychiatrists; and
- (k) residential care program managers; and

(ii) individuals who are or were, on or after March 7, 2020, employed as essential employees who directly interact or interacted with the public while working, including:

- (a) animal care workers (e.g., veterinarians);
- (b) automotive service and repair workers;
- (c) bank tellers and other bank workers;
- (d) building code enforcement officers;
- (e) childcare workers;
- (f) client-facing case managers and coordinators;
- (g) counselors (e.g., mental health, addiction, youth, vocational, and crisis);
- (h) delivery workers;
- (i) dentists and dental hygienists;
- (j) essential construction workers at occupied residences or buildings;
- (k) faith-based leaders (e.g., chaplains and clergy members);
- (l) field investigators/regulators for health and safety;
- (m) food service workers;
- (n) funeral home workers;
- (o) hotel/motel workers;
- (p) human services providers;
- (q) laundry and dry-cleaning workers;
- (r) mail and shipping workers;
- (s) maintenance and janitorial/cleaning workers;
- (t) optometrists, opticians, and supporting staff;
- (u) retail workers at essential businesses (e.g., grocery stores, pharmacies, convenience stores, gas stations, and hardware stores);
- (v) security guards and personnel;
- (w) shelter workers and homeless support staff;
- (x) social workers;
- (y) teachers/professors/educators;
- (z) transit workers (e.g., airports, railways, buses, and for-hire vehicles);
- (aa) trash and recycling workers; and
- (bb) utility workers.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires March 26, 2021.

Text of rule and any required statements and analyses may be obtained from: Tobias Len, Department of Financial Services, One Commerce Plaza, Albany, NY 12257, (518) 486-7815, email: Tobias.Len@dfs.ny.gov

Regulatory Impact Statement

1. Statutory authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 3216, 3217, 3221, and 4303.

Financial Services Law Section 202 establishes the office of the Superintendent of Financial Services (“Superintendent”).

Financial Services Law Section 302 and Insurance Law Section 301, in pertinent part, authorize the Superintendent to prescribe regulations interpreting the Insurance Law and to effectuate any power granted to the Superintendent in the Insurance Law, Financial Services Law, or any other law.

Insurance Law Section 3216 sets forth the standard provisions in individual accident and health insurance policies.

Insurance Law Section 3217 authorizes the Superintendent to issue regulations to establish minimum standards for the form, content and sale of health insurance policies and subscriber contracts of corporations organized under Insurance Law Articles 32 and 43 and Public Health Law Article 44.

Insurance Law Section 3221 sets forth the standard provisions in group and blanket accident and health insurance policies.

Insurance Law Section 4303 sets forth mandatory benefits in subscriber contracts issued by corporations organized under Insurance Law Article 43.

2. Legislative objectives: Insurance Law Sections 3216, 3217, 3221,

and 4303 establish the minimum standards for the form, content, and sale of health insurance, including standards of full and fair disclosure. This amendment accords with the public policy objectives that the Legislature sought to advance in the foregoing Insurance Law provisions by prohibiting copayments, coinsurance, or annual deductibles, unless required by federal law for a high deductible health plan, for an in-network outpatient mental health service otherwise covered under the policy for an essential worker.

3. Needs and benefits: While the COVID-19 pandemic has had an immeasurable impact on all New Yorkers, the impact on essential workers, including health care workers, first responders and other frontline essential workers, has been especially difficult as they have been required to directly interact with the public while working during this public health emergency, exposing themselves and their families to incremental risks, to ensure that essential services continue to be available for all New Yorkers. For health care workers and first responders, in particular, witnessing the devastating effects of COVID-19 firsthand can take an emotional and psychological toll. The emotional and psychological well-being of essential workers is extremely important in the continuing fight against COVID-19. It is critical that these workers receive the mental health services they need.

This amendment provides that no policy or contract delivered or issued for delivery in this State that provides comprehensive coverage for hospital, surgical, or medical care shall impose, and no essential worker shall be required to pay, copayments, coinsurance, or annual deductibles, unless required by federal law for a high deductible health plan, for an in-network outpatient mental health service.

The amendment requires every health care plan to provide written notification of the requirements of the amendment to its in-network health care providers (“providers”) in order to ensure that the providers do not require an insured to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed pursuant to the amendment.

The Department of Financial Services (“Department”) expects every health care plan to reimburse a provider, including reimbursement for the insured’s waived copayment, coinsurance, or annual deductible, with respect to any affected claims.

Given the continued toll that this crisis has had on essential workers, including health care workers, first responders and other frontline essential employees, it is essential that these workers have access to mental health services. The waiver of copayments, coinsurance, and annual deductibles for mental health services rendered by in-network providers on an outpatient basis is necessary to ensure that these workers have no barriers to the care they need.

4. Costs: A health care plan subject to this amendment will have to assume the cost of copayments, coinsurance or permissible annual deductibles that the amendment waives for essential workers that obtain in-network outpatient mental health services.

A health care plan also may incur costs associated with providing written notification of the amendment to its in-network providers, as required by the amendment. In addition, a health care plan may incur costs if it needs to file new policy and contract forms and rates with the Department to comply with the amendment. However, such costs should be minimal because health care plans submit policy or contract form and rate filings, and provide written notifications to providers, as a part of the normal course of business.

Providers may incur costs to comply with the amendment because no essential worker shall be required to pay a copayment, coinsurance, or annual deductible, except as otherwise required by federal law with respect to a high deductible plan, for the provision of any in-network outpatient mental health services. However, any such costs should be minimal because a provider should receive reimbursement, including the insured’s copayment, coinsurance, or annual deductible, from the health care plan with respect to any affected claims.

This amendment may impose compliance costs on the Department because the Department will need to review amended policy and contract forms and rates. However, any additional costs incurred by the Department should be minimal, and the Department should be able to absorb the costs in its ordinary budget.

5. Local government mandates: The amendment does not impose any program, service, duty or responsibility on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: Health care plans are required to provide written notification to their in-network providers that the providers may not collect any deductible, copayment, or coinsurance for outpatient mental health services for essential workers. This notification may be provided electronically as part of existing communications that occur between health care plans and in-network providers. Health care plans may also need to file new policy and contract forms and rates with the Superintendent.

Providers should not incur additional paperwork to comply with this amendment.

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

8. Alternatives: There are no significant alternatives to consider.

9. Federal standards: The amendment does not exceed any minimum standards of the federal government for the same or similar subject areas. If the policy or contract is a high deductible health plan as defined in Internal Revenue Code Section 223(c)(2), in-network outpatient mental health services may be subject to the annual deductible, if otherwise required by federal law.

10. Compliance schedule: The rule will take effect immediately upon filing of the Notice of Emergency Adoption with the Secretary of State.

Regulatory Flexibility Analysis

1. Effect of rule: The amendment affects health maintenance organizations and authorized insurers (collectively, "health care plans") and health care providers ("providers"). The amendment provides that no policy or contract delivered or issued for delivery in this State that provides comprehensive coverage for hospital, surgical, or medical care shall impose, and no essential worker, as defined by the amendment, shall be required to pay, copayments, coinsurance, or annual deductibles, unless required by federal law for a high deductible health plan, for an in-network outpatient mental health service. The amendment requires every health care plan to provide written notification of the requirements of the amendment to its in-network providers to ensure that the providers do not require an insured essential worker to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed pursuant to the amendment. This notification should ensure that providers do not collect a copayment, coinsurance, or annual deductible for outpatient mental health services as prohibited by this amendment.

Industry asserts that certain health care plans subject to the amendment are small businesses. Providers also may be small businesses. As a result, certain health care plans and providers that are small businesses may be affected by this amendment.

This amendment does not affect local governments.

2. Compliance requirements: No local government will have to undertake any reporting, recordkeeping, or other affirmative acts to comply with this amendment because the amendment does not apply to any local government.

A health care plan that is a small business, if any, affected by this amendment may be subject to reporting, recordkeeping, or other compliance requirements as it will be required to provide written notification of the amendment to its in-network providers, and may need to file new policy and contract forms and rates with the Department of Financial Services ("Department") to comply with the amendment.

A provider that is a small business may be subject to reporting, recordkeeping, or other compliance requirements because no essential worker shall be required to pay a copayment, coinsurance, or annual deductible, except as otherwise required by federal law with respect to a high deductible plan, for the provision of any in-network outpatient mental health services.

3. Professional services: No local government will need professional services to comply with this amendment because the amendment does not apply to any local government. No health care plan or provider that is a small business affected by this amendment should need to retain professional services, such as lawyers or auditors, to comply with this amendment.

4. Compliance costs: No local government will incur any costs to comply with this amendment because the amendment does not apply to any local government. A health care plan that is a small business, if any, will incur costs to comply with the amendment because it will have to assume the cost of copayments, coinsurance or permissible annual deductibles that the amendment waives for essential workers who obtain in-network outpatient mental health services.

A health care plan that is a small business, if any, also may incur costs associated with providing written notification of the amendment to its in-network providers, as required by the amendment. In addition, a health care plan may incur costs if it needs to file new policy and contract forms and rates with the Department to comply with the amendment. However, such costs should be minimal because health care plans submit policy or contract form and rate filings, and provide written notifications to providers, as a part of the normal course of business.

A provider that is a small business may incur costs to comply with the amendment because no essential worker shall be required to pay a copayment, coinsurance, or annual deductible, except as otherwise required by federal law with respect to a high deductible plan, for the provision of any in-network outpatient mental health services. However, any such costs should be minimal because a provider should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan with respect to any affected claims.

5. Economic and technological feasibility: This amendment does not apply to any local government; therefore, no local government should ex-

perience any economic or technological impact as a result of the amendment. A health care plan and a provider that is a small business should not incur any economic or technological impact as a result of the amendment.

6. Minimizing adverse impact: There will be no adverse impact on any local government because the amendment does not apply to any local government. This amendment should not have an adverse impact on a health care plan or provider that is a small business because the amendment affects all health care plans and providers uniformly. In addition, a provider that is a small business should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan with respect to any affected claims.

7. Small business and local government participation: The Department of Financial Services ("Department") had notified trade associations representing health care plans that are small businesses that it intended to promulgate the amendment. Health care plans and providers that are small businesses also will have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: Authorized insurers and health maintenance organizations (collectively, "health care plans") and health care providers ("providers") affected by this amendment operate in every county in this state, including rural areas as defined by State Administrative Procedure Act Section 102(10).

2. Reporting, recordkeeping, and other compliance requirements; and professional services: A health care plan, including a health care plan in a rural area, may be subject to additional reporting, recordkeeping, or other compliance requirements because the health care plan will be required to provide written notification of the amendment to its in-network providers, and may need to file new policy and contract forms and rates with the Department of Financial Services ("Department") to comply with the amendment.

A provider, including a provider in a rural area, may be subject to reporting, recordkeeping, or other compliance requirements because no essential worker, as defined in the amendment, shall be required to pay a copayment, coinsurance, or annual deductible, except as otherwise required by federal law with respect to a high deductible plan, for the provision of any in-network outpatient mental health services.

A health care plan or provider, including a health care plan or provider in a rural area, should not need to retain professional services, such as lawyers or auditors, to comply with this amendment.

3. Costs: A health care plan, including a health care plan in a rural area, will have to assume the cost of copayments, coinsurance or permissible annual deductibles that the amendment waives for essential workers that obtain in-network outpatient mental health services.

A health care plan may also incur costs associated with providing written notification of the amendment to its in-network providers, as required by the amendment. In addition, a health care plan may incur costs if it needs to file new policy and contract forms and rates with the Department to comply with the amendment. However, such costs should be minimal because health care plans submit policy or contract form and rate filings, and provide written notifications to providers, as a part of the normal course of business.

Providers, including those in rural areas, may incur costs to comply with the amendment, because no essential worker shall be required to pay a copayment, coinsurance, or annual deductible, except as otherwise required by federal law with respect to a high deductible plan, for the provision of any in-network outpatient mental health services. However, any such costs should be minimal because a provider should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan with respect to any affected claims.

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

5. Rural area participation: The Department had notified trade associations representing health care plans that are in rural areas that it intended to promulgate the amendment. Health care plans and providers in rural areas will also have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

Job Impact Statement

This amendment should not adversely impact jobs or employment opportunities in New York State. The amendment provides that no policy or contract delivered or issued for delivery in this State that provides comprehensive coverage for hospital, surgical, or medical care shall impose, and no essential worker, as defined in the amendment, shall be required to pay, copayments, coinsurance, or annual deductibles, unless

required by federal law for a high deductible health plan, for an in-network outpatient mental health service. As a result, there should be no impact on jobs or employment opportunities.

New York State Gaming Commission

NOTICE OF ADOPTION

To Expressly Permit Veterinary Technicians to Practice in Horse Racing

I.D. No. SGC-40-20-00001-A

Filing No. 84

Filing Date: 2021-01-26

Effective Date: 2021-02-10

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

Action taken: Amendment of sections 4002.1, 4002.7, 4002.8, 4002.11, 4002.14, 4002.20, 4005.1, 4005.5, 4012.1, 4012.4, 4043.11, 4101.24, 4101.37, 4120.6, 4120.9 and 4120.19 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), 104(19) and 301(1)

Subject: To expressly permit veterinary technicians to practice in horse racing.

Purpose: To preserve the safety and integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

Text or summary was published in the October 7, 2020 issue of the Register, I.D. No. SGC-40-20-00001-P.

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

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

Initial Review of Rule

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

Assessment of Public Comment

One public comment was received from the President of the New York State Veterinary Medical Society, who supports the proposal but recommends very strong guidelines for supervision by an off-premises veterinarian of veterinary technicians who are collecting biologic samples. The comment states that when the supervisor is not on the premises a veterinary technician might be influenced by persons who lack the competence of the supervising veterinarian. Guidelines would ensure the strict supervision that is vital to the best possible care of horses.

The Commission believes the rule does not endanger the health and welfare of horses. The rule requires that the supervising veterinarian be present on the track for all activities of veterinary technicians except the collection of biologic samples (i.e., blood and hair samples. Blood and hair samples are collected for regulatory purposes only, not for the treatment of the horse. No substances are administered to the horse during regulatory sample collection. Other persons who might be present are regulated parties who have no influence over the performance of sample collection. The rule requires when a sample is being collected that a supervising veterinarian is available for verbal consultation. The supervising veterinarian is responsible to ensure in advance that all veterinary technicians are trained and instructed appropriately on the safe collection of biologic samples.

NOTICE OF ADOPTION

Allowing Licensed Lottery Courier Services to Purchase and Deliver Lottery Tickets to Customers

I.D. No. SGC-44-20-00012-A

Filing No. 81

Filing Date: 2021-01-26

Effective Date: 2021-02-10

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

Action taken: Amendment of sections 5014.3, 5014.6, 5014.7, 5014.11, 5014.12, 5014.13, 5014.14 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19); Tax Law, sections 1601, 1604, 1605, 1607 and 1609

Subject: Allowing licensed lottery courier services to purchase and deliver lottery tickets to customers.

Purpose: To facilitate the sale of lottery tickets to generate additional revenue for education.

Text or summary was published in the November 4, 2020 issue of the Register, I.D. No. SGC-44-20-00012-P.

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

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

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2026, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The New York State Gaming Commission ("Commission") received public comments from Jackpocket, Inc. ("Jackpocket") and the New York Association of Convenience Stores ("NYACS"). The Commission has considered the comments received.

Jackpocket, which is to date the sole licensed lottery courier service in New York, generally supports the expansion of permitted lottery games to include instant tickets. Jackpocket suggests that the proposed requirement to provide a courier customer with a scanned front and back of a purchased instant ticket be modified. Instead, Jackpocket suggests that when a customer seeks to purchase an instant game ticket, the rule require a courier service to provide the customer with an exemplar of a ticket from such instant ticket game along with the barcode or serial number of the ticket purchased. Jackpocket asserts that there is no utility in produced scanned images of each instant ticket purchased.

The Commission disagrees. The regulations require a lottery courier service to deliver an instant ticket to the lottery courier customer, for the customer to play and claim any prize related to that ticket. Without producing a scan of the actual ticket purchased on the customer's behalf, the customer would have no assurance that the ticket delivered is the same as the ticket purchased and would not know, contemporaneous with the purchase, whether a purchased ticket is mutilated, tampered with or otherwise not capable of being claimed for a prize. An instant ticket that is scratched before delivery to the customer could cause the customer to believe that only non-prizewinning tickets are forwarded. A scan of both front and back of the instant ticket purchased would give the courier customer assurance that a valid, unplayed ticket has been purchased on the player's behalf and is the same ticket that is delivered to the customer.

Current regulations require a lottery courier service to process a ticket purchase prior to a cutoff time before a lottery drawing. If any lottery draw game ticket is processed after the cutoff time, the ticket is invalid and ineligible to win a prize as a result of the related drawing. The proposal would add a requirement for the lottery courier service to destroy any ticket it purports to purchase on behalf of a customer for which it fails to complete ticket processing in the required timely manner. Jackpocket objects to this requirement and instead proposes that, along with refunding the cost of the unprocessed ticket, the lottery courier service be permitted to provide the ticket to customer, who could still "enjoy the ticket...ordered."

The Commission disagrees with Jackpocket's suggestion. The purpose of the cutoff is to ensure that all requirements are completed sufficiently in advance of a drawing in order to have a valid courier-purchased ticket. Providing the invalid ticket to the customer would serve only to cause confusion if a customer then attempts to claim a prize with the ticket, which would be rejected for failure to adhere to all courier regulatory requirements. No one should hold or retain a ticket that is not deemed to have been validly issued. The Commission disagrees that there would be any enjoyment for the customer to hold a ticket that cannot be redeemed for a prize. Rather, the regulations provide that a ticket order that cannot be timely fulfilled is null and void.

The New York Association of Convenience Stores ("NYACS") submitted a comment objecting to the proposal. NYACS asserts that the Commission lacks "clear statutory authority" to license lottery courier services, questions whether lottery sales agents should be indemnified against any failures or omissions of a lottery courier service, asserts that age-verification requirements for lottery courier services are inadequate, complains about the lack of criminal penalties for lottery courier services for transacting with minors and objects to the ability of a lottery courier service to charge a fee when lottery sales agents have not persuaded the Commission to increase sales agent compensation.

NYACS made many of these comments during the initial lottery courier service rulemaking process. See Notice of Adoption of Rule Making ID No. SGC-17-18-00002-A, published in the April 10, 2019 State Register.

As noted in response to a similar comment NYACS made at the time of the adoption of the initial lottery courier service rules, Tax Law section 1605(e) authorizes the Commission to license “vendors” associated with the lottery. This term is sufficiently broad to encompass potential lottery couriers. It is not a requirement for statute to authorize expressly the licensure of a specific type of vendor. Without these regulations, lottery couriers may contend that no law prohibits them from acting as such in an unregulated manner. If that argument were to prevail, customers would be poorly protected in an environment lacking consumer protections, responsible play safeguards and assurances that all related activity occurs within New York State.

The Commission believes the required disclaimers of Commission responsibility for lottery courier service acts and omissions are appropriate. Lottery sales agents should continue to be accountable to the Commission, through their sales agent agreements and applicable statutes and regulations, for their acts and omissions. Any responsibilities or liabilities created by interactions between a lottery sales agent and a lottery courier service would be governed by applicable law and any agreements that may exist among them.

As noted in response to a similar comment NYACS made at the time of the adoption of the initial lottery courier service rules, current age-verification technology is used routinely to reject transactions with minors in the lottery subscription program, horse racing account wagering and interactive fantasy sports, activities the Commission already conducts or regulates. This topic is not the subject of this rule making.

As noted in response to a similar comment NYACS made at the time of the adoption of the initial lottery courier service rules, the Commission lacks the power to provide for criminal sanctions through regulation. Only legislation may impose criminal penalties.

As noted in response to a similar comment NYACS made at the time of the adoption of the initial lottery courier service rules, the explicit authorization of a courier’s ability to charge a reasonable fee for acting as a lottery courier and agent for the customer is a recognition of the effort and services the licensed lottery courier would perform as its business. The regulatory requirement that such fee be reasonable is a protection to the customer and to the public perception of the lottery. This topic is not the subject of this rule making. The Commission believes the compensation currently paid to licensed sales agents is reasonable and appropriate and is not the subject of this rule making. The Commission determined to adopt the rule as proposed.

Department of Health

EMERGENCY RULE MAKING

Meeting Space in Transitional Adult Homes

I.D. No. HLT-06-21-00007-E

Filing No. 35

Filing Date: 2021-01-21

Effective Date: 2021-01-21

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

Action taken: Amendment of section 487.13 of Title 18 NYCRR.

Statutory authority: Social Services Law, section 461

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

Specific reasons underlying the finding of necessity: This proposal is immediately necessary to ensure full compliance with existing Transitional Adult Home regulations, which seek to promote resident access to providers who help residents consider and pursue community transition. Under the existing regulatory requirements, all adult home operators must “provide space for residents to meet privately with staff of the facility, visitors or other service providers” (18 NYCRR 487.11[1][12]), and Transitional Adult Home operators must “cooperate with the community transition coordinator, housing contractors, and health home and managed long-term care plan assessors and shall provide, without charge, space for residents to meet privately with such individuals or entities” (18 NYCRR 487.4[h]). In addition, 18 NYCRR 487.4(h) provides that “[t]he operator

shall not attempt to influence or otherwise discourage individual residents from meeting” with those enumerated providers.

Despite these requirements, providers have reported to the Department that they have visited certain Transitional Adult Homes for the purpose of assisting residents considering or in the process of pursuing transition to the community and were unable to meet with residents in a space that allowed for private conversations. In several instances, providers have reported that residents have been discouraged from meeting with them due to the inability to meet in private. This proposal will establish criteria for a suitable private meeting space to help ensure that conversations are fully private, thereby allowing residents to adequately explore the services that would be available to them in the community without fear of being overheard or retaliated against by facility staff.

Full and immediate compliance with these regulatory requirements is necessary to ensure that care is provided in the most integrated settings, as required by *Olmstead v. L.C.*, 527 U.S. 581 (1999) and as emphasized in Governor Cuomo’s Executive Order No. 84.

Subject: Meeting Space in Transitional Adult Homes.

Purpose: Establish criteria for suitable meeting space to ensure privacy in conversations and submit a compliance plan to the Department.

Text of emergency rule: Paragraph (5) of subdivision (b) of section 487.13 is amended to read as follows:

(5)(i) Housing contractors means housing providers that have contracted with the Office of Mental Health to provide residents with information regarding housing alternatives and community services, *assess residents to determine their housing and service needs and preferences*, and make community housing available to residents pursuant to such contracts.

(ii) *Peer bridger agencies mean agencies that have contracted with the Office of Mental Health to provide residents with access to peer bridgers. Peer bridgers are individuals employed by, or whose services have otherwise been retained by, peer bridger agencies, and who use their training and experience to provide mentoring and support to residents considering community transition.*

Subdivision (h) of section 487.13 is amended to read as follows:

(h) The operator shall cooperate with the community transition coordinator, housing contractors, [and] *peer bridger agencies, care managers, health [home] homes, and managed long-term care [plan assessors] plans* and shall provide, without charge, space for residents to meet privately with such individuals or entities. The operator shall not attempt to influence or otherwise discourage individual residents from meeting with such entities and individuals.

New subdivisions (i) and (j) are added to section 487.13 to read as follows:

(i) *Space provided for meetings with providers defined in this section shall be:*

- (1) *a minimum of 160 square feet;*
- (2) *above grade level;*
- (3) *adequately lighted and ventilated and meet the temperature requirements of subdivision (m) of section 487.11;*
- (4) *with a door that closes to ensure conversations held within the space are private and that outside disruptions are minimized;*
- (5) *space separate and distinct from an occupied or reserved resident room or space used primarily for storage; and*
- (6) *space that is not under surveillance by adult home staff.*

(j) *Upon request from the Department, operators shall be required to submit a plan to the Department, in the form and format prescribed by the Department, explaining how the operator will meet the space requirements set forth in subdivision (i) of this section. Operators shall have 30 calendar days to submit such plan from the date of the Department’s request. The operator shall implement the plan upon approval by the Department.*

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire April 20, 2021.

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

Regulatory Impact Statement

Statutory Authority:

Social Services Law (SSL) section 461(1) requires the Department of Health (Department) to promulgate regulations establishing general standards applicable to adult care facilities.

Legislative Objectives:

The legislative objective of SSL section 461 is to promote the health and well-being of adults residing in adult care facilities.

Needs and Benefits:

The proposed regulatory changes are necessary to bring Transitional Adult Homes into full compliance with current regulations at Title 18 of the New York Codes, Rules and Regulations (NYCRR), Part 487, which seek to promote resident access to service providers specializing in promoting community transition. A Transitional Adult Home is an adult home with a certified capacity of 80 or more beds in which 25 percent or more of the resident population are persons with serious mental illness (see 18 NYCRR 487.13[b][1]). Persons with serious mental illness are “individuals who meet criteria established by the commissioner of mental health, which shall be persons who have a designated diagnosis of mental illness” and “whose severity and duration of mental illness results in substantial functional disability” (18 NYCRR 487.2[c]).

Specifically, Transitional Adult Home operators are required under 18 NYCRR 487.13(h) to cooperate with providers seeking to meet with residents to discuss “community services,” defined in 18 NYCRR 487.13(b)(3) as “services and supports provided in New York State that assist individuals with mental illness to live in the community.” Transitional Adult Home operators must also “cooperate with the community transition coordinator, housing contractors, and health home and managed long-term care plan assessors and shall provide, without charge, space for residents to meet privately with such individuals or entities. The operator shall not attempt to influence or otherwise discourage individual residents from meeting with such entities and individuals” (18 NYCRR 487.13[h]). Further, all adult homes—including Transitional Adult Homes—must “provide space for residents to meet privately with staff of the facility, visitors or other service providers” (18 NYCRR 487.11[1][12]).

Despite these existing regulations, service providers have reported to the Department that they have visited certain Transitional Adult Homes for the purpose of assisting residents considering community transition, or who are in the process of such transition, and were unable to meet with residents in a space that allowed for private conversations, pursuant to the requirements of 18 NYCRR 487.13(h). In several instances, providers have reported that residents have been discouraged from meeting with them due to the inability to meet privately.

To address these concerns from service providers and ensure that Transitional Adult Homes are meeting regulatory requirements, this proposal will establish criteria for suitable meeting space that will permit private conversations, allowing residents to explore or pursue community transition without fear of being overheard or retaliated against by facility staff. For clarity for all stakeholders, this proposal will also update the definitions set forth in 18 NYCRR 484.13(b), which identify the service providers who may meet with residents to discuss community services. Specifically, the proposal will update the existing definition of “housing contractors” to provide that such agencies also assess residents for housing and other services that residents would need in the community. In addition, the proposal will add a definition of Peer Bridger agencies, which are contracted by the Office of Mental Health to establish mentoring relationships with residents and help answer questions they may have about community transition.

By strengthening compliance with existing regulations that seek to promote resident access to community transition service providers, this proposal will protect resident health, safety, and well-being. This proposal is thus consistent with the legislative objectives of SSL section 461(2) and with the State’s overall efforts to ensure that care is provided in the most integrated settings, as required by *Olmstead v. L.C.*, 527 U.S. 581 (1999), and as emphasized in Governor Cuomo’s Executive Order No. 84.

Costs:

Costs to Private Regulated Parties:

Transitional Adult Homes are already required by existing regulations to make space available so that residents may meet privately with providers. The proposed regulation seeks only to delineate criteria that will ensure that Transitional Adult Homes are meeting the current regulatory requirements to provide private space for service provider meetings regarding community transition and to not discourage individual residents from attending such meetings. It is possible that a Transitional Adult Home may decide to create a dedicated meeting space that fits the criteria outlined in the proposed regulation by requesting to decertify a room that would otherwise be occupied by residents and foregoing the revenue for that room. However, the regulation does not expressly direct such action, and it is incumbent upon an operator to comply with all existing regulations, including the current requirement to make space available for residents to meet privately with providers. This proposal merely clarifies what constitutes adequate space for private meetings and thus does not directly impose new costs upon Transitional Adult Homes.

Costs to Local Government:

This proposal will not impact local governments unless they operate Transitional Adult Homes, in which case the impact would be the same as outlined above for private parties.

Costs to the Department of Health:

The Department will utilize existing resources to request, review and

approve plans delineating how Transitional Adult Homes will comply with the proposed regulations and to monitor compliance with the approved plan.

Costs to Other State Agencies:

The proposed regulatory changes will not result in any additional costs to other state agencies.

Local Government Mandates:

Local governments that operate Transitional Adult Homes must comply with this regulation. No new local government program, project or activity is required by the proposed regulations.

Paperwork:

The proposed regulatory changes require that upon the request of the Department, Transitional Adult Home operators will have 30 days to submit a plan to the Department explaining how the operator will meet the space requirements.

Duplication:

These regulatory amendments do not duplicate existing State or federal requirements.

Alternatives:

The Department found no viable alternatives to incentivize full compliance with existing regulations absent a regulatory amendment defining what constitutes adequate space for service provider meetings regarding community transition. Doing nothing is also not a viable option, given the ongoing violations of 18 NYCRR 487.4(h) and concerns that residents’ rights to explore community transition were being infringed.

Federal Standards:

The proposed regulations do not duplicate or conflict with any federal regulations.

Compliance Schedule:

The regulations will be effective on an emergency basis upon filing with the Secretary of State.

Regulatory Flexibility Analysis

Effect of Rule:

The proposed regulatory changes will affect Transitional Adult Homes that constitute small businesses or are operated by local governments. At present, according to data available at healthdata.ny.gov, there are 37 Transitional Adult Homes.

Compliance Requirements:

This proposal will build upon the existing requirements of 18 NYCRR 487.11(l)(12), which provides that all adult home operators must “provide space for residents to meet privately with staff of the facility, visitors or other service providers,” and 18 NYCRR 487.4(h), which provides that Transitional Adult Home operators “shall cooperate with the community transition coordinator, housing contractors, and health home and managed long-term care plan assessors and shall provide, without charge, space for residents to meet privately with such individuals or entities.” This proposal will establish criteria for suitable meeting space that will permit such private conversations to occur, and it will require Transitional Adult Home operators to submit a plan to the Department, upon the request and subject to the approval of the Department, to explain how such requirements will be met.

Professional Services:

Small businesses will need no additional professional services to comply with the proposed regulatory changes.

Costs to Private Regulated Parties:

Transitional Adult Homes are already required by existing regulations to make space available so that residents may meet privately with providers. The specific criteria outlined in the proposed regulation define what was already required under the existing regulations – that the space be adequate to permit privacy in conversations about community transition and not be conducive to efforts to discourage individual residents from meeting with those providers. This proposal merely clarifies what constitutes sufficient space for private meetings and thus does not impose new costs upon Transitional Adult Homes. It is possible that a Transitional Adult Home may decide to create a dedicated meeting space that fits the criteria outlined in the proposed regulation by requesting to decertify a room that would otherwise be occupied by residents and foregoing the receipt of revenue for that room. However, the regulation does not direct such action, and it is incumbent upon an operator to comply with all existing regulations, including the requirement to make space available for residents to meet privately with providers.

Costs to Local Government:

This proposal will not impact local governments unless they operate Transitional Adult Homes, in which case the impact would be the same as outlined above for private parties.

Economic and Technological Feasibility:

This proposal will not impose any economic or technological compliance burdens. It is possible that a Transitional Adult Home may decide to create a dedicated meeting space that fits the criteria outlined in the proposed regulation by decertifying a room that would otherwise be oc-

cupied by residents and foregoing the revenue for that room. However, as noted above, operators were already responsible for making space available for residents to meet privately with providers under existing regulations; therefore, any associated costs are not new, and are not directly imposed by this regulation.

Minimizing Adverse Impact:

The Department will work with Transitional Adult Homes to ensure that they are aware of the requirements, including issuing administrative guidance.

Small Business and Local Government Participation:

Small business and local governments were not consulted during the creation of this proposed rule; however, small businesses and local governments will be able to submit public comments during the public comment period of the proposed regulation.

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

This rule applies uniformly throughout the state, including rural areas. Rural areas are defined as counties with a population less than 200,000 and counties with a population of 200,000 or greater that have towns with population densities of 150 persons or fewer per square mile. The following 43 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2010 (<http://quickfacts.census.gov>). At present, two Transitional Adult Homes are located in one of these counties.

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

The following counties have a population of 200,000 or greater and towns with population densities of 150 persons or fewer per square mile. Data is based upon the United States Census estimated county populations for 2010. At present, six Transitional Adult Homes are located in one of these counties.

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

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

This proposal will build upon the existing requirements of 18 NYCRR 487.11(i)(12), which provides that all adult home operators must “provide space for residents to meet privately with staff of the facility, visitors or other service providers,” and 18 NYCRR 487.4(h), which provides that Transitional Adult Home operators “shall cooperate with the community transition coordinator, housing contractors, and health home and managed long-term care plan assessors and shall provide, without charge, space for residents to meet privately with such individuals or entities.” This proposal will establish criteria for suitable meeting space that will permit such private conversations to occur, and it will require Transitional Adult Home operators to submit a plan to the Department, upon the request and subject to the approval of the Department, to explain how such requirements will be met.

Costs:

Transitional Adult Homes are already required by existing regulations to make space available so that residents may meet privately with providers. The specific criteria outlined in the proposed regulation define what was already required under the existing regulations – that the space be adequate to permit privacy in conversations about community transi-

tion and not be conducive to efforts to discourage individual residents from meeting with those providers. It is possible that a Transitional Adult Home may decide to create a dedicated meeting space that fits the criteria outlined in the proposed regulation by requesting to decertify a room that would otherwise be occupied by residents and foregoing the receipt of revenue for that room. However, it is incumbent upon an operator to comply with all existing regulations, and Transitional Adult Home operators are already responsible under existing regulations for making space available for residents to meet privately with providers. This proposal merely clarifies what constitutes sufficient space for private meetings and thus does not impose new costs upon Transitional Adult Homes.

Minimizing Adverse Impact:

The Department will work with Transitional Adult Homes to ensure that they are aware of the requirements, including issuing administrative guidance, as necessary.

Rural Area Participation:

The Transitional Adult Homes located in rural areas will be able to submit public comments during the public comment period for the proposed rule.

Job Impact Statement

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

NOTICE OF ADOPTION

Hospital Indigent Care Pool Payment Methodology

I.D. No. HLT-40-20-00002-A

Filing No. 116

Filing Date: 2021-01-29

Effective Date: 2021-02-10

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

Action taken: Amendment of section 86-1.47 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 2807-k(5-d)

Subject: Hospital Indigent Care Pool Payment Methodology.

Purpose: To develop an indigent care distribution methodology for calendar years through 2022.

Text or summary was published in the October 7, 2020 issue of the Register, I.D. No. HLT-40-20-00002-P.

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

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

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

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

Name Change for the Physically Handicapped Children’s Program (PHCP)

I.D. No. HLT-06-21-00006-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 Parts 11, 46 and 85 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 225(4), 2803(2) and 2583(1)

Subject: Name Change for the Physically Handicapped Children’s Program (PHCP).

Purpose: To change the name of the PHCP to Children and Youth with Special Health Care Needs Support Services Programs.

Text of proposed rule: Sections 11.15 and 11.16, and the title thereof, are amended to read as follows:

Medical Director of County [Physically Handicapped Children's] *Children and Youth With Special Health Care Needs Support Services Programs*

11.15 Definition.

The term medical director of a county [physically handicapped children's] *children and youth with special health care needs support services* program shall mean a physician appointed pursuant to the provisions of the Public Health Law by the board of supervisors of a county lacking a county health district to authorize medical service for [physically handicapped] children *and youth with special health care needs* and otherwise administer the county [physically handicapped children's] *children and youth with special health care needs support services* program.

11.16 Qualifications.

The medical director of a county [physically handicapped children's] *children and youth with special health care needs support services* program shall be a physician who is currently registered to practice medicine in New York State.

Sections 46.1, 46.2, and 46.10 of Part 46, and the title thereof, are amended to read as follows:

Part 46 - State Aid For [Physically Handicapped] Children *and Youth with Special Health Care Needs*

Section 46.1 Definition of medical service.

Medical service, as it relates to [physically handicapped] children *and youth with special health care needs*, means such diagnostic, therapeutic and rehabilitative care by medical and paramedical personnel, including hospital and related care, and drugs, prostheses, appliances, equipment and devices, as necessary.

Section 46.2 Conditions eligible.

Conditions for which medical service is reimbursable under State aid to counties or the City of New York under the [physically handicapped] children *and youth with special health care needs support services* program shall be only those approved by the Bureau of Medical Rehabilitation, the Bureau of Dental Health, or the Bureau of Maternal and Child Health of the State Department of Health.

* * *

Section 46.10 Financial investigators.

(a) Definition. A financial investigator is a person employed under a county's [physically handicapped] children's] *and youth with special health care needs support services* program for the purpose of:

(1) conducting financial investigations of families of children for whom care has been requested under the program; and

(2) detecting problems in families which may have a bearing on the utilization or outcome of services provided under the program, and referring families to appropriate agencies for help regarding these problems.

(b) Qualifications. The financial investigator shall meet one of the following qualifications:

(1) graduation from a recognized college or university with a bachelor's degree;

(2) satisfactory completion of training leading to nursing registration, and one year of satisfactory full-time experience as a registered professional nurse;

(3) four years of satisfactory full-time paid experience either in financial investigations or in casework with a social work agency adhering to acceptable standards or in supervised teaching in an accredited school;

(4) a satisfactory combination of the training and experience described in paragraphs (1)-(3) of this subdivision; or

(5) full-time employment specifically in the performance of financial investigations under the [physically handicapped] children's] *and youth with special health care needs support services* program as of April 1, 1964.

* * *

Subdivision (d) of section 85.3 is amended to read as follows:

(d) Prior to making a determination, the designated person may require a written second opinion from a qualified specialist designated by the Commissioner of Health. A written second opinion shall be based upon an examination of the patient and a review of information about the patient provided by the proposing surgeon. A second written opinion under this section shall in every instance be required for the following surgical procedures except when performed as urgent or emergency surgery as set forth in this Part, or when not required under the provisions of the [physically handicapped children's] *children and youth with special health care needs support services* program:

* * *

Section 83.13, and the title thereof, is amended to read as follows:

85.13 [Physically handicapped] [c]Children *and youth with special health care needs*.

For persons under the age of 21 years having conditions covered under

the scope of the [physically handicapped children's] *children and youth with special health care needs support services* program, all determinations of coverability in this Part shall be made by the [physically handicapped children's] *children and youth with special health care needs support services* program county medical director, the county commissioner of health or the health services administration of the City of New York as the designee of the Commissioner of Health. Such designee may utilize any diagnosis and evaluation carried out in a center approved by the [physically handicapped children's] *children and youth with special health care needs support services* program as the second opinion upon which determination of coverability is made, or may require an additional second opinion.

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

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

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

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

Consensus Rule Making Determination

Statutory Authority:

Public Health Law (PHL) section 225(4) authorizes the Public Health and Health Planning Council, subject to approval by the Commissioner of Health, to amend regulations affecting the New York State Sanitary Code, including 10 NYCRR Part 11. Likewise, PHL section 2803(2) authorizes the Public Health and Health Planning Council, subject to approval by the Commissioner of Health, to amend regulations concerning facilities licensed and certified pursuant to PHL Article 28, including the medical assistance benefit regulations applicable to hospitals, as set forth in 10 NYCRR Part 85. Further, PHL section 2583(1) authorizes the Commissioner of Health to promulgate regulations concerning the treatment and rehabilitation of children with physical disabilities.

Basis:

The proposed regulatory change is non-substantive and non-controversial. It changes the name of the "Physically Handicapped Children's Program" (PHCP) to the "Children and Youth with Special Health Care Needs Support Services" program, in recognition of the fact that the term "physically handicapped" is outdated and limiting, as it refers to the loss of or failure to develop a specific bodily function or functions. This name change would coincide with similar statutory changes in 2020 to Public Health Law §§ 356(1), 608(1), and 2511(10), and would also align the New York State program name with its federal funding source, as the federal Title V Maternal and Child Health Services Block Grant supports the Children and Youth with Special Health Care Needs Program.

Job Impact Statement

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent from the nature of the proposed amendment that it will not have a substantial adverse impact on jobs and employment opportunities.

New York State Joint Commission on Public Ethics

NOTICE OF ADOPTION

Source of Funding Reporting

I.D. No. JPE-28-20-00031-A

Filing No. 83

Filing Date: 2021-01-26

Effective Date: 2021-02-10

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

Action taken: Amendment to Part 938 of Title 19 NYCRR.

Statutory authority: Executive Law, section 94(9)(c); Legislative Law, sections 1-d(a), 1-h(c)(4) and 1-j(c)(4)

Subject: Source of Funding reporting.

Purpose: Clarifying amendments to Source of Funding reporting.

Text or summary was published in the July 15, 2020 issue of the Register, I.D. No. JPE-28-20-00031-P.

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

Revised rule making(s) were previously published in the State Register on November 10, 2020 and December 2, 2020.

Text of rule and any required statements and analyses may be obtained from: Megan Mutolo, Associate Counsel, Joint Commission on Public Ethics, 540 Broadway, Albany, New York 12207, (518) 408-3976, email: Megan.Mutolo@jcope.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2026, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Amendments to the Lobbying Regulations

I.D. No. JPE-28-20-00032-A

Filing No. 82

Filing Date: 2021-01-26

Effective Date: 2021-02-10

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

Action taken: Amendment of Part 943 of Title 19 NYCRR.

Statutory authority: Pursuant to the authority vested in the Commission by section 94 of the Executive Law and Article 1-A of the Legislative Law.

Subject: Amendments to the lobbying regulations.

Purpose: To clarify the lobbying regulations that implement the provisions of the Lobbying Act.

Substance of final rule: The Rule for Adoption amends 19 NYCRR Part 943 to further clarify and simplify provisions and requirements relating to the following topics: definitions, direct and grassroots lobbying, social media, procurement lobbying, reportable lobbying activity, and filing requirements. Additional technical amendments are also included.

The definition of Designated Lobbyist is amended to clarify that a person can designate themselves as a designated lobbyist. The definition of Contractual Client is amended to explain that a Contractual Client is the individual or organization that signs and/or enters into a lobbying agreement and that compensation and expenses are typically, but not necessarily, paid for or incurred by the Contractual Client.

The provisions relating to Direct Lobbying are amended to provide that any Individual Lobbyist who engages in Direct Lobbying must be listed on lobbying filings and clarifies that this would not include volunteers or mere members of an organization. The amendments further clarify that mere attendance by an employee or board member, director, or officer of an organization at a lobby day does not constitute Direct Contact requiring such person to potentially be listed as an Individual Lobbyist on a lobbying filing unless such person speaks to a Public Official on behalf of their organization or employer at the lobby day. Additionally, in an effort to simplify the regulations, the “Lobby Day” provisions are incorporated into the principles of Direct Lobbying.

The amendments clarify that Grassroots Lobbying does not require the identification of an Individual Lobbyist on lobbying reports unless the individual engaged in Grassroots Lobbying is a Retained Lobbyist who delivers a Grassroots Lobbying Communication and can be identified as speaking for the Client or is retained or compensated specifically for their personal social media activities. Additionally, the amendments clarify that a person can engage in Grassroots Lobbying on their own behalf.

The provisions relating to social media are simplified to provide that personal social media activities are presumptively not reportable unless a person was retained specifically by a Client for their personal social media. The amendments also clarify that if an organization lobbies on its own behalf using its social media platform, it is reportable by the organization, but no Individual Lobbyists must be listed.

Additional clarifying amendments are included regarding the allowance of an Un-Executed Lobbying Agreement Form, procurement lobbying, reportable lobbying activity and general filing requirements.

Further revisions were made to provisions related to stock options that clarify the factors the Commission will consider in determining whether stock or equity payments will be permissible as compensation for lobbying.

Additionally, further revisions were made to the Coalition provisions to simplify and clarify how Coalition activity should be reported. Depending on the structure of the Coalition and whether it meets certain criteria, the Coalition will either be required to file as an Organization, or its Members must disclose their Coalition contributions on their own filings.

Final rule as compared with last published rule: Nonsubstantial changes were made in sections 943.9(h)(3), 943.11(j) and 943.12(i).

Revised rule making(s) were previously published in the State Register on November 10, 2020 and December 2, 2020.

Text of rule and any required statements and analyses may be obtained from: Megan Mutolo, Associate Counsel, Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: megan.mutolo@jcope.ny.gov

Revised Regulatory Impact Statement

A Revised Regulatory Impact Statement is not submitted with this Notice of Adoption because changes made to the last published rule do not necessitate revision to the previously published Regulatory Impact Statement.

Revised Regulatory Flexibility Analysis

A Revised RFA is not submitted with this Notice of Adoption because changes made to the last published rule do not necessitate revision to the previously published RFA.

Revised Rural Area Flexibility Analysis

A Revised RAFA is not submitted with this Notice of Adoption because changes made to the last published rule do not necessitate revision to the previously published RAFA.

Revised Job Impact Statement

A Revised JIS is not submitted with this Notice of Adoption because changes made to the last published rule do not necessitate revision to the previously published JIS.

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 2026, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Power Authority of the State of New York

NOTICE OF ADOPTION

Rates for the Sale of Power and Energy

I.D. No. PAS-41-20-00009-A

Filing Date: 2021-01-26

Effective Date: 2021-01-26

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

Action taken: Decrease in Production Rates.

Statutory authority: Public Authorities Law, sections 1005 and 1005(6)

Subject: Rates for the Sale of Power and Energy.

Purpose: To align Rates and Costs.

Substance of final rule: The New York Power Authority’s Notice of Proposed Rulemaking published on October 14, 2020 proposed to increase the production rates of its Westchester County Governmental Customers by 7.49%. Based on further analysis by staff, the Authority determined that the production rates should be decreased by 3.14%. The new production rates will be effective commencing with the January 2021 billing period.

Final rule as compared with last published rule: Substantial revisions were made in First Part.

Text of rule and any required statements and analyses may be obtained from: Karen Delince, Power Authority of the State of New York, 123 Main Street, 9B, White Plains, NY 10601, (914) 390-8085, email: karen.delince@nypa.gov

Revised Regulatory Impact Statement

A revised regulatory impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Regulatory Flexibility Analysis

A revised regulatory flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Rural Area Flexibility Analysis

A revised rural area flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Job Impact Statement

A revised job impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Public Service Commission

EMERGENCY RULE MAKING

Petition for Transfer of a Water System

I.D. No. PSC-50-20-00004-E

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: The Commission, on 1/25/21, adopted an order approving a petition for the transfer of the River Road Water District water supply assets, located in the Town of Rosendale, Ulster County, from Karen Angel to Danielle Tappitake and Richard Weir.

Statutory authority: Public Service Law, section 89-h

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

Specific reasons underlying the finding of necessity: The wells and pumping infrastructure for the River Road Water District (River Road) are located on the property of a private residence. The current owner of the residence and water company, Karen Angel (Seller), is seeking to sell the residence, and by necessity River Road, to Danielle Tappitake and Richard Weir (Purchasers).

The Seller has indicated her intention of completing the transfer of the residence as quickly as possible. In order to ensure that the ratepayers continue to receive uninterrupted water service, it is necessary to approve the transfer of River Road to the Purchasers, whom the Commission has determined to be qualified to operate the system. The River Road facility provides a significant public necessity – drinking water – to several residences located in the vicinity of the facility. Accordingly, need for emergency action on the transfer is necessary to ensure the continuity of service, particularly given the the unusual circumstance of the facility being located on the site of a private residence.

Subject: Petition for transfer of a water system.

Purpose: To determine if the transfer of the water system is in the public interest.

Substance of emergency rule: The Public Service Commission is considering a joint petition, filed on November 16, 2020 by the River Road Water District (Company) and Danielle Tappitake and Richard Weir (Purchasers), seeking the transfer of all Company water supply assets to the Purchasers.

The Company serves approximately eight customers on Riverview Drive, Town of Rosendale, Ulster County, New York. The petition, filed on November 16, 2020, states that the Company, which is currently owned and operated by Karen Angel is being sold to the Purchasers due to Karen Angel's relocation out of the Water District. The petition further states that the transfer is in the public interest because the Purchaser will be a customer will have invested interest in the system that Karen Angel will no longer have.

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 at

www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

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. PSC-50-20-00004-P, Issue of December 16, 2020. The emergency rule will expire April 24, 2021.

Text of rule may be obtained from: Michelle L. Phillips, Secretary, Department of Public Service, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

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 rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Assessment of Public Comment

The agency received no public comment.

(20-W-0590EP1)

NOTICE OF ADOPTION**ESCO Petition to Offer Products and Services**

I.D. No. PSC-10-20-00005-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying Family Energy, Inc.'s (Family Energy) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny Family Energy's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Text or summary was published in the March 11, 2020 issue of the Register, I.D. No. PSC-10-20-00005-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA10)

NOTICE OF ADOPTION**Submetering of Electricity**

I.D. No. PSC-11-20-00006-A

Filing Date: 2021-01-22

Effective Date: 2021-01-22

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

Action taken: On 1/21/21, the PSC adopted an order approving WP South Tower, LLC's (WP South Tower) notice of intent to submeter electricity at 57 Bank St., White Plains, New York.

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

Subject: Submetering of electricity.

Purpose: To approve WP South Tower's notice of intent to submeter electricity.

Substance of final rule: The Commission, on January 21, 2021, adopted

an order approving WP South Tower, LLC's notice of intent to submeter electricity at 57 Bank St., White Plains, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0089SA1)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-11-20-00008-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order approving New York American Water Company, Inc.'s (NYAW) tariff amendments to Leaves 18 and 18.1, contained in P.S.C. No. 5 — Water, to become effective on February 1, 2021.

Statutory authority: Public Service Law, section 66(12)(b)

Subject: Tariff amendments.

Purpose: To approve NYAW's tariff amendments.

Text or summary was published in the March 18, 2020 issue of the Register, I.D. No. PSC-11-20-00008-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-W-0096SA1)

NOTICE OF ADOPTION

Request for Lightened Regulatory Regime

I.D. No. PSC-11-20-00011-A

Filing Date: 2021-01-21

Effective Date: 2021-01-21

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

Action taken: On 1/21/21, the PSC adopted an order authorizing LS Power Grid New York, LLC, et. al.'s (LS Power Grid) request for a lightened regulatory regime in connection with their development of the Marcy to New Scotland electric transmission upgrade project.

Statutory authority: Public Service Law, sections 2(12), (13), (22), 5(1)(b), 64, 65, 66, 67, 68, 69, 69-a, 70, 71, 72, 72-a, 78, 79, 105-114, 114-a, 115, 117, 118, 119-b and 119-c

Subject: Request for lightened regulatory regime.

Purpose: To authorize LS Power Grid's request for a lightened regulatory regime.

Substance of final rule: The Commission, on January 21, 2021, adopted an order authorizing LS Power Grid New York, LLC and LS Power Grid New York Corporation I's (LS Power Grid) request for a lightened regulatory regime in connection with their proposed development of the Marcy to New Scotland electric transmission upgrade project (Project). LS Power Grid's request for issuance of a Certificate of Public Convenience and Necessity, authorizing the construction and ownership of the Project pursuant

to Section 68 of the Public Service Law, is also granted, and LS Power Grid shall address market power issues by providing exclusive operational control of the Project to the New York Independent System Operator, Inc. (NYISO) as part of placing the Project in service and joining the NYISO, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(19-E-0739SA1)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-12-20-00010-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying Direct Energy Services LLC et. al.'s (Direct Energy) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny Direct Energy's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Text or summary was published in the March 25, 2020 issue of the Register, I.D. No. PSC-12-20-00010-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA11)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-17-20-00008-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying Alpha Gas & Electric, LLC's (Alpha) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny Alpha's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Text or summary was published in the April 29, 2020 issue of the Register, I.D. No. PSC-17-20-00008-P.

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

Text of rule may be obtained from: John Pitucci, Public Service Commis-

sion, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA12)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-21-20-00005-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying Kiwi Energy NY LLC's (Kiwi) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny Kiwi's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying Kiwi Energy NY LLC's petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA14)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-21-20-00011-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order approving the portion of IGS Energy's (IGS) petition to market specified home warranty product bundles and denied the portion of the petition to market natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To approve portion and deny portion of IGS' petition to market home warranty product bundles and natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving the portion of Interstate Gas Supply, Inc., Accent Energy Midwest Gas, LLC d/b/a IGS Energy, and Accent Energy Midwest II, LLC d/b/a IGS Energy's (IGS) petition to market specified home warranty product bundles. IGS shall, within 30 days of the issuance of the order, file with Department of Public Service Staff, in DMM Matter No. 14-02554, the standard sales agreements for each authorized home warranty product bundle. The Commission also denies the portion of IGS's petition

to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs). A limited waiver is authorized, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA15)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-23-20-00006-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying IDT Energy, Inc. et. al.'s (IDT) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny IDT's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying IDT Energy, Inc. and Residents Energy, LLC's petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA18)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-23-20-00007-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying American Power & Gas LLC's (American P&G) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny American P&G's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted

an order denying American Power & Gas LLC's petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA16)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-23-20-00010-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying Citizens Choice Energy, LLC d/b/a AmeriChoice Energy's (Citizens) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny Citizens' petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying Citizens Choice Energy, LLC d/b/a AmeriChoice Energy's petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA17)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-24-20-00016-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying the NRG Retail Companies' (NRG) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny NRG's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying the NRG Retail companies: Green Mountain Energy Company, Reliant Energy Northeast LLC d/b/a NRG Home and d/b/a NRG Business Solutions, Energy Plus Holdings LLC, Energy Plus Natural Gas LLC, Independence Energy Group LLC d/b/a Cirro Energy, XOOM Energy New York, LLC, and Stream Energy New York, LLC's petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA19)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-24-20-00018-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying Atlantic Energy, LLC's (Atlantic Energy) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny Atlantic Energy's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying Atlantic Energy, LLC's petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA20)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-24-20-00020-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying CenStar

Energy Corp. et. al.'s (CenStar) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny CenStar's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying CenStar Energy Corp., Major Energy Services, LLC, and Spark Energy Gas, LLC's petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA21)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-25-20-00014-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying South Bay Energy Corp.'s (South Bay) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny South Bay's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying South Bay Energy Corp.'s petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA23)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-25-20-00017-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying Marathon Energy's (Marathon) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny Marathon's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying Marathon Energy LLC d/b/a Marathon Energy's petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA24)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-28-20-00027-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying seven energy service companies' (7 ESCOs) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny 7 ESCO's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying seven energy service companies: Energy Service Providers, Inc. d/b/a New York Gas & Electric; U.S. Gas & Electric, Inc. d/b/a New York Gas & Electric, Everyday Energy, LLC d/b/a Energy Rewards, Public Power, LLC, Viridian Energy NY, LLC d/b/a Viridian Energy, Viridian Energy PA, LLC d/b/a Viridian Energy, and Ambit New York, LLC d/b/a Ambit's petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA25)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-30-20-00006-A

Filing Date: 2021-01-22

Effective Date: 2021-01-22

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

Action taken: On 1/21/21, the PSC adopted an order approving 52-41 Center LLC's (52-41 Center) petition to submeter electricity at 52-41 Center Boulevard, Long Island City, New York.

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

Subject: Submetering of electricity.

Purpose: To approve 52-41 Center's petition to submeter electricity.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving 52-41 Center LLC's petition to submeter electricity at 52-41 Center Boulevard, Long Island City, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0234SA1)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-31-20-00009-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order approving the portion of Kiwi Energy NY LLC's (Kiwi) petition to market specified home warranty product bundles.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To approve the portion of Kiwi's petition to market home warranty product bundles.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving the portion of Kiwi Energy NY LLC's (Kiwi) petition to market specified home warranty product bundles. Kiwi shall, within 30 days of the issuance of the order, file with Department of Public Service Staff, in DMM Matter No. 14-02554, the standard sales agreements for each authorized home warranty product bundle.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA26)

NOTICE OF ADOPTION

Petition for Waiver Request

I.D. No. PSC-34-20-00006-A

Filing Date: 2021-01-22

Effective Date: 2021-01-22

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

Action taken: On 1/21/21, the PSC adopted an order approving Crimson Ridge Section 5 Development's petition for waiver request of 16 NYCRR section 100.3 and National Grid's tariff rules related to the extension of electric and gas service to non-residing applicants.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Petition for waiver request.

Purpose: To approve Crimson Ridge's petition for waiver request.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving Crimson Ridge Section 5 Development's (Crimson Ridge) petition for waiver request of 16 NYCRR § 100.3 and Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) tariff rules related to the extension of electric and gas service to non-residing applicants. National Grid is directed to extend the time allowed for Jim Bondur, owner of Crimson Ridge, to have an end-user take electric and gas service for the final three building lots of Crimson Ridge, from September 28, 2020 to December 31, 2021, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-M-0377SA1)

NOTICE OF ADOPTION

Waiver Request

I.D. No. PSC-35-20-00015-A

Filing Date: 2021-01-22

Effective Date: 2021-01-22

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

Action taken: On 1/21/21, the PSC adopted an order approving WP South Tower, LLC's (WP South Tower) waiver request of the energy audit and energy efficiency plan requirements in 16 NYCRR section 96.5(k)(3), for the location at 57 Bank St., White Plains, New York.

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

Subject: Waiver request.

Purpose: To approve WP South Tower's waiver request of 16 NYCRR section 96.5(k)(3).

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving WP South Tower, LLC's waiver request of the energy audit and energy efficiency plan requirements in 16 NYCRR § 96.5(k)(3), for the location at 57 Bank St., White Plains, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0089SA2)

NOTICE OF ADOPTION**Submetering of Electricity****I.D. No.** PSC-35-20-00016-A**Filing Date:** 2021-01-22**Effective Date:** 2021-01-22

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

Action taken: On 1/21/21, the PSC adopted an order approving 701 River Street Associates, LLC's (701 River St.) notice of intent to submeter electricity at 701 River Street, Troy, New York.

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

Subject: Submetering of electricity.

Purpose: To approve 701 River St.'s notice of intent to submeter electricity.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving 701 River Street Associates, LLC's notice of intent to submeter electricity at 701 River Street, Troy, New York, located in the service territory of Niagara Mohawk Power Corporation d/b/a National Grid, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0394SA1)

NOTICE OF ADOPTION**ESCO Petition to Offer Products and Services****I.D. No.** PSC-35-20-00017-A**Filing Date:** 2021-01-25**Effective Date:** 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order denying Brown's Fuel Services, LLC's (Brown's Fuel) petition to market natural gas products and authorized a limited waiver of price cap rules for the marketing of natural gas products.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To deny Brown's Fuel's petition and authorize a limited waiver of price cap rules for the marketing of natural gas products.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying Brown's Fuel Services, LLC's petition to market natural gas commodity products bundled with carbon offsets or Renewable Energy Certificates (RECs) and authorized a limited waiver, in effect for one year from the date of issuance of the order, of price cap rules for the marketing of natural gas products bundled with either carbon offsets or RECs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA27)

NOTICE OF ADOPTION**Financing Petition****I.D. No.** PSC-36-20-00006-A**Filing Date:** 2021-01-21**Effective Date:** 2021-01-21

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

Action taken: On 1/21/21, the PSC adopted an order approving LS Power Grid New York, LLC, et. al.'s (LS Power Grid) petition to enter into flexible financing arrangements, up to a maximum amount of \$478 million.

Statutory authority: Public Service Law, sections 5, 64, 65, 66 and 69

Subject: Financing petition.

Purpose: To approve LS Power Grid's petition to enter into financing arrangements.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving LS Power Grid New York, LLC and LS Power Grid New York Corporation I's petition, authorizing them to enter into flexible financing arrangements, up to a maximum amount of \$478 million, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0361SA1)

NOTICE OF ADOPTION**Rate Increase in Annual Revenues****I.D. No.** PSC-38-20-00003-A**Filing Date:** 2021-01-26**Effective Date:** 2021-01-26

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

Action taken: On 1/21/21, the PSC adopted an order authorizing Crystal Water Supply Company, Inc. (Crystal Water) to increase its annual revenues, contained in P.S.C. No. 1—Water, by \$28,061 or 62.2 percent, effective February 1, 2021.

Statutory authority: Public Service Law, sections 4(1), 5(1)(f), 89-c(1), (3), (10)(a), (b) and (f)

Subject: Rate increase in annual revenues.

Purpose: To authorize Crystal Water for a rate increase in annual revenues.

Substance of final rule: The Commission, on January 21, 2021, adopted an order authorizing Crystal Water Supply Company, Inc. (Crystal Water) to increase its annual revenues, contained in P.S.C. No. 1 – Water, by \$28,061 or 62.2 percent, effective February 1, 2021. Crystal Water is directed to file on not less than one day's notice to become effective February 1, 2021, revised Leaf No. 12, as shown in Appendix F. Crystal Water shall submit a feasibility and economic analysis for metered service, as discussed in the order, with the capital improvement filing, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-W-0432SA1)

NOTICE OF ADOPTION

Submetering of Electricity and Waiver Request

I.D. No. PSC-39-20-00022-A

Filing Date: 2021-01-22

Effective Date: 2021-01-22

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

Action taken: On 1/21/21, the PSC adopted an order approving 825 Dekalb LLC's (825 Dekalb) notice of intent to submeter electricity at 825 Dekalb Avenue, Brooklyn, New York and waiver request of the energy audit requirements in 16 NYCRR section 96.5(k)(3).

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

Subject: Submetering of electricity and waiver request.

Purpose: To approve 825 Dekalb's notice of intent to submeter electricity and waiver request.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving 825 Dekalb LLC's notice of intent to submeter electricity at 825 Dekalb Avenue, Brooklyn, New York and waiver request of the energy audit and energy efficiency plan requirements in 16 NYCRR § 96.5(k)(3), located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0443SA1)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-40-20-00007-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order approving the portion of Mpower Energy LLC's (Mpower) petition to market specified home warranty product bundles.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To approve the portion of Mpower's petition to market home warranty product bundles.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving the portion of Mpower Energy LLC's (Mpower) petition to market specified home warranty product bundles. Mpower shall, within 30 days of the issuance of the order, file with Department of Public Service Staff, in DMM Matter No. 14-02554, the standard sales agreements for each authorized home warranty product bundle.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA28)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-40-20-00009-A

Filing Date: 2021-01-21

Effective Date: 2021-01-21

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

Action taken: On 1/21/21, the PSC adopted an order approving Consolidated Edison of New York, Inc.'s (Con Edison) tariff amendments to P.S.C. No. 10—Electricity and P.S.C. No. 12—Electricity, to become effective on February 1, 2021.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff amendments.

Purpose: To approve Con Edison's tariff amendments.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving Consolidated Edison of New York, Inc.'s (Con Edison) tariff amendments to P.S.C. No. 10 – Electricity, for its schedule for electricity service applicable to its customers in the City of New York and the County of Westchester and for its schedule for PASNY Delivery Service, and P.S.C. No. 12 – Electricity, applicable to delivery by Con Edison of power and associated energy to Authority Public Customers under the PASNY Tariff, to become effective on February 1, 2021. Con Edison is directed to file, on an annual basis, workpapers to support the cost recovery of energy storage contract and implementation costs included in the Monthly Adjustment Clause beginning January 1, 2022 and annually on January 1st thereafter until directed to discontinue the filings by the Commission. The workpapers shall include calculations and verifiable links to the source documents used to arrive at the corresponding energy storage contract and implementation costs included in the Monthly Adjustment Clause surcharge line item on customer bills, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0444SA1)

NOTICE OF ADOPTION

ESCO Petition to Offer Products and Services

I.D. No. PSC-40-20-00010-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order approving the portion of Constellation NewEnergy, Inc. et. al.'s (Constellation) petition to market specified home warranty product bundles.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

Subject: ESCO petition to offer products and services.

Purpose: To approve the portion of Constellation's petition to market home warranty product bundles.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving the portion of Constellation NewEnergy, Inc. and Constellation NewEnergy – Gas Division, LLC's (Constellation) petition to market specified home warranty product bundles. Constellation shall, within 30 days of the issuance of the order, file with Department of Public Service Staff, in DMM Matter No. 14-02554, the standard sales agreements for each authorized home warranty product bundle.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-

2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-M-0127SA29)

NOTICE OF ADOPTION

Petition for Waiver or Modification

I.D. No. PSC-41-20-00012-A

Filing Date: 2021-01-22

Effective Date: 2021-01-22

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

Action taken: On 1/21/21, the PSC adopted an order denying Daroga Power, LLC's (Daroga) petition for a waiver or modification of the interconnection payment requirements and grandfathering provisions under the VDER High-Capacity-Factor Order.

Statutory authority: Public Service Law, sections 5(1)(b), (2), 65(1), (2), (3), 66(2), (5) and 66-p

Subject: Petition for waiver or modification.

Purpose: To deny Daroga's petition for waiver or modification.

Substance of final rule: The Commission, on January 21, 2021, adopted an order denying Daroga Power, LLC's (Daroga) petition for a waiver or modification of the interconnection payment requirements and grandfathering provisions under the Value of Distributed Energy Resources (VDER) High-Capacity-Factor Order, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-M-0475SA1)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-44-20-00004-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order approving Fishers Island Electric Corporation's (Fishers Island) tariff amendments to P.S.C. No. 2—Electricity, to become effective on February 1, 2021.

Statutory authority: Public Service Law, sections 65, 66 and 66-p

Subject: Tariff amendments.

Purpose: To approve Fishers Island's tariff amendments.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving Fishers Island Electric Corporation's (Fishers Island) tariff amendments to P.S.C. No. 2 – Electricity, relating to billing information for residential rental premises to become effective on February 1, 2021. Fishers Island is directed to inform its residential customers about the tariff amendments via website postings, social media, and bill messaging. These communications shall occur within 90 days of the issuance of the order. Fishers Island is also directed to update its communication material to include ongoing messaging regarding PSL § 66-p, within 90 days of the issuance of the order, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission,

3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-M-0029SA17)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-44-20-00005-A

Filing Date: 2021-01-22

Effective Date: 2021-01-22

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

Action taken: On 1/21/21, the PSC adopted an order approving 150 E 78th Street Property Owner LLC's (150 E 78th St.) notice of intent to submeter electricity at 150 East 78th Street, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To approve 150 E 78th St.'s notice of intent to submeter electricity.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving 150 E 78th Street Property Owner LLC's notice of intent to submeter electricity at 150 East 78th Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0478SA1)

NOTICE OF ADOPTION

Petition for Lease and Transfer of Property

I.D. No. PSC-44-20-00008-A

Filing Date: 2021-01-25

Effective Date: 2021-01-25

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

Action taken: On 1/21/21, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) and LS Power Grid New York Corporation I's (LS Power) petition to lease and transfer electric transmission facilities to LS Power.

Statutory authority: Public Service Law, sections 5, 65, 66 and 70

Subject: Petition for lease and transfer of property.

Purpose: To approve National Grid and LS Power's petition to lease and transfer electric transmission facilities to LS Power.

Substance of final rule: The Commission, on January 21, 2021, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) and LS Power Grid New York Corporation I's (LS Power) petition to lease certain portions of National Grid's existing transmission right-of-way and transfer certain electric transmission facilities to LS Power. National Grid shall file with the Secretary, within 60 days of the close of the lease, and each transfer of facilities, a copy of the journal entries recorded to account for each transaction consistent with the discussion in the body of the order, together with the related workpapers. National Grid shall defer and record into a regulatory liability account or accounts, the depreciation, property tax, and operation and maintenance

expense savings resulting from the transfer of facilities for the benefit of ratepayers, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0491SA1)

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

Disposition of a Property Tax Refund Received by New York American Water, Inc.

I.D. No. PSC-06-21-00009-P

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

Proposed Action: The Commission is considering a petition filed by New York American Water Company, Inc., on January 19, 2021, for the disposition of a property tax refund received from the Village of Island Park.

Statutory authority: Public Service Law, section 113(2)

Subject: Disposition of a property tax refund received by New York American Water, Inc.

Purpose: To determine the disposition of tax refunds and other related matters.

Public hearing(s) will be held at: 10:00 a.m., April 19, 2021. The Public Hearing will be held online and by telephone. Details for access will be published via Notice at the DPS website (www.dps.ny.gov) under Case 21-W-0060.*

*On occasion, there are requests to reschedule or postpone 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 21-W-0060.

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 Public Service Commission is considering a petition filed by New York American Water, Inc. (NYAW), on January 19, 2021, for the disposition of a property tax refund, pursuant under PSL Section 113(2).

NYAW asks the Commission to take notice of the tax refund and waive the rule requiring it to give the Commission notice of the refund within 60 days. NYAW proposes that the entire amount of the refund be allocated for (1) the benefit of ratepayers; and (2) to reimburse the costs incurred by NYAW in securing the refund.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: ohn.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 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.

(21-W-0060SP1)

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

Changes to PSL Section 66-p Relating to Billing Information for Residential Rental Premises

I.D. No. PSC-06-21-00008-P

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

Proposed Action: The Commission is considering a proposal filed by Green Island Power Authority to modify its electric tariff schedule regarding changes to PSL section 66-p relating to billing information for residential rental premises.

Statutory authority: Public Service Law, sections 65, 66 and 66-p

Subject: Changes to PSL section 66-p relating to billing information for residential rental premises.

Purpose: To establish provisions as necessary to effectuate PSL section 66-p.

Substance of proposed rule: The Commission is considering a proposal by Green Island Power Authority (the Company) on January 21, 2021, to amend its electric tariff schedule, P.S.C. No. 1. The Company proposes to establish provisions relating to billing information for residential rental properties in accordance with the recently enacted Public Service Law Section 66-p which became effective on April 18, 2020.

The Company proposes to include language in its electric tariff specifying that the Company shall provide the prospective tenant and landlord or other authorized person of prospective residential premises the total electric charges incurred for the life at such premises, or the preceding two-year period, whichever is shorter, within ten days of receipt of the written request, at no cost to the requestor. The proposed amendments have an effective date of June 1, 2021.

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. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

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

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

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-M-0029SP20)

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

Exemptions from Utility Standby Rates for Distributed Energy Resources and Efficient Combined Heat and Power Projects

I.D. No. PSC-06-21-00010-P

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

Proposed Action: The Commission is considering whether previously established temporary exemptions from standby rates for certain forms of distributed energy resources and efficient combined heat and power projects should be continued.

Statutory authority: Public Service Law, sections 64, 65(1), (2), (3), (5), 66(1), (2), (5), (8), (9), (10) and (12)

Subject: Exemptions from utility standby rates for distributed energy resources and efficient combined heat and power projects.

Purpose: To determine whether utility standby rate exemptions should be continued.

Substance of proposed rule: The New York State Public Service Commission (Commission) is considering whether previously established temporary exemptions from utility standby rates for certain forms of distributed energy resources (DER), as well as for efficient combined heat and power (CHP) projects, should be continued.

The exemptions were established by individual Commission orders for each of the State's Investor Owned Utilities (IOUs), as follows: Case 02-E-0551, Rochester Gas & Electric Corporation (RG&E); Case 02-E-0779, New York State Electric & Gas Corporation (NYSEG); Case 02-E-0780, Orange & Rockland Utilities, Inc. (O&R); Case 02-E-0781, Consolidated Edison Company of New York, Inc. (Con Edison); Case 02-E-1108, Central Hudson Gas & Electric Corporation (Central Hudson); and, Case 01-E-1847, Niagara Mohawk Power Corporation.

The exemptions were renewed several times with modifications, most recently in Case 19-E-0079, on May 16, 2019. The exemptions are currently scheduled to expire on May 31, 2021. The Commission is considering whether to extend the exemptions for each of the IOUs in order to allow DER and CHP projects that would otherwise be required to take standby service to instead choose to remain on standard tariff rates, and is also considering when any such further exemptions should expire.

The full record of the proceedings may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

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

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

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(19-E-0079SP2)

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

Petition to Submeter Electricity

I.D. No. PSC-06-21-00011-P

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

Proposed Action: The Commission is considering the petition of BSD 685 New York PropCo LLC to submeter electricity at 685 Fifth Avenue, New York, New York.

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

Subject: Petition to submeter electricity.

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

Substance of proposed rule: The Commission is considering the petition filed by BSD 685 New York PropCo LLC (BSG 685) on December 22, 2020, to submeter electricity at a new market-rate condominium building located at 685 Fifth Avenue, New York, New York 10022, in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

In the petition, BSD 685 requests authorization to take electric service from Con Edison and then distribute and meter that electricity to its residents. Once approved by the Commission, submetering of electricity to residents is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

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

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

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(20-E-0666SP1)

Workers' Compensation Board

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

Medical Treatment Guidelines

I.D. No. WCB-06-21-00013-P

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

Proposed Action: Amendment of section 324.2 of Title 12 NYCRR.

Statutory authority: Workers' Compensation Law, sections 13, 13-a and 141

Subject: Medical Treatment Guidelines.

Purpose: To update back, neck, shoulder, knee, and NAP MTGs.

Text of proposed rule: Paragraph 1 of Subdivision (a) of Section 324.2 of Title 12 NYCRR is hereby amended to read as follows:

(a) Medical Treatment Guidelines. Regardless of the date of accident or date of disablement, treatment of on the job injuries, illnesses, or occupational diseases shall be consistent with the applicable Medical Treatment Guidelines set forth herein. The operative Medical Treatment Guidelines shall be the Medical Treatment Guidelines in place on the date on which medical services are rendered. All Treating Medical Providers shall treat all existing and new workers' compensation injuries, illnesses, or occupational diseases, except as provided in section 324.3 of this Part, in accordance with the following:

(1) for the lumbar and thoracic spine *before May 24, 2021*, the New York Mid and Low Back Injury Medical Treatment Guidelines, Third Edition, September 15, 2014, effective November 1, 2014, which is herein incorporated by reference; *for lumbar and thoracic spine treatment rendered on or after May 24, 2021*, the New York Mid and Low Back Injury Medical Treatment Guidelines, Fourth Edition, January 26, 2021, effective May 24, 2021, which is herein incorporated by reference.

Paragraph 2 of Subdivision (a) of Section 342.2 of Title 12 NYCRR is hereby amended to read as follows:

(2) for the cervical spine *before May 24, 2021*, the New York Neck Injury Medical Treatment Guidelines, Third Edition, September 15, 2014, effective November 1, 2014, which is incorporated herein by reference; *for cervical spine treatment rendered on or after May 24, 2021*, the New York Neck Injury Medical Treatment Guidelines, Fourth Edition, January 26, 2021, effective May 24, 2021, which is herein incorporated by reference.

Paragraph 3 of Subdivision (a) of Section 342.2 of Title 12 NYCRR is hereby amended to read as follows:

(3) for the knee *before May 24, 2021*, with the New York Knee Injury Medical Treatment Guidelines, Third Edition, September 15, 2014, effective November 1, 2014, which is incorporated herein by reference; *for knee treatment rendered on or after May 24, 2021*, the New York Knee Injury Medical Treatment Guidelines, Fourth Edition, January 26, 2021, effective May 24, 2021, which is herein incorporated by reference;

Paragraph 4 of Subdivision (a) of Section 342.2 of Title 12 NYCRR is hereby amended to read as follows:

(4) for the shoulder *before May 24, 2021*, the New York Shoulder Injury Medical Treatment Guidelines, Third Edition, September 15, 2014, effective November 1, 2014, which is incorporated herein by reference; *[and] for shoulder treatment rendered on or after May 24, 2021*, the New York Shoulder Injury Medical Treatment Guidelines, Fourth Edition, January 26, 2021 effective May 24, 2021, which is herein incorporated by reference;

Text of proposed rule and any required statements and analyses may be obtained from: Heather MacMaster, NYS Workers' Compensation Board, Office of General Counsel, 328 State Street, Schenectady, NY 12305, (518) 486-9564, email: regulations@wcb.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:

The Chair of the Workers' Compensation Board (Chair) is authorized to amend Part 324 of Title 12 NYCRR. Workers' Compensation Law (WCL) § 117(1) authorizes the Chair to make reasonable regulations consistent with the provisions of the WCL. WCL § 141 authorizes the Chair to enforce all provisions of the chapter and make administrative regulations and orders providing in part for the receipt, indexing, and examining of all notices, claims and reports.

WCL §§ 13 and 13-a establishes employer liability for the provision of medical treatment and care for an injured employee and authorizes the Chair to prepare and establish a schedule for the state of charges and fees for medical treatment and care. Concomitant with an employer's liability to provide medical treatment and care for an injured employee and the Chair's authority to establish a medical fee schedule is the need for guidelines setting forth standards of appropriate treatment and care for injured or ill employees.

2. Legislative Objectives:

The Chair of Workers' Compensation Board is authorized to adopt reasonable rules consistent with and supplemental to the Workers' Compensation Law (Workers' Compensation Law §§ 117[1] and 141). Consistent with Workers' Compensation Law §§ 13 and 13-a(5), the Board may establish Medical Treatment Guidelines that set forth what is appropriate medical care and procedures that are pre-authorized (*Kigin v. NYS Workers' Compensation Board*, 24 NY3d 459 [2014]).

3. Needs and Benefits:

The purpose of the 12 NYCRR Part 324 (the Medical Treatment Guidelines, Guidelines or MTG) was to create medical guidelines for the treatment of injured workers using the most effective evidence-based modern diagnostic and treatment techniques. The MTG are standards of medical treatment that serve several important functions within the workers' compensation system. The Guidelines seek to: 1) set a single standard of medical care for injured workers; 2) expedite quality care for injured workers; 3) improve the medical outcomes for injured workers; 4) speed return to work by injured workers; 5) reduce disputes between payers and medical providers over treatment issues; 6) increase timely payments to medical providers; and 7) reduce overall system costs.

In keeping with the goals of the MTGs, the updated Guidelines proposed here address back, neck, shoulder, knee, and non-acute pain. The Guidelines will provide greater clarity and guidance for providers as well as injured workers to reflect the most effective and modern treatment techniques.

4. Costs:

The Guidelines will be available on the Board's website and anyone will be able to download and print them free of charge. Hard copies may be requested from the Board without a fee.

It should be noted that all parties will be able to use the updated Guidelines without having to pay a licensing fee.

5. Local Government Mandates:

The rule only imposes a mandate on local governments that are self-insured or that own and/or operate a hospital. The mandates on local governments are the same as those imposed on private self-insured employers, insurance carriers, the State Insurance Fund, third party administrators, medical professionals, private hospitals. Self-insured local governments and those that own and/or operate a hospital will need to comply with the requirements in the rule the same as a private self-insured employer or insurance carrier or private hospital. It is expected that the rule will generate reduced medical costs and therefore lower workers' compensation costs for all employers, including local governments.

6. Paperwork:

The proposed amendments to the regulations should not affect paperwork associated with medical treatment. There will be no change to the method and manner of the forms used as a result of this proposal.

7. Duplication:

The proposed regulation does not duplicate or conflict with any state or federal requirements.

8. Alternatives:

One alternative was to not update these Guidelines and keep the MTGs as is. However, the Board recognizes that the guidelines should be updated to reflect advances in medicine since they were last amended.

9. Federal Standards:

There are no federal standards applicable to this proposed regulation.

10. Compliance Schedule:

Participants will be able to comply with the proposed regulation when

they take effect. As the effective date is not until May 24, 2021, the participants will also have time to incorporate the updated Guidelines into their policies, procedures and practices.

Regulatory Flexibility Analysis

1. Effect of rule:

Small businesses and local governments whose only involvement with the workers' compensation system is that they are employers and are required to have coverage will not be affected by this rule. Small businesses cannot be individually self-insured but must purchase workers' compensation coverage from the State Insurance Fund or a private insurance carrier authorized to write workers' compensation insurance in New York or join a group self-insured trust. It is the entity providing coverage for the small employer that must comply with all of the provisions of this rulemaking, not the covered employer. The impact on the State Insurance Fund and all private insurance carriers is not covered in this document as they are not small businesses. Group self-insured trusts and third-party administrators hired by private insurance carriers may be small businesses, and these businesses may be slightly impacted by this regulation. All health practitioners authorized by the Chair to treat have to comply with the Medical Treatment Guidelines. Finally, local governments that own and/or operate a hospital may be affected by this rule.

The political subdivisions that are self-insured for workers' compensation coverage in New York State will have to comply with the provisions of this proposal. Those local governments who are not self-insured and do not own and/or operate a hospital will not be affected by this rule.

2. Compliance requirements:

The proposed rule does not impose new compliance requirements on the small businesses and local governments described above.

Adoption of the updated Guidelines will require all medical providers to adhere to those Guidelines and request a variance, should the requested treatment deviate from the treatment recommended in the Guidelines. The process for requesting a variance and the forms used to request a variance are already in use.

3. Professional services: Small businesses and local governments affected by the rule will not need any new professional services to comply with this rule.

4. Compliance costs:

The proposed amendments are intended to reduce administrative costs to all parties by adding clarity and guidance in the treatment of injured workers. As with the earlier adopted Guidelines, the Board will offer support for this implementation through training. The Guidelines will be available on the Board's website and anyone will be able to download and print them free of charge. Hard copies may be requested from the Board without a fee.

5. Economic and technological feasibility: It is economically and technologically feasible for small businesses and local governments to comply with the proposed amendments. The proposed amendments do not add any technological requirements or economic challenges from the current Guidelines.

6. Minimizing adverse impact: As stated above, the implementation of the proposed amendments is expected to save money for all participants in the workers' compensation system by updating the Guidelines for the treatment of back, neck, shoulder, knee and non-acute pain.

7. Small business and local government participation: The Board has solicited comments for the proposed new MTGs on its website from all participants in the workers' compensation system, including small businesses and local governments. The proposed amendment is expected to reduce costs and consume fewer resources for all participants in the workers' compensation system including small businesses and local governments.

The Board does not have a small employer or municipality database, but has sent an electronic communication describing the proposal to 10,324 subscribers for Board updates (6,364 health care providers and 3,960 employers) on January 14, 2021.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The amendment of section 324.2 of Part 324 of 12 NYCRR will apply to all insurance carriers, the State Insurance Fund self-insured employers, self-insured local governments, local governments that own and/or operate hospitals, attorneys, medical providers, group self-insured trusts, third party administrators and claimants across the state. These individuals and entities exist in all rural areas of the state.

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

Adoption of the updated Medical Treatment Guidelines (Guidelines) (Mid and Low Back, Neck, Shoulder, Knee, Non-Acute Pain) will require all medical providers to adhere to those Guidelines and request a variance, should the requested treatment deviate from the treatment recommended in the Guidelines. The process for requesting a variance and the forms

used to request a variance are already in use. It is not anticipated that the proposed amendments will require any additional staffing or resources by rural employers.

3. Costs:

The proposed amendment is intended to reduce administrative costs to all parties including rural participants, reduce delays in resolution of disputes, and add clarity and guidance in the treatment of injured workers. As with the original Guidelines adopted in 2010 and the 2013, 2014, and 2020 amendments, the Board will offer support for this implementation. The Guidelines will be available on the Board's website and anyone will be able to download and print them free of charge. Hard copies may be requested from the Board without a fee.

4. Minimizing adverse impact:

As stated above, the implementation of these new MTG is expected to reduce costs and consume fewer resources for all participants in the workers' compensation system including rural participants. The additions will provide greater clarity and guidance.

5. Rural area participation:

The proposal will be available for public comment on the Board's website and in the State Register, and the Board will duly consider all public comments received.

Job Impact Statement

The proposed rule will not have an adverse impact on jobs. The proposed rule amends Section 324.2 of Part 324 of 12 NYCRR, known as the Medical Treatment Guidelines (Guidelines), to update the back, neck, shoulder, knee, and non-acute pain Guidelines.

The rule does not eliminate any existing process, procedure, or program, and will not result in an adverse impact on jobs.

**HEARINGS SCHEDULED
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
Environmental Conservation, Department of		
ENV-03-21-00010-P	Application of Site-Specific Criteria to Class I and Class SD Waters	<p>Electronic webinar—March 23, 2021, 2:00 p.m.</p> <p>Instructions on how to “join” the hearing webinar and provide an oral statement will be posted on the Department’s events calendar and proposed regulations webpage by Wednesday, January 20, 2021. Department’s events calendar may be accessed at: https://www.dec.ny.gov/calendar/. The proposed regulations webpage for 6 NYCRR § 703.4 may be accessed at: https://www.dec.ny.gov/regulations/121933.html</p> <p>Persons who wish to receive the instructions by mail or telephone may call the Department at (518) 402-9003. Please provide your first and last name, address, and telephone number and reference the 703.4 public comment hearing.</p> <p>The Department will provide interpreter services for hearing impaired persons at no charge upon written request submitted no later than March 9, 2021. The written request must be addressed to ALJ McBride, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to ALJ McBride at ohms@dec.ny.gov.</p>
ENV-04-21-00007-P	Chlorpyrifos Prohibition	<p>Electronic webinar—March 30, 2021, 6:00 p.m.</p> <p>Instructions on how to “join” the hearing webinar and how to provide an oral statement may be accessed at the proposed regulations webpage for Part 326, available at: https://www.dec.ny.gov/chemical/121988.html. Instructions will also be available on the Department’s events calendar at: https://www.dec.ny.gov/calendar/</p> <p>Persons who wish to receive the instructions by mail or telephone may call DEC at (518) 402-9003. Please provide your first and last name, address, and telephone number and reference the Part 326 public comment hearing. Interpreter services for hearing impaired persons or persons with limited English proficiency will be provided at no charge upon written request submitted no later than March 16, 2021. The written request must be addressed to ALJ Sherman, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to ALJ Sherman at ohms@dec.ny.gov.</p>
ENV-04-21-00008-P	Food Donation and Food Scraps Recycling	<p>Electronic webinar—April 7, 2021, 1:00 p.m. and 6:00 p.m.</p> <p>Instructions on how to “join” the hearing webinar and how to provide an oral statement may be accessed at the proposed regulations webpage for the Department, available at: https://www.dec.ny.gov/regulations/proregulations.html#public. Instructions will also be available on the Department’s events</p>

calendar at: <https://www.dec.ny.gov/calendar/>
 Persons who wish to receive the instructions by mail or telephone may call DEC at (518) 402-9003. Please provide your first and last name, address, and telephone number and reference the Part 350 public comment hearing. Interpreter services for hearing impaired persons or persons with limited English proficiency will be provided at no charge upon written request submitted no later than March 24, 2021. The written request must be addressed to ALJ Caruso, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to ALJ Caruso at ohms@dec.ny.gov.

Public Service Commission

PSC-45-20-00004-P Major Gas Rate Filing

Department of Public Service, 19 Fl. Board Rm., 3 Empire State Plaza, Albany, NY—February 16, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)*
 *On occasion, there are requests to reschedule or postpone 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 20-E-0429

PSC-45-20-00005-P Major Electric Rate Filing

Department of Public Service, 19 Fl. Board Rm., 3 Empire State Plaza, Albany, NY—February 16, 2021, 10:30 a.m. and continuing daily as needed (Evidentiary Hearing)*
 *On occasion, there are requests to reschedule or postpone 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 20-E-0428

PSC-02-21-00006-P Disposition of a Sales Tax Refund Received by New York American Water, Inc.

The Public Hearing will be held online and by telephone. Details for access will be published via Notice at the DPS website (www.dps.ny.gov) under Case 20-W-0654—April 19, 2021, 10:00 a.m. (Evidentiary Hearing)*
 *On occasion, there are requests to reschedule or postpone 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 20-W-0654.

PSC-06-21-00009-P Disposition of a Property Tax Refund Received by New York American Water, Inc.

The Public Hearing will be held online and by telephone. Details for access will be published via Notice at the DPS website (www.dps.ny.gov) under Case 21-W-0060—April 19, 2021, 10:00 a.m.*
 *On occasion, there are requests to reschedule or postpone 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 21-W-0060.

ACTION PENDING INDEX

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

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

For additional information concerning any of the proposals

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

Agency code	Issue number	Year published	Serial number	Action Code
AAM	01	12	00001	P

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
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AGRICULTURE AND MARKETS, DEPARTMENT OF

AAM-12-20-00006-P	04/29/21	Calibrating and testing of certain weights and measures standards and devices.	To allow the Dept. to increase the fees it charges in calibrating and testing certain weights & measures standards and devices.
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ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF

ASA-28-20-00013-P	07/15/21	Patient Rights	To set-forth the minimum regulatory requirements for patient rights in OASAS certified, funded or otherwise authorized programs
ASA-28-20-00016-P	07/15/21	Designated Services	To set-forth the minimum regulatory requirements for certified programs to seek an Office designation

CHILDREN AND FAMILY SERVICES, OFFICE OF

*CFS-46-19-00002-RP	04/29/21	Behavioral health services, elimination of room isolation and authority to operate de-escalation rooms	To implement standards for behavioral health services and the operation of de-escalation rooms and to eliminate room isolation
*CFS-04-20-00009-P	04/29/21	Host Family Homes	The proposed regulations would establish standards for the approval and administration of host family homes.
CFS-46-20-00001-P	11/18/21	Amendment to community guardian program regarding who can complete the annual evaluation or examination	Amendment to community guardian program regarding who can complete the annual evaluation or examination
CFS-49-20-00006-EP	12/09/21	Maintenance reimbursement for residential CSE programs when a student has been absent from the program for more than 15 days.	Remove an existing regulatory barrier that precludes maintenance reimbursement for residential CSE programs.
CFS-51-20-00003-P	12/23/21	Outlining the procedures for requesting and conducting criminal history disqualification reviews	Outlining the procedures for requesting and conducting criminal history disqualification reviews

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CHILDREN AND FAMILY SERVICES, OFFICE OF			
CFS-03-21-00004-P	01/20/22	Implement rules re: release of original birth certificate or related identifying info. to adult adopted & other specific persons	Implement rules re: release of original birth certificate or related identifying info. to adult adopted & other specific persons
CIVIL SERVICE, DEPARTMENT OF			
*CVS-03-20-00003-P	04/29/21	Jurisdictional Classification	To classify positions in the non-competitive class
*CVS-03-20-00004-P	04/29/21	Jurisdictional Classification	To classify a position in the exempt class
*CVS-03-20-00005-P	04/29/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
*CVS-03-20-00006-P	04/29/21	Jurisdictional Classification	To classify a position in the non-competitive class
*CVS-03-20-00007-P	04/29/21	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-06-20-00001-P	04/29/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-06-20-00002-P	04/29/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-06-20-00003-P	04/29/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-20-00004-P	04/29/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-20-00005-P	04/29/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-06-20-00006-P	04/29/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-06-20-00007-P	04/29/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class and to delete positions from the non-competitive class
CVS-06-20-00008-P	04/29/21	Jurisdictional Classification	To delete a subheading and positions from and to classify a subheading and positions in the exempt and non-competitive classes
CVS-13-20-00002-P	04/29/21	Supplemental military leave benefits	To extend the availability of supplemental military leave benefits for certain New York State employees until December 31, 2020
CVS-13-20-00009-P	04/29/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00010-P	04/29/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-13-20-00011-P	04/29/21	Jurisdictional Classification	To delete positions from the exempt class
CVS-13-20-00012-P	04/29/21	Jurisdictional Classification	To delete positions from the non-competitive class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-13-20-00013-P	04/29/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-13-20-00014-P	04/29/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00015-P	04/29/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-13-20-00016-P	04/29/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00017-P	04/29/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00018-P	04/29/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-13-20-00019-P	04/29/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-13-20-00020-P	04/29/21	Jurisdictional Classification	To delete positions in the non-competitive class
CVS-13-20-00021-P	04/29/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-13-20-00022-P	04/29/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-13-20-00023-P	04/29/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-13-20-00024-P	04/29/21	Jurisdictional Classification	To classify positions in the exempt and the non-competitive classes.
CVS-13-20-00025-P	04/29/21	Jurisdictional Classification	To delete a position from and classify positions in the non-competitive class
CVS-18-20-00004-P	05/06/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-18-20-00005-P	05/06/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-18-20-00006-P	05/06/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-18-20-00007-P	05/06/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-18-20-00008-P	05/06/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-18-20-00009-P	05/06/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-18-20-00010-P	05/06/21	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-24-20-00002-P	06/17/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-24-20-00003-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00004-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class

Action Pending Index**NYS Register/February 10, 2021**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-24-20-00005-P	06/17/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-24-20-00006-P	06/17/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-24-20-00007-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00008-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00009-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00010-P	06/17/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-28-20-00004-P	07/15/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-28-20-00005-P	07/15/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-28-20-00006-P	07/15/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-28-20-00007-P	07/15/21	Jurisdictional Classification	To delete a position from the exempt class
CVS-28-20-00008-P	07/15/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-28-20-00009-P	07/15/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-28-20-00010-P	07/15/21	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-28-20-00011-P	07/15/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-28-20-00012-P	07/15/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-32-20-00003-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-32-20-00004-P	08/12/21	Jurisdictional Classification	To classify positions in the exempt and the non-competitive classes
CVS-32-20-00005-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-32-20-00006-P	08/12/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-41-20-00002-P	10/14/21	Jurisdictional Classification	To delete positions from and to classify a subheading and positions in the exempt class
CVS-41-20-00003-P	10/14/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-41-20-00004-P	10/14/21	Jurisdictional Classification	To classify a position in the non-competitive class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-41-20-00005-P	10/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-41-20-00006-P	10/14/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-41-20-00007-P	10/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-49-20-00002-P	12/09/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-49-20-00003-P	12/09/21	Jurisdictional Classification	To delete positions from and classify positions in the exempt class.
CVS-49-20-00004-P	12/09/21	Jurisdictional Classification	To classify positions in the exempt class.
CVS-49-20-00005-P	12/09/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-02-21-00001-P	01/13/22	Jurisdictional Classification	To classify positions in the exempt class
CVS-02-21-00002-P	01/13/22	Jurisdictional Classification	To classify positions in the exempt class
CVS-02-21-00003-P	01/13/22	Jurisdictional Classification	To classify a position in the exempt class
CVS-06-21-00001-P	02/10/22	Jurisdictional Classification	To delete positions from and classify positions in the exempt class and to classify positions in the non-competitive class
CVS-06-21-00002-P	02/10/22	Jurisdictional Classification	To classify positions in the exempt class
CVS-06-21-00003-P	02/10/22	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-06-21-00004-P	02/10/22	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-06-21-00005-P	02/10/22	Jurisdictional Classification	To classify a position in the non-competitive class
CORRECTION, STATE COMMISSION OF			
CMC-04-21-00002-P	01/27/22	Ratio of toilet, sink, shower per youth in Specialized Secured Detention Facility for Older Youth	Amend the ratio of toilet, sink, and shower to coincide with Office of Children and Family Services regulations
CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF			
CCS-34-20-00001-P	08/26/21	Family Reunion Program	To clarify for logic and consistency, and make additional changes to the current Family Reunion Program
CRIMINAL JUSTICE SERVICES, DIVISION OF			
*CJS-30-19-00010-ERP	04/29/21	Use of Force	Set forth use of force reporting and recordkeeping procedures

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CRIMINAL JUSTICE SERVICES, DIVISION OF			
CJS-19-20-00010-P	05/13/21	Part 364 - Conditional release conditions.	Conform to the recent changes made by the Legislature by removing the term "gravity knife".
CJS-44-20-00002-P	11/04/21	Intake for Article 7 (PINS)	Update existing Rule to reflect services which will be performed by Probation departments
CJS-03-21-00005-P	01/20/22	Familial Search Policy and Unidentified Human Remains	Add unidentified human remains to familial searching for identification where the remains are those of a victim of a crime
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
EDV-48-20-00001-P	12/02/21	Employee Training Incentive Program	To update the administrative processes for the ETIP program
EDUCATION DEPARTMENT			
*EDU-17-19-00008-P	04/29/21	To require study in language acquisition and literacy development of English language learners in certain teacher preparation	To ensure that newly certified teachers enter the workforce fully prepared to serve our ELL population
*EDU-27-19-00010-P	04/29/21	Substantially Equivalent Instruction for Nonpublic School Students	Provide guidance to local school authorities to assist them in fulfilling their responsibilities under the Compulsory Ed Law
EDU-11-20-00013-RP	04/29/21	Special Education Impartial Hearing Officers and the Special Education Due Process System Procedures	To address volume of special education due process complaints in the New York City due process system
EDU-16-20-00002-ERP	04/29/21	Addressing the COVID-19 Crisis	To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis
EDU-20-20-00008-ERP	05/20/21	Addressing the COVID-19 Crisis	To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis
EDU-30-20-00005-RP	07/29/21	Creating a Safety Net for the School Building Leader Assessment	To create a safety net for the School Building Leader Assessment
EDU-48-20-00003-P	12/02/21	Regional Bibliographic Data Bases and Interlibrary Resources Sharing Program	Update and clarify certain terminology related to the use of technology in libraries and to reflect new technologies.
EDU-52-20-00018-EP	12/30/21	Addressing the COVID-19 crisis	To address issues resulting from the COVID-19 crisis and to provide regulatory flexibility due to the COVID-19 crisis
EDU-52-20-00019-P	12/30/21	Requirements for Awarding the NYS Seal of Bilingualism	To update the requirements for awarding the NYS Seal of Bilingualism
EDU-52-20-00020-P	12/30/21	Content Core Requirement in Computer Science Teacher Preparation Programs	To make the content core requirement for the Computer Science certificate aligned with the NYS Computer Science Standards
EDU-52-20-00021-P	12/30/21	Conferral of the Degree of Doctor of Medicine (M.D.) by the Board of Regents	To conform the law with the statutory requirements for issuance of an M.D. to foreign-educated applicants

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
EDU-52-20-00022-P	12/30/21	Implementation of the Crown Act	To implement Chapter 95 of the Laws of 2019, known as the Crown Act
EDU-52-20-00023-EP	12/30/21	Instruction to prevent child sexual exploitation and child sexual abuse in grades K-8	Implementation of chapter 187 of the Laws of 2019
EDU-52-20-00024-P	12/30/21	Uniform Violent or Disruptive Incident Reporting (VADIR) System, Also Known as the School Safety and Educational Climate Report	Update the definitions of violent and disruptive incidents for purposes of the VADIR and update the School Violence Index
EDU-01-21-00002-EP	01/06/22	Addressing the COVID-19 crisis and planning for the reopening of schools	To provide regulatory flexibility due to the COVID-19 crisis and to plan for the reopening of schools
EDU-04-21-00009-EP	01/27/22	Designation of the Executive Deputy Commissioner as the Deputy Commissioner of Education as specified in Education Law § 101	To conform the Regents Rules to changes in the internal organization of the State Education Department
EDU-04-21-00010-P	01/27/22	The licensure of registered pharmacy technicians	To implement the provisions of Chapter 414 of the Laws of 2019 relating to the licensure of registered pharmacy technicians
ELECTIONS, STATE BOARD OF			
SBE-06-21-00015-EP	02/10/22	Related to establishing a cure process for absentee ballots	Establishes a cure process for absentee ballots
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
*ENV-37-19-00003-RP	04/01/21	Clarifying determination of jurisdiction under the Endangered and Threatened Fish and Wildlife regulations	To improve the review of projects by removing some project types that are known not to cause harm from the review stream
ENV-33-20-00005-P	08/19/21	Repeal of Section 485.1	To remove outdated and redundant references in the Department's regulations
ENV-36-20-00002-P	09/09/21	Deer Hunting Seasons	Establish a bow and muzzleloader deer hunting season in the Southern Zone during the Christmas and New Year holiday week
ENV-42-20-00003-EP	10/21/21	Sanitary Condition of Shellfish Lands	To reclassify underwater shellfish lands to protect public health
ENV-47-20-00004-P	11/25/21	Inland trout stream fishing regulations	To revise and standardize inland trout stream fishing regulations
ENV-47-20-00005-P	11/25/21	Sportfishing (freshwater) and associated activities	To revise and simplify sportfishing regulations and associated activities
ENV-01-21-00003-P	01/06/22	Regulations governing recreational fishing for striped bass	To require circle hooks when fishing recreationally for striped bass using bait
ENV-03-21-00010-P	03/23/22	Application of Site-Specific Criteria to Class I and Class SD Waters	Add site-specific criteria to Class I and SD waters to provide additional water quality protection of the existing best uses
ENV-04-21-00007-P	03/30/22	Chlorpyrifos prohibition	Prohibit distribution, sale, purchase, possession, or use of pesticides that contain the active ingredient chlorpyrifos

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-04-21-00008-P	04/07/22	Food Donation and Food Scraps Recycling	Required by Title 22 of Article 27, the rule increases food donation and the recycling of food scraps through composting
FINANCIAL SERVICES, DEPARTMENT OF			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
*DFS-43-19-00017-P	04/01/21	Independent Dispute Resolution for Emergency Services and Surpsise Bills	To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided
DFS-36-20-00007-P	09/09/21	Superintendent's Regulations: Information Subject to Confidential Treatment	Provide rules concerning publication or disclosure of information subject to confidential treatment
DFS-45-20-00007-P	11/10/21	Office of Pharmacy Benefits	To establish the Office of Pharmacy Benefits and rules for the Drug Accountability Board
DFS-49-20-00011-P	12/09/21	Credit for Reinsurance	To conform to covered agreements entered into between the US and EU and the US and UK, and implement NAIC models.
DFS-52-20-00001-P	12/30/21	Principle-Based Reserving	To prescribe minimum principle-based valuation standards
GAMING COMMISSION, NEW YORK STATE			
SGC-34-20-00009-P	08/26/21	Qualification time in harness racing	To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government
SGC-50-20-00006-P	12/16/21	Participation in the management and operation of charitable games of chance	To maintain integrity and accountability in the management and operation of games of chance
SGC-50-20-00007-P	12/16/21	Contactless payment methods for chances in charitable gaming	To promote public health and support of organizations authorized to operate games of chance
HEALTH, DEPARTMENT OF			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
*HLT-36-19-00006-P	04/29/21	Limits on Executive Compensation	Removes "Soft Cap" prohibition on covered executive salaries.
*HLT-40-19-00004-P	04/29/21	Drug Take Back	To implement the State's drug take back program to provide for the safe disposal of drugs
*HLT-46-19-00003-P	04/29/21	Tanning Facilities	To prohibit the use of indoor tanning facilities by individuals less than 18 years of age

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HEALTH, DEPARTMENT OF			
*HLT-47-19-00008-P	04/29/21	Hospital Medical Staff - Limited Permit Holders	To repeal extra years of training required for limited permit holders to work in New York State hospitals.
*HLT-51-19-00001-P	04/29/21	Women, Infants and Children (WIC) Program	To support implementation of eWIC; clarify rules for violations, penalties & hearings & conform vendor authorization criteria.
*HLT-04-20-00003-P	04/29/21	Applied Behavior Analysis	To include Applied Behavior Analysis in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit.
*HLT-04-20-00011-P	04/29/21	Nursing Home Case Mix Rationalization	To authorize the Department of Health to change the case mix acuity process for all nursing homes.
HLT-11-20-00003-P	04/29/21	Adult Day Health Care (ADHC)	To allow for reimbursement of real property leases in certain situations when used for operations of an ADHC program
HLT-27-20-00006-P	07/08/21	Medicaid Managed Care State Fair Hearings and External Appeals Processes and Standards	To address & clarify rules of procedure & presentation of evidence for Medicaid managed care fair hearings & external appeals
HLT-28-20-00019-RP	07/15/21	Personal Care Services (PCS) and Consumer Directed Personal Assistance Program (CDPAP)	To implement a revised assessment process and eligibility criteria for PCS and CDPAP
HLT-31-20-00012-EP	exempt	Hospital Non-comparable Ambulance Acute Rate Add-on	Prevents duplicate claiming by Article 28 hospitals for the ambulance add-on regarding participation in the program
HLT-38-20-00006-P	09/23/21	Medicaid Transportation Program	Medicaid payment standards for emergency ambulance providers participating in an Emergency Triage, Treat & Transport (ET3) model
HLT-38-20-00008-EP	09/23/21	Revise Requirements for Collection of Blood Components	To facilitate the availability of human blood components while maintaining safety
HLT-45-20-00002-P	11/10/21	Cannabinoid Hemp	To create a licensing framework for cannabinoid hemp processors and cannabinoid hemp retailers
HLT-05-21-00011-P	02/03/22	Ingredient Disclosures for Vapor Products and E-Cigarettes	To provide for enhanced public awareness of the chemicals used in vapor products and electronic cigarettes
HLT-06-21-00006-P	02/10/22	Name Change for the Physically Handicapped Children's Program (PHCP)	To change the name of the PHCP to Children and Youth with Special Health Care Needs Support Services Programs
HOUSING AND COMMUNITY RENEWAL, DIVISION OF			
*HCR-21-19-00019-P	04/29/21	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HOUSING FINANCE AGENCY			
*HFA-21-19-00020-P	04/29/21	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits
LABOR, DEPARTMENT OF			
*LAB-46-19-00004-P	04/01/21	NY State Public Employees Occupational Safety and Health Standards	To incorporate by reference updates to OSHA standards into the NY State Public Employee Occupational Safety and Health Standards
LAB-49-20-00012-P	12/09/21	Sick Leave Requirements	To provide definitions and standards for the sick leave requirements contained in Section 196-b of the Labor Law
LAB-05-21-00003-EP	02/03/22	Unemployment Insurance (UI) definition of "day of total unemployment"	To prevent an additional financial burden on UI claimants seeking part-time work opportunities and help employers obtain talent
LAKE GEORGE PARK COMMISSION			
LGP-29-20-00006-P	09/22/21	Amendment of Stormwater Regulations within the Lake George Park	To more adequately control and minimize the pollutants found in stormwater runoff from going into Lake George
LGP-43-20-00005-P	01/12/22	Stream corridor protection regulations for the Lake George Park	To establish permit requirements and standards for the protection of stream corridors in the Lake George Park
LAW, DEPARTMENT OF			
LAW-18-20-00002-P	05/06/21	Designation of a Privacy Officer	Removal of a named Privacy Officer., along with their contact information
LONG ISLAND POWER AUTHORITY			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment.
*LPA-37-18-00018-P	exempt	The treatment of energy storage in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LONG ISLAND POWER AUTHORITY			
LPA-09-20-00010-P	..... exempt	To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory.	To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets.
LPA-28-20-00033-EP	..... exempt	LIPA's late payment charges, reconnection charges, and low-income customer discount enrollment	To allow waiver of late payment and reconnection charges and extend the grace period for re-enrolling in customer bill discounts
LPA-37-20-00013-EP	..... exempt	The terms of deferred payment agreements available to LIPA's commercial customers	To expand eligibility for and ease the terms of deferred payment agreements for LIPA's commercial customers
LONG ISLAND RAILROAD COMPANY			
LIR-39-20-00005-ERP	..... 09/30/21	Requiring wearing masks over the nose and mouth when using terminals, stations, and trains operated by Long Island Rail Road	To safeguard the public health and safety on terminals, stations and trains operated by Long Island Rail Road
MANHATTAN AND BRONX SURFACE TRANSIT OPERATING AUTHORITY			
MBA-39-20-00007-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using facilities and conveyances operated by the MaBSTOA	To safeguard the public health and safety by amending existing rules to require use of masks when using the transit system
MENTAL HEALTH, OFFICE OF			
OMH-42-20-00011-EP	..... 10/21/21	Comprehensive Psychiatric Emergency Programs	To provide clarify and provide uniformity relating to CPEPs and to implement Chapter 58 of the Laws of 2020
METRO-NORTH COMMUTER RAILROAD			
MCR-39-20-00004-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using terminals, stations, and trains operated by Metro-North Railroad	To safeguard the public health and safety by amending the rules to require use of masks when using Metro-North facilities
METROPOLITAN TRANSPORTATION AGENCY			
MTA-39-20-00009-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using the facilities and conveyances operated by MTA Bus Company	To safeguard the public health and safety by amending rules to require use of masks when using MTA Bus facilities and conveyance
NEW YORK CITY TRANSIT AUTHORITY			
NTA-39-20-00006-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using facilities and conveyances operated by NYC Transit Authority	To safeguard the public health and safety by amending existing rules to require use of masks when using the transit system
NIAGARA FALLS WATER BOARD			
*NFW-04-13-00004-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
NIAGARA FALLS WATER BOARD			
NFW-03-21-00003-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
NIAGARA FRONTIER TRANSPORTATION AUTHORITY			
NFT-39-20-00023-P	..... 09/30/21	Procurement Guidelines of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc	To amend procurement guidelines to reflect changes in law and clarifying language
OGDENSBURG BRIDGE AND PORT AUTHORITY			
*OBA-33-18-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit.
*OBA-07-19-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
PARKS, RECREATION AND HISTORIC PRESERVATION, OFFICE OF			
PKR-04-21-00005-P	..... 01/27/22	Fees and charges for the use of State parks, parkways, historic sites and recreational facilities	To repeal outdated fees and charges that are not required to be posted in regulation
PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR			
PDD-37-20-00004-ERP	..... 09/16/21	Day Habilitation Duration	to help providers maintain capacity to operate during the public health emergency
PDD-02-21-00005-EP	..... 01/13/22	Medical Consent	To assist providers in administering the COVID-19 vaccine
PDD-04-21-00001-P	..... 01/27/22	Annual Prevocational Assessment	To allow such assessments to be conducted at a location specified by OPWDD
PDD-04-21-00006-P	..... 01/27/22	Medication regimen review	Make technical corrections to align with current regulation allowing for an annual medication regimen review or more frequently
POWER AUTHORITY OF THE STATE OF NEW YORK			
*PAS-01-10-00010-P	..... exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PUBLIC SERVICE COMMISSION			
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date

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PUBLIC SERVICE COMMISSION			
*PSC-44-01-00005-P exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*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

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PUBLIC SERVICE COMMISSION			
*PSC-46-05-00015-P exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	..... exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	..... exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	..... exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	..... exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-34-09-00017-P	..... exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	..... exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	..... exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	..... exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	..... exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	..... exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-36-10-00010-P	..... exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	..... exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	..... exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order.	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing.
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*PSC-23-12-00007-P	..... exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	..... exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	..... exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-45-12-00008-P	..... exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	..... exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	..... exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	..... exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*PSC-08-13-00014-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	..... exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	..... exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines.	To help ensure efficient and economic expansion of the natural gas system as appropriate.
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.
*PSC-28-13-00017-P	..... exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	..... exempt	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices
*PSC-32-13-00012-P	..... exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-45-13-00022-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines.	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity.	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	..... exempt	Conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.	Consideration of conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00011-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality andthe Customer Trouble Report Rate levels at certain central office entities

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets.	To consider the Comcast and Charter transfer of systems, franchise and assets.
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter.	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive,Albany, NY.
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition’s petition	To consider the Connect New York Coalition’s petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*PSC-36-14-00009-P	..... exempt	Modification to the Commission’s Electric Safety Standards.	To consider revisions to the Commission’s Electric Safety Standards.
*PSC-38-14-00003-P	..... exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison’s low income program to include Medicaid recipients.	Whether to expand Con Edison’s low income program to include Medicaid recipients.
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-40-14-00008-P	..... exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.
*PSC-40-14-00009-P	..... exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality.	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1.
*PSC-40-14-00011-P	..... exempt	Late Payment Charge.	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-40-14-00015-P	..... exempt	Late Payment Charge.	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY..
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-08-15-00010-P	..... exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.	To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program.
*PSC-10-15-00007-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	..... exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-13-15-00027-P	..... exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program.	To consider approval of remote net metering of a demonstration community net metering program.
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project.	To consider approval of remote net metering of a Community Solar Demonstration Project.
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-40-15-00014-P	..... exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	..... exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.
*PSC-44-15-00028-P	..... exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation.	Consider Whitepaper on Implementing Lightened Ratemaking Regulation.
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	..... exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.
*PSC-06-16-00013-P	..... exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs.	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs.
*PSC-06-16-00014-P	..... exempt	MEGA's proposed demonstration CCA program.	To consider MEGA's proposed demonstration CCA program.
*PSC-14-16-00008-P	..... exempt	Resetting retail markets for ESCO mass market customers.	To ensure consumer protections with respect to residential and small non-residential ESCO customers.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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-24-16-00009-P	..... exempt	Petition to submeter gas service.	To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY.
*PSC-25-16-00009-P	..... exempt	To delay Companies' third-party assessments of customer personally identifiable information until 2018.	To extend the time period between the Companies' third-party assessments of customer personally identifiable information.
*PSC-25-16-00025-P	..... exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.
*PSC-25-16-00026-P	..... exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications.	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.
*PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
*PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs.	To consider participation of NYPA customers in surcharge-funded clean energy programs.
*PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks.	To evaluate proposed methodologies of benefit-cost evaluation.
*PSC-33-16-00001-EP	..... exempt	Use of escrow funds for repairs.	To authorize the use of escrow account funds for repairs.
*PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility.	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges.
*PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service.	To consider the recovery of costs for installation of electric service.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements.
*PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for RG&E.
*PSC-02-17-00012-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for NYSEG.
*PSC-18-17-00024-P	..... exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist.
*PSC-18-17-00026-P	..... exempt	Revisions to the Dynamic Load Management surcharge.	To consider revisions to the Dynamic Load Management surcharge.
*PSC-19-17-00004-P	..... exempt	NYAW's request to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2016.	Consideration of NYAW's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2016.
*PSC-20-17-00008-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-20-17-00010-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-21-17-00013-P	..... exempt	The establishment and implementation of Earnings Adjustment Mechanisms.	To consider the establishment and implementation of Earnings Adjustment Mechanisms.
*PSC-21-17-00018-P	..... exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement.
*PSC-22-17-00004-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry.	Improved data access.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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 Hanahan.	To determine financial responsibility between NYSEG and Hanahan for the electric service upgrades to Hanahan.
*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
PUBLIC SERVICE COMMISSION			
*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
PUBLIC SERVICE COMMISSION			
*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-47-18-00008-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
*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-12-19-00004-P	..... exempt	To test innovative pricing proposals on an opt-out basis.	To provide pricing structures that deliver benefits to customers and promote beneficial electrification technologies.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-13-19-00010-P	..... exempt	New Commission requirements for gas company operator qualification programs.	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities.
*PSC-19-19-00013-P	..... exempt	Proposed merger of three water utilities into one corporation.	To determine if the proposed merger is in the public interest.
*PSC-20-19-00008-P	..... exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases
*PSC-20-19-00010-P	..... exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
*PSC-20-19-00015-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 105.8 MW electric generating facility	Consideration of a lightened regulatory regime for an approximately 105.8 MW electric generating facility
*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-31-19-00015-P	..... exempt	Proposed major rate increase in KEDNY's gas delivery revenues by \$236.8 million (13.6% increase in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-31-19-00016-P	..... exempt	Proposed major rate increase in KEDLI's gas delivery revenues of approximately \$49.4 million (or 4.1% in total revenues).	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-44-19-00003-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00005-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00006-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00007-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
*PSC-44-19-00009-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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-46-19-00010-P	..... exempt	To test innovative rate designs on an opt-out basis.	To implement alternative innovative rate designs intended to assess customer behaviors in response to price signals
*PSC-50-19-00004-P	..... exempt	Petition to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
*PSC-52-19-00006-P	..... exempt	Authorization to defer pension settlement losses.	To address the ratemaking related to the pension settlement losses.
*PSC-03-20-00009-P	..... exempt	Changes to the Utility Energy Registry	To determine appropriate rules for data availability
*PSC-04-20-00014-P	..... exempt	Transfer of the Indian Point site, nuclear waste, and decommissioning and site restoration funds from Entergy to Holtec.	To protect the public interest.
PSC-07-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
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-15-20-00013-P	..... exempt	Ownership of New York American Water Company, Inc.	To consider whether a proposed transfer of ownership of New York American Water Company, Inc. is in the public interest.
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-18-20-00012-P	..... exempt	The purchase price of electric energy and capacity from customers with qualifying on-site generation facilities.	To revise the price to be paid by the Company under Service Classification No. 10. for qualifying purchases of unforced capacity
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
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-21-20-00008-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-23-20-00008-P	..... exempt	Disposition of sales tax refund and other related matters.	To consider the appropriate allocation of the sales tax refund proceeds while balancing ratepayer and shareholder interests.
PSC-25-20-00009-P	..... exempt	Petition for the use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-25-20-00010-P	..... exempt	Whitepaper regarding energy service company financial assurance requirements.	To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies.
PSC-25-20-00011-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-25-20-00012-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-25-20-00015-P	..... exempt	Staff whitepaper on a Data Access Framework.	To standardize the necessary privacy and cybersecurity requirements for access to energy-related data.
PSC-25-20-00016-P	..... exempt	Modifications to the Low-Income Affordability program.	To address the economic impacts of the COVID-19 pandemic.
PSC-25-20-00018-P	..... exempt	Staff's whitepaper proposing an IEDR.	To collect and integrate a large and diverse set of energy-related information and data on one statewide platform.
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-28-20-00020-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
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-29-20-00008-P	..... exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
PSC-29-20-00011-P	..... exempt	Petition for waiver of the requirements of Opinion No. 76-17 and 16 NYCRR Part 96 regarding individual metering of living units.	To consider the petition of Opportunities for Broome, Inc for waiver of Opinion No. 76-17 and 16 NYCRR Part 96.
PSC-31-20-00004-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-31-20-00008-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-31-20-00010-P	..... exempt	Submetering of electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-32-20-00014-P	..... exempt	The term for retention of a monetary crediting methodology.	To provide sufficient revenues to support financing, realize promised benefits from the project, and repay necessary re-work.
PSC-34-20-00004-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
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-37-20-00006-P	..... exempt	Con Edison's petition for a proposed Non-Pipeline Solutions portfolio and associated budget.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.
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-39-20-00014-P	..... exempt	Tariff filing.	To determine if New York State Electric & Gas Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00015-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-39-20-00016-P	..... exempt	Tariff filing.	To determine if Central Hudson Gas & Electric Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00017-P	..... exempt	Tariff filing.	To determine if National Grid's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00018-P	..... exempt	Tariff filing.	To determine if Rochester Gas and Electric Corporation's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00019-P	..... exempt	Tariff filing.	To determine if Orange and Rockland Utilities, Inc.'s tariff filing is consistent with the law and in the public interest.
PSC-39-20-00020-P	..... exempt	Tariff filing.	To determine if Consolidated Edison Company of New York's tariff filing is consistent with the law and in the public interest.
PSC-39-20-00021-P	..... exempt	Authority to issue to long-term debt.	To consider Corning's request for authority to issue long-term debt.
PSC-40-20-00003-P	..... exempt	NYSEG's petition for a proposed Non-Pipeline Alternatives portfolio of projects and associated budget.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-40-20-00004-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-40-20-00005-P	..... exempt	Electric Generation Facility Cessation Mitigation Program Funding	To develop a funding mechanism for the Electric Generation Facility Cessation Mitigation Program.
PSC-40-20-00006-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-40-20-00008-P	..... exempt	A benefit for electric utility customers in communities that host a major renewable energy facility.	To consider a just and reasonable benefit for electric utility customers in renewable host communities.
PSC-41-20-00010-P	..... exempt	Disposition of a \$50 million municipal tax refund	To consider a disposition of a municipal tax refund for customer and company benefit
PSC-41-20-00011-P	..... exempt	Major gas rate filing.	To consider a proposed increase in Conring's gas delivery revenues of approximately \$6.3 million (23.4% in total revenues).
PSC-41-20-00013-P	..... exempt	The proposed transfer of a Certificate of Environmental Compatibility and Public Need.	Consideration of whether the proposed transfer is in the public interest.
PSC-42-20-00006-P	..... exempt	Proposed major rate increase in National Grid's delivery revenues of approximately \$41.8 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-42-20-00007-P	..... exempt	Transfer of ownership interests and facilities associated with three nuclear generating units, funds, and storage facilities.	To ensure appropriate regulatory review, oversight, and action concerning the proposed transfer to serve the public interest.
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-42-20-00009-P	..... exempt	Proposed major rate increase in National Grid's delivery revenues of approximately \$100.4 million (or 3.2% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-43-20-00003-P	..... exempt	The use of \$50 million to support residential and commercial customers experiencing financial hardship	To consider whether the proposed support of ratepayers is in the public interest
PSC-44-20-00006-P	..... exempt	Transfer of property interests in the Union Falls Hydroelectric Facility.	To determine whether to authorize the transfer of the Union Falls Hydroelectric Facility and the proper accounting treatment.
PSC-44-20-00007-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 90.5 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 90.5 MW electric generating facility.
PSC-44-20-00009-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-44-20-00010-P	..... exempt	Transfer of natural gas pipeline facilities and ownership interests in those facilities, and an applicable regulatory regime.	To ensure appropriate regulatory review, oversight, and action concerning the proposed transfers and the facility owners.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-45-20-00003-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-45-20-00004-P	..... exempt	Major gas rate filing	To consider an increase in Central Hudson's gas delivery revenues
PSC-45-20-00005-P	..... exempt	Major electric rate filing	To consider an increase in Central Hudson's electric delivery revenues
PSC-45-20-00006-P	..... exempt	Petition to submeter electricity and waiver request	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-46-20-00004-P	..... exempt	Notice of intent 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-46-20-00006-P	..... exempt	Amendments to the SIR.	To more effectively interconnect distributed generation and energy storage Systems 5 MW or less to the distribution system.
PSC-46-20-00007-P	..... exempt	Compliance of New York Transco LLC with the applicable portions of the Electric Safety Standards.	To consider the petition of New York Transco LLC for clarification of its responsibilities under the Electric Safety Standards.
PSC-46-20-00008-P	..... exempt	Compliance report by electric utilities on developing distribution and local transmission in accordance with the AREGCB Act.	To support distribution and local transmission investments necessary to achieve the the State's climate goals.
PSC-46-20-00009-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
PSC-47-20-00006-P	..... exempt	Notice of intent to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-47-20-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-47-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-20-00004-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
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-48-20-00006-P	..... exempt	PSC regulations 16 NYCRR 86.3(a)(2); 86.3(a)(2)(iv) and 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-48-20-00008-P	..... exempt	Proposed modifications to Rider T - Commercial Demand Response Program.	To consider revisions to Rider T - CDRP for the 2021 Capability Period.
PSC-48-20-00009-P	..... 12/02/21	Siting of major transmission facilities in new or existing rights of way that qualify for expedited process.	To establish expedited requirements for the siting, construction and operation of major transmission facilities.
PSC-49-20-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-49-20-00008-P	..... exempt	Amendments to modify provisions related to Emergency Electric Generators under General Information Section III (H).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-49-20-00009-P	..... exempt	Transfer of certain electric transmission facilities and easements.	To determine whether to authorize the proposed transfers and the proper accounting treatment.
PSC-49-20-00010-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-50-20-00004-P	..... exempt	Proposed transfer of the Company's assets to the Purchasers.	To determine if transfer of the water system to the Purchasers is in the public interest.
PSC-51-20-00006-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-51-20-00007-P	..... exempt	Whitepaper on the ACOS method used by utilities in developing Standby and Buyback Service rates.	To standardize the utility ACOS methods and resulting rates, and to enable stand-alone energy storage systems.
PSC-51-20-00008-P	..... exempt	The New York State Reliability Council's establishment of an Installed Reserve Margin of 20.7%	To ensure adequate levels of Installed Capacity.
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-51-20-00010-P	..... exempt	Petition to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-51-20-00011-P	..... exempt	Lease of right-of-way and transfer of facilities.	To determine whether to authorize lease of right-of-way, and transfer of facilities and the proper accounting treatment.
PSC-51-20-00012-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-51-20-00013-P	..... exempt	Competitive solicitations to procure 350mw of energy storage systems directed by the Commission's 2018 Energy Storage Order.	To ensure compliance with Public Service Law Section 74 and achieve state goals to install energy storage systems.
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-52-20-00002-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-52-20-00003-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-52-20-00004-P	..... exempt	Use of pipeline refund.	To consider how a pipeline refund of \$2.26 million will be utilized by National Fuel.
PSC-52-20-00005-P	..... exempt	Clarification or reconsideration of a provision in a prior order.	To determine whether to clarify or reconsider a provision of a prior order regarding the implementation of Green Button Connect.
PSC-52-20-00006-P	..... exempt	Banked credit distribution rules and processes.	To ensure just and consistent banked credit distribution rules and processes.
PSC-52-20-00007-P	..... exempt	Negative performance factor adjustments applied to auto-dynamic load management and term-dynamic load management participants.	To improve multi-year and auto-DLM programs that will improve demand response program offerings.
PSC-52-20-00008-P	..... exempt	Transfer of a natural gas pipeline and the associated certificate, and application of lightened and incidental regulation.	To determine whether the requested transfers and regulatory treatment are consistent with the law and the public interest.
PSC-52-20-00009-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-52-20-00010-P	..... exempt	Proposed filing regarding capacity surcharge for ESCO transportation customers.	To ensure safe and reliable service for customer at just and reasonable rates.
PSC-52-20-00011-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-52-20-00012-P	..... exempt	The upgrading of cellular antennas on an electric transmission tower.	To determine whether the upgrading of cellular antennas on an electric transmission tower is in the public interest.
PSC-52-20-00013-P	..... exempt	Changes to PSL Section 66-p relating to billing information for residential rental premises.	To establish provisions as necessary to effectuate PSL Section 66-p.
PSC-52-20-00014-P	..... exempt	The upgrading of cellular antennas on an electric transmission tower.	To determine whether the upgrading of cellular antennas on an electric transmission tower is in the public interest.
PSC-52-20-00015-P	..... exempt	The upgrading of cellular antennas on an electric transmission tower.	To determine whether the upgrading of cellular antennas on an electric transmission tower is in the public interest.
PSC-52-20-00016-P	..... exempt	Waiver of 16 NYCRR Sections 86.3(a)(1), 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-52-20-00017-P	..... exempt	Enwave Syracuse LLC and Syracuse Energy Concessionaire LLC's proposed financing.	To review the proposed financing and consider whether it is within the public interest.
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-01-21-00005-P	..... exempt	Changes to PSL Section 66-p relating to billing information for residential rental premises.	To establish provisions as necessary to effectuate PSL Section 66-p.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-01-21-00006-P	..... exempt	A debt financing arrangement with respect to an electric transmission line under development.	To review the proposed financing and consider whether it is within the public interest.
PSC-01-21-00007-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-01-21-00008-P	..... exempt	The revision of certain delivery rates for electric service.	To ensure safe and reliable service for customers at just and reasonable rates.
PSC-02-21-00006-P	..... exempt	Disposition of a sales tax refund received by New York American Water, Inc.	To determine the disposition of tax refunds and other related matters.
PSC-03-21-00002-EP	..... exempt	Postponement of delivery rate, System Improvement Charge (SIC) and RAC/PTR surcharge with make whole starting on May 1, 2021.	To assist customers in a time of hardship by delaying a rate increase and SIC increase and RAC/PTR surcharge implementation.
PSC-03-21-00006-P	..... exempt	Comprehensive study to identify distribution and transmission investments in accordance with the AREGCB Act.	To support distribution and local transmission investments necessary to achieve the State's climate goals.
PSC-03-21-00007-P	..... exempt	Waiver of certain rules, i.e., 7-day installation requirements pertaining to cable television franchise.	To determine whether to waive any rules and regulations.
PSC-03-21-00008-P	..... exempt	Authorization to recover costs for three transmission projects and related mechanisms.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-03-21-00009-P	..... exempt	The waiver of regulation and tariff provisions to allow for more time to recover the deposit for electric infrastructure.	Whether the extension of the deadline is in the public interest.
PSC-04-21-00011-P	..... exempt	Proposed tariff revisions for the DLM Program summer 2021 capability period.	More efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-04-21-00012-P	..... exempt	Proposed tariff revisions and clarifications for the DLM Program summer 2021 capability period.	More efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-04-21-00013-P	..... exempt	Proposed tariff revisions for the DLM Program summer 2021 capability period.	More efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-04-21-00014-P	..... exempt	Proposed DLM Program and tariff revisions for the summer 2021 capability period.	More efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-04-21-00015-P	..... exempt	Proposed tariff revisions for the DLM Program summer 2021 capability period.	More efficient demand response programs to gain operational efficiency and shave peak demand.
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-04-21-00017-P	..... exempt	Funding and management of the the Clean Energy Fund portfolio.	To review NYSERDA's proposed modifications to the Clean Energy Fund portfolio and determine whether the changes are acceptable.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-04-21-00018-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-04-21-00019-P	..... exempt	Consideration of National Grid USA's New York electric and gas utilities' Implementation Plan and audit recommendations.	To ensure that recommendations issued in a comprehensive management audit are appropriately addressed and implemented.
PSC-04-21-00020-P	..... exempt	NFG's Implementation Plan and audit recommendations.	To consider to implement the management audit recommendations.
PSC-05-21-00004-P	..... exempt	Alternative proposal for net crediting billing.	To facilitate development of and participation in Community Distributed Generation projects.
PSC-05-21-00005-P	..... exempt	The applicable regulatory regime under the Public Service Law for the owner of a merchant electric generating facility.	Consideration of a lightened regulatory regime for the owner of an approximately 100 MW electric generating facility.
PSC-05-21-00006-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-05-21-00007-P	..... exempt	Petition to amend bill estimation procedures.	To consider the petition of Central Hudson Gas & Electric Corporation to amend its current bill estimation procedures.
PSC-05-21-00008-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-05-21-00009-P	..... exempt	Proposed rate increase in annual revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-05-21-00012-P	..... exempt	The electric utilities' 2021 Electric Emergency Response Plans.	To consider the adequacy of the proposed 2021 Electric Emergency Response Plans.
PSC-06-21-00008-P	..... exempt	Changes to PSL Section 66-p relating to billing information for residential rental premises.	To establish provisions as necessary to effectuate PSL Section 66-p.
PSC-06-21-00009-P	..... exempt	Disposition of a property tax refund received by New York American Water, Inc.	To determine the disposition of tax refunds and other related matters.
PSC-06-21-00010-P	..... exempt	Exemptions from utility standby rates for distributed energy resources and efficient combined heat and power projects.	To determine whether utility standby rate exemptions should be continued.
PSC-06-21-00011-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
STATE, DEPARTMENT OF			
DOS-37-20-00015-P	..... 09/16/21	Siting of major renewable energy facilities	To establish procedural requirements for permits for siting, construction and operation of major renewable energy facilities
DOS-37-20-00016-P	..... 11/29/21	Siting permits for major renewable energy facilities	To establish uniform standards and conditions for siting, design, construction & operation of major renewable energy facilities
DOS-41-20-00001-P	..... 10/14/21	Public Playground Safety	Update public playground safety standards

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
STATE, DEPARTMENT OF			
DOS-48-20-00010-P	12/02/21	Procedures and requirements related to the filing of certificates by the Department of State's Division of Corporations	To clarify and update procedures related to the filing of certificates with the Division of Corporations
DOS-51-20-00004-P	12/23/21	Fair Housing Requirements for Appraisers and Assistant Appraisers	To Mandate Fair Housing Education as a Condition of Renewal
DOS-05-21-00013-P	02/03/22	Requirements and procedures related to filing, review and publication of financial reports filed with the Department of State	To provide procedures related to the filing, review and publication of financial reports filed with the Department of State
STATE UNIVERSITY OF NEW YORK			
*SUN-53-19-00005-P	04/29/21	Proposed amendments to the traffic and parking regulations at State University Agricultural and Technical College at Morrisville	Amend existing regulations to update traffic and parking regulations
SUN-29-20-00004-EP	07/22/21	State basic financial assistance for the operating expenses of community colleges under the program of SUNY and CUNY	To modify limitations formula for basic State financial assistance and remove an operating support "floor"
SUN-29-20-00005-EP	07/22/21	Student Assembly Elections, Student Assembly Officers, Campus Government Elections, Student Activity Fees	To postpone voting on student activity fees and elections of Student Assembly representatives and officers until Fall 2020
SUN-05-21-00010-P	02/03/22	Proposed amendments to the traffic and parking regulations at State University of New York at Potsdam	Amend existing regulations to update traffic and parking regulations
STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY			
SIR-39-20-00008-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using terminals, stations and trains operated by SIRTOA.	To safeguard the public health and safety by amending rules to require the use of masks when using terminals and stations.
TAXATION AND FINANCE, DEPARTMENT OF			
TAF-46-20-00003-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period January 1, 2021 through March 31, 2021
TAF-51-20-00002-EP	12/23/21	Metropolitan Transportation Business Tax Surcharge	To provide metropolitan transportation business tax rate for tax year 2021
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-16-20-00012-P	04/22/21	New York State Combined Application Project (NYSCAP)	To implement the NYSCAP, a new combined application project for recipients of Supplemental Security Income benefits, who have been designated as Live-Alone by the Social Security Administration and the State-funded SSI State Supplement Program
TDA-46-20-00002-P	11/18/21	Payment access cards	To update State regulations pertaining to payment access cards to align with Part V of Chapter 56 of the Laws of 2020

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY			
TBA-50-20-00005-P	..... exempt	A proposal to establish a new crossing charge schedule for use of bridges and tunnels operated by TBTA	A proposal to raise additional revenue
WORKERS' COMPENSATION BOARD			
WCB-23-20-00004-P	..... 06/10/21	EDI system updates	To require carriers to report certain credits taken for payments to claimants; biannual reports; EDI 3.1 updates
WCB-28-20-00003-EP	..... 07/15/21	Adding COVID-19 diagnosis by a health care provider as a serious health condition for purposes of Paid Family Leave	To clarify that employees may take PFL to care for a family member with COVID-19
WCB-42-20-00004-P	..... 10/21/21	Medical Treatment Guidelines	To add PTSD and acute stress disorder, and major depressive disorder MTGs
WCB-42-20-00005-P	..... 10/21/21	Medical Treatment Guidelines	To add PTSD and acute stress disorder, and major depressive disorder MTGs
WCB-42-20-00010-P	..... 10/21/21	Requesting prior approval for medical treatment and care	To implement an internet portal-based submission and review process
WCB-42-20-00012-P	..... 10/21/21	DME Fee Schedule	To replace DME fee schedule, update fees; create prior authorization process
WCB-48-20-00002-EP	..... 12/02/21	Reimbursement for COVID-19 testing	To allow reimbursement for COVID-19 testing when benefits are sought due to workplace exposure to COVID-19
WCB-06-21-00013-P	..... 02/10/22	Medical Treatment Guidelines	To update back, neck, shoulder, knee, and NAP MTGs

SECURITIES OFFERINGS

STATE NOTICES

Published pursuant to provisions of General Business Law
[Art. 23-A, § 359-e(2)]

Tatari, Inc.
605 Market St., Suite 700, San Francisco, CA 94105
State or country in which incorporated — Delaware

DEALERS; BROKERS

288 Partners, LLC
3540 Toringdon Way, Suite 200, Charlotte, NC 28277
State or country in which incorporated — North Carolina

Alternative Income Solutions - Foundation Fund, LP
216 E. 45th St., Suite 1301, New York, NY 10017
Partnership — Alternative Income Solutions LLC

Baleen Capital Fund LP
404 5th Ave., Fl. 3, New York, NY 10018
Partnership — Baleen Capital GP LLC

Bow River Capital Evergreen Fund
205 Detroit St., Suite 800, Denver, CO 80206
State or country in which incorporated — Delaware

Flower Turbines, Inc.
240 Central Ave., 1J, Lawrence, NY 11559
State or country in which incorporated — Delaware

Hamilton Lane Advisors LLC
One Presidential Blvd., 4th Fl., Bala Cynwyd, PA 19004
State or country in which incorporated — Delaware

Investment Managers Series Trust
235 W. Galena St., Milwaukee, WI 53212
State or country in which incorporated — Delaware

NB Crossroads Private Markets Access Fund LLC
1290 Avenue of the Americas, New York, NY 10104
State or country in which incorporated — Delaware

ParaFi Digital Opportunities II LP
601 California St., Suite 615, San Francisco, CA 94108
Partnership — ParaFi Capital LLC

PC2 Capital LP
701 W. Venice Ave., Venice, FL 34285
Partnership — PC2 Capital GP LLC

Shopoff Securities Inc.
Two Park Plaza, Suite 700, Irvine CA, 92614
State or country in which incorporated — Delaware

Sugarfina Corporation
1700 E. Walnut Ave., Suite 500, El Segundo, CA 90245
State or country in which incorporated — Delaware

ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

SEALED BIDS

PROVIDE
SALT STORAGE BUILDINGS
Department of Transportation Region 4
Sodus & Canandaigua, Ontario County

Sealed bids for Project Nos. 47021-C and 47021-E, comprising separate contracts for Construction Work and Electrical Work, Provide Salt Storage Buildings, DOT Region 4, Ontario County, Various Locations, Sodus & Canandaigua, NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Transportation, until 2:00 p.m. on Wednesday, February 17th, 2021 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 \$54,400 for C and \$4,900 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$1,000,000 and \$2,000,000 for C, and between \$50,000 and 100,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewycky, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. 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: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

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.

As a condition of award, within 48 hours of receipt of the proposed Contract Agreement from the State, the apparent low bidder shall return the Contract Agreement to the State, properly executed, along with the Bonds if required by said Agreement. Low bidders who cannot meet these provisions may be subject to disqualification and forfeiture of the bid security.

The State intends to expedite award of this Contract and the Contractor shall be prepared to proceed with the Work accordingly. Bidders are warned that time is of the essence of the Contract and substantial completion of the Work must be by September 17, 2021. Due to the tightness of the construction schedule, bidders should consider the necessity for an increased work force and shift operations.

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 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 Construction Work. The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewyckyj, Deputy Director*
OGS - Design & Construction Group

NOTICE OF AVAILABILITY OF STATE AND FEDERAL FUNDS

New York Homes and Community Renewal
Housing Trust Fund Corporation
Office Of Community Renewal
38-40 State St., 4th Fl. S
Albany, NY 12207

NON-ENTITLEMENT VILLAGES, TOWNS, CITIES OR COUNTIES THROUGHOUT NEW YORK STATE

NYS Community Development Block Grant Program

The Housing Trust Fund Corporation (HTFC) announces the availability of approximately \$10 million Federal funds for the following program:

- \$10 million - NYS Community Development Block Grant funding for Housing Activities

NYS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

PROGRAM DESCRIPTION

The New York State Community Development Block Grant Program (NYS CDBG) is a federally funded program administered by the Housing Trust Fund Corporation's (HTFC) Office of Community Renewal (OCR). The program provides resources to non-entitlement communities to enable the development of decent, affordable housing, create suitable living environments, and enhance economic opportunities across the state.

CDBG ELIGIBLE APPLICANTS

Eligible applicants include non-entitlement villages, towns, cities or counties throughout New York State, excluding metropolitan cities, urban counties, and Indian Tribes that are HUD designated Entitlement communities. Non-entitlement areas are generally defined as cities, towns, and villages with populations of less than 50,000 except those designated principal cities of Metropolitan Statistical Areas, and counties with populations of less than 200,000.

CDBG HOUSING ACTIVITIES

CDBG funds are available for housing activities including housing rehabilitation, homeownership, manufactured housing replacement, well and septic replacement, and lateral connection assistance that primarily benefit low- and moderate-income persons.

2020 MAXIMUM FUNDING LIMITS

CDBG Housing Activities

Towns, Cities and Villages:	\$500,000
Counties:	\$1,000,000

APPLICATION FOR FUNDING

The 2020 Application for CDBG Housing Activities will be available on the NYS Homes and Community Renewal web site under Funding Opportunities on Wednesday, February 10, 2021. Applications will be accepted 4:00 pm Friday, April 9, 2021. Applications must be submitted using the Community Development Online Application System (CDOL).

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, applications received after the specified date and time will be deemed ineligible and will not be considered for funding. Applicants should make early submission of applications to avoid risk of ineligibility resulting from unanticipated delays or problems.

Applicants may make a request, based on demonstrated need, to submit a paper application in lieu of using the CDOL application system. Requests for approval to submit a paper application must be sent to: Crystal Loffler, Deputy Commissioner, NYS Homes and Community Renewal, Office of Community Renewal, Hampton Plaza, 38-40 State Street, 4th Floor South, Albany, NY 12207.

CONTACT INFORMATION

For inquiries or technical assistance regarding the NYS CDBG programs, please contact: Home and Community Renewal, Office of Community Renewal, 38-40 State St., 4th Fl. S, Albany, NY 12207, (518) 474-2057

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

PUBLIC NOTICE

Office of Fire Prevention and Control

Pursuant to Section 176-b of the Town Law, the Office of Fire Prevention and Control hereby gives notice of the following:

Application for Waiver of the Limitation of Non-resident Members of Volunteer Fire Companies

An application for a waiver of the requirements of paragraph a of subdivision 7 of section 176-b of the Town Law, which limits the membership of volunteer fire companies to forty-five per centum of the actual membership of the fire company, has been submitted by the Monsey Fire District, County of Rockland.

Pursuant to section 176-b of the Town Law, the non-resident membership limit shall be waived provided that no adjacent fire department objects within sixty days of the publication of this notice.

Objections shall be made in writing, setting forth the reasons such waiver should not be granted, and shall be submitted to: Francis J. Nerney, Jr., State Fire Administrator, Office of Fire Prevention and Control, 1220 Washington Ave., Bldg. 7A, Fl. 2, Albany, NY 12226.

Objections must be received by the State Fire Administrator within 60 days of the date of publication of this notice.

In cases where an objection is properly filed, the State Fire Administrator shall have the authority to grant a waiver upon consideration of (1) the difficulty of the fire company or district in retaining and recruiting adequate personnel; (2) any alternative means available to the fire company or district to address such difficulties; and (3) the impact of the waiver on adjacent fire departments.

For further information, please contact: Deputy Chief William H. Rifenburgh, Office of Fire Prevention and Control, 1220 Washington Ave., Bldg. 7A, Fl. 2, Albany, NY 12226, (518) 474-6746, William.Rifenburgh@dhses.ny.gov

PUBLIC NOTICE

Department of State
F-2020-0645

Date of Issuance – February 10, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2020-0645 the applicant, Brandon Martin, is proposing to reface and raise eroded seawall with steel sheet pile; remove most northern dock; install new L shaped dock with 71 finger slips that extends 109' north from the existing shoreline, 364' west, and 278' south; and dredge an approx. 42,000 square foot area with material to be placed on marina property for dewatering. This project is located at 7250 State Route 14, Village of Sodus Point, Wayne County, Sodus Bay

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-0645.pdf>

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s):

- Sodus Bay Significant Coastal and Fish Wildlife Habitat: https://www.dos.ny.gov/opd/programs/consistency/Habitats/GreatLakes/Sodus_Bay.pdf
- Village of Sodus Point Local Waterfront Revitalization Program: https://docs.dos.ny.gov/opd-1wrp/LWRP/Sodus%20Point_VV/Index.html

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 March 12, 2021.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2020-1114

Date of Issuance – February 10, 2021

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-2020-1114, Sal Iannuzzi proposes to install a 12.5' x 12' 2-pile personal watercraft lift.

Town of Oyster Bay, Nassau County, Oyster Bay

* * *

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-1114ConsistCert.pdf>

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 March 10, 2021.

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

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2020-1164

Date of Issuance – February 10, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2020-1164, Water Gate LLC is proposing to construct a new fixed dock consisting of a 4' x 20' ramp and 4' x 71' open grate decking dock with two 8" tie-off piles. The project is located on Shinnecock Bay at 664 Westway Drive, Southampton, NY 11968.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2020-1164WaterGateLLC.pdf>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or March 12, 2021.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2021-0035

Date of Issuance – February 10, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities

described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2021-0035, The Village of Sodus Point is proposing to install 290 linear feet of large armor stone revetment along the shoreline in conjunction with relocating a sanitary sewer line further landward. The revetment would include geotextile fabric, bedding stone, and 2-4 ton armor stone. The project would include the placement of ~181 cubic yards of material below the plane of Ordinary High Water. Approximately 97 cubic yard of material will be excavated from the lakebed to allow the armor stone to be keyed in. This material will be sidecast to keep it within the littoral drift system.

The work is proposed in the vicinity of 8407 Wickham Boulevard in the Village of Sodus Point, Wayne County on the shoreline of Lake Ontario.

The stated purpose of the proposed activity is to stabilize the bank in front of a Village owned sanitary sewer main.

This proposal is part of the New York State Lake Ontario Resiliency & Economic Development Initiative (REDI). REDI is a program created to increase the resilience of shoreline communities and bolster economic development throughout the Lake Ontario and St. Lawrence River regions of New York State. Additional information about the REDI program including project profiles can be found at: <https://www.governor.ny.gov/programs/lake-ontario-resiliency-and-economic-development-initiative-redi>

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2021-0035ForPN.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, February 25, 2021.

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

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2021-0039

Date of Issuance – February 10, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2021-0039, The Town of Greece is proposing to install a closed drainage system on both the north and south sides of Lakeshore Drive including the replacement of 9 existing outfalls and installing 3 new drainage outfalls into Lake Ontario. Total permanent disturbance to Lake Ontario will be 2,325 square feet over ~102 linear feet of shoreline. Work at each outfall will include excavation of 41-43 cubic yards of material from below the plane of Ordinary High Water and equal volume of 5-7 ton armor stone, bedding stone, culvert pipe and leaching manhole will be installed in the excavated area. Total volume of excavation and fill for the project is ~500 cubic yards. Details regarding each outfall and associated disturbance can be found in the linked document below.

The work is proposed along the entire length (~4,500 linear feet) of Lakeshore Drive in the Town of Greece, Monroe County.

The stated purpose of the proposed activity is to improve the conveyance of stormwater, reduce localized flooding potential, and preserve the structural integrity of Lakeshore Drive.

This proposal is part of the New York State Lake Ontario Resiliency & Economic Development Initiative (REDI). REDI is a program created to increase the resilience of shoreline communities and bolster economic development throughout the Lake Ontario and St. Lawrence River regions of New York State. Additional information about the REDI program including project profiles can be found at: <https://www.governor.ny.gov/programs/lake-ontario-resiliency-and-economic-development-initiative-redi>

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2021-0039ForPN.pdf>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, February 25, 2021.

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

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2021-0044 (DA)

Date of Issuance – February 10, 2021

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 U.S. Army Corps of Engineers 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.

In F-2021-0044 (DA), The U.S. Army Corps of Engineers, New York District proposes to perform maintenance dredging of a dredge area in the Hudson River federal navigation project, located at the Port of Albany Turning Basin (River Mile 142), New York (Enclosure 1). Based on condition surveys performed in September-November 2019, the proposed maintenance dredging would involve the removal of a combined estimated total of up to 31,000 CY of material from the area. The project will be dredged to its authorized depth of -32 feet plus 1 foot of allowable overdepth. The project depth is referenced to the plane of COE Mean Low Water (original project datum). This datum is approximately 2.55 feet below NAVD88.

The purpose of the proposed dredging is to alleviate the effects of shoaling in order to maintain the authorized project dimensions, thereby assuring safe and economical use of the Hudson River by commercial shipping interests. The dredge material has been tested and meets the criteria for confined disposal in the federally owned upland dredged material placement site on Houghtaling Island, New Baltimore, New York.

Maintenance dredging of the Hudson River federal navigation projects will be accomplished by a mechanical dredge, or other similar

plant. The entire channel will generally not require maintenance dredging; only areas where shoaling has reduced the depth of the channel will require dredging. No in-water work will occur during the following environmental windows for Shortnose sturgeon (*Ascipenser brevirostrum*) and Atlantic sturgeon (*Ascipenser oxyrinchus*): March 1st to September 1st from RM 135 to RM 116.

The USACE's submission can also be viewed at: [http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2021-0044\(DA\)ForPN.pdf](http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2021-0044(DA)ForPN.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, by February 25, 2021.

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. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2021-0021: Matter of Spring Line Design, Kristin Knickerbocker, 73 Troy Rd, Suite 2H, East Greenbush, NY, 12061, for a variance concerning ceiling height requirements. Involved is an existing building located at 71 Grand Street, City of Albany, County of Albany, State of New York.

2021-0022: Matter of Spring Line Design, Kristin Knickerbocker, 73 Troy Rd, Suite 2H, East Greenbush, NY, 12061, for a variance concerning ceiling height requirements. Involved is an existing building located at 89 Grand Street, City of Albany, County of Albany, State of New York.

2021-0023: Matter of Spring Line Design, Kristin Knickerbocker, 73 Troy Rd, Suite 2H, East Greenbush, NY, 12061, for a variance concerning ceiling height requirements. Involved is an existing building located at 100 Grand Street, City of Albany, County of Albany, State of New York.

2021-0024: Matter of Spring Line Design, Kristin Knickerbocker, 73 Troy Rd, Suite 2H, East Greenbush, NY, 12061, for a variance concerning ceiling height requirements. Involved is an existing building located at 109 Grand Street, City of Albany, County of Albany, State of New York.

2021-0027: Matter of Spring Line Design, Kristin Knickerbocker, 73 Troy Rd, Suite 2H, East Greenbush, NY, 12061, for a variance concerning ceiling height requirements. Involved is an existing building located at 112 Grand Street, City of Albany, County of Albany, 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.

2021-0026 Matter of Gregory J. McNally, 76 Elizabeth Street, Floral Park, NY 11001, for a variance concerning safety requirements, including the required height under a girder/soffit. Involved is an existing one-family dwelling located at 76 Elizabeth Street, Village of Floral Park, NY 11001, 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.

2021-0028 In the matter of Andrew Hicks, 125 Hans Bethe House, Cornell, Ithaca, NY 14850, for a variance for diminutive code issues concerning the Hicks residence, 149 East Seneca Street, City of Ithaca, County of Tompkins, State of New York.

EXECUTIVE ORDERS

Executive Order No. 202.89: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, do hereby continue the suspensions and modifications of law, and any directives not superseded by a subsequent directive, contained in Executive Orders 202.22 up to and including 202.26, and 202.32, 202.33, 202.34, 202.35, 202.44, 202.45, 202.53, 202.57, 202.64, 202.69, 202.73, 202.74, and 202.75 as continued and contained in Executive Orders 202.80 and 202.81 for another thirty days through February 6, 2021, except as modified below and do hereby temporarily suspend or modify the following from the date of this Executive Order through February 6, 2021:

- Any suspension of law or directives contained in the foregoing Executive Orders 202.23, 202.24, 202.26, relating to the conduct of an election which occurred in the calendar year 2020 is no longer suspended, and such suspensions or modifications are no longer in effect. Provided however, that the suspension of labor law section 522 relative to the collection of unemployment insurance for a worker who is hired for purposes of early voting or voting for a special election to occur in 2021 is continued, and provided further that the suspension contained in Executive Order 202.81 modifying the Education law related to absentee ballots is continued.
- Subdivision (f) of section 405.3 of Title 10 of the NYCRR, to the extent necessary to extend the terms of such subdivision to COVID-positive only facilities, thereby enabling such a facility to engage a facility manager, provided that such facility manager is an established operator of a general hospital, and subject to the approval of the Commissioner of Health;
- Article 6 and 15 of the Election Law in relation to conducting any village election all party nominations made by party caucus may be conducted remotely in whole or in part as set forth by the chair of such party;
- Sections 15-120 and 15-122 of the Election Law, and Section 84-a of the Town Law, as well as any provision of law related to a special district election and not administered by the County Board of Elections to the extent necessary to include the potential for contraction of the COVID-19 virus as an illness for purposes of request or receipt of an absentee ballot;
- Notwithstanding the last day to notice a caucus pursuant to sections 6-202 (3) and 15-108 (2) (c) of the Election Law, the means of electronic participation in such caucus if not included in the caucus notice shall be noticed in a supplemental notice in the same manner as the caucus notice not less than five days before such caucus;

- Election Law § 8-407, to allow that election inspectors shall not attend or visit facilities to provide absentee ballots physically, and will send them by mail or by personal delivery;
- The modification in Executive Orders 202.82 and 202.88 of Section 2168 of the Public Health Law and section 66-1.2 of Title 10 of the NYCRR is continued and modified only insofar as to require all influenza and COVID-19 vaccinations for any individual (child or adult) to be reported to NYSIIS or CIR, as applicable, within 24 hours of administration of such vaccine.

IN ADDITION, by virtue of the authority vested in me by Section 925-a of the Real Property Tax Law to extend during a State disaster emergency the period for paying property taxes without interest or penalties upon request of the chief executive officer of an affected county, city, town, village or school district, I do hereby extend by twenty-one days the period for paying, without interest or penalty, property taxes that are due in the following localities that have requested such an extension: Village of Bayville, and the City of Troy,

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of this Executive Order through February 6, 2021:

- The directive contained in Executive Order 202.88 that required any healthcare facility, provider, or entity who has been allocated and has received COVID-19 vaccine, or who has received redistributed COVID-19 vaccine, to administer all such vaccine within one week of its receipt by such facility is hereby modified only insofar as to apply for any vaccine currently on hand at any healthcare facility, provider or entity as of January 4, 2021, and such remaining doses must be administered no later than January 8, 2021, provided, however, that a facility may request an extension of such deadline which may be granted by the Commissioner for good cause.
- For any election in the City of New York for which petitions are required to be filed before February 6, 2021, and which as of January 7, 2021 have not been so filed, then the number of signatures shall be 315. For a town or village election, occurring before July 1, 2021 the signature requirements on an independent nominating petition for an independent nomination for the general election for any office that is not determined by a statewide election shall be whichever is less: (i) three and three tenths percentum of the total number of votes cast for governor at the last gubernatorial election in such unit, excluding blank and void votes, or (ii) a number equal to seventy percentum of the statutory minimum number provided for by subdivision 2 of section 6-142 of the election law, or for a village election, seventy percentum of the statutory minimum provided for in subdivision 6 of section 15-108 or subdivision 4 of section 6-206 of the election law.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this seventh day of January in the year two thousand twenty-one.

BY THE GOVERNOR
 /S/ Andrew M. Cuomo
 /s/ Melissa DeRosa
Secretary to the Governor

Executive Order No. 202.90: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency.

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, do hereby continue the suspensions and modifications of law, and any directives unless superseded, modified or otherwise expired, made by Executive Order 202 and each successor Executive Order to 202, and do hereby temporarily suspend or modify the following from the date of this Executive Order through January 29, 2021:

- Paragraph 21 of subdivision (a) of section 29.7 of Title 8 of the NYCRR, to the extent that a licensed pharmacist shall be authorized to supervise up to a total of four persons who are either unlicensed assistants or pharmacy technicians holding a temporary license, as established pursuant to this Executive Order;
- The suspensions and modifications contained in Executive Order 202.82 that permit licensed practical nurses, licensed pharmacists, midwives, dentists, dental hygienists who have been issued a dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate in accordance with section 6605-b of the Education law, podiatrists, emergency medical technicians, advanced emergency medical technicians, and emergency medical technician paramedics, to administer vaccinations against COVID-19 are hereby modified only to the extent necessary to permit the aforementioned individuals to administer vaccinations against COVID-19 provided that such individuals meet conditions set by the Commissioner of Health.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of this Executive Order through January 29, 2021:

- A person (a) holding a certification from a nationally accredited pharmacy technician certification program acceptable to the Department of Health, (b) being of good moral character, and (c) meeting such additional qualifications for licensure as required by the Commissioner of Health, in consultation with the Commissioner of Education, shall be eligible to be temporarily licensed as a “pharmacy technician” in the State of New York and, in such capacity, may administer COVID-19 vaccinations at Points of Dispensing (POD) sites overseen or approved by the New York State Department of Health or local health departments and operated under the medical supervision of licensed physicians, licensed physician assistants, or certified nurse practitioners, and under the direct supervision of a licensed pharmacist, and at pharmacy establishments under the direct supervision of a licensed pharmacist, provided such pharmacy technicians must first receive: (1) training in techniques, indications, precautions, contraindications, infection control practices; (2) training in use of personal protective equipment sufficient to provide the

basic level of competence for such tasks; and (3) a current certificate in basic cardiopulmonary resuscitation, which at a minimum must include a certification in basic cardiopulmonary resuscitation by an online program that has received accreditation from the American Nurses Credentialing Center, the Accreditation Council for Pharmacy Education (ACPE), or the Accreditation Council for Continuing Medical Education. Temporary licensure as a “pharmacy technician” shall not entitle any individual to rights or licensing status except for those granted herein and for the effective period of this order;

- The suspensions and directives contained in Executive Order 202.82 that permit individuals to administer vaccinations against COVID-19 are hereby modified only insofar as necessary to permit such individuals to administer vaccinations against COVID-19 provided that they meet all training requirements and conditions determined appropriate by the Commissioner of Health.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twelfth day of January in the year two thousand twenty-one.

BY THE GOVERNOR
 /S/ Andrew M. Cuomo
 /s/ Melissa DeRosa
Secretary to the Governor

OPINIONS OF THE ATTORNEY GENERAL

The full text of an informal or formal opinion of the Attorney General may be obtained by writing to the Office of Legal Records, Department of Law, State Capitol, Albany, NY 12224. Please include the identification number, the date, the section(s) of law considered and the subject of the opinion.

FORMAL OPINIONS

No. 2021-F1

New York Constitution Article 13, § 13; County Law §§ 400(1), 650; Corrections Law § 500-c; Public Officers Law § 3; Executive Law § 845; Criminal Procedure Law §§ 1.20(34), 1.20(34)(b), 120.60, 120.80, 140.10, 140.50, 690.251.20(34), 1.20(34)(b), 120.60, 120.80, 140.10, 140.50, 690.25; Civil Service Law §§ 58, 58(1), 58(3); General Municipal Law §§ 209-q, 209-q(1)(a), 209-q(1)(b), 209-q(2); Penal Law §§ 35.30, 265.20(a)(1)(b)

Sheriffs have the powers accorded police officers under the Criminal Procedure Law but are not mandated to get police officer training. *January 13, 2021*

COURT NOTICES

AMENDMENT OF RULE

New York State Supreme Court

WHEREAS, the Commercial Division of New York State Supreme Court is an efficient, sophisticated, up-to-date court, dealing with challenging commercial cases, and has had as its primary goal the cost-effective, predictable and fair adjudication of complex commercial cases, and

WHEREAS, since its inception the Commercial Division has implemented rules, procedures and forms especially designed to address the unique problems of commercial practice, and through the work of the Commercial Division Advisory Council – a committee of commercial practitioners, corporate in-house counsel and jurists devoted to the Division’s excellence – the Commercial Division has functioned as an incubator, becoming a recognized leader in court system innovation, and demonstrating an unparalleled creativity and flexibility in development of rules and practices, and

WHEREAS, the Administrative Board of the Courts (Board) requested public comment on the advisability of adopting Commercial Division Rules into general civil practice, and after review of public comments, including those received from the Advisory Committee on Civil Practice and the Advisory Committee on Matrimonial Practice, and after input from a working group of judges and attorneys, and recognizing that the COVID-19 pandemic has created unique opportunities for permanent reform, the Board approved adoption of certain Commercial Division Rules to other courts of civil jurisdiction, and

NOW THEREFORE, upon consultation with and approval of the Administrative Board of the Courts, pursuant to authority vested in me as Chief Administrative Judge of the State of New York under Article VI, section 28(b) of the State Constitution, I have determined to incorporate certain rules and variations thereof, of the Commercial Division into uniform rules for the Supreme Court and the County Court, effective February 1, 2021 until further order as per the attached Exhibits delineating each rule so adopted.

Regarding Commercial Division Rule 1: Appearance by Counsel with Knowledge and Authority.

Section 202.1 Uniform Civil Rules for the Supreme Court and the County Court are amended to create new subdivisions (f) and (g) as follows:

(f) *Counsel who appear before the court must be familiar with the case with regard to which they appear and be fully prepared and authorized to discuss and resolve the issues which are scheduled to be the subject of the appearance. Failure to comply with this rule may be treated as a default for purposes of Rule 202.27 and/or may be treated as a failure to appear for purposes of Rule 130.2.1.*

(g) *It is important that counsel be on time for all scheduled appearances.*

Regarding Rule 2: Settlements and Discontinuances.

Section 202.28 of the Uniform Civil Rules for the Supreme Court and the County Court are amended as follows:

Section 202.28 Discontinuance of Civil Actions and Notice to the Court.

(a) [In any discontinued action, the attorney for the defendant shall file a stipulation or statement of discontinuance with the county clerk within 20 days of such discontinuance. If the action has been noticed for judicial activity within 20 days of such discontinuance, the stipula-

tion or statement shall be filed before the date scheduled for such activity.] *If an action is settled, discontinued, or otherwise disposed of, counsel shall immediately inform the assigned judge or court part by submission of a copy of the stipulation or a letter directed to the clerk of the part along with notice to the chambers of the assigned judge via telephone, or email. This notification shall be made in addition to the filing of a stipulation with the county clerk.*

(b) [If an action is discontinued under paragraph (a), or wholly or partially settled by stipulation pursuant to CPLR 2104, or a motion has become wholly or partially moot, or a party has died or become a debtor in bankruptcy, the parties promptly shall notify the assigned judge in writing of such an event.] *Counsel, including self-represented litigants, are under a continuing obligation to notify the court as promptly as possible in the event that an action is settled, discontinued or otherwise disposed of or if a case or motion has become wholly or partially moot, or if a party has died or filed a petition in bankruptcy. Such notification shall be made to the assigned judge in writing.*

Regarding Rule 3: Alternative Dispute Resolution (ADR); Settlement Conference Before a Justice Other Than the Justice Assigned to the Case

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.29 as follows:

Section 202.29 Settlement Conference Before a Justice Other than the Justice Assigned to the Case.

In any civil action or proceeding, should counsel wish to proceed with a settlement conference before a justice or judge other than the justice or judge assigned to the case, counsel may jointly request that the assigned justice or judge grant such a separate settlement conference. The request may be made at any time in the litigation. Such request will be granted in the discretion of the justice or judge assigned to the case upon finding that such a separate settlement conference would be beneficial to the parties and the court and would further the interests of justice. If the request is granted, the assigned justice or judge shall make appropriate arrangements for the designation of a “settlement judge.”

Regarding Rule 4: Electronic Submission of Papers

Section 202.5-a of the Uniform Civil Rules for the Supreme Court and the County Court is amended as follows:

Section 202.5-a Filing by [Facsimile] *Electronic* Transmission.

[(a) Application.

(1) There is hereby established a pilot program in which papers may be filed by facsimile transmission with the Supreme Court and, as is provided in section 206.5-a of this Title, with the Court of Claims. In the Supreme Court, the program shall be limited to commercial claims and tax certiorari, conservatorship, and mental hygiene proceedings in Monroe, Westchester, New York and Suffolk Counties.

(2) “Facsimile transmission” for purposes of these rules shall mean any method of transmission of documents to a facsimile machine at a remote location which can automatically produce a tangible copy of such document.

(b) Procedure.

(1) Papers in any civil actions or proceedings designated pursuant to this section, including those commencing an action or proceeding, may be filed with the appropriate court clerk by facsimile transmission at a facsimile telephone number provided by the court for that purpose. The cover page of each facsimile transmission shall be in a

form prescribed by the Chief Administrator and shall state the nature of the paper being filed; the name, address and telephone number of the filing party or party's attorney; the facsimile telephone number that may receive a return facsimile transmission, and the number of total pages, including the cover page, being filed. The papers, including exhibits, shall comply with the requirements of CPLR 2101(a) and section 202.5 of this Part and shall be signed as required by law. Whenever a paper is filed that requires the payment of a filing fee, a separate credit card or debit card authorization sheet shall be included and shall contain the credit or debit card number or other information of the party or attorney permitting such card to be debited by the clerk for payment of the filing fee. The card authorization sheet shall be kept separately by the clerk and shall not be a part of the public record. The clerk shall not be required to accept papers more than 50 pages in length, including exhibits but excluding the cover page and the card authorization sheet.

(2) Papers may be transmitted at any time of the day or night to the appropriate facsimile telephone number and will be deemed filed upon receipt of the facsimile transmission, provided, however, that where payment of a fee is required, the papers will not be deemed filed unless accompanied by a completed credit card or debit card authorization sheet. The clerk shall date-stamp the papers with the date that they were received. Where the papers initiate an action, the clerk also shall mark the papers with the index number. No later than the following business day, the clerk shall transmit a copy of the first page of each paper, containing the date of filing and, where appropriate, the index number, to the filing party or attorney, either by facsimile or first class mail. If any page of the papers filed with the clerk was missing or illegible, a telephonic, facsimile, or postal notification transmitted by the clerk to the party or attorney shall so state, and the party or attorney shall forward the new or corrected page to the clerk for inclusion in the papers.

(c) Technical failures. The appropriate clerk shall deem the UCS fax server to be subject to a technical failure on a given day if the server is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon of that day. The clerk shall provide notice of all such technical failures by means of the UCS fax server which persons may telephone in order to learn the current status of the Service which appears to be down. When filing by fax is hindered by a technical failure of the UCS fax server, with the exception of deadlines that by law cannot be extended, the time for filing of any paper that is delayed due to technical failure shall be extended for one day for each day in which such technical failure occurs, unless otherwise ordered by the court.]

(a) *Papers and correspondence by fax. Papers and correspondence filed by fax shall comply with the requirements of section 202.5 except that papers shall not be submitted to the court by fax without advance approval of the justice assigned. Correspondence sent by fax should not be followed by hard copy unless requested.*

(b) *Papers submitted in digital format. In cases not pending in the court's Filing by Electronic Means System, the court may permit counsel to communicate with the court and each other by e-mail. Papers and correspondence filed by fax shall comply with the requirements of section 202.5 except that papers shall not be submitted to the court by fax without advance approval of the justice assigned. In the court's discretion, counsel may be requested to submit memoranda of law by e-mail or by other electronic means, such as by a computer flash drive, along with an original and courtesy copy.*

Regarding Rule 6: Form of Papers.

Subdivision (a) of section 202.5 of the Uniform Civil Rules for the Supreme Court and the County Court is amended as follows:

(a) Index Number; Form; Label.

(1) The party filing the first paper in an action, upon payment of the proper fee, shall obtain from the county clerk an index number, which shall be affixed to the paper. The party causing the first paper to be filed shall communicate in writing the county clerk's index number forthwith to all other parties to the action. Thereafter such number shall appear on the outside cover and first page to the right of the caption of every paper tendered for filing in the action. Each such cover and first page also shall contain an indication of the county of venue and a brief description of the nature of the paper and, where the case

has been assigned to an individual judge, shall contain the name of the assigned judge to the right of the caption. In addition to complying with the provisions of CPLR 2101, every paper filed in court shall have annexed thereto appropriate proof of service on all parties where required, and if typewritten, shall have at least double space between each line, except for quotations and the names and addresses of attorneys appearing in the action, and shall have at least one-inch margins. In addition, every paper filed in court, other than an exhibit or printed form, shall contain writing on one side only, except that papers that are fastened on the side may contain writing on both sides, and shall contain print no smaller than 12-point, or 8 1/2 x 11 inch paper, bearing margins no smaller than one inch. The print size of footnotes shall be no smaller than 10 point. Papers that are stapled or bound securely shall not be rejected for filing simply because they are not bound with a backer of any kind.

(2) *Each electronically-submitted memorandum of law, affidavit and affirmation, exceeding 4500 words, shall include bookmarks providing a listing of the document's contents and facilitating easy navigation by the reader within the document.*

Regarding Rule 8: Consultation prior to Preliminary and Compliance Conferences.

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.23 as follows:

202.23 *Consultation prior to Preliminary and Compliance Conference*

Counsel for all parties shall consult prior to a preliminary or compliance conference about (i) resolution of the case, in whole or in part; (ii) discovery, including discovery of electronically stored information, and any other issues to be discussed at the conference, (iii) the use of alternate dispute resolution to resolve all or some issues in the litigation; and (iv) any voluntary and informal exchange of information that the parties agree would help aid early settlement of the case. Counsel shall make a good faith effort to reach agreement on these matters in advance of the conference.

Regarding Rule 11-a: Interrogatories

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.20 as follows:

Section 202.20 *Interrogatories.*

Interrogatories are limited to 25 in number, including subparts, unless the court orders otherwise. This limit applies to consolidated actions as well.

Regarding Rule 11-b: Privilege Logs

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.20-a as follows:

Section 202.20-a *Privilege Logs.*

(a) *Meet and Confer. Parties shall meet and confer at the outset of the case, and from time to time thereafter, to discuss the scope of the privilege review, the amount of information to be set out in the privilege log, the use of categories to reduce document-by-document logging, whether any categories of information may be excluded from the logging requirement, and any other issues pertinent to privilege review, including the entry of an appropriate non-waiver order. To the extent that the collection process and parameters are disclosed to the other parties and those parties do not object, that fact may be relevant to the Court when addressing later discovery disputes.*

(b) *Court Order. Agreements and protocols agreed upon by parties shall be memorialized in a court order. In the event the parties are unable to enter into an agreement or protocol, the court shall by order provide for the scope of the privilege review, the amount of information to be set out in the privilege log, the use of categories to reduce document-by-document logging, whether any categories of information may be excluded from the logging requirement, and any other issues pertinent to privilege review, including the entry of an appropriate non-waiver order, and the allocation of costs and expenses as between the parties.*

Regarding Rule 11-c: Discovery of Electronically Stored Information from Nonparties.

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.11 as follows:

Section 202.11. Parties and nonparties should adhere to the Electronically Stored Information (“ESI”) guidelines set forth in Appendix hereto.

Section V of Appendix A of the Uniform Civil Rules for the Supreme Court and the County Courts is hereby amended as follows:

V. The requesting party shall defray the nonparty’s reasonable production expenses in accordance with Rules 3111 and 3122(d) of the CPLR. [Such reasonable production expenses may include the following:

A. Fees charged by outside counsel and e-discovery consultants;

B. The costs incurred in connection with the identification, preservation, collection, processing, hosting, use of advanced analytical software applications and other technologies, review for relevance and privilege, preparation of a privilege log (to the extent one is requested), and production;

C. The cost of disruption to the nonparty’s normal business operations to the extent such cost is quantifiable and warranted by the facts and circumstances; and

Other costs as may be identified by the nonparty.]

Regarding Rule 11-d: Limitation on Depositions

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.20-b as follows:

Section 202.20-b Limitations on Depositions.

(a) *Unless otherwise stipulated to by the parties or ordered by the court:*

(1) *the number of depositions taken by plaintiffs, or by defendants, or by third-party defendants, shall be limited to 10; and*

(2) *depositions shall be limited to 7 hours per deponent.*

(b) *Notwithstanding subsection (a)(1) of this Rule, the propriety of and timing for depositions of non-parties shall be subject to any restrictions imposed by applicable law.*

(c) *For the purposes of subsection (a)(1) of this Rule, the deposition of an entity through one or more representatives shall be treated as a single deposition even though more than one person may be designated to testify on the entity’s behalf.*

(d) *For the purposes of this Rule, each deposition of an officer, director, principal or employee of an entity who is also a fact witness, as opposed to an entity representative pursuant to CPLR 3106(d), shall constitute a separate deposition.*

(e) *For the purposes of subsection (a)(2) of this Rule, the deposition of an entity shall be treated as a single deposition even though more than one person may be designated to testify on the entity’s behalf. Notwithstanding the foregoing, the cumulative presumptive durational limit may be enlarged by agreement of the parties or upon application for leave of Court, which shall be freely granted.*

(f) *For good cause shown, the court may alter the limits on the number of depositions or the duration of an examination.*

(g) *Nothing in this Rule shall be construed to alter the right of any party to seek any relief that it deems appropriate under the CPLR or other applicable law.*

Regarding Rule 11-e: Responses and Objections to Document Requests

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.20-c as follows:

Section 202.20-c Requests for Documents.

(a) *For each document request propounded, the responding party shall, in its Response and Objections served pursuant to CPLR 3122(a) (the “Response”), either:*

(1) *state that the production is made as requested; or*

(2) *state with reasonable particularity the grounds for any objection to production.*

(b) *Each Response shall state: (i) whether the objection(s) interposed pertains to all or part of the request being challenged; (ii) whether any documents or categories of documents are being withheld, and if so, which of the stated objection(s) forms the basis for the responding party’s decision to withhold otherwise responsive documents or categories of documents; and (iii) the manner in which the responding party intends to limit the scope of its production.*

(c) *In each Response, the responding party shall verify, for each in-*

dividual requests: (i) whether the production of documents in its possession, custody or control and that are responsive to the individual request, as propounded or modified, is complete; or (ii) that there are no documents in its possession, custody or control that are responsive to the individual request as propounded or modified.

(d) *Nothing contained herein is intended to conflict with a party’s obligation to supplement its disclosure obligations pursuant to CPLR 3101(h).*

(e) *The parties are encouraged to use the most efficient means to review documents, including electronically stored information (“ESI”), that is consistent with the parties’ disclosure obligations under Article 31 of the CPLR and proportional to the needs of the case. Such means may include technology-assisted review, including predictive coding, in appropriate cases. The parties are encouraged to confer, at the outset of discovery and as needed throughout the discovery period, about technology-assisted review mechanisms they intend to use in document review and production.*

(f) *Absent good cause, a party may not use at trial or otherwise any document which was not produced in response to a request for such document or category of document, which request was not objected to or, if objected to, such objection was overruled by the court.*

Regarding Rule 11-f: Depositions of Entities; Identification of Matters

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.20-d as follows:

Section 202.20-d Depositions of Entities; Identification of Matters

(a) *A notice or subpoena may name as a deponent a corporation, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.*

(b) *Notices and subpoenas directed to an entity may enumerate the matters upon which the person is to be examined, and if so enumerated, the matters must be described with reasonable particularity.*

(c) *If the notice or subpoena to an entity does not identify a particular officer, director, member or employee of the entity, but elects to set forth the matters for examination as contemplated in section (b) of this Rule, then no later than ten days prior to the scheduled deposition:*

(1) *the named entity must designate one or more officers, directors, members or employees, or other individual(s) who consent to testify on its behalf;*

(2) *such designation must include the identity, description or title of such individual(s); and*

(3) *if the named entity designates more than one individual, it must set out the matters on which each individual will testify.*

(d) *If the notice or subpoena to an entity does identify a particular officer, director, member or employee of the entity, but elects to set forth the matters for examination as contemplated in section (b) of this Rule, then:*

(1) *pursuant to CPLR 3106(d), the named entity shall produce the individual so designated unless it shall have, no later than ten days prior to the scheduled deposition, notified the requesting party that another individual would instead be produced and the identity, description or title of such individual is specified. If timely notification has been so given, such other individual shall instead be produced;*

(2) *pursuant to CPLR 3106(d), a notice or subpoena that names a particular officer, director, member, or employee of the entity shall include in the notice or subpoena served upon such entity the identity, description or title of such individual; and*

(3) *if the named entity, pursuant to subsection (d)(1) of this Rule, cross-designates more than one individual, it must set out the matters on which each individual will testify.*

(e) *A subpoena must advise a nonparty entity of its duty to make the designations discussed in this Rule.*

(f) *The individual(s) designated must testify about information known or reasonably available to the entity.*

(g) *Deposition testimony given pursuant to this Rule shall be usable against the entity on whose behalf the testimony is given to the same extent provided in CPLR 3117(2) and the applicable rules of evidence.*

(h) *This Rule does not preclude a deposition by any other procedure allowed by the CPLR.*

Regarding Rule 13: Adherence to Discovery Schedule, Expert Disclosure

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.20-e as follows:

Section 202.20-e Adherence to Discovery Schedule.

(a) *Parties shall strictly comply with discovery obligations by the dates set forth in all case scheduling orders. Applications for extension of a discovery deadline shall be made as soon as practicable and prior to the expiration of such deadline. Non-compliance with such an order may result in the imposition of an appropriate sanction against that party or for other relief pursuant to CPLR 3126.*

(b) *If a party seeks documents from an adverse party as a condition precedent to a deposition of such party and the documents are not produced by the date fixed, the party seeking disclosure may ask the court to preclude the non-producing party from introducing such demanded documents at trial.*

Regarding Rule 14: Disclosure Disputes

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.20-f as follows:

Section 202.20-f Disclosure Disputes.

Disclosure Disputes

(a) *To the maximum extent possible, discovery disputes should be resolved through informal procedures, such as conferences, as opposed to motion practice.*

(b) *Absent exigent circumstances, prior to contacting the court regarding a disclosure dispute, counsel must first consult with one another in a good faith effort to resolve all disputes about disclosure. Such consultation must take place by an in-person or telephonic conference. In the event that a discovery dispute cannot be resolved other than through motion practice, each such discovery motion shall be supported by an affidavit or affirmation from counsel attesting to counsel having conducted an in-person or telephonic conference, setting forth the date and time of such conference, persons participating, and the length of time of the conference. The unreasonable failure or refusal of counsel to participate in a conference requested by another party may relieve the requesting party of the obligation to comply with this paragraph and may be addressed by the imposition of sanctions pursuant to Part 130. If the moving party was unable to conduct a conference due to the unreasonable failure or refusal of an adverse party to participate, then such moving party shall, in an affidavit or affirmation, detail the efforts made by the moving party to obtain such a conference and set forth the responses received.*

(c) *The failure of counsel to comply with this rule may result in the denial of a discovery motion, without prejudice to renewal once the provisions of this rule have been complied with, or in such motion being held in abeyance until the informal resolution procedures of the court are conducted.*

Regarding Rule 14-a: Rulings at Disclosure Conferences

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.20-g as follows:

Section 202.20-g Rulings at Disclosure Conferences.

The following procedures shall govern all disclosure conferences conducted by non-judicial personnel.

Prior to the conclusion of the conference, at the request of any party

(1) *all resolutions shall be dictated into the record, and either the transcript shall be submitted to the court to be "so ordered," or the court shall otherwise enter an order incorporating the resolutions reached;*

(2) *the parties shall prepare a writing setting forth the resolutions reached and submit the writing to the court for approval and signature by the justice presiding; or*

(3) *prior to the conclusion of the conference, the parties shall prepare an outline of the material terms of any resolution and shall thereafter agree upon and jointly submit to the court within one (1) business day of the conference a stipulated proposed order, memorializing the resolution of their discovery dispute. If the parties are unable to agree upon an appropriate form of proposed order, they shall so advise the court so that the court can direct an alternative course of action.*

Regarding Rule 15: Adjournments of Conferences.

Section 202.10 of the Uniform Civil Rules for the Supreme Court and the County Courts is amended as follows:

Section 202.10 Appearance at Conferences.

(a) *Any party may request to appear at a conference by [telephonic or other] electronic means. Where feasible and appropriate, the court is encouraged to grant such requests.*

(b) *Adjournments of conferences shall be granted upon a showing of good cause. An adjournment of a conference will not change any date in any court order, including but not limited to the preliminary conference order, unless otherwise directed by the court.*

Regarding Rule 16: Motions in General

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.8-a as follows:

Section 202.8-a. Motion in General

(a) *Form of Motion Papers. The movant shall specify in the notice of motion, order to show cause, and in a concluding section of a memorandum of law, the exact relief sought. Regardless of whether the papers are filed electronically or in hard copy or as working copies, counsel must submit as part of the motion papers copies of all pleadings and other documents as required by the CPLR and as necessary for an informed decision on the motion (especially on motions pursuant to CPLR 3211 and 3212). Counsel should use tabs on hard or working copies when submitting papers containing exhibits. Copies must be legible. If a document to be annexed to an affidavit or affirmation is voluminous and only discrete portions are relevant to the motion, counsel shall attach excerpts and submit the full exhibit separately. Documents in a foreign language shall be translated as required by CPLR 2101(b). Whenever reliance is placed upon a decision or other authority not readily available to the court, a copy of the case or of pertinent portions of the authority shall be submitted with the motion papers.*

(b) *Proposed orders. When appropriate, proposed orders should be submitted with motions, e.g., motions to be relieved, pro hac vice admissions, open commissions, etc. No proposed order should be submitted with motion papers on a dispositive motion.*

(c) *Adjournment of Motions. Unless the court orders otherwise, no motion may be adjourned on consent more than three times or for a cumulative total of more than 60 days.*

Regarding Rule 17: Length of Papers

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.8-b as follows:

Rule 202.8-b. Length of Papers.

(a) *Unless otherwise permitted by the court: (i) affidavits, affirmations, briefs and memoranda of law in chief shall be limited to 7,000 words each; (ii) reply affidavits, affirmations, and memoranda shall be no more than 4,200 words and shall not contain any arguments that do not respond or relate to those made in the memoranda in chief.*

(b) *For purposes of paragraph (a) above, the word count shall exclude the caption, table of contents, table of authorities, and signature block.*

(c) *Every brief, memorandum, affirmation, and affidavit shall include on a page attached to the end of the applicable document, a certification by the counsel who has filed the document setting forth the number of words in the document and certifying that the document complies with the word count limit. The counsel certifying compliance may rely on the word count of the word-processing system used to prepare the document.*

(d) *The court may, upon oral or letter application on notice to all parties permit the submission of affidavits, affirmations, briefs or memoranda which exceed the limitations set forth in paragraph (a) above. In the event that the court grants permission for an oversize submission, the certification required by paragraph (b) above shall set forth the number of words in the document and certify compliance with the limit, if any set forth by the court.*

Rule 18. Sur-Reply and Post-Submission Papers.

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.8-c as follows:

Section 202.8-c. Sur-Reply and Post-Submission Papers

Absent express permission in advance, sur-reply papers, including correspondence, addressing the merits of a motion are not permitted,

except that counsel may inform the court by letter of the citation of any post-submission court decision that is relevant to the pending issues, but there shall be no additional argument. Materials submitted in violation hereof will not be read or considered. Opposing counsel who receives a copy of materials submitted in violation of this Rule shall not respond in kind.

Regarding Rule 19: Orders to Show Cause

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.8-d as follows:

Section 202.8-d. Orders to Show Cause

Motions shall be brought on by order to show cause only when there is genuine urgency (e.g., applications for provisional relief), a stay is required or a statute mandates so proceeding. See Section 202.8-e. Absent advance permission of the court, reply papers shall not be submitted on orders to show cause.

Regarding Rule 19-a: Motions for Summary Judgment; Statements of Material Facts

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.8-g as follows:

Section 202.8-g Motions for Summary Judgment; Statements of Material Facts.

(a) Upon any motion for summary judgment, other than a motion made pursuant to CPLR 3213, there shall be annexed to the notice of motion a separate, short and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried.

(b) In such a case, the papers opposing a motion for summary judgment shall include a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party and, if necessary, additional paragraphs containing a separate short and concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried.

(c) Each numbered paragraph in the statement of material facts required to be served by the moving party will be deemed to be admitted unless specifically controverted by a correspondingly numbered paragraph in the statement required to be served by the opposing party.

(d) Each statement of material fact by the movant or opponent pursuant to subdivision (a) or (b), including each statement controverting any statement of material fact, must be followed by citation to evidence submitted in support of or in opposition to the motion.

Regarding Rule 20: Temporary Restraining Orders

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.8-e as follows:

Section 202.8-e. Temporary Restraining Orders

Unless the moving party can demonstrate significant prejudice by reason of giving notice, or that notice could not be given despite a good faith effort to provide notice, a temporary restraining order should not be issued ex parte. Unless excused by the court, the applicant must give notice of the time, date and place that the application will be made in a manner, and provide copies of all supporting papers, to the opposing parties sufficiently in advance to permit them an opportunity to appear and contest the application. Any application for temporary injunctive relief, including but not limited to a motion for a stay or a temporary restraining order, shall contain, in addition to the other information required by this section, an affirmation demonstrating either that: (a) notice has been given; or (b) notice could not be given despite a good faith effort to provide it or (c) there will be significant prejudice to the party seeking the restraining order by giving of notice. This subdivision shall not be applicable to orders to show cause or motions in special proceedings brought under Article 7 of the Real Property Actions and Proceedings Law, nor to orders to show cause or motions requesting an order of protection under section 240 of the Domestic Relations Law, unless otherwise ordered by the court.

Regarding Rule 22: Oral Argument

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.8-f as follows:

Section 202.8-f. Oral Argument.

(a) Each court or court part shall adopt a procedure governing

request for oral argument of motions, provided that, in the absence of the adoption of such a procedure by a particular court or part, the provisions of paragraph (b) shall apply. The procedure to be adopted shall set forth whether oral argument is required on all motions or whether the court will determine, on a case-by-case basis, whether oral argument will be heard and how counsel shall request argument and, if oral argument is permitted, when counsel shall appear.

(b) Any party may request oral argument of a motion by letter accompanying the motion papers. Notice of the date selected by the court shall be given, if practicable, at least 14 days before the scheduled oral argument. At that time, counsel shall be prepared to argue the motion, discuss resolution of the issue(s) presented and/or schedule a trial or hearing.

(c) Oral arguments may be conducted by the court by electronic means.

Regarding Rule 28: Pre-Marking of Exhibits.

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.34 as follows:

Section 202.34. Pre-Marking of Exhibits

Counsel for the parties shall consult prior to trial and shall in good faith attempt to agree upon the exhibits that will be offered into evidence without objection. Prior to the commencement of the trial, each side shall then mark its exhibits into evidence, subject to court approval, as to those to which no objection has been made. All exhibits not consented to shall be marked for identification only. If the trial exhibits are voluminous, 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 demanded which are to be used solely for credibility or rebuttal need not be pre-marked.

Regarding Rule 30: Settlement and Pretrial Conferences

Section 202.26 of the Uniform Civil Rules for Supreme Court and the County Court is amended as follows:

Section 202.26 Settlement and Pretrial Conferences.

[(a) After the filing of a note of issue and certificate of readiness in any action, the judge shall order a pretrial conference, unless the judge dispenses with such a conference in any particular case.

(b) To the extent practicable, pretrial conferences shall be held not less than 15 nor more than 45 days before trial is anticipated.

(c) The judge shall consider at the conference with the parties or their counsel the following:

- (1) simplification and limitation of the issues;
- (2) obtaining admission of fact and of documents to avoid unnecessary proof;
- (3) disposition of the action, including scheduling the action for trial;
- (4) amendment of pleadings or bill of particulars;
- (5) limitation of number of expert witnesses; and
- (6) insurance coverage, where relevant.

The judge also may consider with the parties any other matters deemed relevant.

(d) In actions brought under the simplified procedure sections of the CPLR, the court shall address those matters referred to in CPLR 3036(5).

(e) Where parties are represented by counsel, only attorneys fully familiar with the action and authorized to make binding stipulations, or accompanied by a person empowered to act on behalf of the party represented, will be permitted to appear at a pretrial conference. Where appropriate, the court may order parties, representatives of parties, representatives of insurance carriers or persons having an interest in any settlement, including those holding liens on any settlement or verdict, to also attend in person or telephonically at the settlement conference. Plaintiff shall submit marked copies of the pleadings. A verified bill of particulars and a doctor's report or hospital record, or both, as to the nature and extent of injuries claimed, if any, shall be submitted by the plaintiff and by any defendant who counterclaims. The judge may require additional data, or may waive any requirement for submission of documents on suitable alternate proof of damages. Failure to comply with this subdivision may be deemed a default under

CPLR 3404. Absence of an attorney's file shall not be an acceptable excuse for failing to comply with this subdivision.

(f) If any action is settled or discontinued by stipulation at a pretrial conference, complete minutes of such stipulation shall be made at the direction of the court. Such transcribed stipulation shall be enforceable as though made in open court.

(g)(1) At the pretrial conference, if it appears that the action falls within the monetary jurisdiction of a court of limited jurisdiction, there is nothing to justify its being retained in the court in which it is then pending, and it would be reached for trial more quickly in a lower court, the judge shall order the case transferred to the appropriate lower court, specifying the paragraph of CPLR 325 under which the action is taken.

(2) With respect to transfers to the New York City Civil Court pursuant to CPLR 325, if, at the pretrial conference, the conditions in paragraph (1) of this subdivision are met except that the case will not be reached for trial more quickly in the lower court, the judge, in his or her discretion, may order the case so transferred if it will be reached for trial in the lower court within 30 days of the conference. In determining whether the action will be reached for trial in the lower court within 30 days, the judge shall consult with the administrative judge of his or her court, who shall advise, after due inquiry, whether calendar conditions and clerical considerations will permit the trial of actions in the lower court within the 30-day timeframe. If the action is not transferred to a lower court, it shall be tried in the superior court in its proper calendar progression.]

(a) *Settlement Conference.* At the time of certification of the matter as ready for trial or at any time after the discovery cut-off date, the court may schedule a settlement conference which shall be attended by counsel and the parties, who are expected to be fully prepared to discuss the settlement of the matter.

(b) *Pre-Trial Conference.* Prior to trial, counsel shall confer in a good faith effort to identify matters not in contention, resolve disputed questions without need for court intervention and further discuss settlement of the case. Where a pre-trial conference is scheduled, or otherwise prior to the commencement of opening statements, counsel shall be prepared to discuss all matters as to which there is disagreement between the parties and settlement of the matter, and the court may require the parties to prepare a written stipulation of undisputed facts.

(c) *Consultation Regarding Expert Testimony.* The court may direct that prior, or during, trial, counsel for the parties consult in good faith to identify those aspects of their respective experts' anticipated testimony that are not in dispute. The court may further direct that any agreements reached in this regard shall be reduced to a written stipulation.

Regarding Rule 31: Pre-Trial Memoranda, Exhibit Book and Requests for Jury Instructions

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.20-h as follows:

Section 202.20-h Pre-Trial Memoranda, Exhibit Book and Requests for Jury Instructions.

(a) Counsel shall submit pre-trial memoranda at the pre-trial conference, or such other time as the court may set. Counsel shall comply with CPLR 2103(e). A single memorandum no longer than 25 pages shall be submitted by each side. No memoranda in response shall be submitted.

(b) On the first day of trial or at such other time as the court may set, counsel shall submit an indexed binder or notebook, or the electronic equivalent, of trial exhibits for the court's use. A copy for each attorney on trial and the originals in a similar binder or notebook for the witnesses shall be prepared and submitted. Plaintiff's exhibits shall be numerically tabbed, and defendant's exhibits shall be tabbed alphabetically.

(c) Where the trial is by jury, counsel shall, on the first day of the trial or such other time as the court may set, provide the court with case-specific requests to charge and proposed jury interrogatories. Where the requested charge is from the New York Pattern Jury Instructions - Civil, a reference to the PJI number will suffice. Submissions should be by hard copy and electronically, as directed by the court.

Regarding Rule 32: Scheduling Witnesses

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.37 as follows:

Section 202.37. Scheduling Witnesses

At the commencement of the trial or at such time as the court may direct, each party shall identify in writing for the court the witnesses it intends to call, the order in which they shall testify and the estimated length of their testimony, and shall provide a copy of such witness list to opposing counsel. Counsel shall separately identify for the court only a list of the witnesses who may be called solely for rebuttal or with regard to credibility. The court may permit for good cause shown and in the absence of substantial prejudice, a party to call a witness to testify who was not identified on the witness list submitted by that party. The estimates of the length of testimony provided by counsel are advisory and the court may permit further testimony from a witness notwithstanding that the time estimate for such witness has been exceeded.

Regarding Rule 32-a: Direct Testimony by Affidavit

Section 202.20-i of the Uniform Civil Rules for the Supreme Court and the County Court are added as follows:

Section 202.20-i Direct Testimony by Affidavit.

The court may require that direct testimony of a party's own witness in a non-jury trial or evidentiary hearing shall be submitted in affidavit form, provided, however, (a) that the court may not require the submission of a direct testimony affidavit from a witness who is not under the control of the party offering the testimony and (b) the opposing party shall have the right to object to statements in the direct testimony affidavit, and the court shall rule on such objections, just as if the statements had been made orally in open court. Where an objection to a portion of a direct testimony affidavit is sustained, the court may direct that such portion be stricken. The submission of direct testimony in affidavit form shall not affect any right to conduct cross-examination or re-direct examination of the witness.

Rule 34. Staggered Court Appearances

The Uniform Civil Rules for the Supreme Court and the County Court are amended by adding new section 202.23 as follows:

Section 202.23 Staggered Court Appearances.

Staggered court appearances are a mechanism to increase efficiency in the courts and to decrease lawyers' time waiting for a matter to be called by the courts. While this rule is intended to streamline the litigation process, it will be ineffectual without the cooperation and participation of litigants. Improving the process of litigation by instituting staggered court appearances, for example, requires not only the promulgation of rules such as this one, but also, and more importantly, the proactive and earnest adherence to such rules by parties and their counsel and the court.

(a) Each court appearance for oral argument on a motion shall be assigned either a set time or a time interval during which the appearance is expected to be held. The assignment of time or time interval, and the length of time allotted to a case is solely in the discretion of the court.

(b) In order for the court to be able to address any and all matters of concern to the court and in order for the court to avoid the appearance of holding ex parte communications with one or more parties in the case, even those parties who believe that they are not directly involved in the matter before the court must appear at the appointed date and time assigned by the court unless specifically excused by the court.

(c) Since the court is setting aside a specific time or time interval for the case and since there are occasions when the court's electronic or other notification system fails or occasions when a party fails to receive the court-generated notification, each attorney who receives notification of an appearance on a specific date and time is responsible for notifying all other parties by e-mail that the matter is scheduled to be heard on that assigned date and time. All parties are directed to exchange e-mail addresses with each other at the commencement of the case and to keep these e-mail addresses current, in order to facilitate notification by the person(s) receiving the court notification.

(d) Requests for adjournments shall be transmitted in writing to the court and to all parties, in such manner as the court may direct, so as to be received no later than 48 hours before the hearing and shall set forth whether the other parties consent to the adjournment.