
NEW YORK STATE

REGISTER

INSIDE THIS ISSUE:

- Control of the European Cherry Fruit Fly
- Raise the Age
- Tuition, Fees and Charges

**Rule Review
Executive Orders**

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

For notices published in this issue:

- the 60-day period expires on February 9, 2020
- the 45-day period expires on January 25, 2020
- the 30-day period expires on January 10, 2020

**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)

Rule Making Activities

Agriculture and Markets, Department of

- 1 / Control of the European Cherry Fruit Fly (E)
- 4 / Spotted Lanternfly (“SL”) (A)

Children and Family Services, Office of

- 5 / Procedures for Addressing Children Absent Without Consent from Foster Care, Conditional Releases and Searches (A)

Corrections and Community Supervision, Department of

- 5 / Raise the Age (P)

Public Service Commission

- 6 / Gas Metering Equipment (A)
- 6 / Transfer of Ownership Interests (A)
- 6 / Submetering of Electricity (A)
- 7 / Submetering of Electricity and Waiver Request (A)
- 7 / Submetering of Electricity (A)
- 7 / Petition to Submeter Electricity and Waiver of Energy Audit (P)
- 8 / Modifications and Clarifications to the DCFC Per-Plug Incentive Program (P)
- 8 / Compensation of and Incentives for Distributed Energy Resources (P)
- 8 / Participation of Customers Served Under P.S.C. No. 12 (PASNY) in CDG Projects Receiving Value Stack Compensation (P)

State University of New York

- 9 / Tuition, Fees and Charges (EP)
- 10 / College Fees (A)

Taxation and Finance, Department of

- 10 / Metropolitan Transportation Business Tax Surcharge (EP)

Temporary and Disability Assistance, Office of

- 11 / Adult-Care Facilities and Shelters for Adults (A)
- 15 / Shelters for Families (A)

Workers’ Compensation Board

- 19 / Medical Fee Schedules (A)

Hearings Scheduled for Proposed Rule Makings / 22

Action Pending Index / 23

Rule Review

- 69 / Public Service Commission

Securities Offerings

- 71 / State Notices

Advertisements for Bidders/Contractors

- 73 / Sealed Bids

Miscellaneous Notices/Hearings

77 / Notice of Abandoned Property Received by the State Comptroller

77 / Public Notice

Executive Orders

81 / Executive Order No. 168.30: Continuing the Declaration of a Disaster Emergency in the Five Boroughs of New York City and the Counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester that Incorporate the MTA Region in the State of New York.

81 / Executive Order No. 198: Declaring a Disaster in the Counties of Cayuga, Jefferson, Monroe, Niagara, Orleans, Oswego, St. Lawrence, and Wayne.

RULE MAKING ACTIVITIES

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

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

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

Department of Agriculture and Markets

EMERGENCY RULE MAKING

Control of the European Cherry Fruit Fly

I.D. No. AAM-21-19-00002-E

Filing No. 1058

Filing Date: 2019-11-26

Effective Date: 2019-11-26

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

Action taken: Addition of Part 128 to Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 18, 164 and 167

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

Specific reasons underlying the finding of necessity: The European Cherry Fruit Fly (*Rhagoletis cerasi*) (hereinafter “ECFF”), an insect nonindigenous to the United States, is native to Europe. It was first detected in Ontario, Canada in 2015 and subsequently found in Niagara County in 2017. While ECFF infests both sweet and tart cherries, sweet cherries are ECFF’s preferred host material. ECFF also infests honeysuckle (*Lonicera* sp.), an invasive plant found throughout New York. Honeysuckle may serve as a reservoir for the ECFF to assist in its development. Left unchecked, ECFF has the potential to infest 100% of a cherry crop, rendering the cherries unmarketable.

This regulation establishes regulated and quarantine areas consisting of Niagara, Erie, and Orleans Counties in their entirety to help control the

spread of the ECFF and establishes parameters in the form of a systems approach for the movement of cherries out of the regulated and quarantine areas.

The regulated area extends from an ECFF detection by one-half mile. Fruit may only be moved from the regulated area if the cherry growers or handlers have a limited permit or have entered into a compliance agreement which requires a systems approach that minimizes the chance of ECFF spread. If the growers or handlers meet these requirements, they can move cherries anywhere within New York, except for the following cherry producing counties established as restricted areas: Counties of Chautauqua, Columbia, Schuylar, Ulster, and Wayne.

The quarantine area surrounds the regulated area and extends four miles from the regulated area. Cherries may only be moved from a quarantine area if the cherry grower or handler has a limited permit or has entered into a compliance agreement. Since there is a lower risk of exposure to the ECFF in the quarantine area, cherries in this area may be moved throughout the State, including the established restricted cherry producing areas.

These regulations are necessary to protect the general welfare. The effective control of ECFF in New York generally, and, specifically, in Erie, Niagara, and Orleans Counties is critical for the protection of New York’s \$4.5 million cherry industry, which includes growers with 450 acres of cherry production. The regulations help ensure that control measures are undertaken in the regulated and quarantine areas, and that the ECFF will not spread beyond those areas via the movement of infested cherries or other hosts.

Based on the facts and circumstances set forth above, the Department has determined that the immediate adoption of this rule is necessary for the preservation of the general welfare and that compliance with 202(1) of the State Administrative Procedure Act would be contrary to the public interest.

Subject: Control of the European Cherry Fruit Fly.

Purpose: To help control the spread of the European Cherry Fruit Fly (ECFF), which renders cherries unmarketable if they are infested.

Substance of emergency rule (Full text is posted at the following State website): www.agriculture.ny.gov/plant-industry/express-terms-european-cherry-fruit-fly: This regulation adds a new Part 128 to 1 NYCRR, establishing controls to help prevent the spread in New York of the European Cherry Fruit Fly (ECFF), an insect nonindigenous to the United States, which infests cherries and renders them unmarketable.

A summary of each section of the rule follows.

Section 128.1: Definitions. This is the definition section.

Section 128.2: Establishment and amendment of regulated and quarantine areas map. This section establishes the quarantined areas by map and narrative description and, requires that any change to the map must be done by regulation.

Section 128.3: Movement of regulated articles within regulated and quarantine areas. This section sets forth the parameters for movement of cherries within the regulated and quarantine areas. The cherries may be moved at any time within the regulated or quarantine areas for processing, treatment, use, or disposal at any area within the regulated or quarantine areas.

Section 128.4: Restrictions on intrastate movement of regulated articles originating within or traveling through regulated or quarantine areas. This section prohibits any person from moving cherries from the regulated or quarantine areas to or through to any point outside the regulated or quarantine areas, unless accompanied by a valid limited permit or administrative instructions from the Commissioner of the Department authorizing such movement, or for experimental or scientific purposes. This section also provides that any cherries from outside the regulated or quarantine areas may be moved through the regulated or quarantine areas, provided the points of origin and destination are set forth on the waybill, or the cherries is being moved directly through the regulated area without stops, except for refueling and traffic conditions.

Section 128.5: Conditions governing compliance agreements for move-

ment of regulated articles out of regulated or quarantine areas. This section addresses conditions governing compliance agreements for movement of the cherries out of the regulated or quarantine areas. It provides that persons moving the cherries intrastate may apply for a compliance agreement with the Department, which would eliminate the requirement of inspections prior to each movement of cherries. A person who enters into a compliance agreement with the Department must agree to comply with this Part and all conditions in the agreement. A compliance agreement is subject to the Department's acceptance in its sole discretion. A compliance agreement may be canceled if the Department determines that person is not complying with this regulation or the conditions of the agreement, which is final unless challenged within seven days.

Section 128.6: Conditions governing limited permits for movement of regulated articles out of regulated or quarantine areas. This section sets forth conditions governing limited permits for the movement of cherries out of quarantine or regulated areas. With a limited permit, the cherries can be moved from the regulated or quarantine areas. In respect to a quarantine area, an inspector or an authorized holder of a compliance agreement may issue a limited permit if the cherries have been grown under a recognized systems approach for the control of ECFF; and the cherries are otherwise eligible for unrestricted movement under all other state plant quarantines and regulations applicable to the cherries.

In respect to a quarantine area, an inspector or an authorized holder of a compliance agreement may issue a limited permit if the cherries have been grown under a recognized systems approach for the control of ECFF; the cherries are not moved to counties prohibited under the Systems Approach and compliance agreement; and is otherwise eligible for unrestricted movement under all other state plant quarantines and regulations applicable to the cherries.

An inspector or authorized holder of a compliance agreement may provide additional limited permits pursuant to the terms of a compliance agreement or authorize, in writing, reproduction of the limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These limited permits may then be completed and used, as needed, for the movement out of a regulated or quarantine area provided that the cherries have met all of the requirements of this Part. Any limited permit may be cancelled orally or in writing by an inspector whenever the inspector determines that the holder of the limited permit has not complied with this Part. The cancellation shall take effect upon the giving of the oral notice or the delivery of written notice. If the cancellation is oral, the cancellation and the reasons for the cancellation shall be confirmed in writing, which is final unless challenged within seven days.

Section 128.7: Shipments of regulated articles for experimental and scientific purposes. This section authorizes the intrastate movement of cherries for experimental or scientific purposes, provided the Department's conditions and safeguards are met. Additionally, the container holding the cherries shall bear an identification tag issued by the Department, showing compliance with the conditions and safeguards.

Section 128.8: Marking Requirements. Every container of cherries intended for intrastate movement shall be plainly marked with the name and address of the consignor and the name and address of the consignee, when offered for shipment, and shall have securely attached to the outside thereof a valid certificate (or limited permit) issued in compliance with this Part.

Section 128.9 Inspection and disposition of shipments. Any vehicle or other conveyance, any package or other container, and any item to be moved, which is moving, or which has been moved intrastate from the regulated or quarantine areas, which may contain cherries, may be examined by an inspector.

Section 128.10: Other laws and regulations; interstate movement of regulated articles. Limits the applicability of this Part to the intrastate movement of cherries. The interstate movement of cherries must comply with applicable federal laws and regulations.

Section 128.11: Effective date. This regulation shall take effect immediately.

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. AAM-21-19-00002-ERP, Issue of October 14, 2019. The emergency rule will expire January 24, 2020.

Text of rule and any required statements and analyses may be obtained from: Christopher Logue, Director, Division of Plant Industry, Department of Agriculture and Markets, 10B Airline Drive, Albany, New York 12235, (518) 457-2087, email: christopher.logue@agriculture.ny.gov

Regulatory Impact Statement

1. Statutory authority:

Section 18 of the Agriculture and Markets Law provides, in part, that the Commissioner may enact, amend and repeal necessary rules which

shall provide generally for the exercise of the powers and performance of the duties of the Department as prescribed in the Agriculture and Markets Law and the laws of the State, and for the enforcement of their provisions and the provisions of the rules that have been adopted to implement these laws.

Section 164 of the Agriculture and Markets Law provides, in part, that the Commissioner shall take such action as he may deem necessary to control or eradicate any injurious insects, noxious weeds, or plant diseases existing within the State.

Section 167 of the Agriculture and Markets Law provides, in part, that the Commissioner is authorized to make, issue, promulgate and enforce such order, by way of quarantines or otherwise, as he may deem necessary or fitting to carry out the purposes of Article 14 of the same. Section 167 also provides that the Commissioner may adopt and promulgate such rules and regulations to supplement and give full effect to the provisions of Article 14 of the Agriculture and Markets Law.

2. Legislative objectives:

These proposed revised regulations are consistent with the public policy objectives the Legislature sought to advance when enacting the statutory authority, namely, preventing the spread within the State of an injurious insect, such as the European Cherry Fruit Fly (ECFF).

This rule is being revised to account for additional detection of ECFF in portions of Orleans County, and extends the quarantine area to the remainder of the County.

3. Needs and benefits:

This proposed regulation would establish regulated and quarantine areas in Erie, Niagara, and Orleans Counties, in their entirety to help control the spread of the ECFF. Left unchecked, ECFF has the potential to infest 100% of a cherry crop, rendering the cherries unmarketable.

The ECFF (*Rhagoletis cerasi*), an insect nonindigenous to the United States, is native to Europe. It was first detected in Ontario, Canada in 2015 and subsequently found in Niagara County in 2017. While ECFF infests both sweet and tart cherries, sweet cherries are ECFF's preferred host material. ECFF also infests honeysuckle (*Lonicera* sp.), an invasive plant found throughout New York State. Honeysuckle may serve as a reservoir for the ECFF to assist in its unchecked development.

The life cycle of ECFF begins with the emergence of the fruit flies during May and June. They have an average lifespan of two to four weeks. Females usually lay one egg beneath the skin of each piece of fruit. Once the eggs hatch, the larvae develop inside the fruit and feed on it for up to six weeks. As the larvae develop, they damage the fruit pulp. Mature larvae exit the fruit, drop to the ground, and burrow into the soil. Once in the soil, they pupate within a few days and overwinter in the soil underneath or near the host plant. After winter, adult flies emerge from the soil, and the life cycle begins anew.

Evidence of ECFF infestation of cherries includes puncture holes in the cherries. As the larvae develop in the fruit, the puncture hole becomes brown and soft. When cutting or breaking open infested cherries, the larvae and internal fruit damage can be readily seen. Infested cherries may shrivel, display soft spots, and decay. Infested fruit may also exhibit small holes formed when larvae exit the fruit to drop to the ground to pupate. Growers cannot market infested cherries as fresh fruit. Infested cherries, generally sweet cherries, intended for processing also have a high likelihood of being rejected since processors desire primarily tart cherries. Fresh cherries command at least six times the price of processing cherries making it an economic hardship to move fresh cherries to processing even if processors would accept them.

Under the revised proposal, the regulated area would consist of areas where the ECFF has been found and would extend one-half mile in all directions from each such location. ECFF has now been detected in portions of State parks and public lands. Over 1,500 ECFF have been found in 2019 in traps in parks and public lands in Niagara, Erie and Orleans Counties Regulated articles would only be moved from the regulated area if a grower or handler has a limited permit or has entered into a compliance agreement which would require a systems approach that minimizes the risk of ECFF spread. If the growers or handlers meet these requirements, they would be able to move regulated articles anywhere within New York, except for the following cherry producing counties established as restricted areas: Counties of Chautauqua, Columbia, Schuyler, Ulster and Wayne.

Under the proposed revised rule, the quarantine area would surround the regulated area and would extend to the county border. Regulated articles would only be able to be moved from a quarantine area if the grower or handler has a limited permit or has entered into a compliance agreement. Since there is a lower risk of exposure to ECFF in the quarantine area, regulated articles in this area would be able to be moved throughout the State, including the established restricted cherry producing areas.

ECFF have been found in 5 cherry orchards in the regulated area in New York State. Since the Department's notice of proposed rulemaking,

over 1,500 ECFF have been found in 2019 in traps in parks and public lands in Niagara, Erie and Orleans Counties. There are now 23 growers in the regulated area and 38 growers in the quarantine area which would be affected by this revised proposed rulemaking. There are also 110 registered nursery growers and 141 registered nursery dealers in the quarantine area. Those in possession of regulated articles would need a limited permit and compliance agreement in order to move regulated articles outside the regulated and quarantine areas to ensure that no plants bear any host fruit at the time of sale or movement out of the regulated area.

These proposed regulations are necessary to protect the general welfare, since the effective control of ECFF in New York State, generally, and Niagara, Erie and Orleans Counties, specifically, is critical for the protection of New York State's \$4.5-million dollar cherry industry, which includes 450 acres of cherry production. The proposed regulations help ensure that as control measures are undertaken in the regulated and quarantine areas, ECFF will not spread beyond those areas via the movement of infested fruit or other host material.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: Growers in the quarantine and regulated areas would be provided the required pesticides and pesticide applications by the United States Department of Agriculture (USDA). Accordingly, growers would not incur any costs for the application of pesticides. Department staff have visited the growers and held meetings in the counties forming part of the proposed regulated and quarantine areas to explain the proposed regulation and the compliance agreements. It is anticipated that each grower would have to spend a maximum of three hours to understand, sign, and comply with requirements of the compliance agreement. This would cost \$300.00, based on \$100.00 per hour. Growers would be able to self-issue limited permits upon complying with the requirements of the compliance agreement. This time is included in the \$300.00. Including the additional areas in Orleans County, for 61 impacted cherry growers (five growers have fields in both the regulated and quarantine areas), this is a total of \$6,100.00.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: Department horticultural inspectors would be working with growers on the signing and enforcement of the compliance agreements and limited permits. This work would be shared among 2 to 7 people at a cost of approximated \$48,000 in staff time.

(c) The information, including the sources of such information and the methodology upon which the cost analysis is based: The costs analysis set forth above is based upon Department records and practices and observations of the industry.

5. Local government mandates:

There are no additional programs, services, duties or responsibilities imposed by this proposed rule upon any county, city, town, village, school district, fire district or any other special district.

6. Paperwork:

Growers would be issued compliance agreements, which would authorize the grower to self-issue limited permits to move regulated articles.

7. Duplication:

The USDA would issue a parallel quarantine that will mirror the State quarantine.

8. Alternatives:

The only alternative considered was to continue with control efforts directed at similar fruit flies in areas where infestation was discovered without a quarantine. This option was rejected since, to do so, could result in the USDA establishing a quarantine throughout New York State, preventing fresh cherries from New York being sold outside the State.

9. Federal standards:

The USDA would be establishing a parallel quarantine which will mirror this one.

10. Compliance schedule:

This proposed rule would take effect immediately.

Regulatory Flexibility Analysis

1. Effect of rule:

This proposed revised rulemaking accounts for additional detection of ECFF in portions of Orleans County, and extends the quarantine area to the remainder of the County. Overall, this proposed regulation would establish regulated and quarantine areas in Erie, Niagara, and Orleans Counties to help control the spread of the European Cherry Fruit Fly (ECFF) and would establish a systems approach set forth in a compliance agreement for the movement of regulated articles (i.e. cherries, and host material including soil beneath the dripline of the host material) out of the regulated and quarantine areas.

The regulated area would extend from an ECFF detection by one-half mile. ECFF has been found in 5 orchards and more extensively in State parks and public land. Regulated articles would only be moved from the regulated area if a grower or handler has a limited permit and has entered

into a compliance agreement which requires a systems approach that minimizes the chance of ECFF spread. If the growers or handlers meet these requirements, they would be able to move regulated articles anywhere within New York, except for the following cherry producing counties established as restricted areas: Counties of Chautauqua, Columbia, Schuyler, Ulster and Wayne.

The quarantine area would surround the regulated area and would extend to the county border. Cherries would only be able to be moved from a quarantine area if the grower or handler has a limited permit and has entered into a compliance agreement. Since there is a lower risk of exposure to the ECFF in the quarantine area, regulated articles in this area would be able to be moved throughout the State, including the established restricted cherry producing areas.

It is not anticipated that local governments would be involved in the shipment of cherries from the regulated and quarantine areas.

2. Compliance requirements:

All regulated parties in the regulated and quarantine areas would be required to obtain limited permits issued by the Commissioner (or enter into compliance agreements) to ship regulated articles outside those areas. If growers enter into compliance agreements, they would have to use a systems approach to control the insects as set forth in the compliance agreement that minimizes the chance of ECFF spread.

It is not anticipated that local governments would be involved in the shipment of cherries from the regulated and quarantine areas.

3. Professional services:

Those shipping regulated articles from the regulated and quarantine areas would need a limited permit issued by the Commissioner, or would have to enter into a compliance agreement which would require a systems approach to control the insects as set forth in the compliance agreement that minimizes the chance of ECFF spread.

It is not anticipated that local governments would be involved in the shipment of cherries from the regulated and quarantine areas.

4. Compliance costs:

(a) Initial capital costs that will be incurred by a regulated business or industry or local government in order to comply with the rule: It is anticipated that there would be no such costs.

(b) Annual cost for continuing compliance with the rule: Costs to regulated parties for the implementation of and continuing compliance with the rule: Growers in the quarantine and regulated areas would be provided the required pesticides and application services by the United States Department of Agriculture (USDA). Accordingly, growers would not incur any costs arising from the application of pesticides. Department staff have discussed with growers the proposed regulation and the compliance agreements. It is anticipated that each grower would have to spend a maximum of three hours to understand, sign, and comply with requirements of the compliance agreement. This will cost \$300.00, based on \$100.00 per hour.

Growers would be able to self-issue limited permits upon complying with the requirements of the compliance agreement. This time is included in the \$300.00. Including the additional areas in Orleans County, for 61 impacted cherry growers (five growers have fields in both the regulated and quarantine area), this is a total of \$6,100.00.

It is not anticipated that local governments would be involved in the shipment of regulated articles from the regulated and quarantine areas.

5. Economic and technological feasibility:

The economic and technological feasibility of compliance with the proposed rule by small businesses and local governments has been addressed and such compliance has been determined to be feasible. Growers shipping regulated articles outside the regulated and quarantine areas would require a limited permit or enter into a compliance agreement which would require a systems approach that minimizes the risk of ECFF spread.

It is not anticipated that local governments would be involved in the shipment of cherries from the regulated and quarantine areas and as such, would incur no costs.

6. Minimizing adverse impact:

Approaches for minimizing adverse economic impact were considered. The Department has sought to minimize adverse impact of ECFF quarantine through the use of limited permits and compliance agreements between the Department and regulated parties, including small businesses. This would facilitate the movement of regulated articles by permitting the shipment of those articles without State or federal inspection. There is no charge for a limited permit or compliance agreement. Given all facts and circumstances, the regulations minimize adverse economic impact as much as is currently possible.

It is not anticipated that local governments would be involved in the shipment of cherries from the regulated and quarantine areas.

7. Small business and local government participation:

In anticipation of the regulatory quarantine issued in 2018, which has since expired, the Department mailed an ECFF fact sheet to cherry growers in affected counties and held meetings to discuss ECFF in late 2017.

Most recently, the Department presented an update on ECFF at a fruit growers' tour in Youngstown on July 18, 2019. There were 100 fruit growers in attendance. On February 4, 2019 and February 5, 2019, the Department participated in meetings in Lockport and Newark, respectively, to present findings from the 2018 ECFF quarantine and inform growers of the anticipated increase of the regulated and quarantine areas. Approximately 130 fruit growers were in attendance at the meeting in Lockport and 120 fruit growers at the meeting in Newark. Margaret Kelly, Assistant Director of Plant Industry for the Department presented the findings.

On February 20, 2019 ECFF updates were provided by New York State Integrated Pest Management of Cornell University, at a meeting held in Albany, with 250 fruit growers in attendance.

In November, potentially impacted fruit growers participated in a stakeholder meeting with the USDA Animal and Plant Health Inspection Service (APHIS) attended by various Department officials. The Department officials present were Deputy Commissioner Jacqueline Moody-Czub, Director of Plant Industry Christopher Logue, Assistant Director of Plant Industry Margaret Kelly, and Horticultural Inspector William Ellsworth.

Further, the Department has conducted phone calls with various impacted growers by Commissioner Richard Ball, Deputy Commissioner Jacqueline Moody-Czub, Director Christopher Logue, and Assistant Director Margaret Kelly.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

With the inclusion of the additional quarantine areas in Orleans County, there are now 23 growers in the regulated area and 38 growers in the quarantine area, all of whom are in rural areas as defined by section 481(7) of the Executive Law.

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

The proposed revised rule does not require any reporting or recordkeeping requirements. In terms of professional services, those shipping regulated articles from the regulated and quarantine areas would need a limited permit and a compliance agreement.

3. Costs:

Costs to regulated parties for the implementation of and continuing compliance with the rule: Growers in the quarantine and regulated areas would be provided the required pesticides and application services by the United States Department of Agriculture (USDA). Accordingly, growers would not incur any costs arising from the application of pesticides. Department staff have discussed with growers the proposed regulation and the compliance agreements. It is anticipated that each grower would have to spend a maximum of three hours to understand, sign, and comply with requirements of the compliance agreement. This will cost \$300.00, based on \$100.00 per hour.

Growers would be able to self-issue limited permits upon complying with the requirements of the compliance agreement. This time is included in the \$300.00. Including the additional areas in Orleans County, for 61 impacted cherry growers (five growers have fields in both the regulated and quarantine area), this is a total of \$6,100.00.

4. Minimizing adverse impact:

In conformance with State Administrative Procedure Act section 202-bb(2), the Department has designed the proposed rule to minimize adverse economic impact on regulated parties in rural areas. By limiting ECFF regulated and quarantine areas to regions where infestation exists, the rule minimizes economic impacts without compromising efforts to slow the spread of ECFF.

Approaches for minimizing adverse economic impact were considered. The Department has sought to minimize adverse impact of the ECFF quarantine by continuing the use of limited permits and compliance agreements between the Department and regulated parties, including regulated parties in rural areas. This would facilitate the movement of regulated articles by permitting the shipment of cherries without state or federal inspection. There is no charge for a compliance agreement. Given all the facts and circumstances, the proposed regulations minimize adverse economic impact as much as is currently possible.

5. Rural area participation:

In anticipation of the regulatory quarantine issued in 2018, which has since expired, the Department mailed an ECFF fact sheet to cherry growers in affected counties and held meetings to discuss ECFF in late 2017.

Most recently, the Department presented an update on ECFF at a fruit growers' tour in Youngstown on July 18, 2019. There were 100 fruit growers in attendance. On February 4, 2019 and February 5, 2019, the Department participated in meetings in Lockport and Newark, respectively, to present findings from the 2018 ECFF quarantine and inform growers of the anticipated increase of the regulated and quarantine areas. Approximately 130 fruit growers were in attendance at the meeting in Lockport and 120 fruit growers at the meeting in Newark. Margaret Kelly,

Assistant Director of Plant Industry for the Department presented the findings.

On February 20, 2019 ECFF updates were provided by New York State Integrated Pest Management of Cornell University, at a meeting held in Albany, with 250 fruit growers in attendance.

In November, potentially impacted fruit growers participated in a stakeholder meeting with the USDA Animal and Plant Health Inspection Service (APHIS) attended by various Department officials. The Department officials present were Deputy Commissioner Jacqueline Moody-Czub, Director of Plant Industry Christopher Logue, Assistant Director of Plant Industry Margaret Kelly, and Horticultural Inspector William Ellsworth.

Further, the Department has conducted phone calls with various impacted growers by Commissioner Richard Ball, Deputy Commissioner Jacqueline Moody-Czub, Director Christopher Logue, and Assistant Director Margaret Kelly.

Job Impact Statement

1. Nature of impact:

It is anticipated that the proposed rule will not have a negative impact on jobs and employment opportunities in New York, since regulated parties would incur no costs in complying with this proposal.

2. Categories and numbers affected:

It is anticipated that the proposed rule will not affect any jobs or employment opportunities in New York.

3. Regions of adverse impact:

There are no regions of adverse impact since the proposed rule will not affect any jobs or employment opportunities in New York.

4. Minimizing adverse impact:

Approaches for minimizing adverse economic impact to jobs and employment opportunities were considered. The Department has sought to minimize adverse impact of the ECFF quarantine by proposing the use of limited permits issued by the Commissioner or compliance agreements between the Department and regulated parties. These permits and agreements would allow the shipment of regulated articles without State or federal inspection, with the exception of regulated articles leaving the regulated area which are banned from entry into cherry producing counties restricted by the USDA. There is no charge for a limited permit or compliance agreement. Given all of the facts and circumstances, the proposed regulations minimize adverse economic impact as much as is currently possible.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Spotted Lanternfly ("SL")

I.D. No. AAM-34-19-00001-A

Filing No. 1049

Filing Date: 2019-11-21

Effective Date: 2019-12-11

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

Action taken: Amendment of Part 142 of Title 1 NYCRR

Statutory authority: Agriculture and Markets Law, sections 18, 164 and 167

Subject: Spotted Lanternfly ("SL").

Purpose: To prevent SL infested articles, originating in Dauphin County in PA, or Cecil County, in MD, from entering NYS.

Text or summary was published in the August 21, 2019 issue of the Register, I.D. No. AAM-34-19-00001-EP.

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

Text of rule and any required statements and analyses may be obtained from: Christopher Logue, New York State Department of Agriculture and Markets, 10B Airline Drive, Albany, New York 12235, (518) 457-2087

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Office of Children and Family Services

NOTICE OF ADOPTION

Procedures for Addressing Children Absent Without Consent from Foster Care, Conditional Releases and Searches

I.D. No. CFS-19-19-00006-A

Filing No. 1051

Filing Date: 2019-11-22

Effective Date: 2019-12-11

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

Action taken: Amendment of sections 431.8, 431.19, 431.20, 431.21, 441.2, 441.18 and 441.23 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f) and 398(3-a)(a)(1)

Subject: Procedures for addressing children absent without consent from foster care, conditional releases and searches.

Purpose: To put in place procedures that address children absent without consent from foster care, conditional releases and searches.

Text or summary was published in the May 8, 2019 issue of the Register, I.D. No. CFS-19-19-00006-EP.

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

Revised rule making(s) were previously published in the State Register on October 2, 2019.

Text of rule and any required statements and analyses may be obtained from: Leslie Robinson, Senior Attorney, Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (518) 486-9563, email: regcomments@ocfs.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 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

On April 17, 2019, the New York State Office of Children and Family Services (OCFS) filed a Notice of Emergency Adoption and Proposed Rulemaking, amending sections 431.8 and 441.23; amending subdivision (a) of section 441.2; adding sections 431.19, 431.20, and 431.21, adding subdivision (p) of section 441.2; and repealing and adding subdivision (d) of section 441.18 to Title 18 of the New York Codes, Rules and Regulations (NYCRR). The notice was published in the State Register on May 8, 2019. On July 16, 2019, OCFS filed a Second Notice of Emergency Adoption and Proposed Rulemaking, which was published on July 31, 2019. On September 13, 2019, OCFS filed a Notice of Emergency Adoption and Revised Rulemaking, which was published on October 2, 2019. The proposed regulations provide procedures for youth absent without consent from a foster care placement; the conditional release, revocation, and length of stay of youth in care; and searches of youth in care.

OCFS received comments from a legal services provider. The commenter "reiterate[s]" its prior comments that were not previously adopted. To the extent the commenter does not provide a further basis for its prior comments, OCFS restates its prior responses to those comments. The provider made one new comment; OCFS's response is below.

Comment: The commenter requests that proposed section 431.19(l), relating to voluntarily return to placement, be amended to provide that all youth must consult with a legal representative prior to being permitted to waive their right to a revocation hearing.

Response: OCFS agrees with many of the points raised by the commenter and acknowledges the concern that youth brain development is not complete by age 18; however, the purpose of the proposed regulation is to provide additional protection to youth under the age of 18. The proposed regulation does not authorize restricting a youth's access to counsel; rather, it provides that youth under the age of 18 must be provided an opportunity to speak with counsel before they will be permitted to waive their right to a hearing. While OCFS agrees that all youth should be provided with the opportunity to consult with an attorney prior to making a decision about whether to voluntarily return to placement, persons over the age of 18 are generally not restricted from decision-making in New York State absent evidence of incapacity. Accordingly, OCFS declines to amend the

proposed regulation to preclude youth over the age of 18 from waiving their right to a hearing without first consulting with their legal representative.

Department of Corrections and Community Supervision

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Raise the Age

I.D. No. CCS-50-19-00002-P

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

Proposed Action: Amendment of Part 100 and section 105.01 of Title 7 NYCRR.

Statutory authority: Correction Law, section 70

Subject: Raise the Age.

Purpose: To update each correctional facility's regulation as a direct result of the Raise the Age legislation.

Substance of proposed rule (Full text is posted at the following State website: <http://www.doccs.ny.gov/RulesRegs/index.html>): The changes to Part 100 of Title VII of the New York State Code Rules and Regulations are being made to reflect changes to the Correction Law as a direct result of the Raise the Age legislation which raises the minimum age of inmates from 16 to 18 at New York State Department of Corrections and Community Supervision correctional facilities, except at those facilities designated as adolescent offender facilities. These changes affect the following New York State Department of Corrections and Community Supervision correctional facility's regulations: 100.5 Attica, 100.10 Auburn, 100.15 Clinton, 100.20 Green Haven, 100.25 Sing Sing, 100.30 Walkkill, 100.35 Elmira, 100.40 Great Meadow, 100.50 Woodbourne, 100.55 Eastern, 100.68 Moriah, 100.72 Otisville, 100.74 Ulster, 100.76 Gouverneur, 100.80 Bedford Hills, 100.81 Cayuga, 100.82 Taconic, 100.83 Queensboro, 100.88 Downstate, 100.89 Lakeview, 100.90 Fishkill, 100.92 Rochester, 100.94 Albion, 100.96 Edgecombe, 100.99 Hale Creek, 100.100 Mohawk, 100.101 Lincoln, 100.104 Ogdensburg, 100.105 Watertown, 100.106 Collins, 100.107 Groveland, 100.108 Altona, 100.109 Wende, 100.111 Mid-State, 100.113 Greene, 100.114 Wyoming, 100.115 Orleans, 100.117 Sullivan, 100.118 Shawangunk, 100.119 Franklin, 100.121 Cape Vincent, 100.122 Riverview, 100.123 Southport, 100.124 Marcy, 100.125 Bare Hill, 100.127 Livingston, 100.128 Gowanda, 100.129 Upstate, 100.130 Five Points, and 105.1 Willard Drug Treatment Campus.

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

Article 4, section 70 of the Correction Law provides the commissioner of corrections and community supervision with the establishment, use and designation of correctional facilities. In this regard, each correctional facility must be designated in the rules and regulations of the department and no correctional facility can be used by the department for confinement of persons unless the rules and regulations of the department specify at least the following:

- The name of location of the facility;
- Whether the facility is to be used for the confinement of males or for the confinement of females;
- The age range of persons who may be confined in the facility; and
- The classification of the facility.

2. Legislative Objectives:

To amend current rules and regulations of the department to comply with "Raise the Age."

3. Needs and Benefits:

“Raise the Age” mandates that offenders between the ages of 16 and 17 be housed in their own separate “Adolescent Offender” facilities and not with adult inmates. Utilizing his authority under Section 70 of the Correction Law the commissioner is designating certain facilities as “Adolescent Offender” facilities. Correctional Facilities designated as “Adolescent Offender” facilities will receive and house offenders aged 16 to 17 years. Furthermore, the commissioner is reclassifying the minimum age, from 16 to 18, for inmates to be housed at non-Adolescent Offender Facilities.

4. Costs:

(a) There are no additional costs to the Department or State. This proposed rulemaking imposes no costs on any other State or local agency.

(b) As the proposed rulemaking does not apply to private parties, no costs are imposed on private parties.

(c) This cost analysis is based on the Department’s need to designate appropriate staff officials of the Department.

5. Local Government Mandates:

This rulemaking imposes no program, service, duty or responsibility on any county, city, town, village, school district, or other special district. It applies only to designated officials of the Department.

6. Paperwork:

This rulemaking will not add any new reporting requirements, including forms or other paperwork.

7. Duplication:

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

8. Alternatives:

There are no alternatives.

9. Federal Standards:

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

10. Compliance Schedule:

Compliance will be achieved upon the filing of a notice of emergency adoption.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not required for this proposal since it will not impose any adverse economic impact or reporting, record keeping or other compliance requirements on small businesses or local governments. This proposal updates the minimum age of inmates from 16 to 18 at New York State Department of Corrections and Community Supervision correctional facilities, except at those facilities designated as adolescent offender facilities.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not being submitted with this notice since the proposed rule will have no impact upon rural areas, nor does the proposed rule impose any reporting, recordkeeping or other compliance requirements upon rural areas. The proposed rule applies only to the designation of already existing facilities.

Job Impact Statement

A Job Impact Statement is not being submitted with this notice, for the proposed rule will have no adverse impact upon jobs or employment opportunities, nor does the proposed rule impose any reporting, recordkeeping or other compliance requirements upon employers. The proposed rule applies only to the designation of Adolescent Offender facilities and non-Adolescent Offender facilities.

Public Service Commission

NOTICE OF ADOPTION

Gas Metering Equipment

I.D. No. PSC-44-18-00012-A

Filing Date: 2019-11-20

Effective Date: 2019-11-20

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

Action taken: On 11/14/19, the PSC adopted an order approving Central Hudson Gas & Electric Corporation’s (Central Hudson) petition to use Measurement Systems Inc.’s (MSI) Correcor Test Standard for commercial gas metering applications in New York State.

Statutory authority: Public Service Law, section 67(1)

Subject: Gas metering equipment.

Purpose: To approve Central Hudson’s petition to use MSI’s Correcor Test Standard for commercial gas metering applications in NYS.

Substance of final rule: The Commission, on November 14, 2019, adopted an order approving Central Hudson Gas & Electric Corporation’s petition to use Measurement Systems Inc.’s (MSI) Correcor Test Standard for commercial gas metering applications in New York State. MSI’s Correcor Test Standard shall be tested and calibrated to a known accuracy every two years, 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.

(18-G-0444SA1)

NOTICE OF ADOPTION

Transfer of Ownership Interests

I.D. No. PSC-50-18-00003-A

Filing Date: 2019-11-20

Effective Date: 2019-11-20

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

Action taken: On 11/14/19, the PSC adopted an order approving, subject to conditions, Binghamton BOP, LLC (BBOP) and the City of Binghamton’s (City) joint petition for the transfer of an electric generating facility and certificate from BBOP to the City.

Statutory authority: Public Service Law, sections 2(10), (11), (12), (13), 5(1)(b), 5-b, 64, 65, 66, 69 and 70

Subject: Transfer of ownership interests.

Purpose: To approve the transfer of ownership interests of an electric generating facility from BBOP to the City.

Substance of final rule: The Commission, on November 14, 2019, adopted an order approving, subject to conditions, Binghamton BOP, LLC (BBOP) and the City of Binghamton’s (City) joint petition for the transfer of a 47.7 MW electric generating facility and the transfer of a Certificate of Environmental Compatibility and Public Need from BBOP to the City. Within 30 days after the issuance of this order, the City shall file with the Commission’s Secretary a letter confirming that the physical assets that interconnect the 0.2-mile natural gas pipeline described in the petition to New York State Electric and Gas Corporation’s (NYSEG) system will continue to be maintained by NYSEG in accordance with all applicable local, state, and federal regulations, 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.

(18-T-0347SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-25-19-00017-A

Filing Date: 2019-11-20

Effective Date: 2019-11-20

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

Action taken: On 11/14/19, the PSC adopted an order approving 212 West 95 Owner LLC’s (212 West 95) notice of intent to submeter electricity at 212 West 95th 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 212 West 95's notice of intent to submeter electricity.

Substance of final rule: The Commission, on November 14, 2019, adopted an order approving 212 West 95 Owner LLC's notice of intent to submeter electricity at 212 West 95th 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.

(19-E-0404SA1)

NOTICE OF ADOPTION

Submetering of Electricity and Waiver Request

I.D. No. PSC-32-19-00011-A

Filing Date: 2019-11-20

Effective Date: 2019-11-20

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

Action taken: On 11/14/19, the PSC adopted an order approving 123 Linden LLC's (123 Linden) notice of intent to submeter electricity at 123 Linden Boulevard, Brooklyn, New York and request for a waiver of 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 123 Linden's notice of intent to submeter electricity and request for waiver of 16 NYCRR section 96.5(k)(3).

Substance of final rule: The Commission, on November 14, 2019, adopted an order approving 123 Linden LLC's notice of intent to submeter electricity at 123 Linden Boulevard, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc. and request for a waiver of 16 NYCRR § 96.5(k)(3), 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-0499SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-33-19-00013-A

Filing Date: 2019-11-20

Effective Date: 2019-11-20

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

Action taken: On 11/14/19, the PSC adopted an order approving One Beekman Owner, LLC's (One Beekman) notice of intent to submeter electricity at 33 Park Row, 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 One Beekman's notice of intent to submeter electricity.

Substance of final rule: The Commission, on November 14, 2019, adopted an order approving One Beekman Owner, LLC's notice of intent to submeter electricity at 33 Park Row, 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.

(19-E-0507SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Petition to Submeter Electricity and Waiver of Energy Audit

I.D. No. PSC-50-19-00004-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 QB Development LLC to submeter electricity at 46-10 70th Street and 46-09 69th Street, Woodside, New York and request for a waiver of 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: Petition to submeter electricity and waiver of energy audit.

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

Substance of proposed rule: The Commission is considering the petition, filed by QB Development LLC (Owner) on November 20, 2019, to submeter electricity at 46-10 70th Street and 46-09 69th Street, Woodside, New York, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

In the petition, QB Development LLC requests authorization to take electric service from Con Edison and then distribute and submeter that electricity to its tenants. Submetering of electricity to residential tenants is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

The Commission is also considering the Owner's request for a waiver of 16 NYCRR § 96.5(k)(3), which requires proof that an energy audit has been conducted when 20 percent or more of the residents receive income-based housing assistance. The Owner states that, because the building at issue is newly constructed, it must comply with the current New York State Energy Conservation Construction Code, which provides strict energy conservation requirements for new and renovated buildings, including the design and construction of energy-efficient building envelopes, mechanical, lighting and power systems. The Owner asserts that, given this required compliance, an energy audit is not appropriate in this case.

The full text of the petition and waiver request 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.

(19-E-0728SP1)

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

Modifications and Clarifications to the DCFC Per-Plug Incentive Program

I.D. No. PSC-50-19-00005-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 Tesla's November 25, 2019 Petition for Program Clarification and Modification of the Direct Current Fast Charging (DCFC) Per-Plug Incentive Program and whether other program modifications are warranted.

Statutory authority: Public Service Law, sections 5, 65 and 66

Subject: Modifications and clarifications to the DCFC Per-Plug Incentive Program.

Purpose: To clarify certain elements of the DCFC Per-Plug Incentive Program and consider modifications to the Program.

Substance of proposed rule: The Public Service Commission (Commission) is considering a Petition for Program Clarification and Modification of the Commission's Direct Current Fast Charging (DCFC) Per-Plug Incentive Program, established by the February 7, 2019 Order Establishing Framework for Infrastructure Program (DCFC Program Order) and modified by the July 12, 2019 Order Modifying Incentive Program and Granting, In Part, Petition for Rehearing (DCFC Program Modification Order), filed by Tesla, Inc. (Tesla) on November 25, 2019. Tesla requests that the Commission clarify and modify certain aspects of the DCFC Per-Plug Incentive Program.

Specifically, Tesla seeks clarification and confirmation that Tesla's payment method at networked Supercharger stations conforms to the Commission's "commonly accepted payment method" eligibility requirement. Second, Tesla requests that the Commission clarify the data requirements of the DCFC Per-Plug Incentive Program including how data would be handled, reported, and used and asks for Commission guidance regarding data handling to prevent utilities, individuals, or another commercial party from using the data for commercial purposes beyond annual reports to the Commission. Third, Tesla requests that the Commission extend the first year (2019) annual incentive amount through 2020, instead of stepping down the annual incentive in 2020 as directed by the DCFC Program Order, so that the 2019 annual incentive level is available to applicants in 2020. Fourth, Tesla asks the Commission to modify the DCFC Per-Plug Incentive Program and adopt a "mixed-tier incentive" so that commonly accepted non-proprietary standardized plug types with power level capabilities of 50 kilowatts (kW) to 74 kW may receive a 60% incentive payment where co-located with proprietary plug types capable of 75 kW or greater that may receive a 100% incentive payment. Finally, Tesla suggests that no single charging operator would receive the majority of program allocations under its proposed modifications, and proposes a program cap to ensure that no single developer or charging operator accounts for more than 50% of the plugs in the DCFC Per-Plug Incentive Program.

The Commission is considering modifying the DCFC Per-Plug Incentive Program, and may consider program changes in addition to those requested by Tesla. 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 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.

(18-E-0138SP3)

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

Compensation of and Incentives for Distributed Energy Resources

I.D. No. PSC-50-19-00006-P

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

Proposed Action: The Commission is considering the petition filed by NYSEERDA requesting extension of NY-Sun through calendar year 2025 and collection and allocation of \$558 million in additional funds for NY-Sun, as well as resolution of related matters.

Statutory authority: Public Service Law, sections 5(1)(b), (2), 65(1), (2), (3), 66(2), (5) and 66-p

Subject: Compensation of and incentives for distributed energy resources.

Purpose: To encourage the development of and ensure just and reasonable rates for distributed energy resources.

Substance of proposed rule: The Public Service Commission is considering the petition filed by the New York Energy Research and Development Authority (NYSEERDA) on November 25, 2019 regarding the NY-Sun Program.

NYSEERDA requests that the Commission authorize the collection and allocation to NYSEERDA of \$558 million of additional funds for the NY-Sun Program to support achievement of the goal of installations of 6 GW of solar PV by 2025. NYSEERDA also requests authorization to extend the administration of the NY-Sun Program through calendar year 2025, with limited program close-out activities beyond that date. In addition, NYSEERDA requests that the Commission consider certain regulatory matters that can significantly increase the Program's probability of success and the cost-effectiveness of solar in New York State: (1) reduced restrictions for remote compensation projects; (2) opt-out Community Distributed Generation (CDG) for Community Choice Aggregation (CCA) customers; and (3) utility-administered CDG enrollment for low income customers.

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 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-0735SP1)

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

Participation of Customers Served Under P.S.C. No. 12 (PASNY) in CDG Projects Receiving Value Stack Compensation

I.D. No. PSC-50-19-00007-P

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

Proposed Action: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc., to modify its electric tariff schedules P.S.C. Nos. 10 and 12, regarding Community Distributed Generation (CDG).

Statutory authority: Public Service Law, sections 5(1)(b), (2), 65(1), (2), (3), 66(2), (5) and 66-p

Subject: Participation of customers served under P.S.C. No. 12 (PASNY) in CDG projects receiving Value Stack compensation.

Purpose: To encourage the development of and ensure just and reasonable rates for distributed energy resources.

Substance of proposed rule: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison) on November 12, 2019, to amend its electric tariff schedules, P.S.C. Nos. 10 and 12, to implement provisions that would enable customers served under P.S.C. No. 12 (PASNY) to participate in Community Distributed Generation (CDG) projects receiving Value Stack compensation as host and/or satellite account customers.

Con Edison's proposed modifications would implement, in the PASNY tariff schedule, provisions that are already contained in P.S.C. No. 10 – Electricity, pursuant to the orders in Case 15-E-0751 – In the Matter of the Value of Distributed Energy Resources. The proposed amendments have an effective date of April 1, 2020.

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.

(19-E-0723SP1)

State University of New York

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Tuition, Fees and Charges

I.D. No. SUN-50-19-00001-EP

Filing No. 1052

Filing Date: 2019-11-22

Effective Date: 2019-11-22

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

Proposed Action: Addition of section 302.18 to Title 8 NYCRR.

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

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

Specific reasons underlying the finding of necessity: This rule will waive the admissions application fee for all eligible military veterans and spouses of military veterans who apply for admission to a State University of New York (SUNY) State-operated campus. Based on the anticipated meeting schedule of the SUNY Board of Trustees, if the minimum periods for notice and comment under subdivision one of section 202 of the State Administrative Procedure Act were followed, the application cycle for the 2020-21 academic year would be nearly complete by the time this rule would take effect. By pursuing emergency adoption, SUNY can ensure that these admissions application fees are immediately waived for the remainder of this application cycle.

This rule will not impose any cost or negative impact on any member of the public or local governmental entity, and will only benefit eligible military veterans and their spouses. Accordingly, the SUNY Board of Trustees has determined that the immediate adoption of this rule is necessary for the preservation of the general welfare, and that compliance with the notice and comment requirements of subdivision one of section 202 of the State Administrative Procedure Act would be contrary to the public interest in this instance.

Subject: Tuition, Fees and Charges.

Purpose: To authorize the waiver of admission application fees for military veterans and their spouses.

Text of emergency/proposed rule: Section 302.18. Waiver of application fees for military veterans and spouses.

The admissions application fee shall be waived for all eligible military veterans and spouses of military veterans, as defined by the Chancellor or designee, who apply for admission to a SUNY State-operated campus.

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 February 19, 2020.

Text of rule and any required statements and analyses may be obtained from: Lisa S. Campo, State University of New York, State University Plaza, Albany, NY 12246, (518) 320-1400, email: Lisa.Campo@SUNY.edu

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:** Education Law, Sections 355(2)(b) and 355(2)(h). Section 355(2)(b) authorizes the State University Trustees to make and amend rules and regulations for the overall governance of the State University and institutions therein. Section 355(2)(h) authorizes the State University Trustees to regulate the admission of students, tuition charges, other fees and charges, curricula, and all other matters pertaining to the operation and administration of each State-operated institution of the State University.

2. **Legislative Objectives:** The Legislature authorized the State University Trustees to regulate all student fees, including admission application fees. By using this authority to require SUNY State-operated campuses to waive application fees for military veterans and their spouses, the present measure is in accord with the public policy objectives of encouraging educational opportunities for veterans and their families.

3. **Needs and Benefits:** Veterans and their families make substantial personal and professional sacrifices during their service obligation. In recognition of these sacrifices, Governor Andrew M. Cuomo engaged with SUNY leadership to determine that the Board of Trustees take action to waive application fees for military veterans and spouses applying for admission to SUNY campuses. By waiving these fees, the State University of New York can remove this initial financial barrier to accessing higher education, and can help to ease the transition back to civilian life by encouraging educational advancement and opportunity.

4. **Costs:** No additional direct costs to the State. It is anticipated that any revenue impact from this action will be managed within existing SUNY budgets and/or budgetary actions.

5. **Local Government Mandates:** There are no local government mandates. The amendment does not affect students enrolled in the community colleges operating under the program of the State University of New York.

6. **Paperwork:** No parties will experience any new reporting responsibilities. SUNY publications and documents containing notices regarding costs of attendance will need to be revised to reflect these changes.

7. **Duplication:** None.

8. **Alternatives:** No significant alternative proposals were considered.

9. **Federal Standards:** None.

10. **Compliance Schedule:** It is anticipated that SUNY State-operated campuses will be able to come into compliance with this rule immediately upon enactment.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is submitted with this notice because the proposed rule does not impose any requirements on small businesses and local governments. This proposed rule making will not impose any adverse economic impact on small businesses and local governments or impose any reporting, recordkeeping or other compliance requirements on small businesses and local governments.

Rural Area Flexibility Analysis

No rural area flexibility analysis is submitted with this notice because the proposed rule does not impose any requirements on rural areas. The rule will not impose any adverse economic impact on rural areas or impose any reporting, recordkeeping, professional services or other compliance requirements on rural areas.

Job Impact Statement

No job impact statement is submitted with this notice because the proposed rule does not impose any adverse economic impact on existing jobs, employment opportunities, or self-employment. This regulation governs

application fees for State University of New York and will not have any adverse impact on the number of jobs or employment.

NOTICE OF ADOPTION

College Fees

I.D. No. SUN-36-19-00013-A

Filing No. 1053

Filing Date: 2019-11-22

Effective Date: 2019-12-11

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

Action taken: Amendment of section 302.3 of Title 8 NYCRR.

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

Subject: College Fees.

Purpose: To increase the college fee charged at State-operated campuses, excluding the four University Centers.

Text or summary was published in the September 4, 2019 issue of the Register, I.D. No. SUN-36-19-00013-P.

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

Text of rule and any required statements and analyses may be obtained from: Lisa S. Campo, State University of New York, State University Plaza, Albany, NY 12246, (518) 320-1400, email: Lisa.Campo@SUNY.edu

Assessment of Public Comment

The agency received no public comment.

of the Tax Law for taxable years beginning on or after January 1, 2020 and before January 1, 2021. The rate used to compute the metropolitan transportation business tax surcharge, as determined by the Commissioner, will remain the same in any succeeding taxable year, unless the Commissioner, pursuant to the authority in paragraph (f) of subdivision (1) of section 209-B of the Tax Law, determines a new rate.

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 February 22, 2020.

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

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

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

Regulatory Impact Statement

1. Statutory authority: Tax Law, section 171, subdivision First, generally authorizes the Commissioner of Taxation and Finance to promulgate regulations; Tax Law section 209-B generally imposes a tax surcharge on every corporation subject to Tax Law section 209, other than a New York S corporation, for the privilege of exercising the corporation's corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of the corporation's taxable year. Tax Law section 209-B(1)(f) requires the Commissioner to adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

2. Legislative objectives: New subdivision (f) of section 9-1.2 of Part 9 of 20 NYCRR complies with the mandate of section 209-B(1)(f), setting forth the rate for taxable years beginning on or after January 1, 2020 and before January 1, 2021 and follows subdivision (e), which set the rate for taxable years beginning on or after January 1, 2019 and before January 1, 2020. As required by section 209-B(1)(f), the Commissioner of Taxation and Finance has determined that the rate of the metropolitan transportation business tax surcharge will be 29.4 percent of the tax imposed under Tax Law section 209 for taxable years beginning on or after January 1, 2020 and before January 1, 2021. The previous rate established by regulation was 28.9 percent of the tax imposed under Tax Law section 209, for taxable years beginning on or after January 1, 2019 and before January 1, 2020.

3. Needs and benefits: This rule sets forth amendments to the Business Corporation Franchise Tax regulations required by Tax Law section 209-B(1)(f). This rule benefits taxpayers by putting in place the metropolitan transportation business tax surcharge effective January 1, 2020 for Tax Year 2021.

4. Costs:

(a) Costs to regulated parties for the implementation and continuing compliance with this rule: There is no additional cost or burden to comply with this amendment. There is no additional time period needed for compliance.

(b) Costs to this agency, the State and local governments for the implementation and continuation of this rule: Since the need to make amendments to the New York State Business Corporation Franchise Tax regulations under Article 9-A of the Tax Law arises due to a statutory mandate that the Commissioner adjust the metropolitan transportation business tax surcharge, there are no costs to this agency or the State and local governments that are due to the promulgation of this rule.

(c) Information and methodology: This analysis is based on a review of the statutory requirements and on discussions among personnel from the Department's Taxpayer Guidance Division, Office of Counsel, Office of Tax Policy Analysis, Bureau of Tax and Fiscal Studies, Office of Budget and Management Analysis, Management Analysis and Project Services Bureau, and the Division of Budget.

5. Local government mandates: There are no costs or burdens imposed on local governments to comply with this amendment.

6. Paperwork: This rule will not require any new forms.

7. Duplication: This rule does not duplicate any other requirements.

8. Alternatives: Since section 209-B(1)(f) requires the Commissioner to adjust, under certain circumstances, the metropolitan transportation business tax surcharge, there are no viable alternatives to providing such rate using the methodology prescribed in Tax Law section 209-B.

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

Department of Taxation and Finance

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Metropolitan Transportation Business Tax Surcharge

I.D. No. TAF-50-19-00003-EP

Filing No. 1057

Filing Date: 2019-11-25

Effective Date: 2019-11-25

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

Proposed Action: Addition of section 9-1.2(f) to Title 20 NYCRR.

Statutory authority: Tax Law, subdivision First of section 171, subdivision First of section 209-B; L. 2014, ch. 59, part A, section 7

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

Specific reasons underlying the finding of necessity: The Commissioner is required, pursuant to Tax Law section 209-B(1)(f), to annually adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

This rule is being adopted on an emergency basis in order to have the rates for tax year 2020 in place by January 1, 2020, to enable taxpayers to properly estimate the taxes due for tax year 2020 and reflect these estimated taxes in their financial statements.

Subject: Metropolitan Transportation Business Tax Surcharge.

Purpose: To provide metropolitan transportation business tax rate for tax year 2020.

Text of emergency/proposed rule: Section 1. Subchapter A of Title 20 of the Codes, Rules and Regulations of the State of New York is amended to add a new subdivision (f) to section 9-1.2 of Part 9 to read as follows:

(f) The metropolitan transportation business tax surcharge will be computed at the rate of 29.4 percent of the tax imposed under section 209

10. Compliance schedule: The required rate information has been made available to regulated parties, by means of the emergency adoption of new subdivision (f) of section 9-1.2 of Part 9 of the Business Corporation Franchise Tax regulations on November 25, 2019, in sufficient time to implement the rate effective January 1, 2020. This rule establishes the rate for the 2020 tax year as an emergency measure and proposes it as a permanent rule.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not being submitted with this rule because it will not impose any adverse economic impact or any additional reporting, recordkeeping, or other compliance requirements on small businesses or local governments.

The purpose of the rule is to add a new subdivision (f) to section 9-1.2 of Part 9 of 20 NYCRR, to adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2020 and before January 1, 2021, as required by Tax Law section 209-B(1)(f).

Tax Law section 209-B generally imposes a tax surcharge on every corporation subject to section 209 of the Tax Law, other than a New York S corporation, for the privilege of exercising the corporation's corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of the corporation's taxable year.

The Commissioner is required, pursuant to Tax Law section 209-B(1)(f), to annually adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

Subdivision (f) of section 9-1.2 of Part 9 complies with the mandate of Tax Law section 209-B(1)(f), setting forth the rate for taxable years beginning on or after January 1, 2020 and before January 1, 2021, and follows subdivision (e), which set the rate for taxable years beginning on or after January 1, 2019 and before January 1, 2020. As required by Tax Law section 209-B(1)(f), the Commissioner of Taxation and Finance has determined that the metropolitan transportation business tax surcharge rate will be 29.4 percent of the tax imposed under section 209 of the Tax Law for taxable years beginning on or after January 1, 2020 and before January 1, 2021.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not being submitted with this rule because it will not impose any adverse impact on any rural areas. The purpose of the rule is to add a subdivision (f) to section 9-1.2 of Part 9 of 20 NYCRR, to adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2020 and before January 1, 2021, pursuant to Tax Law section 209-B(1)(f).

Tax Law section 209-B generally imposes a tax surcharge on every corporation subject to Tax Law section 209, other than a New York S corporation, for the privilege of exercising the corporation's corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of the corporation's taxable year.

The Commissioner is required, pursuant to Tax Law section 209-B(1)(f), to annually adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

Subdivision (f) of Section 9-1.2 of Part 9 complies with the mandate of Tax Law section 209-B(1)(f), setting forth the rate for taxable years beginning on or after January 1, 2020 and before January 1, 2021 and follows subdivision (e), which set the rate for taxable years beginning on or after January 1, 2019 and before January 1, 2020. As required by section 209-B(1)(f), the Commissioner of Taxation and Finance has determined that the metropolitan transportation business tax surcharge rate will be 29.4 percent of the tax imposed under Tax Law section 209 for taxable years beginning on or after January 1, 2020 and before January 1, 2021.

Job Impact Statement

A Job Impact Statement is not being submitted with this rule because it is evident from the subject matter of the rule that the rule will have no adverse impact on jobs and employment opportunities. The purpose of the rule is to add a new subdivision (f) to section 9-1.2 of Part 9 of 20 NYCRR, to adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2020 and before January 1, 2021, pursuant to section 209-B(1)(f) of the Tax Law.

Tax Law section 209-B generally imposes a tax surcharge on every

corporation subject to Tax Law section 209, other than a New York S corporation, for the privilege of exercising the corporation's corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of the corporation's taxable year.

The Commissioner is required, pursuant to Tax Law section 209-B(1)(f), to annually adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

Subdivision (f) of section 9-1.2 of Part 9 complies with the mandate of Tax Law section 209-B(1)(f), setting forth the rate for taxable years beginning on or after January 1, 2020 and before January 1, 2021, and follows subdivision (e), which set the rate for taxable years beginning on or after January 1, 2019 and before January 1, 2020. As required by section 209-B(1)(f), the Commissioner of Taxation and Finance has determined that the metropolitan business tax surcharge rate will be 29.4 percent of the tax imposed under Tax Law section 209 for taxable years beginning on or after January 1, 2020 and before January 1, 2021.

This rule merely complies with the mandates of Tax Law section 209-B, as amended, by adding a new subdivision (f) to section 9-1.2 of Part 9 of 20 NYCRR, setting forth the rate for the metropolitan transportation tax surcharge for tax year 2019.

Office of Temporary and Disability Assistance

NOTICE OF ADOPTION

Adult-Care Facilities and Shelters for Adults

I.D. No. TDA-19-19-00007-A

Filing No. 1054

Filing Date: 2019-11-25

Effective Date: 2020-01-01

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

Action taken: Amendment of Parts 485-486; repeal of Part 491; and addition of new Part 491 to Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(a)-(b), (k), 20(2)(b), (3)(d)-(f), 34(3)(c)-(f), (6), 460, 460-a(1)-(2), 460-c(1), 460-d(1), (7)(a) and 461

Subject: Adult-Care Facilities and Shelters for Adults.

Purpose: To update State regulations pertaining to general provisions, inspections and enforcement, and shelters for adults.

Substance of final rule: The regulatory amendments revise 18 NYCRR Parts 485 and 486 of the current State regulations such that they no longer apply to shelters for adults but remain applicable to all other types of adult-care facilities, and repeal current 18 NYCRR Part 491 and replace it with a new Part 491 addressing publicly-funded shelters for adults, small-capacity shelters, and shelters for adult families with no children. The full text of the proposed rule is posted at the following OTDA website: <http://otda.ny.gov/legal/regulatory-activities.asp>. Revisions made in response to public comments received since the proposed regulations were published in the May 8, 2019 issue of the New York State Register define or clarify text and do not materially alter its purpose, meaning, or effect. A Notice of Revised Rule Making therefore is unnecessary.

Amend General Provisions of § 485.16 to make a technical update to the title of the section.

Amend § 485.1(b) to make technical updates to reflect the current name of the Office of Children and Family Services.

Amend § 485.4(a), (c)-(d) and (g) to add clarifying language excluding shelters for adults from the section's provisions pertaining to certificates of incorporation.

Amend § 485.5(a)-(r) to make technical updates and to add new subdivision (a) clarifying that the section's provisions pertaining to operating certificates shall apply to all adult-care facilities except shelters for adults.

Amend relettered § 485.5(c) and (k) to make technical updates.

Amend relettered § 485.5(n)(1)(i) to remove reference to shelters for adults.

Amend § 485.6(a) to add language clarifying that shelters for adults are excluded from the section's provisions for obtaining approval to operate an adult-care facility.

Repeal § 485.6(f)(2) and renumber § 485.6(f)(3).

Amend § 485.7(a) to add language clarifying that shelters for adults are excluded from the section's provisions pertaining to renewal of an operating certificate.

Amend § 485.9(a)(1) to add language clarifying that shelters for adults are excluded from the section's provisions pertaining to receivership.

Amend § 485.9(a)(6)(i) to make a clarifying technical revision.

Amend § 485.11(d) to make technical updates to reflect the current name of the Office of Children and Family Services.

Amend § 485.11(g)(15) to make a clarifying technical revision.

Amend § 485.14(a)–(k) to make technical updates and to add a new subdivision (a) clarifying that the section's provisions pertaining to services for nonresidents of adult-care facilities shall apply to all adult-care facilities except shelters for adults.

Amend relettered § 485.14(k) to update a cross-reference.

Amend the title of § 485.16 to make a clarifying technical revision.

Amend § 486.1(a) to clarify that the section's provisions pertaining to inspection and supervision shall apply to all adult-care facilities except shelters for adults, to make a clarifying technical revision, and to make technical updates to reflect the current of the Office of Children and Family Services.

Amend § 486.1(b)–(d) to clarify that the section's general provisions pertaining to inspection and supervision and enforcement shall apply to all adult-care facilities except shelters for adults.

Amend § 486.1(e)–(f) to clarify that the section's general provisions apply to operators of facilities subject to inspection and supervision under this section.

Amend § 486.2(b) and (d) to clarify that the section's general provisions pertaining to inspection shall apply to all adult-care facilities except shelters for adults.

Amend § 486.3(a) to clarify that the section's provisions pertaining to inspection of uncertified shelters under this section apply to any facility which reasonably appears to the department to be an adult care facility other than a shelter for adults.

Amend § 486.5(a)(1) to clarify that the section's provisions pertaining to civil penalties for certified adult-care facilities shall not apply to shelters for adults.

Amend § 486.5(b) to clarify that the section's provisions pertaining to civil penalties for uncertified adult-care facilities shall not apply to shelters for adults.

Amend § 486.6(a) and (c) to clarify that the section's provisions pertaining to withholding of funds and funds to be withheld, respectively relative to reimbursement for expenditures by a social services district (district) for the operation of an adult-care facility shall not apply to shelters for adults.

Repeal § 486.7(g).

Repeal existing Part 491 and add a new Part 491 pertaining to shelters for adults.

Add new § 491.1 defining scope of new Part 491 to include shelters for adults, small-capacity shelters and shelters for adult families and clarifying that reimbursement for such shelter and services is contingent upon compliance with new Part 491.

Add new § 491.2 defining, among other things, the terms "shelter for adults," "small-capacity shelter," "shelter for adult families," and "family."

Add new § 491.2-a providing that, for any proposed or existing not-for-profit corporation desiring to file or amend a certificate of incorporation for the purpose of either establishing and operating a shelter for adults or fundraising for the eventual establishment and operation of a shelter for adults, such not-for-profit corporation shall secure the written approval of OTDA prior to obtaining the endorsement of such certificate by a justice of the Supreme Court of the State of New York and filing of the endorsed certificate with the Secretary of State.

Add new § 491.3 providing that a district may be reimbursed from State grants or funds for costs incurred for shelter and services provided by a shelter for adults, a small-capacity shelter, or shelter for adult families only if the shelter is operated in accordance with both the requirements of Part 491, as amended, and with an operational plan approved by OTDA, outlining the requirements for an operational plan, and setting out the procedure for obtaining OTDA approval of an operational plan. Proposed § 491.3(c)(2) has been revised to identify persons with physical disabilities as an additional example of a population with particular needs.

Add new § 491.4 providing that upon approval of an operational plan, OTDA will issue an operating certificate to the operator of a shelter for adults, a small-capacity shelter, or shelter for adult families; indicating that reimbursement for costs incurred for shelter and services provided by such shelter is contingent upon the operator of such facility having a valid operating certificate; and reserving the right of OTDA revoke, suspend or

terminate an operating certificate under certain circumstances. A clarifying technical revision has been made to proposed § 491.4.

Add new § 491.5 setting out the procedure for the voluntary closure of a shelter for adults, a small-capacity shelter, or shelter for adult families.

Add new § 491.6 requiring that shelters for adults, small-capacity shelters and shelters for adult families for which a district seeks reimbursement be operated in accordance with applicable State and local laws, regulations and codes.

Add new § 491.7 setting out general regulatory provisions relating to the operation of shelters for adults, small-capacity shelters, and shelters for adult families.

Add new § 491.8 setting out shelter staffing requirements and staff qualifications. Proposed § 491.8 has been revised to restore the prohibition in extant § 491.12(h) that no person shall be permitted by a shelter operator to work, either as an employee or a volunteer, if that person is known to be infected with communicable disease that might endanger the health of residents.

Add new § 491.9 clarifying requirements for referrals to shelters for adults, small-capacity shelters and shelters for adult families, assessments for public assistance and care needs and suitability for placement in shelter, and independent living plans. Proposed § 491.9 has been revised to make clarifying technical revisions and to clarify that a person with a physical or mental impairment that interferes with their ability to cooperate and complete an assessment need not provide documentation of their impairment where the physical or mental impairment is known or apparent to shelter or intake staff.

Add new § 491.10 allowing for excess-capacity admissions in emergency circumstances.

Add new § 491.11 clarifying the obligation of residents with income to pay for their care costs in shelters for adults, small-capacity shelters or shelters for adult families. Proposed § 491.11 has been revised to make a clarifying technical revision.

Add new § 491.12 setting out shelter resident rights, rules and obligations. Proposed § 491.12 has been revised to clarify that a resident shall have the right to receive visitors in designated areas of the facility where feasible, during reasonable hours as specified in the resident rules, and that facility rules must require that residents to apply for public benefits only to the extent that the resident is eligible to receive such benefits pursuant to 18 NYCRR § 349.3.

Add new § 491.13 setting out shelter operator obligations with respect to shelter residents' funds and valuables.

Add new § 491.14 detailing services that must be provided to residents of shelters for adults, small-capacity shelters or shelters for adult families. Proposed § 491.14 has been revised to make technical revisions and a clarifying edit, namely, providing a definition of the term "resident census."

Add new § 491.15 detailing the procedure for involuntarily discharging or transferring a resident of a shelter for adults, small-capacity shelter or shelter for adult families. Proposed § 491.15 has been revised to make a clarifying edit, and to eliminate the proposed new requirement that property left by a resident after the resident is discharged from shelter be stored by the shelter operator for ten days. The rules set forth in extant § 491.5(c) remain unchanged.

Add new § 491.16 detailing the process by which shelter operators and districts must report serious incidents at shelters that impact upon the safety and well-being of a shelter resident or member of a shelter's staff.

Add new § 491.17 detailing the food services that operators of shelters for adults, small-capacity shelters, or shelters for adult families must provide.

Add new § 491.18 setting out environmental standards with which operators of shelters for adults, a small-capacity shelters, or shelters for adult families must comply. Proposed § 491.18(h) has been revised to clarify that a shelter may have either a tub or shower for each 15 residents, as currently permitted by extant § 491.10(o)(8)(i), and to clarify that hot water for bathing and washing be maintained at a minimum temperature of 110 degrees Fahrenheit. Additional clarifying revisions have been made to proposed § 491.18(e) and (g).

Add new § 491.19 detailing shelter operators' obligations with respect to the collection and maintenance of information, records and reports. Proposed § 491.19 has been revised to clarify that the operational plan approved by the Office must be maintained at the facility and made available for review and inspection by facility residents and visitors.

Add new § 491.20 detailing shelter operators' obligations with respect to the confidentiality of HIV- and AIDS-related information.

Add new § 491.21 clarifying conditions under which a shelter operator may contract with a separate independent entity to perform facility operations.

Add new § 491.22 setting forth OTDA's obligation to inspect shelters for adults, small-capacity shelters, and shelters for adult families; clarifying districts' obligations with respect to such inspections; and authorizing OTDA to address deficiencies at such shelters.

Add new § 491.23 clarifying OTDA's authority to undertake investigations of the affairs and management of any shelter for adults, small-capacity shelter, or shelter for adult families and to take appropriate enforcement action as necessary.

Add new § 491.24 setting out the policy and procedures with respect to State reimbursement for costs incurred for shelter and services provided by a shelter for adults, a small-capacity shelter, or a shelter for adult families.

Add new § 491.25 setting forth the procedure whereby OTDA can withhold or deny reimbursement to a district where a shelter fails to comply with the requirements of State or local laws, regulations and codes, including those regulations set forth in new Part 491.

Add new § 491.26 setting out civil penalties that OTDA may impose against the operators of shelters for adults, small-capacity shelters, and shelters for adult families for regulatory violations that endanger residents or result in harm to residents.

Add new § 491.27 authorizing OTDA to seek the appointment of a receiver to operate a shelter for adults, a small-capacity shelter or a shelter for adult families in order to protect the health, safety and welfare of shelter residents. Proposed § 491.27 has been revised to make clarifying technical revisions.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 491.1, 491.3-491.4, 491.8-491.9, 491.11-491.12, 491.14-491.15, 491.18-491.19 and 491.27.

Text of rule and any required statements and analyses may be obtained from: Richard P. Rhodes, Jr., Office of Temporary and Disability Assistance, 40 North Pearl Street, 16-C, Albany, NY 12243-0001, (518) 486-7503, email: richard.rhodesjr@otda.ny.gov

Revised Regulatory Impact Statement

1. Statutory authority:

Social Services Law (SSL) § 17(a)-(b) and (k) provide, in part, that the Commissioner of the Office of Temporary and Disability Assistance (OTDA) shall "determine the policies and principles upon which public assistance, services and care shall be provided within the state both by the state itself and by the local governmental units ...," shall "make known his policies and principles to local social services officials and to public and private institutions and welfare agencies subject to his regulatory and advisory powers ...," and shall "exercise such other powers and perform such other duties as may be imposed by law."

SSL § 20(2)(b) provides, in part, that OTDA shall "supervise all social services work, as the same may be administered by any local unit of government and the social services officials thereof within the state, advise them in the performance of their official duties and regulate the financial assistance granted by the state in connection with said work." Pursuant to SSL § 20(3)(d)-(f), OTDA is authorized to promulgate rules, regulations, and policies to fulfill its powers and duties under the SSL and "to withhold or deny state reimbursement, in whole or in part, from or to any social services district [(district)] or any city or town thereof, in the event of their failure to comply with law, rules or regulations of [OTDA] relating to public assistance and care or the administration thereof."

SSL § 34(3)(c) requires OTDA's Commissioner to "take cognizance of the interests of health and welfare of the inhabitants of the state who lack or are threatened with the deprivation of the necessities of life and of all matters pertaining thereto." Pursuant to SSL § 34(3)(d), OTDA's Commissioner must exercise general supervision over the work of all districts. SSL § 34(3)(e) provides that OTDA's Commissioner must enforce the SSL and the State regulations within the State and in the districts. Pursuant to SSL § 34(3)(f), OTDA's Commissioner must establish regulations for the administration of public assistance and care within the State by the districts and by the State itself, in accordance with the law. Pursuant to SSL § 34(6), OTDA's Commissioner "may exercise such additional powers and duties as may be required for the effective administration of the department and of the state system of public aid and assistance."

Pursuant to SSL § 460, OTDA, "acting directly or through [districts], and with the cooperation of other state agencies, shall have the comprehensive responsibility for the development and administration of programs, standards and methods of operation, and all other matters of state policy. . . in relation to shelters for adults and shelters for families."

SSL § 460-a(1) requires that OTDA approve certificates of incorporation before they may be filed with the Department of State where the certificates include among their corporate purposes the establishment or operation of a shelter for adults, and SSL § 460-a(2) requires OTDA to promulgate regulations establishing the procedure for submitting certificates of incorporation to OTDA for approval.

SSL § 460-c(1) authorizes OTDA "to inspect and maintain supervision over all public and private facilities or agencies whether state, county, municipal, incorporated or not incorporated which are in receipt of public funds, which are of a charitable, eleemosynary, correctional or reformatory character," and explicitly including "adult care facilities," defined in SSL § 2(21) to include shelters for adults.

SSL § 460-d(1) authorizes OTDA to conduct investigations of the affairs and management of facilities that it inspects and supervises, and 460-d generally sets forth OTDA's enforcement authority. SSL § 460-d(7)(a) requires OTDA to adopt regulations establishing civil penalties of up to \$1,000 per day to be assessed against shelters for adults, except facilities operated by a district, for violations of, among other things, OTDA's regulations pertaining to the care of residents in such facilities.

SSL § 461 provides that OTDA "shall promulgate and may alter or amend regulations effectuating the provisions of this title, including but not limited to establishing fiscal, administrative, architectural, safety, nutritional and program standards which apply to all adult care facilities subject to its inspection and supervision," including shelters for adults.

2. Legislative objectives:

It is the intent of the Legislature in enacting the aforementioned statutes that OTDA establish rules, regulations and policies to provide for the health, safety and general welfare of residents of shelters for adults and families experiencing homelessness.

3. Needs and benefits:

The proposed regulatory amendments will subject all publicly-funded shelters for adults experiencing homelessness to State oversight, including small-capacity shelters that are excluded from the definition of "shelter for adults" set forth in SSL § 2(23), and shelters for adult families that are neither subject to OTDA's regulations pertaining to shelters for families with children, nor explicitly addressed by OTDA's current regulations pertaining to shelters for adults. The proposed regulatory amendments will update State regulations to reflect current State policies and procedures and to maintain consistency with OTDA regulations pertaining to publicly-funded shelters for families with children.

Current State regulations pertaining to shelters for adults are set forth in 18 NYCRR, Parts 485-486 and 491. The term "shelter for adults" is defined in SSL § 2(23) to mean "an adult care facility established and operated for the purpose of providing temporary residential care, room, board, supervision, information and referral, and where required by the department or otherwise deemed necessary by the operator, social rehabilitation services, for adults in need of temporary accommodations, supervision and services." SSL § 2(23) explicitly excludes from the definition of "shelters for adults" small-capacity shelters that provide "temporary residential services to fewer than twenty persons, unless such facility is operated by a ... district."

The proposed regulatory amendments will subject all publicly-funded shelters for adults, irrespective of capacity, to OTDA oversight. Each facility providing shelter services to homeless adults with no children – whether a shelter for adults housing 20 or more residents, a small-capacity shelter housing fewer than 20 residents, or a shelter for adult families with no children – will be subject to OTDA oversight and will be required to become "certified" in order to receive reimbursement from State or State-administered funds. Each district will be required to submit, for OTDA approval, an operational plan pertaining to each facility; upon OTDA's approval of the operational plan, the facility will receive an operating certificate. Each facility so credentialed will be required to operate in accordance with State regulations and its approved operational plan.

OTDA seeks to amend Parts 485-486 so that they will no longer apply to shelters for adults, but will continue to apply to all other types of adult care facilities; Part 491 will address all publicly-funded shelters for adults, including small-capacity shelters, and shelters for adult families with no children.

There are no substantial revisions in the proposed rule, but there are changes in the text of the rule as adopted when compared to the last published version of the proposed rule. As discussed in the accompanying Revised Summary of the Rule, the revisions made to 18 NYCRR §§ 491.3 – 491.4, 491.8 – 491.10, 491.12, 491.14 – 491.15, 491.18 – 491.19, and 491.27 were made in response to public comments and merely define or clarify proposed text and, in some cases, merely reiterate text contained in the previous version of 18 NYCRR Part 491 that was repealed by this published rule. The revisions do not materially alter the purpose, meaning, or effect of the enumerated regulatory sections.

4. Costs:

The proposed regulatory amendments will not result in significant additional costs for the State or districts. Since February 1, 2017, pursuant to 18 NYCRR § 352.39, districts have been required to submit operational plans to OTDA for publicly-funded small-capacity shelters and shelters for adult families that were not previously certified by OTDA. The proposed regulatory amendments may reduce the current burdens insofar as the effective period for operational plans and operating certificates will be extended from four years to five years. Moreover, because OTDA reviews and approves current operational plans and inspects facilities, any additional costs associated with these amendments will be minimal and could be absorbed within current appropriations. Additionally, districts no longer will be required to submit district-wide general security plans for OTDA approval pursuant to 18 NYCRR § 352.38(b), which OTDA is seeking to repeal via a separate proposed rule making.

5. Local government mandates:

Initially, the proposed regulatory amendments will require districts to submit a separate operational plan for each “shelter for adults,” “small-capacity shelter” or “shelter for adult families” – as the terms will be defined in proposed new 18 NYCRR § 491.2 – for which the district seeks reimbursement or makes payments to or from State or State-administered grants or funds. Prior to the submission of an operational plan, a district will be required to obtain preliminary approval from OTDA to establish such a facility. Operational plans will include, among other things, information about the operations and services of the proposed shelter facility, shelter-specific security plans, and a financial statement for the shelter’s most recently completed fiscal year, or, for a shelter that has not previously been in operation, a financial statement for the shelter operator’s most recently completed fiscal year. The operational plan must contain a proposed one-year budget for the shelter, including the estimated income and expenditures projected for the shelter during the upcoming year. OTDA anticipates that operational plans will typically be prepared by shelter operators and submitted to the districts, which, in turn, will submit the plans to OTDA for approval.

If an operator of a shelter for adults, small-capacity shelter or shelter for adult families determines to close a facility, the shelter operator will be required to inform the district and OTDA in writing as soon as possible, but no less than 90 days in advance, after which the district must submit a proposed closure plan to OTDA for approval.

In case of a serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the shelter operator or the district will be required to immediately report the incident to OTDA. If the operator of the emergency shelter reports the serious incident directly to OTDA, it also must immediately notify the district. The district then will be required to submit an incident report form to OTDA within three business days after receiving notice.

6. Paperwork:

The paperwork requirements of the proposed regulatory amendments are discussed in § 5, above.

7. Duplication:

The proposed regulatory amendments will not duplicate, overlap, or conflict with any existing State or federal rules or regulations.

8. Alternatives:

A possible alternative to the proposed regulatory amendments would be to refrain from promulgating them. However, such inaction would diminish OTDA’s ability to exercise needed oversight of publicly-funded shelters for persons experiencing homelessness and shelters housing fewer than 20 residents and other shelters that currently operate as “uncertified.” The current State regulations pertaining to shelters for adults are outdated, in that they fail to address and provide for oversight of a significant number of shelters serving homeless individuals. Insofar as such inaction could impair OTDA’s ability to provide needed services and safeguards to those individuals and families experiencing homelessness, OTDA does not consider it a viable alternative to the proposed regulatory amendments.

9. Federal standards:

The proposed regulatory amendments will not conflict with federal statutes, regulations or policies.

10. Compliance schedule:

Upon adoption of the proposed regulatory amendments, a district will first be required to obtain the preliminary approval of OTDA before establishing a new shelter for adults, a small-capacity shelter, or a shelter for adult families. A district then will be required to submit a proposed operational plan to OTDA at least 45 days before the planned use of a facility as a shelter for adults, a small-capacity shelter or a shelter for adult families. An OTDA-approved operational plan will remain in effect for a maximum of five years, and any proposed revisions or changes to an approved plan will have to be submitted to OTDA for approval. At least 60 days before the expiration of an operational plan, a district could request that OTDA reapprove the operational plan.

If an operator elects to close a shelter for adults, a small-capacity shelter or a shelter for adult families, the operator will be required to notify the district and OTDA in writing as soon as possible, but no less than 90 days in advance of the anticipated closure, and the district will then be required to submit a closure plan to OTDA at least 45 days before the anticipated closure date.

In case of a serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the operator of the shelter or the district will be required to immediately report the incident to OTDA. If the shelter operator reports the serious incident directly to OTDA, it also will be required to immediately notify the district. The district then will be required to submit an incident report form to OTDA within three business days after receiving notice.

Districts, shelters for adults, small-capacity shelters, and shelters for adult families will be required to comply immediately with the proposed regulatory amendments that do not provide specific compliance dates

including, but not limited to, those regulatory amendments addressing resident services, food services, and environmental standards.

Revised Regulatory Flexibility Analysis and Rural Area Flexibility Analysis

Changes made to the published rule do not necessitate revision to the previously published RFASBLG and RAFA. The revisions made to 18 NYCRR §§ 491.3-491.4, 491.8-491.10, 491.12, 491.14-491.15, 491.18-491.19, and 491.27 were made in response to public comments and merely define or clarify proposed text and, in some cases, merely reiterate text contained in the previous version of 18 NYCRR Part 491 that was repealed by this published rule. The revisions do not materially alter the purpose, meaning, or effect of the enumerated regulatory sections and do not necessitate modification of the analysis contained in the previously published RFASBLG and RAFA.

Revised Job Impact Statement

Changes made to the published rule do not necessitate revision to the previously published JIS. The revisions made to 18 NYCRR §§ 491.3-491.4, 491.8-491.10, 491.12, 491.14-491.15, 491.18-491.19, and 491.27 were made in response to public comments and merely define or clarify proposed text and, in some cases, merely reiterate text contained in the previous version of 18 NYCRR Part 491 that was repealed by this published rule. The revisions do not materially alter the purpose, meaning, or effect of the enumerated regulatory sections.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The Office of Temporary and Disability Assistance (OTDA) received numerous public comments relative to the proposed regulatory amendments following their publication in the May 8, 2019 issue of the New York State Register. Some salient comments received have been summarized below and all comments have been duly considered in an assessment of public comments which is posted at the following OTDA website: <http://otda.ny.gov/legal/regulatory-activities.asp>.

OTDA received comments regarding the placement of transgender, gender-nonconforming, and non-binary individuals in suitable shelters and the use of pronouns that are not invalidating to such persons. While OTDA can issue administrative guidance regarding the placement of such persons in suitable shelters, it has revised the proposed regulation to use appropriate pronouns.

OTDA received multiple comments pertaining to the funding of shelters for adults, small-capacity shelters and shelters for adult families that are beyond the scope of the proposed regulatory amendments.

OTDA received multiple comments regarding the scope of the proposed regulatory amendments, including requests that: (1) the proposed regulations be revised to apply only to shelters “for which a social services district [district] seeks reimbursement from State or State-administered grants or funds for costs incurred for shelter and services provided by such facilities”; (2) all commercial hotels and motels used to provide shelter to recipients of temporary housing assistance (THA) be included within the scope of the proposed regulations; and (3) commercial hotels and motels used primarily to provide shelter to recipients of THA when the district plans to phase out use of the facilities be excluded from the scope of the proposed regulations. OTDA asserts that these comments can be addressed in administrative guidance and that regulatory revisions are unnecessary.

OTDA received comments suggesting that the proposed regulations should allow for the reimbursement of shelters opened on an emergency basis. If there is an emergency need for additional shelter capacity within a district and the district opens a new facility on an expedited basis, reimbursement would be available from the date on which a district submits a proposed operational plan for the new facility pursuant to proposed § 491.3(h). OTDA therefore disagrees that the suggested regulatory revisions are necessary.

OTDA received several comments regarding the contents of operational plans required by proposed § 491.3 and requesting that the proposed regulation be revised to require that an operational plan be posted in an accessible area within a shelter. OTDA does not believe that all of the suggested revisions are necessary but has revised proposed § 491.19(h)(1) to clarify that an operational plan approved by OTDA must be available for review and inspection by facility residents and visitors, and proposed § 491.3(c)(2) has been clarified by including a reference to “persons with physical disabilities” as an additional example of a “population with particular needs.”

OTDA received comments suggesting that the proposed regulations should be revised to require that residents be informed of their fair hearing rights when their THA is discontinued. This issue is addressed in proposed § 491.15(a)(2), and the suggested revision is therefore unnecessary.

OTDA received several comments regarding the requirement that security plans be included in each facility's operational plan, including objections that the requirement would prevent non-profit shelter providers from operating their facilities as they deem appropriate, and that the proposed requirement for residents' incoming mail to be x-rayed is a heavy-handed policing measure that is carceral and will impede shelters' efforts to connect with residents. Proposed § 491.3(c)(3) requires that a security plan be included as part of each facility's operational plan, and that such security plan detail the measures taken to provide security and to help ensure the physical safety of shelter residents and staff. OTDA does not consider the proposed regulatory amendments to be overly prescriptive and asserts that they will allow shelter operators and districts flexibility to work with shelter operators to develop reasonable facility security plans based on their direct knowledge of the facilities and the specific populations they serve. Moreover, proposed § 491.3(c)(3) does not require shelter operators to scan or x-ray incoming resident mail. Rather, it requires that the security plan portion of a facility's operational plan describe, among other things, precautions taken to help ensure that incoming resident mail does not contain contraband that could pose a threat to the security of the facility or to the health and safety of residents and staff. OTDA believes that the use of such technology would be appropriate in some circumstances.

OTDA received several comments asserting that the proposed regulations would conflict with the 1981 consent decree entered by the State Supreme Court in *Callahan v. Carey*, 2012 WL 680318 (Sup Ct NY County, Feb. 21, 2012, No. 42582/79 (Callahan Consent Decree)). The Callahan Consent Decree applies only to shelters for adults located in New York City, whereas proposed Part 491 will apply across the State. Moreover, OTDA maintains that the proposed regulations are consistent with the Callahan Consent Decree.

OTDA received comments suggesting that the proposed regulations be revised to allow minor children to visit shelter residents. OTDA disagrees that the suggested revision is necessary.

OTDA received multiple comments suggesting that: (1) individuals who suffer from mental or physical disabilities should not be excluded from shelters; (2) districts cannot be required to deny an application for THA because of a failure to cooperate in an assessment when the applicant is unable to cooperate because of a disability or other chronic need; (3) districts cannot be prohibited from placing those with a mental or physical conditions that "may" make the placement inappropriate or cause a danger, as this would exclude those who can be safely provided with shelter; and (4) the "comfort of other residents" should not be a reason to exclude an applicant for THA from shelter. Proposed § 491.9(c) addresses the appropriateness of the placement of THA recipients in shelters, not eligibility for THA. It makes clear that when a person eligible for THA cannot be placed in a shelter for any of the reasons set forth in proposed § 491.9(c), the district must take action appropriate to the health, safety and needs of that person. OTDA disagrees that the suggested revisions are necessary.

OTDA received comments suggesting that districts should be allowed to place adult-only families and single women in shelters for families with children to afford districts the flexibility needed to meet fluctuating shelter needs. "Mixed-use" facilities could be allowed in appropriate circumstances where waivers are requested and obtained from OTDA pursuant to proposed § 491.3(c)(5). Consequently, OTDA does not believe that a revision of the proposed regulatory amendments is necessary.

OTDA received comments regarding proposed § 491.11, which obligates shelter residents to contribute available income to the costs of their care. The comments suggested that homeless persons should not be required to pay for temporary shelter, and that the proposed regulation be revised to clarify that a resident would not be removed from shelter on account of an inability or failure to pay. Proposed § 491.11 makes the payment of facility charges contingent upon the shelter resident having available income pursuant to the budgeting rules set forth in Social Services Law (SSL) § 131-a and 18 NYCRR Part 352. If a resident has no available income, they would not be obligated to pay facility charges. OTDA therefore disagrees that the proposed regulation requires revision.

OTDA received several comments regarding proposed § 491.12, which sets forth requirements relating to resident rules and rights. One comment requested that the regulation be revised to clarify that shelter residents who are ineligible to receive THA on the basis of their immigration status should not be required to apply for public assistance benefits as a condition to remaining in shelter. OTDA revised proposed § 491.12 to clarify that resident rules must address the requirement that residents apply for public benefits only to the extent that the residents are eligible to receive such benefits under 18 NYCRR § 349.3.

OTDA received a comment suggesting that proposed § 491.12(c)(17), which provides that a resident shall have the right to receive visitors in designated areas of the facility during reasonable hours as specified in the resident rules, would present significant operational difficulties in facilities lacking appropriate space for visits or staffing to supervise visitation.

OTDA has revised the regulatory amendments to provide that a resident shall have the right to receive visitors in designated areas of the facility where feasible.

OTDA received a comment proposing that staffing ratios for shelters for adult families, addressed in proposed § 491.14(f)(8), be based on the number of number of families residing in such facility, rather than the number of persons. OTDA acknowledges that overstaffing could result in shelters for adult families in some circumstances and anticipates that districts may seek waivers of the staffing requirements pursuant to proposed § 491.3(c)(5) in appropriate circumstances. Further, proposed § 491.14(f)(8) has been revised to clarify that the "resident census shall be the number of residents of a shelter facility unless otherwise directed by the Office."

OTDA received several comments suggesting that proposed § 491.15 be revised to clarify that administrative transfers may be used only in emergency circumstances. While OTDA does not use the term "administrative transfer" in its proposed regulations, it has revised proposed § 491.15(b) to clarify that a resident of any shelter for adults, small-capacity shelter, or shelter for adult families may be transferred absent 48 hours advanced written notice where a delay would pose a risk to the health or safety of such individual or adult family, or to others in the facility.

OTDA received comments expressing concerns regarding the requirement in proposed § 491.15(d) that a shelter operator store property left behind by a resident after a resident's discharge or transfer for no less than 10 business days. OTDA has revised the proposed regulation in view of these comments and notes that rules regarding the storage of resident property and belongings following the discharge or transfer may be addressed by OTDA in administrative guidance to the extent necessary.

OTDA received comments regarding proposed § 491.17, which addresses food service, including one comment requesting the "repeal" of the requirement that three daily meals be served to shelter residents, and one comment suggesting that the regulation be revised to require that vegan, vegetarian, and lactose intolerant diets be accommodated. Food intolerances and allergies already are addressed by proposed § 491.17(g). Further, proposed § 491.17(a) obligates operators of shelters for adults, small-capacity shelters, and shelters for adult families to ensure that all residents, including those subsisting on vegetarian or vegan diets, can conveniently obtain meals that are balanced, nutritious and adequate to meet the residents' dietary needs. Consequently, the requested regulatory revisions are unnecessary.

OTDA received several comments regarding proposed § 491.25, suggesting that OTDA not be authorized to withhold reimbursement from a district for all district expenditures related to the provision of shelter or services to recipients of THA. OTDA disagrees with these comments. OTDA already is authorized under SSL § 20(3)(e) "to withhold or deny state reimbursement, in whole or in part, from or to any district that fails to comply with law, rules or regulations of the department relating to public assistance and care or the administration thereof." Proposed § 491.25(c) is consistent with SSL § 20(3)(e), and affords OTDA discretion to determine the amount of reimbursement subject to withholding when a district and a shelter for adults, a small-capacity shelter, or a shelter for adult families located within the district fails to address violations in timely fashion.

NOTICE OF ADOPTION

Shelters for Families

I.D. No. TDA-19-19-00008-A

Filing No. 1055

Filing Date: 2019-11-25

Effective Date: 2020-01-01

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

Action taken: Repeal of sections 352.8(b)(2), 352.37, 352.38(b), Part 900; amendment of sections 352.38(a), (c)-(e), 352.39(a)-(b), 358-3.1(h), Part 493; and addition of new Part 900 to Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(a)-(b), (k), 20(2)(b), (3)(d)-(f), 34(3)(c)-(f), (6), 131-a, 460, 460-c(1) and 460-d(1)

Subject: Shelters for Families.

Purpose: To update State regulations pertaining to shelters for families.

Text of final rule: The regulatory amendments update State regulations to subject each facility providing shelter services to homeless families with children – including facilities sheltering less than 10 homeless families and facilities sheltering single pregnant persons – to OTDA oversight, so as to help ensure that shelters for homeless families with children and homeless pregnant persons are properly and efficiently operated, are properly utilized at a reasonable cost, and effectively protect the health,

safety and welfare of shelter residents and staff. The full text of the proposed rule is posted at the following OTDA website: <http://otda.ny.gov/legal/regulatory-activities.asp>. Revisions made in response to public comments received since the proposed regulations were published in the May 8, 2019 issue of the New York State Register define or clarify text and do not materially alter its purpose, meaning, or effect. A Notice of Revised Rule Making therefore is unnecessary.

Repeat and reserve §§ 352.8(b)(2) and 352.37.

Amend § 352.38(a) to exclude from the scope of that section emergency shelters that would be required to submit operational plans for OTDA approval pursuant to § 491.3, as amended, or § 900.3, as amended, and would be issued operating certificates pursuant to § 491.4, as amended, or § 900.4, as amended.

Repeat § 352.38(b), reletter subdivisions (c)–(e) as subdivisions (b)–(d), and amend relettered subdivision (b) to require that, unless otherwise directed by OTDA, serious incidents resulting in harm to any resident of an emergency shelter covered by the regulation or staff member of such shelter be immediately reported to OTDA by e-mail or telephone, and to require that the social services district (district) submit an incident report to OTDA within three business days thereafter.

Amend § 352.39(a)–(b) to exclude emergency shelters that would be required to submit operational plans for OTDA approval pursuant to § 491.3, as amended, or § 900.3, as amended, and that would be issued operating certificates pursuant to § 491.4, as amended, or § 900.4, as amended.

Amend § 358-3.1(h) to conform the section to the regulatory changes proposed with respect to Part 900, described below, and to make clarifying technical revisions.

Amend the title of Part 493 to clarify that it would apply to both residential care programs for adults and shelters for families with children.

Amend § 493.1(f) to include, within the definition of facility, shelters for adults as defined in § 491.2, as amended, small-capacity shelters as defined in § 491.2, as amended, shelters for adult families as defined in § 491.2, as amended, and shelters for families with children as defined in § 900.2, as amended.

Amend § 493.1(h) to include, within the definition of operator, those persons or entities that operate shelters for adults as defined in § 491.2, as amended, small-capacity shelters as defined in § 491.2, as amended, shelters for adult families as defined in § 491.2, as amended, and shelters for families with children as defined in § 900.2, as amended.

Amend § 493.1(i) to include, within the definition of operating certificate, documents signifying approval by OTDA that are issued to shelters for adults as defined in § 491.2, as amended, small-capacity shelters as defined in § 491.2, as amended, shelters for adult families as defined in § 491.2, as amended, and shelters for families with children as defined in § 900.2, as amended.

Repeat existing Part 900 and add a new Part 900 pertaining to shelters for families with children.

Add new § 900.1 defining the applicability of new Part 900 to clarify the requirement that a shelter have OTDA operational approval in order for the district to qualify for reimbursement for such shelter and services.

Add new § 900.2 defining the terms “Office,” “family,” “pregnant person,” and “shelter for families.” Proposed § 900.2 had defined the term “pregnant woman,” but has been revised to refer to “pregnant person,” and the terms “pregnant person” and “pregnant persons” are being used throughout proposed Part 900 in the place of the terms “pregnant woman” and “pregnant women.”

Add new § 900.3 providing that a district may be reimbursed from State grants or funds for costs incurred for shelter and services provided by a shelter for families only if the shelter is operated in accordance with both the requirements of Part 900, as amended, and pursuant to an operational plan approved by OTDA, outlining the requirements for an operational plan, and setting forth the procedure for obtaining OTDA approval of an operational plan. Proposed § 900.3(c) has been revised to make clarifying technical changes and to add persons with physical disabilities as an additional example of a population with particular needs.

Add new § 900.4 providing that, upon approving an operational plan, OTDA would issue an operating certificate to the operator of a shelter for families; indicating that reimbursement for costs incurred for shelter and services provided by such shelter would be contingent upon the operator of such facility having a valid operating certificate; and reserving the right of OTDA to revoke, suspend, or terminate an operating certificate under certain circumstances. Proposed § 900.4 has been revised to make a clarifying technical change.

Add new § 900.5 setting forth the procedure for the voluntary closure of a shelter for families.

Add new § 900.6 requiring that shelters for families for which a district seeks reimbursement be operated in accordance with all applicable State and local laws, regulations and codes.

Add new § 900.7 setting forth general regulatory provisions relating to the operation of shelters for families.

Add new § 900.8 setting forth shelter staffing requirements and staff qualifications. Proposed § 900.8 has been revised in essence to restore the prohibition in extant § 900.11(c) on persons being permitted by a shelter operator to work, either as an employee or a volunteer, if that person is known to be infected with communicable disease that might endanger the health of residents.

Add new § 900.9 clarifying requirements for referrals to shelters for families, assessments for public assistance and care needs and suitability for placement in shelter, and independent living plans. Proposed § 900.9 has been revised to make clarifying technical revisions and to clarify that a person with a physical or mental impairment that interferes with their ability to cooperate and complete an assessment need not provide documentation of their impairment where the physical or mental impairment is known or apparent to shelter or intake staff, and to underscore that the preliminary health screening required by proposed § 900.9 is not intended to be a medical examination conducted by qualified medical personnel.

Add new § 900.10 allowing for excess-capacity admissions in emergency circumstances.

Add new § 900.11 clarifying the obligation of residents of a shelter for families with income to contribute towards care costs.

Add new § 900.12 setting out shelter resident rights, rules and obligations. Technical and clarifying edits have been made to proposed § 900.12. Proposed § 900.12 has been revised to make clarifying technical changes and to clarify that facility rules must require that resident families apply for public benefits only to the extent that any family member is eligible under 18 NYCRR § 349.3.

Add new § 900.13 setting out shelter operator obligations with respect to shelter residents’ funds and valuables.

Add new § 900.14 describing services that must be provided to residents of shelters for families. Proposed § 900.14 has been revised to make clarifying technical changes.

Add new § 900.15 describing the procedure for involuntarily discharging or transferring a resident of a shelter for families. Proposed § 900.15 has been revised to make clarifying technical changes and to clarify that circumstances where a family or family member may be involuntarily transferred from a shelter or involuntarily discharged from a shelter for families without a pre-discharge hearing.

Add new § 900.16 describing the process by which shelter operators and districts must report serious incidents at shelters that impact upon the safety and well-being of a shelter resident or member of a shelter’s staff.

Add new § 900.17 detailing the food services that operators of shelters for families must provide. Proposed § 900.14 has been revised to make technical changes.

Add new § 900.18 setting forth environmental standards with which operators of shelters for families must comply. Proposed § 900.18 has been revised to clarify that hot water for bathing and washing be maintained at a temperature of no less than 110 degrees Fahrenheit, and that suitable storage space for clothing may be provided to shelter residents in lieu of a bureau or a chest of drawers, and to make additional clarifying changes.

Add new § 900.19 describing shelter operators’ obligations with respect to the collection and maintenance of information, records and reports.

Add new § 900.20 describing shelter operators’ obligations with respect to the confidentiality of HIV- and AIDS-related information.

Add new § 900.21 clarifying conditions under which a shelter operator may contract with a separate independent entity to perform facility operations.

Add new § 900.22 setting forth OTDA’s obligation to inspect shelters for families; clarifying districts’ obligations with respect to such inspections; and authorizing OTDA to address deficiencies existing at such shelters.

Add § 900.23 clarifying OTDA’s authority to undertake investigations of the affairs and management of any shelter for families and to take appropriate enforcement action as necessary. Proposed § 900.23 has been revised to make a clarifying technical change.

Add new § 900.24 setting forth the policy and procedures with respect to State reimbursement for costs incurred for shelter and services provided by a shelter for families.

Add new § 900.25 setting forth the procedure whereby OTDA could withhold or deny reimbursement to a district where a shelter fails to comply with the requirements of State or local laws, regulations and codes, including those regulations set forth in new Part 491.

Add new § 900.26 setting forth civil penalties that OTDA may impose against the operators of shelters for families for regulatory violations that endanger residents or result in harm to shelter residents.

Add new § 900.27 authorizing OTDA to seek the appointment of a receiver to operate a shelter for families in order to protect the health, safety and welfare of shelter residents. Proposed § 900.27 has been revised to make clarifying technical changes.

Add new § 900.28 clarifying the districts’ obligation to provide and the

eligibility criteria for a special needs allowance for residents of shelters for families. Proposed § 900.28 has been revised to restore language from extant § 900.17 in order to clarify the regulatory requirement that special needs allowances be provided to families and to pregnant persons residing in shelters for families, to the extent that the families or pregnant persons are eligible. This regulatory requirement remains unchanged.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 900.2-900.4, 900.8-900.9, 900.12, 900.14-900.15, 900.17-900.18, 900.23 and 900.27-900.28.

Text of rule and any required statements and analyses may be obtained from: Richard P. Rhodes, Jr., Office of Temporary and Disability Assistance, 40 North Pearl Street, 16-C, Albany, NY 12243-0001, (518) 486-7503, email: richard.rhodesjr@otda.ny.gov

Revised Regulatory Impact Statement

1. Statutory authority:

Social Services Law (SSL) § 17(a)-(b) and (k) provide, in part, that the Commissioner of the Office of Temporary and Disability Assistance (OTDA) shall “determine the policies and principles upon which public assistance, services and care shall be provided within the state both by the state itself and by the local governmental units . . . ,” shall “make known his policies and principles to local social services officials and to public and private institutions and welfare agencies subject to his regulatory and advisory powers . . . ,” and shall “exercise such other powers and perform such other duties as may be imposed by law.”

SSL § 20(2)(b) provides, in part, that the OTDA shall “supervise all social services work, as the same may be administered by any local unit of government and the social services officials thereof within the state, advise them in the performance of their official duties and regulate the financial assistance granted by the state in connection with said work.” Pursuant to SSL § 20(3)(d)-(f), OTDA is authorized to promulgate rules, regulations, and policies to fulfill its powers and duties under the SSL and “to withhold or deny state reimbursement, in whole or in part, from or to any social services district [district] or any city or town thereof, in the event of their failure to comply with law, rules or regulations of [OTDA] relating to public assistance and care or the administration thereof.”

SSL § 34(3)(c) requires OTDA’s Commissioner to “take cognizance of the interests of health and welfare of the inhabitants of the state who lack or are threatened with the deprivation of the necessities of life and of all matters pertaining thereto.” Pursuant to SSL § 34(3)(d), OTDA’s Commissioner must exercise general supervision over the work of all districts. SSL § 34(3)(e) provides that OTDA’s Commissioner must enforce the SSL and the State regulations within the State and in the social services districts (districts). Pursuant to SSL § 34(3)(f), OTDA’s Commissioner must establish regulations for the administration of public assistance and care within the State by the districts and by the State itself, in accordance with the law. Pursuant to SSL § 34(6), OTDA’s Commissioner “may exercise such additional powers and duties as may be required for the effective administration of the department and of the state system of public aid and assistance.”

SSL § 131-a requires districts to provide special needs allowances to eligible members of family households to the extent that they are eligible.

Pursuant to SSL § 460, OTDA, “acting directly or through [districts], and with the cooperation of other state agencies, shall have the comprehensive responsibility for the development and administration of programs, standards and methods of operation, and all other matters of state policy. . . in relation to shelters for adults and shelters for families.”

SSL § 460-c(1) authorizes OTDA “to inspect and maintain supervision over all public and private facilities or agencies whether state, county, municipal, incorporated or not incorporated which are in receipt of public funds, which are of a charitable, eleemosynary, correctional or reformatory character,” including but not limited to, “homes or shelters for unmarried mothers.”

SSL § 460-d(1) authorizes OTDA to conduct investigations of the affairs and management of facilities that it inspects and supervises, and 460-d generally sets forth OTDA’s enforcement authority.

2. Legislative objectives:

It is the intent of the Legislature in enacting the aforementioned statutes that OTDA establish rules, regulations and policies to provide for the health, safety and general welfare of residents of shelters for adults and shelters for families experiencing homelessness.

3. Needs and benefits:

The proposed regulatory amendments will subject all publicly-funded shelters for homeless families with children and homeless pregnant persons to State oversight, and will update State regulations to reflect current State policies and procedures pertaining to publicly-funded shelters for families.

Current State regulations pertaining to shelters for families are set forth in 18 NYCRR Part 900; however, current 18 NYCRR Part 900 applies only to facilities that provide shelter to 10 or more homeless families. The

proposed regulatory amendments will subject each facility providing shelter services to homeless families with children – including facilities sheltering less than 10 homeless families and facilities sheltering single pregnant persons and adult families with no children where one family member is pregnant – to OTDA oversight. The proposed regulatory amendments will clarify that the district must submit for OTDA approval an operational plan pertaining to each facility, and that upon OTDA’s approval of the operational plan, OTDA will issue the facility an operating certificate. Upon issuance of the operating certificate, each facility will then be required to operate in accordance with its approved operational plan and with State regulations. Toward this end, OTDA seeks to repeal the current 18 NYCRR, Part 900 and add a new Part 900 addressing publicly-funded shelters for families, defined to include shelters for single pregnant women and adult families with at least one pregnant woman.

The proposed regulatory amendments will also repeal 18 NYCRR § 352.8(b)(2), which requires districts to notify OTDA when an entity or organization continuously houses 20 or more homeless families throughout the previous 3 months, so that OTDA may require the district to submit operational plans for the subject facility or facilities. Adoption of the proposed regulatory amendments will render 18 NYCRR § 352.8(b)(2) redundant and obsolete, insofar as, under the amended regulations, all publicly-funded shelters for families will be required to submit operational plans for OTDA approval. Likewise, OTDA seeks to repeal 18 NYCRR § 352.37, which sets forth emergency measures concerning shelters for the homeless, based upon the same rationale.

Additionally, OTDA will amend 18 NYCRR § 352.38(a), which requires districts to submit operational plans for uncertified shelters for adults and uncertified shelters for families with children, to exclude from its scope shelters for adults, which will be subject to 18 NYCRR Part 491 – the subject of a separate proposed rulemaking – and shelters for families with children, which will be subject to the proposed new 18 NYCRR Part 900. OTDA also seeks to repeal 18 NYCRR § 352.38(b), which requires districts to submit general district-wide security plans for OTDA approval, because, upon adoption of the proposed regulatory amendments, districts will already be involved in assessing and submitting operational plans addressing security at shelters seeking OTDA certification.

OTDA will amend 18 NYCRR § 358-3.1(h) to conform the section to the regulatory changes proposed with respect to Part 900, described below, and to make technical updates.

OTDA will also amend 18 NYCRR Part 493 to clarify that the administrative hearing procedure described therein will apply to both residential care programs for adults and shelters for families with children.

There are no substantial revisions in the proposed rule, but there are changes in the text of the rule as adopted when compared to the last published version of the proposed rule. As discussed in the accompanying Revised Summary of the Rule, the revisions made to 18 NYCRR §§ 900.2 – 900.4, 900.8 – 900.9, 900.12, 900.14 – 900.15, 900.17 – 900.18, 900.23, and 900.27 – 900.28 were made in response to public comments and merely define or clarify proposed text and, in some cases, merely reiterate text contained in the previous version of 18 NYCRR Part 900 that was repealed by this published rule. The revisions do not materially alter the purpose, meaning, or effect of the enumerated regulatory sections.

4. Costs:

The proposed regulatory amendments will not result in significant additional costs for the State or districts. Since February 1, 2017, districts have been required, pursuant to 18 NYCRR § 352.39, to submit operational plans for publicly-funded shelters for families with children that fall outside of the scope of 18 NYCRR, Part 900 because they shelter fewer than 10 families. Accordingly, the proposed regulatory amendments will not impose a significant additional burden on the districts. Similarly, OTDA presently reviews and approves current operational plans and inspects facilities, so any additional costs associated with the proposed regulatory amendments will be minimal and could be absorbed within current appropriations. In fact, adoption of the proposed regulatory amendments may reduce the administrative burden on the districts because OTDA will assume responsibility for inspection for all shelters for families with children; because districts no longer will be required to notify OTDA, pursuant to 18 NYCRR § 352.8(b)(2), when entities or organizations continuously house 20 or more homeless families for 3 months; and because, upon adoption of the proposed regulatory amendments, districts will no longer be required to submit district-wide general security plans for OTDA approval pursuant to 18 NYCRR § 352.38(b).

5. Local government mandates:

Initially, the proposed regulatory amendments will require districts to submit an operational plan for each “shelter for families” – as will be defined in proposed new 18 NYCRR § 900.2 – to include facilities providing shelter to families with children or to single pregnant persons for which the district seeks reimbursement or makes payments to or from State or State-administered grants or funds. Prior to the submission of an operational plan, a district will be required to obtain preliminary approval from

OTDA for the establishment of such a facility. Operational plans will include, among other things, information about the operations and services of the proposed shelter facility, shelter-specific security plans, as well as a financial statement for the shelter's most recently completed fiscal year, or, for a shelter that has not previously been in operation, a financial statement for the shelter operator's most recently completed fiscal year. The operational plan also will be required to contain a proposed one-year budget for the shelter, including the estimated income and expenditures projected for the shelter during the upcoming year. OTDA anticipates that operational plans will typically be prepared by shelter operators and then submitted to the districts, which, in turn, will submit the plans to OTDA for approval.

If an operator of a shelter for families determines to close a facility, the proposed regulatory amendments will require the shelter operator to inform the district of the anticipated closure no less than 90 days in advance, after which the district will be required to submit a proposed closure plan to OTDA for approval.

In case of a serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the shelter operator or the district will be required to immediately report the incident to OTDA. If the operator of the emergency shelter reports the serious incident directly to OTDA, it also must immediately notify the district. The district then will be required to submit an incident report form to OTDA within three business days after receiving notice.

6. Paperwork:

The paperwork requirements of the proposed regulatory amendments are discussed in § 5, above.

7. Duplication:

The proposed regulatory amendments will not duplicate, overlap, or conflict with any existing State or federal rules or regulations. As noted above, OTDA is repealing the duplicative provisions.

8. Alternatives:

A possible alternative to the proposed regulatory amendments would be to refrain from promulgating them. However, such inaction would diminish OTDA's ability to exercise needed oversight of publicly-funded shelters for persons experiencing homelessness and shelters housing fewer than 10 families and other shelters that currently operate as "uncertified". The current State regulations pertaining to shelters for families with children are outdated, in that they fail to address and provide for oversight of a significant number of shelters serving homeless families with children and homeless single pregnant women. Insofar as such inaction could impair OTDA's ability to provide needed services and safeguards to those families and persons experiencing homelessness, OTDA does not consider inaction a viable alternative to the proposed regulatory amendments.

9. Federal standards:

The proposed regulatory amendments will not conflict with federal statutes, regulations or policies.

10. Compliance schedule:

Upon adoption of the proposed regulatory amendments, a district will first be required to obtain the preliminary approval of OTDA before establishing a new shelter for families. A district will then be required to submit a proposed operational plan to OTDA at least 45 days before the planned use of a facility as a shelter for families. An operational plan approved by OTDA will remain in effect for a maximum of five years. At least 60 days before the expiration of an operational plan, a district could request that OTDA renew the approval of the operational plan.

If an operator elects to close a shelter for families, the operator will be required to notify both the district and OTDA at least 90 days in advance, and the district will then be required to submit a closure plan to OTDA at least 45 days before the anticipated date of closure.

In the event of a serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the shelter operator or the district will be required to immediately report the incident to OTDA. If the operator of the emergency shelter reports the serious incident directly to OTDA, it will also be required to immediately notify the district. The district then will be required to submit an incident report form to OTDA within three business days after receiving notice.

Districts and shelters for families with children be required to immediately comply with all regulations that do not prescribe fixed dates for compliance, including, but not limited to, those addressing resident services, food services, and environmental standards.

Revised Regulatory Flexibility Analysis and Rural Area Flexibility Analysis

Changes made to the published rule do not necessitate revision to the previously published RFASBLG and RAFA. The revisions made to 18 NYCRR §§ 900.2 – 900.4, 900.8 – 900.9, 900.12, 900.14 – 900.15, 900.17 – 900.18, 900.23, and 900.27 – 900.28 were made in response to public comments and merely define or clarify proposed text and, in some cases, merely reiterate text contained in the previous version of 18 NYCRR Part

900 that was repealed by this published rule. The revisions do not materially alter the purpose, meaning, or effect of the enumerated regulatory sections and do not necessitate modification of the analysis contained in the previously published RFASBLG and RAFA.

Revised Job Impact Statement

Changes made to the published rule do not necessitate revision to the previously published JIS. The revisions made to 18 NYCRR §§ 900.2 – 900.4, 900.8 – 900.9, 900.12, 900.14 – 900.15, 900.17 – 900.18, 900.23, and 900.27 – 900.28 were made in response to public comments and merely define or clarify proposed text and, in some cases, merely reiterate text contained in the previous version of 18 NYCRR Part 900 that was repealed by this published rule. The revisions do not materially alter the purpose, meaning, or effect of the enumerated regulatory sections.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The Office of Temporary and Disability Assistance (OTDA) received numerous public comments relative to the proposed regulatory amendments following their publication in the May 8, 2019 issue of the New York State Register. Some salient comments have been summarized below and all comments have been duly considered in an assessment of public comments posted at the following OTDA website: <http://otda.ny.gov/legal/regulatory-activities.asp>.

OTDA received comments regarding the use of pronouns that may be invalidating to transgender, gender-nonconforming, and non-binary persons, and asserting that women are not the only persons who can become pregnant. OTDA has revised the proposed regulation to use appropriate pronouns and to refer to "pregnant persons" rather than "pregnant women."

OTDA received comments regarding the scope of the proposed regulatory revisions including requests that: (1) proposed § 900.1 be revised to clarify that the proposed regulations apply only to shelters for which a social services district [district] seeks reimbursement from State or State-administered grants or funds for costs incurred for shelter and services to recipients of temporary housing assistance (THA); and (2) facilities that have been operating as uncertified shelters, such as cluster-site shelters and commercial hotels and motels used primarily to provide shelter to THA recipients should be excluded from the scope of proposed Part 900 when the district is in the process of phasing out use of the facilities. The proposed regulations will not be applicable to facilities that are not reimbursed from State or State-administered funds and are not used to place recipients of THA. However, OTDA believes that the suggested revision to proposed § 900.1 could exclude some shelters that OTDA is charged with regulating. Where a district is phasing out the use of an uncertified shelter or a commercial hotel or motel used primarily to place THA recipients, the district should consult with OTDA and request a waiver of the requirement that it submit an operational plan, and submit a closure plan pursuant to proposed § 900.5 to the extent necessary. Accordingly, OTDA disagrees that the suggested regulatory revisions are necessary.

OTDA received comments requesting that the proposed regulations be revised to clarify that families housed in "nontraditional" shelters such as cluster sites, scatter sites, and hotels/motels, have the same fair hearing rights as THA recipients placed in traditional shelter facilities. 18 NYCRR § 358-3.1(b)(3) and 18 NYCRR § 352.35(h) provide that a family or family member has a right to a fair hearing to challenge, among other things, the denial or discontinuance of THA. Fair hearing rights therefore will continue to be available to families housed in nontraditional shelters when their THA is denied or discontinued. OTDA believes that scatter-site and cluster-site shelters would fall within the definition of "shelter for families" set forth in proposed § 900.2(d) and are more appropriately addressed in administrative guidance. OTDA therefore disagrees that regulatory revisions are necessary.

OTDA received comments regarding the requirement that security plans be included in each facility's operational plan, including objections that the requirement would prevent non-profit shelter providers from operating their facilities as they deem appropriate, and that the proposed requirement for residents' incoming mail to be scanned or x-rayed is a heavy-handed policing measure that is carceral and will impede shelters' efforts to connect with residents. Proposed § 900.3(c)(3) requires that a security plan detail the measures taken to provide security and to help ensure the physical safety of shelter residents and staff. OTDA does not consider the proposed regulatory amendments to be overly prescriptive and asserts that they will allow shelter operators and districts flexibility to develop reasonable facility security plans based on their direct knowledge of the facilities and the specific populations they serve. Moreover, proposed § 900.3(c)(3)

does not require shelter operators to scan or x-ray incoming resident mail. Rather, it requires that the security plan portion of a facility's operational plan to describe, among other things, precautions taken to help ensure that incoming resident mail does not contain contraband that could pose a threat to the security of the facility or to the health and safety of residents and staff. OTDA believes that the use of such technology would be appropriate in some circumstances.

OTDA received comments suggesting that the proposed regulations should allow for the reimbursement of shelters opened on an emergency basis. If there is an emergency need for additional shelter capacity within a district and the district opens a new facility on an expedited basis, reimbursement would be available from the date on which a district submits a proposed operational plan for the new facility pursuant to proposed § 900.3(i). OTDA therefore disagrees that the suggested regulatory revisions are necessary.

OTDA received a comment requesting that the proposed regulations be revised to require that shelter residents be notified of an impending closure of the shelter in which they reside so they would have adequate time to prepare for the transfer. Proposed § 900.5 requires a district to submit a closure plan to OTDA for approval before a shelter closes, and the closure plan must address the procedure and timetable for providing residents with advance notice of the closure and assisting residents in transferring to appropriate alternative facilities. Consequently, OTDA asserts that the suggested regulatory revision is unnecessary.

OTDA received comments requesting that the regulations be revised to indicate that, where requirements of proposed Part 900 conflict with State and local laws, State and local laws would govern. OTDA disagrees with this comment. Where such a conflict exists, the district should bring the conflict to the attention of OTDA and request a waiver of the applicable Part 900 provision to the extent necessary.

OTDA received a comment suggesting that the proposed regulations be revised to provide that a homeless family applying to a district for THA must be provided with emergency shelter on a temporary, interim basis while awaiting OTDA review of their application because "in New York State, families have a right to shelter." There is no "right to shelter" outside of New York City, and Social Services Law (SSL) § 133 requires that if an applicant for THA is in immediate need, emergency needs assistance or care shall be granted pending completion of an investigation. Therefore, OTDA asserts that the suggested regulatory revision is unnecessary.

OTDA received comments suggesting that proposed § 900.9(d) violates the settlement agreement in *Butler v. City of New York*, US Dist Ct, SD NY, 15-CV-3783, Sweet, J., 2017. Proposed § 900.9(d) does not address the obligation to provide reasonable accommodations under the *Butler* settlement, which is binding only upon the parties to that litigation. Rather, proposed § 900.9(d) addresses the requirement that an applicant for THA cooperate in and complete an assessment of the applicant's housing and housing-related public assistance and care needs pursuant to section 18 NYCRR § 352.35 in order to remain eligible for THA, except where the applicant is unable to cooperate in and complete an assessment due to a physical or mental impairment. In view of this comment, OTDA nevertheless is revising the proposed rule to clarify that an individual with a physical or mental impairment that is known to or apparent to shelter or intake staff shall not be required to provide documentation of such physical or mental impairment.

OTDA received a comment requesting that the proposed regulations continue to require that applicants for admission to a shelter for families receive "preliminary health examinations" conducted by qualified medical personnel. Proposed § 900.9(e) requires a preliminary health assessment of a family being admitted into shelter to screen for general health issues and communicable diseases and to verify pregnancy. To clarify that the required health assessment is not intended to be a physical examination conducted by qualified medical personnel, and instead may be conducted by district intake staff, OTDA is revising proposed § 900.9(e) to reference "preliminary health screening" instead of "preliminary health assessment." OTDA intends to issue administrative guidance providing additional detail regarding this process.

OTDA received comments suggesting that: (1) individuals who suffer from mental or physical disabilities should not be excluded from shelters; (2) districts cannot be prohibited from placing those with a mental or physical condition that "may" make the placement inappropriate or cause a danger, as this will exclude those who can be safely provided with shelter; and (3) the "comfort of other residents" should not be a reason to exclude an applicant for THA from shelter. OTDA disagrees with these comments. Proposed § 900.9(f) addresses the appropriateness of the placement of THA recipients in shelters, and not eligibility for THA generally. Proposed § 900.9(g) requires that when a family cannot be referred to a shelter for families for any of the reasons set forth in proposed § 900.9(f) the district must ensure that action is taken which is appropriate to the health, safety and needs of the family, and such action may include referral to an appropriate shelter or a commercial hotel or motel where the family's pres-

ence would be less apt to have an impact on the health, safety, welfare, care or comfort of other residents.

OTDA received comments regarding proposed § 900.11, which obligates shelter residents to contribute available income to the costs of their care, suggesting that the proposed regulation be revised to provide that homeless persons should not be required to pay for temporary shelter and should not be removed from shelter on account of an inability or failure to pay. Proposed § 900.11 makes the payment of facility charges contingent upon the shelter resident having available income pursuant to the budgeting rules set forth in SSL § 131-a and 18 NYCRR, Part 352. If a resident has no available income, they would not be obligated to pay facility charges. Accordingly, OTDA asserts that the requested revision is unnecessary.

OTDA received comments suggesting that proposed § 900.15 be revised to clarify that administrative transfers may be used only in emergency circumstances. While OTDA does not use the term "administrative transfer," in view of these comments, it has revised proposed § 900.15(b) to clarify that a resident of any shelter for adults, small-capacity shelter, or shelter for adult families may be transferred absent 48 hours advanced written notice where a delay would pose a risk to the health or safety of such individual or adult family, or to others in the facility.

OTDA received comments regarding proposed § 900.12, which sets forth requirements relating to resident rules and rights. One comment asserted that shelter residents who are ineligible to receive public assistance benefits based on their immigration status should not be required to apply for benefits as a condition to remaining in shelter. In view of this comment, OTDA has revised proposed § 900.12 to clarify that residents must be required to apply for public benefits only to the extent that they are eligible to receive such benefits under 18 NYCRR § 349.3.

OTDA received comments regarding proposed § 900.25 suggesting that OTDA not be authorized to withhold reimbursement from a district for all district expenditures related to the provision of shelter or services to recipients of THA. OTDA disagrees with these comments. OTDA already is authorized under SSL § 20(3)(e) "to withhold or deny state reimbursement, in whole or in part, from or to any district that fails to comply with law, rules or regulations of the department relating to public assistance and care or the administration thereof." Proposed § 900.25(c) is consistent with SSL § 20(3)(e) and affords OTDA discretion to determine the amount of reimbursement subject to withholding when a district and a shelter for adults, a small-capacity shelter, or a shelter for adult families located within the district fails to address violations in timely fashion.

OTDA received a comment requesting clarification regarding the "special needs allowance" addressed in proposed § 900.28. In view of this comment, OTDA revised proposed § 900.2 by restoring text from extant 18 NYCRR § 900.17 for clarification.

Workers' Compensation Board

NOTICE OF ADOPTION

Medical Fee Schedules

I.D. No. WCB-27-19-00005-A

Filing No. 1060

Filing Date: 2019-11-26

Effective Date: 2020-01-01

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

Action taken: Amendment of Part 333, sections 301.3, 329-1.3, 348.2; addition of Subpart 329-4 to Title 12 NYCRR.

Statutory authority: Workers' Compensation Law, sections 13, 117 and 141

Subject: Medical Fee Schedules.

Purpose: Add new providers to the fee schedules.

Text of final rule: Section 329-1.3 of Title 12 NYCRR is hereby amended to read as follows:

(a) The medical fee schedule for medical[, physical therapy and occupational therapy] services shall be the Official New York Workers' Compensation Medical Fee Schedule, updated [December 26, 2018] *December 11, 2019*, prepared by the board and published by OptumInsight, which is herein incorporated by reference.

(b) The Official New York Workers' Compensation Medical Fee Schedule incorporated by reference herein may be examined at the office of the

Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231, the Legislative Library, the libraries of the New York State Supreme Court, and the district offices of the board. Copies may be purchased from OptumInsight, by writing to Official New York Workers' Compensation Fee Schedule, PO Box 88050, Chicago, IL 60680-9920; by telephone at 1-800-464-3649, option 1; or online at www.optum360coding.com keyword New York or <https://www.optum360coding.com/Product/40508/>.

A new part 329-4 is hereby added to read as follows:

Part 329-4 Acupuncture and Physical Therapy and Occupational Therapy Fee Schedule

§ 329-4.1 Application

(a) The fee schedule applicable to acupuncture services shall be the acupuncture fee schedule in effect on the date on which the acupuncture services were rendered, regardless of the date of accident.

(b) The fee schedule applicable to physical therapy and occupational therapy services shall be the physical therapy and occupational therapy fee schedule in effect on the date on which the physical therapy or occupational therapy services were rendered, regardless of the date of accident.

§ 329-4.2 Acupuncture and physical therapy and occupational therapy fee schedule; incorporation by reference

(a) The acupuncture fee schedule for acupuncture services shall be the Official New York Workers' Compensation Acupuncture and Physical Therapy and Occupational Therapy Fee Schedule, created December 11, 2019 prepared by the Board and published by OptumInsight, which is herein incorporated by reference.

(b) The physical therapy and occupational therapy fee schedule for physical therapy and occupational therapy services shall be the Official New York Workers' Compensation Acupuncture and Physical Therapy and Occupational Therapy Fee Schedule, created December 4, 2019, prepared by the Board and published by OptumInsight, which is herein incorporated by reference.

(c) The Official New York Workers' Compensation Acupuncture and Physical Therapy Fee Schedule incorporated by reference herein may be examined at the office of the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231, the Legislative Library, the libraries of the New York State Supreme Court, and the district offices of the Board. Copies may be purchased from OptumInsight, by writing to Official New York Workers' Compensation Fee Schedule, PO Box 88050, Chicago, IL 60680-9920; by telephone at 1-800-464-3649, option 1; or online at www.optum360coding.com keyword New York or <https://www.optum360coding.com/Product/40508/>.

Part 333 of Title 12 NYCRR is hereby amended to read as follows:

§ 333.1 Application

The fee schedule applicable to psychological services shall be the [psychology] behavioral health fee schedule in effect on the date on which the psychological services were rendered, regardless of the date of accident.

§ 333.2 [Psychology] Behavioral Health fee schedule; incorporation by reference

(a) The [psychology] behavioral health fee schedule for psychology services shall be the Official New York Workers' Compensation [Psychology] Behavioral Health Fee Schedule, updated [December 26, 2018] December 11, 2019, prepared by the Board and published by OptumInsight, which is herein incorporated by reference.

(b) The Official New York Workers' Compensation [Psychology] Behavioral Health Fee Schedule incorporated by reference herein may be examined at the office of the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231, the Legislative Library, the libraries of the New York State Supreme Court, and the district offices of the board. Copies may be purchased from OptumInsight, by writing to Official New York Workers' Compensation Fee Schedule, PO Box 88050, Chicago, IL 60680-9920; by telephone at 1-800-464-3641, option 1; or online at www.optum36-coding.com keyword New York or <https://www.optum360coding.com/Product/40508/>.

Section 348.2 of Title 12 NYCRR is hereby amended to read as follows:

(a) The chiropractic fee schedule for chiropractic services shall be the Official New York Workers' Compensation Chiropractic Fee Schedule, updated [December 26, 2018] December 11, 2019, prepared by the Board and published by OptumInsight, which is herein incorporated by reference.

(b) The Official New York Workers' Compensation Chiropractic Fee Schedule incorporated by reference herein may be examined at the office of the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231, the Legislative Library, the libraries of the New York State Supreme Court, and the district offices of the board. Copies may be purchased from OptumInsight, by writing to Official New York Workers' Compensation Fee Schedule, PO Box 88050, Chicago, IL 60680-9920; by telephone at 1-800-464-3649, option 1; or online at www.optum360coding.com keyword New York or <https://www.optum360coding.com/Product/40508/>.

Section 301.3 of Title 12 NYCRR is hereby amended to read as follows:
§ 301.3 Section 301.3. Fees for attendance of chiropractors, nurse practitioner; licensed clinical social workers, and psychologists at hearings

Whenever the attendance of the injured employee's treating or consultant chiropractor, nurse practitioner; licensed clinical social worker, or psychologist at a hearing is required, such chiropractor, nurse practitioner; licensed clinical social worker, or psychologist shall be entitled to an attendance fee of \$350. In instances involving special circumstances, the board may fix a fee in an amount greater than the said sum, such increased fee to be commensurate with the circumstances in the particular case. Where the attendance is pursuant to a subpoena issued by the board, the Workers' Compensation Law judge or any officer of the board so designated by the chair, the attendance fee may be limited to no more than \$70.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 329-1.3, 348.2, Subpart 329-4 and Part 333.

Text of rule and any required statements and analyses may be obtained from: Heather MacMaster, Workers' Compensation Board, Office of General Counsel, 328 State Street, Schenectady, NY 12305, (518) 486-9564, email: regulations@wcb.ny.gov

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

A revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement are not required because the changes made to the last published rule do not necessitate revision to the previously published document. These changes do not affect the meaning of any statements in the document.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The Board received approximately 77 total written comments on the proposed changes. Approximately 10 of these were copies of a form letter regarding acupuncture and approximately 8 were copies of a form letter regarding DME. The Board also received approximately six other form letters with 2-3 copies each, as well as approximately six postcards disagreeing with the proposal with no suggested changes.

Acupuncture

The Board received several copies of a form letter supporting the creation of a new fee schedule and including acupuncturists.

The Board received one comment opining that the proposed acupuncture conversion factors are appropriate.

The form letter and several comments also requested the inclusion and removal of several CPT codes, as well as several comments requesting increased conversion factors and/or reimbursement rates. The Board believes that the codes in the proposal are adequate for services and consistent for Medical Treatment Guidelines. Additionally, the conversion factor for acupuncture is the same as for chiropractors. Accordingly no change has been made in response to these comments.

The Board received several comments requesting inclusion of moxibustion and cupping, as well as comments supporting not allowing these treatments. As these treatments are not recommended in the Medical Treatment Guidelines, they continue to not have a fee associated to them in the fee schedules.

The Board received a number of comments objecting to the requirement that treatment by an acupuncturist may only be upon prescription or referral. This requirement is statutory. Accordingly no change has been made in response to this comment.

Chiropractic

The Board received a comment from an association strongly supporting the proposal, touting its fairness due to universal application of standards to all injured workers and providers.

One comment from an insurance company requested excluding certain codes from the Chiropractic Fee Schedule. Medical treatment and care rendered by a chiropractor must always be consistent with the Medical Treatment Guidelines. Accordingly, no change has been made in response to this comment.

Durable Medical Equipment (DME)

The Board received several comments opining that certified orthotist and prosthetists should be dispensing DME, not physicians and physical therapists. These comments are outside the scope of the changes proposed to the medical fee schedule, which just addresses instances when DME is part of an office visit.

The Board also received several copies of form letters as well as other comments stating that medical providers should not be prescribing and supplying unnecessary DME to patients at a profit and that this should not be allowed. Medical providers will not be able to prescribe or supply DME at a profit. The language in the fee schedules is the same as it has been

earlier versions and requires DME provided at an office visit to be billed by invoice pricing. Therefore, no change has been made to the proposal in response to these comments.

The Board received three copies of a form letter objecting to the references to the DME fee schedule, opining that it is contradictory a DFS decision regarding no-fault. The Board does not have jurisdiction over no-fault and cannot comment on the applicability of its rules to no-fault.

Licensed Clinical Social Workers

The Board received a comment from an association opining that the LCSW reimbursement rate should not be 20% less than a licensed psychologist for the same service. The Board believes this reimbursement rate is appropriate. Accordingly, no change has been made in response to this comment.

Physical Medicine

The Board received two copies of a form letter requesting clarification about why the conversion factor assigned to Physical Medicine was changed, and opining that it should remain the same. The physical medicine conversion factors did not change – PT/OT services by physicians remain the same under the proposal, but there are additional fees and conversion factors for authorized physical therapists and occupational therapists performing these services that are different from physicians. Therefore, no change has been made in response to this form letter.

Physical Therapy and Occupational Therapy

The Board received comments opining that some therapies and modalities that do not overlap with PT modalities should be reimbursable in addition to units of PT. The modalities and therapies in the proposal are consistent with the Medical Treatment Guidelines and the recommendations of the Medical Director's Office, so no change has been made in response to these comments.

One comment suggested that Physical Medicine Ground Rule 3 in the PT/OT fee schedule be changed to add acupuncture and chiropractic to the note for clarification. This clarification has been made in the final version.

The Board received a comment opining that there is a contradiction between the proposed fee schedules and the text of the current fee schedules, because the current fee schedules contain numerous provisions applicable to self-employed PTs/OTs. As the new statute removes the distinction between employed and self-employed OTs and PTs, the Board has removed any extraneous mentions of "self-employed" PTs/OTs.

Ground Rule 2

The Board received several comments and form letters objecting to the proposed change to Ground Rule 2. This change was a typographical error and has been corrected in the final version.

Miscellaneous

The Board received comments expressing concern about the impact of the fee schedules on the no-fault system. The Board does not have jurisdiction over the no-fault system and questions about the no-fault system should be directed to the Department of Financial Services. No change has been made in response to these comments.

The Board received a handful of comments disagreeing with sections of the Medical Fee Schedule(s) that were not addressed in this proposal as they are not related to inclusion of new types of medical providers in the workers' compensation system. Accordingly, no change has been made in response to these comments.

The Board received a comment that requiring treatment reports to be in the electronic format prescribed by the Board increases costs. Prior experience indicates that electronic filing both diminishes costs and increases accuracy. Accordingly, no change has been made to the proposal in response to this comment.

One comment opined that the Board should recognize CRNAs as anesthesia care providers. The types of providers who may treat injured workers is prescribed in statute. Accordingly, any change would need to be made by the legislature.

The Board received one comment opining that an increase in the fee schedule is required to ensure that high quality care is available to all. The Board recently increased the fee schedule in the amendments that became effective 4/1/19, and therefore no change has been made in response to this comment.

The Chair has made the following clarifying changes to the proposal:

- Added dates of the fee schedules as well as referenced the American Medical Association for CPT codes
- Clarified in Foreword that the fee schedule was effective 4/1/19 except where noted
- Deleted references to "self-employed" for PTs and OTs in all fee schedules to conform to the statute
- Deleted references to modifiers NP, PA, AJ in all fee schedules to conform to the statute
- Clarified that DME that is part of an office visit remains in effect until the new DME fee schedule is adopted
- Added "acupuncture and chiropractic" to Physical Medicine Ground Rule 3 in the PT/OT fee schedule

- Removed modifiers GO and GP in the OT/PT Fee Schedule for clarity
 - Corrected rating code updates for modifier 1B and 1D
 - Removed a sentence in Ground Rule 6 in the Acupuncture Fee Schedule referencing a NYS license
 - Added the language from Physical Medicine Ground Rule 6 in the medical fee schedule to the OT/PT Fee Schedule to match (Postoperative Procedures by a Physical Therapist or Occupational Therapist)
 - Added codes 97810, 97811, 97813, and 97814 in the Chiropractic Fee Schedule
 - Clarified that when a patient receives physical medicine procedures, acupuncture, and/or chiropractic modalities from more than one provider, the patient may not receive more than 12.0 RVUs per day per accident or illness from all providers
 - Deleted list of rating codes in the Intro and General Ground Rules of the Medical Fee Schedule and replaced with: "Please refer to the Board's website for a full list of rating codes, <http://wcb.ny.gov/>
 - Deleted "When a physician assistant (PA) or nurse practitioner (NP) or licensed clinical social worker (AJ) bills for services (other than assistant at surgery), state-specific modifiers PA, NP, or HCPCS modifier AJ are used." from Ground Rule 11 of the Medical Fee Schedule
 - Changed sentence in Physical Medicine Ground Rule 9 to read "Physical and occupational therapists employed by physicians must bill separately from the physician-employer" to delete references to self-employed and clarify that they must
 - Deleted "Hospital Affiliated Therapy Services: Billing for hospital affiliated physical and occupational therapy services, whether performed on site or at off site facilities, will be paid at the level of physician-supervised therapy services, when billed under the hospital tax ID number"
 - Removed PT/OT conversion factors from page 10 of the Medical Fee Schedule as PTs/OTs have their own fee schedule with this proposal
 - Clarified the citation in Pharmacy/DME sections of the fee schedules to cite "subdivision 6 of section 6810 of the NYS Education Law"
 - Added nurse practitioners and licensed clinical social workers to the providers who are paid \$350 for testimony
 - Clarified the first sentence in the Physical Medicine Ground Rules (page 60) to add a period after "physician" and delete the rest of the sentence
 - In Physical Medicine Ground Rule 5, changed "sessions/visits" to "RVUs"
 - In Physical Medicine Ground Rule 9, added "using the Acupuncture and Physical and Occupational Therapy Fee Schedule" to the end of the sentence
 - Removed reference to "appropriate modifiers" on page 10 of the Behavioral Health Fee Schedule
 - Corrected the testimony fees to \$350 for nurse practitioners, not \$450 in accordance with the statute
 - Changed the formatting of the conversion factors for Physical Medicine to split into two rows
 - Removed codes 97799, 97169-97172, and 97762 from the PT/OT fee schedule
 - Changed "physician" to "prescribing provider" in general Physical Medicine Ground Rule 14 (C)
 - Added Ground Rule 6 from the Medical Fee Schedule to the PT/OT fee schedule
 - Deleted references to Appendix C-3
 - Corrected a typographical error in the Pathology and Laboratory section of the Medical Fee Schedule to utilize the same language ("at least") from the Non-Acute Pain Medical Treatment Guidelines to clarify and avoid confusion
- The chair has corrected the following minor typographical errors in the proposal:
- Corrected a typographical error in Physical Medicine Ground Rule 2 – reverted to original language
 - Corrected a typographical error removing extraneous hyphens in the Acupuncture Fee Schedule Modifier 25
 - Relettered sections of Ground Rule 4 and surgery Ground Rule 16 for clarity: A. Pharmacy and B. Durable Medical Equipment Fee Schedule
 - Corrected typographical error with extra hyphens in Modifier 25 in the Acupuncture Fee Schedule, as well as bold the heading
 - Fixed typographical error in Pharmacy/DME sections of the fee schedules to add "for" after the first comma
 - Removed new code icon from the PT/OT fee schedule, as the codes themselves are not new
 - In the Acupuncture, Physical Therapy and Occupational Therapy fee schedules, corrected citation to Part 329-4 of Title 12 NYCRR

**HEARINGS SCHEDULED
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
Environmental Conservation, Department of		
ENV-43-19-00006-P	Class I and Class SD waters	Department of Environmental Conservation, Region 2, 4740 21st St., Long Island City, NY—January 8, 2020, 2:00 p.m.
ENV-43-19-00010-P	Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Parts 620, 621 and 624	Department of Environmental Conservation, 625 Broadway, Albany, NY—January 7, 2020, 1:00 p.m.
ENV-48-19-00008-P	Plastic bag reduction, reuse and recycling	Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—January 27, 2020, 1:00 p.m.

ACTION PENDING INDEX

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

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

For additional information concerning any of the proposals

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

Agency code	Issue number	Year published	Serial number	Action Code
AAM	01	12	00001	P

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
AGING, OFFICE FOR THE			
AGE-34-19-00014-P	08/20/20	Limits on Administrative Expenses and Executive Compensation	To bring this rule into compliance with current law in New York State
AGRICULTURE AND MARKETS, DEPARTMENT OF			
AAM-21-19-00002-ERP	05/21/20	Control of the European Cherry Fruit Fly	To help control the spread of the European Cherry Fruit Fly (ECFF), which renders cherries unmarketable if they are infested.
AAM-33-19-00003-P	08/13/20	State aid to districts	To conform Part 363 to S&WCL Sec. 11-a statutory amendments and to make technical amendments.
AAM-43-19-00009-P	10/22/20	Control of the Asian Long Horned Beetle (ALB)	To lift approximately 58 square miles of Asian long horned beetle quarantine in Brooklyn and western Queens
AAM-47-19-00002-P	11/19/20	Golden Nematode (<i>Globodera Rostochiensis</i>) Quarantine	To lift the Golden Nematode quarantine in portions of the Towns of East Hampton and Riverhead in Suffolk County.
ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF			
ASA-39-19-00004-P	09/24/20	Designated services (acupuncture and telepractice)	To identify standards for designation to provide acupuncture or telepractice services
ASA-39-19-00006-P	09/24/20	Children's behavioral health services	To identify addiction treatment services for children and families
ASA-44-19-00002-P	10/29/20	Limits on administrative expenses and executive compensation	To define limits on administrative expenses and executive compensation in accordance with state law and Executive Order 38

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
AUDIT AND CONTROL, DEPARTMENT OF			
AAC-49-19-00002-P	12/03/20	Relates to interest rate of estimated earnings; filing of documents; maximum loan amount; and electronic signatures	Update and conform regulations relating to interest; filing of documents; maximum loan amount; and electronic signatures
CHILDREN AND FAMILY SERVICES, OFFICE OF			
CFS-51-18-00010-P	12/19/19	Residential and non-residential services to victims of domestic violence	To conform the existing regulations to comply with state and federal laws regarding services to victims of domestic violence
CFS-36-19-00004-ERP	09/03/20	Removal of non-medical exemption from vaccination regulations for child day care programs	To remove the non-medical exemption from vaccination regulations for child day care programs
CFS-39-19-00005-EP	09/24/20	Implement federal statutory requirements to include enhanced background checks, annual inspections, annual training and safety.	Implement federal statutory requirements to include enhanced background checks, annual inspections, annual training and safety.
CFS-39-19-00007-EP	09/24/20	Implement statutory requirements to include enhanced background checks, annual inspections, annual training and safety.	Implement statutory requirements to include enhanced background checks, annual inspections, annual training and safety.
CFS-42-19-00002-P	10/15/20	Permissible disclosure of records maintained by OCFS.	To amend existing regulations regarding the permissible disclosure of records by OCFS.
CFS-46-19-00002-P	11/12/20	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-49-19-00001-P	12/03/20	Limits on executive compensation	To remove the soft cap limit on executive compensation
CIVIL SERVICE, DEPARTMENT OF			
CVS-06-19-00001-P	02/06/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-25-19-00004-P	06/18/20	Jurisdictional Classification	To delete positions from the non-competitive class.
CVS-25-19-00006-P	06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-29-19-00002-P	07/16/20	Jurisdictional Classification	To classify a position in the exempt class and to delete positions from and classify a position in the non-competitive class
CVS-29-19-00013-P	07/16/20	Jurisdictional Classification	To classify positions in the exempt class and to delete positions from the non-competitive class
CVS-34-19-00002-P	08/20/20	Jurisdictional Classification	To classify positions in the exempt and non-competitive classes.
CVS-34-19-00003-P	08/20/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-34-19-00004-P	08/20/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-34-19-00005-P	08/20/20	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-34-19-00006-P	08/20/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-34-19-00007-P	08/20/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-34-19-00008-P	08/20/20	Jurisdictional Classification	To delete a subheading and to delete a position in the non-competitive class
CVS-34-19-00009-P	08/20/20	Jurisdictional Classification	To delete a position from and classify a position in the non-competitive class
CVS-34-19-00010-P	08/20/20	Jurisdictional Classification	To classify positions in the exempt and non-competitive classes
CVS-34-19-00011-P	08/20/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-42-19-00009-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-42-19-00010-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-42-19-00011-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00012-P	10/15/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-42-19-00013-P	10/15/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-42-19-00014-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00015-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00016-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00017-P	10/15/20	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-42-19-00018-P	10/15/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-42-19-00019-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00020-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00021-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00022-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00023-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00024-P	10/15/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-42-19-00025-P	10/15/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt and non-competitive classes
CVS-42-19-00026-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt class and to delete a position from and classify positions in the non-competitive class
CVS-42-19-00027-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt and non-competitive classes
CVS-45-19-00003-P	11/05/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-45-19-00004-P	11/05/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-45-19-00005-P	11/05/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class
CVS-45-19-00006-P	11/05/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-45-19-00007-P	11/05/20	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-45-19-00008-P	11/05/20	Jurisdictional Classification	To delete positions from and classify a position in the labor class
CVS-45-19-00009-P	11/05/20	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CORRECTION, STATE COMMISSION OF			
CMC-35-19-00002-P	08/27/20	Disciplinary and administrative segregation of inmates in special housing.	Prohibit the segregation of vulnerable inmates, and to standardize allowable uses and duration of special housing segregation.
CMC-41-19-00002-EP	10/08/20	Necessary age for admission to an adult lockup	To ensure that individuals under 18 years old are not admitted to an adult lockup
CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF			
CCS-05-19-00006-RP	01/30/20	Standard Conditions of Release Parole Revocation Dispositions	Establish standard conditions of release and provide a workable structure for applying appropriate parole revocation penalties
CCS-21-19-00014-P	05/21/20	Adolescent Offender Facilities	To reclassify two existing correctional facilities to adolescent offender facilities.
CCS-35-19-00001-P	08/27/20	Special Housing Units	Revisions have been made in order to be in compliance with new laws regarding special housing units and solitary confinement use
CCS-50-19-00002-P	12/10/20	Raise the Age	To update each correctional facility's regulation as a direct result of the Raise the Age legislation

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CRIMINAL JUSTICE SERVICES, DIVISION OF			
CJS-20-19-00003-P	05/14/20	Certified Instructors and Course Directors	Establish/maintain effective procedures governing certified instructors and course directors who deliver MPTC-approved courses
CJS-30-19-00010-EP	07/23/20	Use of Force	Set forth use of force reporting and recordkeeping procedures
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
EDV-43-19-00001-P	10/22/20	Empire State Commercial Production Credit Program	Create administrative procedures for all components of the Empire State Commercial Production Credit Program
EDUCATION DEPARTMENT			
*EDU-40-18-00010-RP	01/01/20	Professional development plans and other related requirements for school districts and BOCES	To improve the quality of teaching and learning for teachers and leaders for professional growth
EDU-52-18-00005-P	12/26/19	Annual professional performance reviews.	To extend the transition period for an additional year (until 2019-2020).
EDU-05-19-00008-RP	01/30/20	Protecting Personally Identifiable Information	To implement the provisions of Education Law section 2-d
EDU-17-19-00008-P	04/23/20	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	07/02/20	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-31-19-00009-EP	07/30/20	Instructional Time for State Aid purposes	To provide school districts with additional flexibility when establishing their school calendars
EDU-39-19-00008-P	09/24/20	The Education, Experience, Examination and Endorsement Requirements for Licensure as an Architect	To more closely align New York's requirements for architects with national standards and to streamline the endorsement process.
EDU-39-19-00009-P	09/24/20	Requirements for Licensure as an Architect	To more closely align the Commissioner's Regulations with national standards for licensure as an architect.
EDU-39-19-00012-P	09/24/20	Building Condition Surveys and Visual and Periodic Inspections of Public School Buildings	To align the Commissioner's Regulations with amendments made to Education Law sections 409-9d, 409-e, and 3641.
EDU-43-19-00011-P	10/22/20	Addition of Subject Ares to the Limited Extension and SOCE for Certain Teachers of Students with Disabilities	To enable more qualified teachers of students with disabilities to seek the limited extension and SOCE
EDU-43-19-00012-EP	10/22/20	Annual Professional Performance Reviews of Classroom Teachers and Building Principals	Necessary to implement part YYY of chapter 59 of the Laws of 2019
EDU-43-19-00013-P	10/22/20	Requirements for Chiropractic Education Programs and Education Requirements for Licensure as a Chiropractor	To conform educational requirements for the profession of chiropractic to the national preprofessional education standards

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
EDU-47-19-00005-P	11/19/20	Physical Education Requirements for a Diploma and Transfer Credits for Students Earning Credit in an Educational Program.	To implement Raise the Age legislation pursuant to Part WWW of Chapter 59 of the Laws of 2017.
EDU-47-19-00006-EP	11/19/20	Permit physicians licensed in another state or territory to provide medical services to athletes and team personnel in New York	To align the Regulations of the Commissioner with Chapter 519 of the laws of 2018 and Chapter 199 of the Laws of 2019.
EDU-47-19-00007-EP	11/19/20	Profession of Registered Dental Assisting.	To conform the Regulations of the Commissioner with Chapter 390 of the laws of 2019.
ELECTIONS, STATE BOARD OF			
SBE-22-19-00003-EP	05/28/20	Process for Early Voting	Establishing Process for Early Voting
SBE-35-19-00003-EP	08/27/20	Ballot Accountability Practices	Establishes additional ballot accountability procedures
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-09-19-00015-RP	05/13/20	Set nitrogen oxide (NOx) emission rate limits for simple cycle and regenerative combustion turbines	Reduction of nitrogen oxide (NOx) emissions from simple cycle and regenerative combustion turbines
ENV-10-19-00003-P	05/13/20	Regulate volatile organic compounds (VOCs) in architectural and industrial maintenance (AIM) coatings	To set new and lower VOC limits for certain coating categories. Update categories and methods
ENV-18-19-00006-EP	04/30/20	Regulations governing commercial fishing and harvest of scup.	To revise regulations concerning the commercial harvest of scup in New York State waters.
ENV-24-19-00002-P	08/18/20	Hazardous Waste Management Regulations (FedReg5)	To amend regulations pertaining to hazardous waste management
ENV-27-19-00001-P	07/02/20	Feeding of wild deer and moose, use of 4-Poster™ devices.	To prohibit feeding of wild deer and moose, to define conditions for use of 4-Poster™ devices.
ENV-27-19-00003-P	07/02/20	Black Bear hunting.	Expand bear hunting opportunities in Wildlife Management Unit 4W to reduce bear abundance.
ENV-36-19-00001-P	11/07/20	Waste Fuels	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and incorporate federal standards.
ENV-36-19-00002-P	11/07/20	New Aftermarket Catalytic Converter (AMCC) standards	Prohibit sale of federal AMCCs and update existing AMCC record keeping and reporting requirements
ENV-36-19-00003-P	11/07/20	Stationary Combustion Installations	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and lower emission standards.
ENV-36-19-00014-P	11/19/20	Distributed generation sources located in New York City, Long Island and Westchester and Rockland counties	Establish emission control requirements for sources used in demand response programs or as price-responsive generation sources

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-37-19-00003-P	09/10/20	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-38-19-00001-P	09/17/20	Animals dangerous to health or welfare	To expand the list of animals which pose a risk to health or welfare of the people of the state or indigenous fish and wildlife
ENV-39-19-00003-P	12/05/20	Part 219 applies to various types of incinerators and crematories operated in New York State.	This rule establishes emission limits and operating requirements for various types of incinerators.
ENV-42-19-00003-P	10/15/20	Amendments to Great Lakes sportfishery regulations in 6NYCRR Part 10	Proposed amendments are intended to improve high quality sportfisheries and associated economic benefits
ENV-43-19-00006-P	01/07/21	Class I and Class SD waters	To clarify best usages of Class I and SD waters were/are "secondary contact recreation and fishing" and "fishing," respectively
ENV-43-19-00010-P	01/06/21	Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Part 624, Part 621 and Part 620	To incorporate procedural and legal developments, develop consistency & reflect current practice in DEC hearings
ENV-48-19-00008-P	01/26/21	Plastic Bag Reduction, Reuse and Recycling	The objectives of this rulemaking are to provide clarity to Titles 27 and 28 so that they can both be effectively implemented
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-18-19-00005-P	04/30/20	Servicing Mortgage Loans: Business Conduct Rules	Sets standards governing the servicing of residential home mortgage loans.
DFS-33-19-00004-P	08/13/20	Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure	To set forth minimum standards for the content of health insurance identification cards.
DFS-39-19-00002-P	09/24/20	Licensed cashers of checks; fees	To increase the maximum fee that may be charged by licensed check cashers
DFS-43-19-00017-P	10/22/20	INDEPENDENT DISPUTE RESOLUTION FOR EMERGENCY SERVICES AND SURPRISE BILLS	To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided
DFS-44-19-00010-P	10/29/20	Superintendent's Regulations: Basic Banking Accounts	To amend the requirements of basic banking accounts in conformity with Chapter 260 of the Laws of 2019
DFS-44-19-00011-P	10/29/20	Principle-Based Reserving	To prescribe minimum principle-based valuation standards
DFS-47-19-00003-P	11/19/20	Banking Division Assessments	Set forth the basis for allocating costs and expenses attributable to the operation of the Banking Division for FSL assessments

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
FINANCIAL SERVICES, DEPARTMENT OF			
DFS-48-19-00002-P	11/26/20	SUPERINTENDENT’S REGULATIONS: INFORMATION SUBJECT TO CONFIDENTIAL TREATMENT	Provide rules concerning publication or disclosure of information subject to confidential treatment
GAMING COMMISSION, NEW YORK STATE			
SGC-40-19-00011-P	10/01/20	Remove obsolete reference to safety vest weight	To promote the integrity of racing and derive a reasonable return for government
SGC-40-19-00012-P	10/01/20	Add racetrack operator to terms defined in Thoroughbred rules	To promote the integrity of racing and derive a reasonable return for government
SGC-42-19-00004-P	10/15/20	Add racetrack operator to terms defined in harness racing rules	To promote the integrity of racing and derive a reasonable return for government
GENERAL SERVICES, OFFICE OF			
GNS-40-19-00005-P	10/01/20	Facility Use	To add “plastic knuckles” and remove “gravity knife” from the definition of “deadly weapon”
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-51-18-00018-P	12/19/19	New requirements for Annual Registration of Licensed Home Care Services Agencies	To amend the regulations for licensed home care services agencies for the annual registration requirements of the agency
HLT-30-19-00006-P	07/23/20	Maximum Contaminant Levels (MCLs)	Incorporating MCLs for perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS) and 1,4-dioxane.
HLT-36-19-00005-EP	09/03/20	School Immunization Requirements	To be consistent with national immunization regulations and guidelines and to define “may be detrimental to the child’s health”.
HLT-36-19-00006-P	09/03/20	Limits on Executive Compensation	Removes “Soft Cap” prohibition on covered executive salaries.
HLT-40-19-00002-EP	10/01/20	Required Signage Warning Against the Dangers of Illegal Products	To require sellers of legal e-liquids and e-cigarette products to post warning signs regarding illegal products
HLT-40-19-00004-P	10/01/20	Drug Take Back	To implement the State’s drug take back program to provide for the safe disposal of drugs
HLT-43-19-00005-P	10/22/20	Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness	Delineate a clear pre-admissions process for determining whether a prospective resident is a person with serious mental illness
HLT-45-19-00001-P	11/05/20	Medical Use of Marihuana	To allow NYS hemp growers to sell hemp-derived cannabidiol to the Registered Organizations to reduce the cost of manufacturing.
HLT-45-19-00002-P	11/05/20	Licensed Home Care Services Agencies (LHCSAs)	To implement changes to public need & financial feasibility review for applications for HCSAs licensure & change of ownership.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HEALTH, DEPARTMENT OF			
HLT-46-19-00003-P	11/12/20	Tanning Facilities	To prohibit the use of indoor tanning facilities by individuals less than 18 years of age
HLT-47-19-00008-P	11/19/20	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-47-19-00009-P	11/19/20	Empire Clinical Research Investigator Program (ECRIP)	To expand the types of & change the time frames for past research grants that qualify staff to supervise the ECRIP project.
HLT-48-19-00003-EP	11/26/20	Secondary Syringe Exchange in New York State	To reduce the spread of blood-borne pathogens, to reduce or eliminate other harms associated with contaminated syringes.
HOUSING AND COMMUNITY RENEWAL, DIVISION OF			
HCR-21-19-00019-P	07/21/20	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits.
HCR-48-19-00001-P	11/26/20	The subject of these amendments is the change in the location of DHCR's Office Of Legal Affairs (OLA).	The purpose is to inform the public of the change in DHCR's Office of Legal Affairs' location.
HOUSING FINANCE AGENCY			
HFA-21-19-00020-P	07/21/20	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits
HUMAN RIGHTS, DIVISION OF			
HRT-27-19-00002-P	07/02/20	Gender Identity or Expression Discrimination	To conform the Division's regulations with Executive Law as amended by Chapter 8 of the Laws of New York 2019.
LABOR, DEPARTMENT OF			
LAB-46-19-00004-P	11/12/20	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
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LONG ISLAND POWER AUTHORITY			
*LPA-37-18-00013-P	..... exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	..... exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment.
*LPA-37-18-00018-P	..... exempt	The treatment of energy storage in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap.
LPA-37-19-00005-P	..... exempt	The Authority's annual budget, as reflected in the rates and charges in the Tariff for Electric Service	To update the Tariff to implement the Authority's annual budget and corresponding rate adjustments
LPA-37-19-00006-P	..... exempt	The modification of the SGIP to clarify and reflect updates to the State's Standardized Interconnection Requirements (SIR)	To be consistent with the State's SIR and related orders
LPA-37-19-00007-P	..... exempt	The standard rates for pole attachments of the Authority's Tariff for Electric Service	To update the Authority's standard rates for pole attachments in accordance with recent Public Service Commission action
LPA-47-19-00017-P	..... exempt	VDER, net metering, and community distributed generation	To update the Authority's tariff for consistency with the Public Service Commission, Department of Public Service, and CLCPA.
MENTAL HEALTH, OFFICE OF			
OMH-43-19-00008-P	..... 10/22/20	Personalized Recovery Oriented Services (PROS)	To Allow PROS participants to receive Clinic Treatment from an Article 31 Clinic operated by the same agency
OMH-46-19-00005-P	..... 11/12/20	Definition of "Case record, clinical record, medical record or patient record"	To clarify that the agency does not consider the provision to apply to the definition of "record" as set forth in MHL 9.01
OMH-47-19-00001-P	..... 11/19/20	Limits on Executive Compensation	To eliminate "soft cap" restrictions on compensation.
METROPOLITAN TRANSPORTATION AGENCY			
MTA-23-19-00006-EP	..... 06/04/20	Debarment of contractors	To comply with Public Authorities Law, section 1279-h, which requires the MTA to establish a debarment process for contractors
NIAGARA FALLS WATER BOARD			
*NFW-04-13-00004-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
NFW-01-19-00019-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

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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-37-19-00001-P	..... 09/10/20	Listing of state parks, parkways, recreation facilities and historic sites	To update the listing of state parks, parkways, recreation facilities and historic sites
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
PAS-42-19-00008-P	..... exempt	Rates for the Sale of Power and Energy	To align rates and costs
PUBLIC SERVICE COMMISSION			
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*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

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PUBLIC SERVICE COMMISSION			
*PSC-10-04-00005-P exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices

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PUBLIC SERVICE COMMISSION			
*PSC-02-05-00006-P exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	..... exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	..... exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	..... exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p.
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*PSC-34-09-00017-P	..... exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	..... exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	..... exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	..... exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	..... exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	..... exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*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

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PUBLIC SERVICE COMMISSION			
*PSC-24-10-00009-P exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-36-10-00010-P	..... exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	..... exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	..... exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order.	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing.
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	..... exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements
*PSC-45-12-00008-P	..... exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	..... exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	..... exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	..... exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines.	To help ensure efficient and economic expansion of the natural gas system as appropriate.
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island.	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.
*PSC-45-13-00022-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines.	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity.	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	..... exempt	Conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.	Consideration of conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	..... exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties.	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties.
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336.	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets.	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator.	To consider waiver of RG&E's tariffed definition of emergency generator.
*PSC-26-14-00020-P	..... exempt	New electric utility backup service tariffs and standards for interconnection may be adopted.	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established.	To balance the need for the information necessary to support a robust market with customer privacy concerns.
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets.	To consider the Comcast and Charter transfer of systems, franchise and assets.
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter.	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive,Albany, NY.
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison's low income program to include Medicaid recipients.	Whether to expand Con Edison's low income program to include Medicaid recipients.
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*PSC-40-14-00008-P	..... exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.
*PSC-40-14-00009-P	..... exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality.	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1.
*PSC-40-14-00011-P	..... exempt	Late Payment Charge.	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-40-14-00015-P	..... exempt	Late Payment Charge.	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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-08-15-00009-P	..... exempt	Approval of a surcharge.	To allow or disallow Emerald Green Lake Louise Marie Water Company, Inc. for a surcharge.
*PSC-08-15-00010-P	..... exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.	To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program.
*PSC-10-15-00007-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	..... exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*PSC-13-15-00024-P	..... exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking's request to recover a shortfall in earnings
*PSC-13-15-00026-P	..... exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*PSC-13-15-00027-P	..... exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program.	To consider approval of remote net metering of a demonstration community net metering program.
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project.	To consider approval of remote net metering of a Community Solar Demonstration Project.
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*PSC-40-15-00014-P	..... exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	..... exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.
*PSC-44-15-00028-P	..... exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation.	Consider Whitepaper on Implementing Lightened Ratemaking Regulation.
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	..... exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.
*PSC-06-16-00013-P	..... exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs.	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs.
*PSC-06-16-00014-P	..... exempt	MEGA's proposed demonstration CCA program.	To consider MEGA's proposed demonstration CCA program.
*PSC-14-16-00008-P	..... exempt	Resetting retail markets for ESCO mass market customers.	To ensure consumer protections with respect to residential and small non-residential ESCO customers.
*PSC-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00014-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00015-P	..... exempt	Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process.	To ensure consumer protections for ESCO customers.
*PSC-18-16-00016-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00018-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-20-16-00008-P	..... exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).
*PSC-20-16-00010-P	..... exempt	Deferral and recovery of incremental expense.	To consider deferring costs of conducting leak survey and repairs for subsequent recovery.
*PSC-20-16-00011-P	..... exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study.	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device.
*PSC-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-25-16-00025-P	..... exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.
*PSC-25-16-00026-P	..... exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications.	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.
*PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
*PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs.	To consider participation of NYPA customers in surcharge-funded clean energy programs.
*PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks.	To evaluate proposed methodologies of benefit-cost evaluation.
*PSC-33-16-00001-EP	..... exempt	Use of escrow funds for repairs.	To authorize the use of escrow account funds for repairs.
*PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility.	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges.
*PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service.	To consider the recovery of costs for installation of electric service.
*PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements.
*PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for RG&E.
*PSC-02-17-00012-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for NYSEG.
*PSC-14-17-00017-P	..... exempt	Petition for Full-Scale Deployment of AMI and to Establish an AMI Surcharge.	To consider the petition for Full-Scale Deployment of AMI and to Establish an AMI Surcharge.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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-23-17-00022-P	..... exempt	Changes in regulation of ESCOs, including restrictions on or prohibitions of marketing or offering certain products or services.	To ensure consumer protection for ESCO customers.
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry.	Improved data access.
*PSC-26-17-00005-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York.
*PSC-34-17-00011-P	..... exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver
*PSC-37-17-00005-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives.	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms.
*PSC-37-17-00006-P	..... exempt	Petition to submeter electricity.	To consider the petition of ACC OP (Park Point SU) LLC to submeter electricity at 417 Comstock Avenue, Syracuse, New York.
*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-40-17-00006-P	..... exempt	The aggregation of electric service for the Empire State Plaza and the Sheridan Avenue Steam Plant	To consider a waiver of National Grid's tariff provision requiring all electric delivery points to be on the same premises

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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-50-17-00022-P	..... exempt	Data protection rules for DER suppliers.	To determine the appropriate regulatory framework for DER suppliers.
*PSC-51-17-00011-P	..... exempt	Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project.	To consider Con Edison's petition for the recovery of costs for implementing the JFK Project.
*PSC-04-18-00005-P	..... exempt	Notice of intent to submeter electricity.	To consider the notice of intent of Montante/Morgan Gates Circle LLC to submeter electricity.
*PSC-05-18-00004-P	..... exempt	Lexington Power's ZEC compliance obligation.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-06-18-00012-P	..... exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria
*PSC-06-18-00017-P	..... exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity
*PSC-07-18-00015-P	..... exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades.	To consider AEC's petition requesting resolution of their billing dispute with National Grid.
*PSC-11-18-00004-P	..... exempt	New York State Lifeline Program.	To consider TracFone's petition seeking approval to participate in Lifeline.
*PSC-13-18-00015-P	..... exempt	Eligibility of an ESCO to market to and enroll residential customers.	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.
*PSC-13-18-00023-P	..... exempt	Reconciliation of property taxes.	To consider NYAW's request to reconcile property taxes.
*PSC-14-18-00006-P	..... exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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 Aspiry 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-34-18-00011-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-34-18-00015-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and energy efficiency protections are in place.
*PSC-34-18-00016-P	..... exempt	Deferral of pre-staging and mobilization storm costs.	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs.
*PSC-35-18-00003-P	..... exempt	Con Edison's 2018 DSIP and BCA Handbook Update.	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00005-P	..... exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update.	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers.
*PSC-35-18-00006-P	..... exempt	National Grid's 2018 DSIP and BCA Handbook Update.	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00008-P	..... exempt	Central Hudson's 2018 DSIP and BCA Handbook Update.	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00010-P	..... exempt	O&R's 2018 DSIP and BCA Handbook Update.	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider.
*PSC-39-18-00005-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-40-18-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018.
*PSC-40-18-00015-P	..... exempt	Proposed rate filing to increase annual revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-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-45-18-00004-P	..... exempt	Proposed transfer of two natural gas pipeline operating companies, and for lightened and incidental regulation	To consider transfer if there is no market power or ratepayer harm, incidental regulation, and continuing lightened regulation
*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-01-19-00004-P	..... exempt	Advanced Metering Infrastructure.	To determine whether Niagara Mohawk Power Corporation d/b/a National Grid should implement advanced metering infrastructure.
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-01-19-00014-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
PSC-01-19-00015-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
PSC-01-19-00016-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
PSC-02-19-00014-P	..... exempt	Petition for use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-03-19-00002-P	..... exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings.	To reduce damage to underground utility facilities by requiring certain training and approving training curricula.
PSC-04-19-00004-P	..... exempt	Con Edison's petition for the Gas Innovation Program and associated budget.	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals.
PSC-04-19-00011-P	..... exempt	Update of revenue targets.	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues.
PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program.	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements.	To insure the provision of safe and adequate energy service at just and reasonable rates.
PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
PSC-09-19-00009-P	..... exempt	Amendments to the tariff of Con Edison pertaining to interruptible gas service customers.	To consider the appropriate tariff provisions for Con Edison interruptible gas service customers.
PSC-09-19-00010-P	..... exempt	Non-pipeline alternatives report recommendations.	To consider the terms and conditions applicable to gas service.
PSC-10-19-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-12-19-00004-P	..... exempt	To test innovative pricing proposals on an opt-out basis.	To provide pricing structures that deliver benefits to customers and promote beneficial electrification technologies.
PSC-13-19-00010-P	..... exempt	New Commission requirements for gas company operator qualification programs.	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities.
PSC-13-19-00012-P	..... exempt	Paperless billing credit.	To provide just and reasonable rates.
PSC-16-19-00005-P	..... exempt	Proposed major electric delivery revenue requirement increase of approximately \$485 million (or 4.6% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-16-19-00007-P	..... exempt	Recommencement of the levelization surcharge, changes to the System Improvement Charge, and a one-year stay-out.	To address the issues in NYAW's petition dated February 25, 2019.
PSC-16-19-00008-P	..... exempt	Proposed major rate increase in Con Edison's gas delivery revenues of approximately \$210 million (or 9.1% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-18-19-00010-P	..... 04/30/20	Energy efficiency programs, budgets, and targets for investor-owned utilities.	To encourage the delivery and procurement of energy efficiency by investor-owned utilities.
PSC-18-19-00011-P	..... exempt	Policies, budgets and targets for support of heat pump deployment by investor-owned utilities.	To encourage the support for heat pump deployment by investor-owned utilities.
PSC-18-19-00012-P	..... 04/30/20	Policies, budgets and targets for support of energy efficiency programs for low- and moderate-income customers.	To encourage the support of energy efficiency programs for low- and moderate-income customers by investor-owned utilities.
PSC-18-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-18-19-00015-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-19-19-00014-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 124 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 124 MW electric generating facility.
PSC-19-19-00016-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 242 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 242 MW electric generating facility.
PSC-20-19-00008-P	..... exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases
PSC-20-19-00009-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
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-22-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-23-19-00003-P	..... exempt	Ownership interest in poles.	To consider the transfer of ownership interest in certain poles from NYSEG to Verizon.
PSC-23-19-00005-P	..... exempt	Proposed major rate increase in SWNY's annual base revenues of approximately \$31.5 million (or 19.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-27-19-00007-P	..... exempt	Implementation of consolidated billing for distributed energy resources.	To facilitate development of and participation in Community Distributed Generation projects.
PSC-30-19-00007-P	..... exempt	Use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-30-19-00009-P	..... exempt	An Index REC procurement mechanism for Tier 1 REC procurements.	To provide a hedge against market volatility, and lower costs to both renewable generators and customers.
PSC-31-19-00011-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
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-31-19-00014-P	..... exempt	Consideration of NYAW's Interim Implementation Plan.	To ensure NYAW improves its service to ratepayers.
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-32-19-00008-P	..... exempt	Compensation of distributed energy resources	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-32-19-00009-P	..... exempt	Petition to submeter electricity and waiver request	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-32-19-00010-P	..... exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
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-32-19-00013-P	..... exempt	Disposition of tax refunds received by New York American Water Company, Inc.	To determine the disposition of tax refunds and other related matters
PSC-33-19-00007-P	..... exempt	Transfer of street lighting facilities.	To determine whether to provide written consent for the proposed transfer of certain street lighting facilities.
PSC-33-19-00009-P	..... exempt	Transfer of street lighting facilities.	To determine whether to provide written consent for the proposed transfer of certain street lighting facilities.
PSC-33-19-00014-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-34-19-00015-P	..... exempt	Major electric rate filing.	To consider a proposed increase in RG&E's electric delivery revenues of approximately \$31.7 million (or 4.1% in total revenues).
PSC-34-19-00016-P	..... exempt	Major gas rate filing.	To consider a proposed increase in RG&E's gas delivery revenues of approximately \$5.8 million (or 1.4% in total revenues).
PSC-34-19-00017-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-34-19-00018-P	..... exempt	Major electric rate filing.	To consider a proposed increase in NYSEG's electric delivery revenues of approximately \$156.7 million (10.4% in total revenues).
PSC-34-19-00020-P	..... exempt	Major gas rate filing.	To consider a proposed increase in NYSEG's gas delivery revenues of approximately \$6.3 million (or 1.4% in total revenues).
PSC-35-19-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-35-19-00008-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-36-19-00009-P	..... exempt	Minor 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-36-19-00010-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-36-19-00011-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-37-19-00004-P	..... exempt	Proposed transfer of Hopewell's assets to the Town and dissolution of the company.	To determine if transfer of the water system to the Town of East Fishkill is in the public interest.
PSC-38-19-00002-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-39-19-00013-P	..... exempt	Proposed revisions to Consolidated Edison's Commercial Demand Response Programs.	To consider appropriate rules regarding Commercial Demand Response Programs.
PSC-39-19-00014-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 the period ending August 31, 2019.
PSC-39-19-00015-P	..... exempt	Amendments to the New York State Standardized Interconnection Requirements (SIR).	To more effectively interconnect distributed generation and energy storage Systems 5 MW or less to the distribution system.
PSC-39-19-00016-P	..... exempt	PSC regulation 16 NYCRR § 86.3(a)(1), (2), (2)(iv), (b)(2), 86.4(b) and 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-39-19-00017-P	..... exempt	Notice of intent 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-39-19-00019-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-39-19-00020-P	..... exempt	Initial Tariff Schedule, P.S.C. No. 1 - Water.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-40-19-00006-P	..... exempt	Net energy metering and VDER crediting for eligible New York Power Authority customers.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-40-19-00007-P	..... exempt	The sharing of ratepayer consumption data.	To allow for consumption based sewer billing and protect ratepayers' consumption data.
PSC-40-19-00008-P	..... exempt	Implementation of consolidated billing for distributed energy resources.	To facilitate development of and participation in Community Distributed Generation projects.
PSC-41-19-00001-EP	..... exempt	Appointment of a temporary operator.	To ensure safe water supply through appointment of a temporary operator.
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-41-19-00004-P	..... exempt	To consider acquiring cable television facilities and franchises of 27 municipalities from CCE I to Spectrum NE.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest.
PSC-41-19-00005-P	..... exempt	Tariff modifications to correct the calculation for the VDER Value Stack DRV.	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-42-19-00006-P	..... exempt	Waiver of the prohibition on service to low-income customers by ESCOs.	To consider the petition for an extension of the waiver of the prohibition on service to low-income customers by ESCOs.
PSC-42-19-00007-P	..... exempt	Waiver of the prohibition on service to low-income customers by ESCOs.	To consider the petition for an extension of the waiver of the prohibition on service to low-income customers by ESCOs.
PSC-43-19-00014-P	..... exempt	Petition for the use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-43-19-00015-P	..... exempt	Modifications to the Gas Cost Factor and Daily Delivery Service Programs.	To consider a rehearing petition filed by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.
PSC-43-19-00016-P	..... exempt	Proposed rate filing to increase its semi-annual flat rate.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
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-44-19-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
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.
PSC-45-19-00011-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-45-19-00012-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-45-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-46-19-00007-P	..... exempt	PSC regulation 16 NYCRR 86.3(a)(1), (a)(2) and 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
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-46-19-00009-P	..... exempt	Proposed transfer of certain company property to the Incorporated Village of Sea Cliff.	To determine if the transfer of certain Company property to the Incorporated Village of Sea Cliff is in the public interest.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
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-47-19-00011-P	..... exempt	Waiver of National Grid's code of conduct to allow for use of its name.	To determine if it is in the public interest to allow for the use of National Grid's name in the weatherization program.
PSC-47-19-00012-P	..... exempt	Transfer of street lighting facilities to the Village of Cayuga Heights.	To consider whether the transfer of street lighting facilities to the Village of Cayuga Heights is in the public interest.
PSC-47-19-00013-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-47-19-00014-P	..... exempt	Whether a proposed agreement for the provision of water service by Saratoga Water Services, Inc. is in the public interest.	To consider whether a tariff waiver and the proposed terms of a service agreement are in the public interest.
PSC-47-19-00015-P	..... exempt	Customer Consent to Contact.	To include a new provision establishing customer consent for the utility to contact them electronically about utility service.
PSC-47-19-00016-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-19-00004-P	..... exempt	Recommendation of the levelization surcharge, changes to the System Improvement Charge, including AMI and a one-year stay-out.	To address the issues in the November 6, 2019 petition filed by NYAW.
PSC-48-19-00005-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-19-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-19-00007-P	..... exempt	Extension of the State Universal Service Fund.	To continue to provide universal service at a reasonable rate in certain service territories.
PSC-49-19-00004-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.
PSC-49-19-00005-P	..... exempt	Sale of Street Lighting Facilities to the Town of Farmington.	To consider the transfer of street lighting facilities to the Town of Farmington.
PSC-49-19-00006-P	..... exempt	Waiver of the prohibition on service to low-income customers by ESCOs.	To consider the petition for an extension of the waiver of the prohibition on service to low-income customers by ESCOs.
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-50-19-00005-P	..... exempt	Modifications and clarifications to the DCFC Per-Plug Incentive Program.	To clarify certain elements of the DCFC Per-Plug Incentive Program and consider modifications to the Program.
PSC-50-19-00006-P	..... exempt	Compensation of and incentives for distributed energy resources.	To encourage the development of and ensure just and reasonable rates for distributed energy resources.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-50-19-00007-P	..... exempt	Participation of customers served under P.S.C. No. 12 (PASNY) in CDG projects receiving Value Stack compensation.	To encourage the development of and ensure just and reasonable rates for distributed energy resources.
STATE, DEPARTMENT OF			
DOS-27-19-00014-P	..... 09/04/20	New York State Uniform Fire Prevention and Building Code (the Uniform Code)	To repeal the existing Uniform Code and adopt a new Uniform Code and to make conforming changes to 19 NYCRR Parts 1264 and 1265.
DOS-27-19-00015-P	..... 09/04/20	The State Energy Conservation Construction Code (the "Energy Code").	To repeal the existing Energy Code and to adopt a new, updated Energy Code.
DOS-40-19-00001-P	..... 10/01/20	Appraisal Standards	To adopt the 2020-2021 edition of the Uniform Standards of Professional Appraisal Practice
DOS-42-19-00001-P	..... 10/15/20	Real estate advertisements	To update current regulations concerning real estate advertisements
STATE UNIVERSITY OF NEW YORK			
SUN-50-19-00001-EP	..... 12/10/20	Tuition, Fees and Charges	To authorize the waiver of admission application fees for military veterans and their spouses
TAXATION AND FINANCE, DEPARTMENT OF			
TAF-40-19-00009-P	..... 10/01/20	New York State and City of Yonkers withholding tables and other methods	To provide current New York State and City of Yonkers withholding tables and other methods
TAF-47-19-00010-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, 2020 through March 31, 2020.
TAF-50-19-00003-EP	..... 12/10/20	Metropolitan Transportation Business Tax Surcharge	To provide metropolitan transportation business tax rate for tax year 2020
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-14-19-00007-P	..... 04/02/20	Abandonment of requests for fair hearings	To require the issuance of letters to appellants who fail to appear at scheduled fair hearings involving Medical Assistance, also known as Medicaid, advising them how to request the rescheduling of such fair hearings
TDA-46-19-00006-P	..... 11/12/20	Limits on executive compensation	To remove requirements related to private funding from the \$199, 000 per annum limit on executive compensation and to make corresponding technical updates
TDA-49-19-00003-P	..... 12/03/20	Annual service fee on persons receiving child support services and minimum annual collection requirement to impose such fee	To amend the existing State regulatory provisions regarding the annual service fee imposed on persons who receive child support services

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
VICTIM SERVICES, OFFICE OF			
OVS-24-19-00001-EP	06/11/20	Conduct contributing related to burial awards	Adopt rules necessary as the result of chapter 494 of the Laws of 2018, when considering the victim's own conduct
OVS-36-19-00007-P	09/03/20	Limits on administrative expenses and executive compensation.	To codify the determination made in the Matter of Leading Age NY, Inc v. Shah (2018), striking a portion of the rule.
WORKERS' COMPENSATION BOARD			
WCB-31-19-00018-P	07/30/20	Medical Treatment Guidelines	Add guidelines for treatment of hip and groin, foot and ankle, elbow and occupational interstitial lung disease
WCB-32-19-00001-P	08/06/20	Updating the prescription drug formulary	To add drugs to the prescription drug formulary in response to continuous feedback
WCB-37-19-00002-P	09/10/20	Applications for Reopenings	Clarify the process for reopening a case that has been previously closed
WCB-45-19-00010-P	11/05/20	Resolution of medical billing disputes	Incorporate the 2019 changes to WCL 13-g into existing regulations.
WCB-47-19-00004-EP	11/19/20	Updating the prescription drug formulary	To update formulary and add special consideration guidance for drugs not included in the MTGs

RULE REVIEW

Public Service Commission

NOTICE is hereby given that the Public Service Commission has reviewed the rules adopted in 1999, 2004, and 2009 as required by State Administrative Procedure Act (SAPA) § 207, and determined that the following rules will continue without change:

1. 16 NYCRR § 650 (Case No. 96-C-1174 and 93-C-0142).

a. Description of rules:

These amendments to NYCRR Part 650 revise customer owned coin operated telephone (COCOT) rules to address and implement the FCC's revisions to the Telecommunications Act of 1996 related to payphone regulations.

b. Statutory Authority: Public Service Law (PSL) §§ 90(3), 92-c and 94(2).

c. No hearings or public meetings are scheduled.

d. The rules are in effect and will continue.

e. Need and legal basis for the rules:

Amendments to 16 NYCRR § 650 reflect changes in the Federal Telecommunications Act of 1996 which deregulated payphone rates and eliminated the distinction between COCOTs and local exchange company (LEC) pay-phones. The rules replace the term "COCOT" with "payphone" to reflect that change. The rules detail what information must be posted on payphone placards and also reword enforcement provisions for violations of the payphone rules.

2. 16 NYCRR § 262 (Case No. 97-G-0230).

a. Description of rules:

This part requires operators of pipeline facilities subject to Parts 192, 193 or 195 of Title 49 of the Code of Federal Regulations (49 CFR) to test employees for the presence of prohibited drugs and to provide an employee assistance program.

b. Statutory Authority: Public Service Law Sections 65(1), 66(1).

c. No hearings or public meetings are scheduled.

d. The rules are in effect and will continue.

e. Need and legal basis for the rules:

The intent of the amendments is to bring the State's pipeline safety regulations into conformance with the counterpart Federal Department of Transportation regulations, which had been amended several times over the previous years. The most significant revision is the addition of regulations pertaining to alcohol testing. The New York State Department of Public Service (DPS or Commission) is certified under section 60105 (a) of the Federal Accountable Pipeline Safety and Partnership Act of 1996 (49 U.S.C. § 60105[a]) to act as a representative for the Administrator of the Research and Special Programs Administration (RSPA) in enforcing pipeline safety regulations within New York State. A requirement of federal certification is that state regulations be at least as stringent as federal regulations.

3. 16 NYCRR §§ 150-152, 165-172, 290-292, 310-317, 440-441, 541-542 and Appendix 4A (repealed); §§ 10.2b, 165-167, 310, 312 and 731-733 (added); § 663.1 (amended) (Case No. 98-M-0756).

a. Description of Rules:

These changes streamlined certain rules and reporting requirements applicable to the utilities DPS regulates.

b. Statutory Authority: PSL §§ 66(4) (10), 80(3) (8), 89-c(3) (8), 95(2).

c. No hearings or public meetings are scheduled.

d. The rules are in effect and will continue.

e. Need and legal basis for the rules:

The rule changes bring the Commission into compliance with federal regulations, 18 CFR Part 101, and 18 CFR 201, pertaining to Uniform System of Accounts for public utilities and natural gas companies.

4. 16 NYCRR § 92 (Case No. 02-E-0255).

a. Description of rules:

The revisions to 16 NYCRR § 92 streamline and simplify the existing rules for meter testing and reporting. These changes were made to recognize advances in technology and to promote and encourage competitive metering.

b. Statutory authority: PSL § 67(4).

c. No hearings or public meetings are scheduled.

d. The rules are in effect and will continue.

e. Need and legal basis for the rules:

Meter accuracy is important for all utility customers in New York, including customers served by competitive metering providers and local distribution companies. The Commission will continue to depend on a variety of methods to ensure the accuracy of the electric meter population in the state including meter acceptance testing and certification of utility meter testing facilities.

5. 16 NYCRR §§ 11 and 12 (Case No. 03-M-0117).

a. Description of rules:

Amended the Home Energy Fair Practices (HEFPA) rules.

b. Statutory authority: PSL §§ 30-53, 4(1), 66, 80(1).

c. No hearings or public meetings are scheduled.

d. The rules are in effect and will continue.

e. Need and legal basis for the rules:

The amendments provide clarification of the rules via the consistent use of terminology and set forth termination and disconnection procedures. The amendments also clarify the procedures for energy service companies (ESCOs) seeking suspension of a residential customer's distribution service by directing the utilities to apply 16 NYCRR Parts 11.4(a) and 11.4(b). They also amend the required contents of ESCO notices of termination.

SECURITIES OFFERINGS

STATE NOTICES

Published pursuant to provisions of General Business Law
[Art. 23-A, § 359-e(2)]

DEALERS; BROKERS

ACON Equity Partners III, L.P.
1133 Connecticut Ave. NW, Suite 700, Washington, DC 20036
Partnership — ACON Equity GenPar, L.L.C.

ACON Latin America Opportunities Fund V, L.P.
1133 Connecticut Ave. NW, Suite 700, Washington, DC 20036
Partnership — ALAOF GenPar, L.L.C.

ACON Pop Merger Sub, L.P.
1133 Connecticut Ave. NW, Suite 700, Washington, DC 20036
Partnership — ACON Equity GenPar, L.L.C.

AJ St. Andrews Fund LLC
133 N. Jefferson St., 4th Fl., Chicago IL 60661
Partnership — AJ St. Andrews Manager LLC

Basswood SPV I, LLC
c/o Basswood Partners, L.L.C., 645 Madison Ave., 10th Fl., New York,
NY 10022
Partnership — Basswood Partners, L.L.C.

Bloom Consumer Growth Partners Fund I, LP
389 Shaler Blvd., Ridgefield, NJ 07657
Partnership — Bloom Consumer Growth Partners GP, LLC

Butterfly Fighter Co-Invest, L.P.
9595 Wilshire Blvd., Suite 510, Beverly Hills, CA 90212
Partnership — Butterfly Capital II GP, LP

Caliber Fitness, Inc.
505 W. 37th St., Apt. 23E, New York, NY 10018
State or country in which incorporated — Delaware

Cambiar VM LP
95 Minnisink Rd., Short Hills, NJ 07078
Partnership — Cambiar Management LLC

CIM Enterprise Loan Fund, L.P.
755 Sansome St., Suite 450, San Francisco, CA 94111
Partnership — CIM GP LLC

CincyTech Fund V, LLC
2900 Reading Rd., Suite 410, Cincinnati, OH 45206
State or country in which incorporated — Ohio

CSF II LP
1643 N. Milwaukee Ave., Chicago, IL 60647
Partnership — CSF II GP LP

EJF Small Financial Equities Offshore Fund III LP
2107 Wilson Blvd., Suite 410, Arlington, VA 22201
Partnership — EJF Small Financial Equities II GP LLC

Epiphanly Capital, LP
c/o Epiphanly Capital Management, LLC, 100 Garden City Plaza,
#410, Garden City, NY 11530
Partnership — Epiphanly Capital Management, LLC

Evanville IN II, LLC
545 Dutch Valley Rd., Suite A, Atlanta, GA 30324

Forest Meadows Investment, LLC
1120 Avenue of the Americas, 4th Fl., New York, NY 10036

GFG Beacon Fund III, LP
c/o GFG Beacon Fund III GP, LLC, One Sound Shore Dr., Suite 104,
Greenwich, CT 06830
Partnership — GFG Beacon Fund III GP, LLC

Gryphon Mezzanine Partners II Feeder Fund, L.P.
One Maritime Plaza, Suite 2300, San Francisco, CA 94111
Partnership — Gryphon Mezzanine Partners GP II, L.P.

GSV@CS II, L.P.
2925 Woodside Rd., Woodside, CA 94062
Partnership — GSV@CS II GP, LP

Harvest Alta NB, LP
One Letterman Dr., Bldg. C, Suite CM-400, San Francisco, CA 94129
Partnership — Alta Park Partners, LLC

Herbert J. Sims & Co. Inc.
2150 Post Rd., Suite 301, Fairfield, CT 06824
State or country in which incorporated — Delaware

HereNow Help, Inc.
5638 E. Lake Rd., Honeoye, NY 14471
State or country in which incorporated — New York

Hudson Housing Tax Credit Fund XC LP
630 Fifth Ave., 28th Fl., New York, NY 10111
Partnership — Hudson GP XC LLC

Illuminated Holdings, Inc.
101 E. Milwaukee St., 6th Fl., Janesville, WI 53545
State or country in which incorporated — Delaware

Incline Equity Partners V, L.P.
EQT Plaza, Suite 2300, 625 Liberty Ave., Pittsburgh, PA 15222
Partnership — Incline GP V, L.P.

LexaGene Holdings Inc.
500 Cummings Ctr., Suite 4550, Beverly, MA 01915
State or country in which incorporated — British Columbia

Linden Structured Capital Fund LP
150 N. Riverside Plaza, Suite 5100, Chicago IL 60606
Partnership — Linden SCF Manager LP

Madison Dearborn Capital Partners VIII-A L.P.
70 W. Madison St., Suite 4600, Chicago IL 60602
Partnership — Madison Dearborn Partners VIII-A&C, L.P.

Madison Dearborn Capital Partners VIII Executive-A L.P.
70 W. Madison St., Suite 4600, Chicago IL 60602
Partnership — Madison Dearborn Partners VIII-A&C, L.P.

Magnolia Eighty, LLC
1035 Barkston Dr., Katy, TX 77450
State or country in which incorporated — Texas

Maiora Renewables Fund II
c/o 27 Hospital Rd., George Town, Grand Cayman, Cayman Islands
KY1-9008
State or country in which incorporated — Cayman Islands

MP KofP JV LLC
160 Clubhouse Rd., King of Prussia, PA 19406
State or country in which incorporated — Delaware limited liability company

MSA China Fund II, L.P.
c/o Walkers Corporate Limited, Cayman Corporate Centre, 27
Hospital Rd., George Town, Grand Cayman, Cayman Islands KY1-
9008
Partnership — MSA China Fund II GP, LLC

NGCC Alpha I SPV, LLC
34 Page St., San Francisco, CA 94102
State or country in which incorporated — Delaware

North Hudson Fortuna III LP
600 Travis St., Suite 6290, Houston, TX 77002
Partnership — North Hudson Resource Partners Fund I GP LP

Odonata Health, Inc.
2039 Morgan Ave. N, Stillwater, MN 55082
State or country in which incorporated — Delaware

OLG Barbara Sturm Co-Invest, SCSp
Seven, rue Robert Stumper, L-2557 Luxembourg, Grand Duchy of
Luxembourg
Partnership — One Luxury Group GP S.a.r.l

Orchard Securities, LLC
365 Garden Grove Lane, Suite 100, Pleasant Grove, UT 84062

Passco Capital, Inc.
2050 Main St., Suite 650, Irvine, CA 92614
State or country in which incorporated — California

Pennybacker EIV, LP
c/o Pennybacker Capital Management, LLC, 3800 N. Lamar Blvd.,
Suite 350 Austin, TX 78756
Partnership — Pennybacker EIV GP, LLC

Phoenix Fund IX Blocker, LLC
15725 N. Dallas Pkwy., Suite 230, Addison, TX 75001

Realterm Logistics Income Fund, L.P.
201 West St., Annapolis, MD 21401
Partnership — Realterm GP III, LLC

Ruby Fund SCSp
19-21, route d' Arlon, Strassen, Luxembourg, Luxembourg L - 8009
Partnership — Ruby GP S.a.r.l.

Saab AB
Old Palmes gata 17, SE-111 22 Stockholm, Sweden
State or country in which incorporated — Sweden

Soundlink Healthcare Investment Partners, LP
20 Cedar St., Suite 109, New Rochelle, NY 10801
Partnership — Soundlink Advisors, LLC

Sports Venues of Florida, Inc.
1220 Fordham Dr., Sun City Center, FL 33573
State or country in which incorporated — Florida

Stoney Hill Investment Partners, LLC
Six Sprucefield Court, New Hope, PA 18938
State or country in which incorporated — Delaware limited liability company

TAB Liberty Partnership XIX, LLC
649 Grand Ave., Saint Paul, MN 55105

Texas Securities, Inc.
4024 Nazarene Dr., Suite B, Carrollton, TX 75010
State or country in which incorporated — Texas

Theorem Legal Technology Services, Inc.
P.O. Box 443, Wappingers Falls, NY 12590
State or country in which incorporated — Delaware

Thoma Bravo Credit Fund II Feeder, L.P.
150 N. Riverside Plaza, Suite 2800, Chicago, IL 60606
Partnership — Thoma Bravo Credit Partners II, L.P.

Ultimus Fund Distributors, LLC
225 Pictoria Dr., Suite 450, Cincinnati, OH 45246
State or country in which incorporated — Ohio

VPC Onshore Specialty Finance Fund III, L.P.
150 N. Riverside Plaza, Suite 5200, Chicago, IL 60606
Partnership — VPC Specialty Finance Fund GP III, L.P.

WMI Parkside at Five Points, LLC
555 Madison Ave., 5th Fl., New York, NY 10022
State or country in which incorporated — North Carolina limited liability company

World Tree USA, LLC
1910 S. Stapley Dr., Suite 221, Mesa, AZ 85204

ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

SEALED BIDS

PROVIDE
WATER STORAGE
New York State Police
Salt Point, Dutchess County

Sealed bids for Project Nos. 45147-C and 45147-E, comprising separate contracts for Construction Work, and Electrical Work, Provide Water Storage & Fire Suppression Upgrades, New York State Police, 2541 Route 44, Salt Point (Dutchess County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the New York State Police, until 2:00 p.m. on Wednesday, December 11, 2019 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 certified check, bank check, or bid bond in the amount of \$27,800 for C, and \$4,300 for E.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$6,000,000 and \$7,000,000 for C, and between \$50,000 and \$100,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Hoffman, Carl Ruppert and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, 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>

The substantial completion date for this project is 183 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 10:00 a.m. on December 2, 2019, at New York State Police, Troop K, 2541 Rte. 44 – Main Lobby, Salt Point, NY.

Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

Phone the office of James Buckley (518-291-0290) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work. The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract.

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. 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

PROVIDE
LEACHATE SYSTEM UPGRADES
Rush Landfill
Industry, Monroe County

Sealed bids for Project Nos. 45760-C and 45760-E, comprising separate contracts for Construction Work, and Electrical Work, Provide Leachate System Upgrades, Rush Landfill, Scottsville Road Route 251, Industry (Monroe County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the NYS Office of General Services, until 2:00 p.m. on Wednesday, December 11, 2019 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 certified check, bank check, or bid bond in the amount of \$41,200 for C, and \$16,000 for E.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by 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 \$100,000 and \$250,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Hoffman, Carl Ruppert and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, 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>

The substantial completion date for this project is 303 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 10:00 a.m. on November 25, 2019 at the OGS Office, 101 Ryder Hill Road, Rush, NY. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

Phone the office of Caroline Tuttle, (585-986-4006) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work and an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE") participation and 5% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). 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. 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

**PROVIDE
GENERATOR**
Homer Folks Facility
Oneonta, Otsego County

Sealed bids for Project Nos. 45780-C, 45780-E, comprising separate contracts for Construction Work and Electrical Work, Provide Generator and Upgrade Building Main Electrical Equipment, Homer Folks Facility, 28 Hill Street, Suite 327, Oneonta (Otsego County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of General Services, until 2:00 p.m. on Wednesday, December 18th, 2019, 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 certified check, bank check, or bid bond in the amount of \$18,000 for C and \$22,700 for E.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$250,000 and \$500,000 for C, and between \$250,000 and \$500,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Hoffman, Carl Ruppert and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, 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>

The substantial completion date for this project is 259 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the

project area will be at 10:00 a.m. on December 10, 2019, at the Homer Folks Facility, 28 Hill Street, Suite 327, Oneonta, NY. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

Phone the office of Luanne Vaughn (607-721-8716) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work and Electrical Work.. 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. 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

DEMOLISH
POWER PLANT SMOKESTACK
Newark Development Disability Services Office
Newark, Wayne County

Sealed bids for Project No. 45956-C, for Construction Work, Demolish Power Plant Smokestack, Building 67, Newark Development Disability Services Office, 703 East Maple Avenue, Newark (Wayne County), NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office for People with Developmental Disabilities, until 2:00 p.m. on Wednesday, December 11, 2019, 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 certified check, bank check, or bid bond in the amount of \$23,400 for C.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$4,000,000 and \$5,000,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is

restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Hoffman, Carl Ruppert and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, 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>

The substantial completion date for this project is 105 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 9:00 a.m. on December 4th, 2019 at the Newark Developmental Disability Services Office, 703 E. Maple Avenue, Newark, NY. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

Phone the office of Brad Young, (607-425-3366) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

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. 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

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 General Services

Pursuant to Section 30-a of the Public Lands Law, the Office of General Services hereby gives notice to the following:

Notice is hereby given that the Department of Transportation has determined that the property designated as Parcel No. 102, Hamilton Gore, in the 17th Township of Scriba's Patent, City of Oswego, County of Oswego, State of New York consisting of 10,945± square feet is no longer useful or necessary for their purposes and has declared the same abandoned for sale or other disposition as Unappropriated State land.

For further information, please contact: Thomas Pohl, Esq., Office of General Services, Legal Services, 36th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, (518) 474-8831

PUBLIC NOTICE Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for long term care services related to temporary rate adjustments to providers that are undergoing closure, merger, consolidation, acquisition or restructuring themselves or other health care providers. These payments are authorized by § 2826 of New York Public Health Law. The following changes are proposed:

Institutional Services

The temporary rate adjustments have been reviewed and approved for the Island Rehabilitation and Nursing Center with aggregate payment amounts totaling up to \$3,375,000 for the period December 13, 2019 through March 31, 2020, \$4,200,000 for the period April 1, 2020 through March 31, 2021 and \$4,275,000 for the period April 1, 2021 through March 31, 2022.

The public is invited to review and comment on this proposed State

Plan Amendment, a copy of which will be available for public review on the Department's website at http://www.health.ny.gov/regulations/state_plans/status. Individuals without Internet access may view the State Plan Amendments at any local (county) social services district.

For the New York City district, copies will be available at the following places:

New York County
250 Church Street
New York, New York 10018

Queens County, Queens Center
3220 Northern Boulevard
Long Island City, New York 11101

Kings County, Fulton Center
114 Willoughby Street
Brooklyn, New York 11201

Bronx County, Tremont Center
1916 Monterey Avenue
Bronx, New York 10457

Richmond County, Richmond Center
95 Central Avenue, St. George
Staten Island, New York 10301

For further information and to review and comment, please contact: Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1432, Albany, NY 12210, e-mail: spa_inquiries@health.ny.gov

PUBLIC NOTICE Department of State F-2019-0782

Date of Issuance – December 11, 2019

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-2019-0782, Heinz Wahl is proposing to construct two sections of concrete seawall, a 30 foot and a 60 foot section. The wall will be 10 inches thick and stand 4 feet high with a 3 foot by 5 inch footer. Rock rip-rap will be placed along the entire project area. The project

is located at 36147 NYS Route 12E, Clayton, NY 13624 on the St. Lawrence River.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0782Wahl.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 January 10, 2020.

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-2019-0817

Date of Issuance – December 11, 2019

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-2019-0817, Daniel and Joan Profetta are proposing shoreline stabilization measures at their property at 3112 Bay Front Lane in the Town of Irondequoit.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0817ForPN.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, January 9, 2020.

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-2019-0841

Date of Issuance – December 11, 2019

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-2019-0841 or the "575 Hill Road Dock", the applicant Emma Van Rooyen, is proposing to rebuild an existing dock in place with modifications. Total length of dock to be 57 linear feet. A new 13.7 foot by 4-foot fixed ramp with thru flow decking to a rebuilt existing 28.5 foot by 4-foot wood frame fixed pier with thru flow decking, to a

new 3 foot by 14.2-foot wood frame hinged ramp, to a new 6 foot by 20-foot wood frame floating dock. New wood frame bench seat to be built in fixed pier. Seat to be 8.7 foot by 2.6 foot. All wood pilings to be pressure treated. New/existing floating docks not to rest upon bottom of creek. The authorized work is located at 575 Hill Road, Town of Southold Suffolk County, Jockey Creek.

The applicant's consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0841_575_Hill_Rd_Dock_App.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, January 10, 2020.

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-2019-0914

Date of Issuance – December 11, 2019

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-2019-0914, Russell Thomas is proposing to replace in-place ~88 linear feet of existing wood tie breakwall and ~34 linear feet of grouted rock breakwall with steel sheet pile. In addition, the application proposes to install 8-12" toe stone extending up to 2' waterward of the new wall.

The proposal is for the applicant's property at 6420 Ann Lee Drive in the Town of Huron, Wayne County.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0915ForPN.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, January 9, 2020.

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-2019-1042

Date of Issuance – December 11, 2019

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-2019-1042, Steven Kolyer is proposing a 4' x 102' catwalk extension onto the existing 4' x 105' catwalk, thus the total catwalk length proposed would be 207'. A 3' x 35' ramp is also proposed leading to a proposed 15' x 20' float. The project is located at 40 The Terrace, Plandome, NY 11030 on Manhasset Bay.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-1042Kolyer>

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 January 10, 2020.

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-2019-1064

Date of Issuance – December 11, 2019

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-2019-1064, Ducks Unlimited is proposing to excavate a series of shallow interconnected potholes, oxbows and meandering channels through the existing cattail mat to enhance aquatic connectivity and mimic historical wetland features prior to cattail dominance. The project is located at the Buckhorn Island State Park, Grand Island on the Niagara River.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-1064DucksUnlimited.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 January 10, 2020.

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-2019-1071

Date of Issuance – December 11, 2019

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-2019-1071, Gregg Siper is proposing to replace a 63 linear foot section and a 34 linear foot section of bulkhead in-place. Remove/replace access stairs. Maintain 98.6x 6.7-ft (660 sf) fixed pier. Construct/ install a 25x 6.7-ft (167.5 sf) fixed pier extension, a 70x 5-ft (350 sf) fixed "L" shaped pier extension, a 24x 20-ft (480 sf) 8-pile lift, a 18x18-ft (224 sf) 4-pile lift, and a 12.5x 12-ft (150 sf) 2-pile personal watercraft lift, two (2) 12x 6-ft (72 sf) personal watercraft floating dock, a 12x 8-ft (96 sf) floating dock and a 45 linear feet wavescreen. The project is located at 320 Riviera Drive South, Massapequa, NY 11758, on Great South Bay.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-1071Siper.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 January 10, 2020.

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

An open board meeting of the NYS Hearing Aid Dispensing Advisory Board will be held on Dec. 10, 2019 at 10:30 a.m. at the Department of State, 99 Washington Ave., 5th Fl., Conference Rm., Albany; 65 Court St., 2nd Fl., Conference Rm., Buffalo; and, 123 William St., 2nd Fl., Conference Rm., New York City.

Should you require further information, please contact Denise Tidings at Denise.Tidings@dos.ny.gov or (518) 402-4921.

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.

2019-0681 Matter of Jamie Sundahl, 30 Mohican Avenue, Ronkonkoma, NY 11779, for a variance concerning safety requirements, including the required heights under a girder/soffit involved is an existing one family dwelling located at 30 Mohican Avenue, Town of Islip, NY 11779, County of Suffolk, State of New York.

2019-0683 Matter of Gray Architectural Services, P.C., Chris Gray, 2401 Capri Place, N. Bellmore, NY 11710, for a variance concerning safety requirements, including the required ceiling height involved is an existing one family dwelling located at 63 King Street, Village of Floral Park, NY 11001, County of Nassau, State of New York.

2019-0691 Matter of Mark Anthony Architects, Mark Anthony Munisteri, 1563 Bellmore Avenue, Bellmore, NY 11710, for a variance concerning safety requirements, including the required heights under a girder/soffit involved is an existing one family dwelling located at 276 Swansdowne Drive, Town of Hempstead, NY 11783, County of Nassau, State of New York.

2019-0693 Matter of Mark Anthony Architects, Mark Anthony Munisteri, 1563 Bellmore Avenue, Bellmore, NY 11710, for a variance concerning safety requirements, including the required ceiling and the required heights under a girder/soffit involved is an existing one family dwelling located at 2383 Elbert Avenue, Town of Hempstead, NY 11710, County of Nassau, State of New York.

2019-0701 Matter of Brookhaven Expeditors, Andrew Malguarnera, 713 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the required heights under a girder/soffit involved is an existing one family dwelling located at 371 Pipe Stave Hollow Rd, Town of Brookhaven, NY 11790, County of Suffolk, State of New York.

2019-0702 Matter of Brookhaven Expeditors, Andrew Malguarnera, 713 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the required heights under a girder/soffit involved is an existing one family dwelling located at 6 Sophmore Lane, Town of Brookhaven, NY 11790, County of Suffolk, State of New York.

PUBLIC NOTICE

Department of State

Uniform Code Variance / Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2019-0707 In the matter of Gympo Architecture Engineering and Land Surveying, DPC, Edward Olley, AIA, 18969 US Route 11, Watertown, NY 13601 for the watertown ambulance service for a variance concerning building and fire safety requirements including a variance to omit an automatic sprinkler system through-out the building.

Involved are the alterations of an existing building for mixed storage, business and residential occupancies, one story in height, located at 18791 County Route 155, Town of Watertown, County of Jefferson, New York.

EXECUTIVE ORDERS

Executive Order No. 168.30: Continuing the Declaration of a Disaster Emergency in the Five Boroughs of New York City and the Counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester that Incorporate the MTA Region in the State of New York.

WHEREAS, pursuant to Executive Order No. 168, a disaster has heretofore been declared in the five boroughs of New York City and the Counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester that incorporate the Metropolitan Transportation Authority (MTA) Region in the State of New York due to increasingly constant and continuing failures of the tracks, signals, switches and other transportation infrastructure throughout the system including at Pennsylvania Station located in the County of New York (Penn Station), that have resulted in various subway derailments, extensive track outages, and substantial service disruptions impacting the health and safety of hundreds of thousands of riders;

WHEREAS, the ongoing failures of the tracks, signals, switches and other transportation infrastructure throughout the MTA's rail and subway system continue to pose an imminent threat and have a vast and deleterious impact on the health, safety, and livelihood of commuters, tourists, resident New Yorkers, as well as business and commerce in the Metropolitan Commuter Transportation District (MCTD), which is the recognized economic engine of the State of New York, and thereby have adversely affected the New York State economy;

WHEREAS, the track outages and service disruption necessary to implement the Amtrak Repair Program, and other repairs necessary to fix tracks, signals, switches and other transportation infrastructure throughout the MTA's rail and subway system continue to be necessary to protect the public, health and safety of commuters, tourists, resident New Yorkers, and will continue to worsen the transportation disaster emergency that currently exists due to the condition of Penn Station and the MTA's rail and subway system as a whole; and,

WHEREAS, it continues to be necessary for the MTA and its subsidiaries and affiliates to take significant and immediate action to assist in the repair of the tracks, signals, switches and other transportation infrastructure and in the mediation of such track outages and service disruptions due to this disaster emergency;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby extend the state disaster emergency declared pursuant to Executive Order No. 168 and extend all of the terms, conditions, and directives of Executive Order No. 168 and the terms, conditions, and directives for any extensions of the same for the period from the date that the disaster emergency was declared pursuant to Executive Order No. 168 until December 8, 2019; provided that the temporary suspension of any laws, rules, regulations or guidelines pursuant to this and any future extensions of Executive Order 168 shall apply to the extent the Chairman of the MTA or his designee, which shall only include the MTA's President or Managing Director, determines it necessary for the purposes of awarding any contracts, leases, licenses, permits or any other written agreement that may be entered into to mitigate such disaster emergency.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this eighth day of November in the year two thousand nineteen.

BY THE GOVERNOR

/s/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor

Executive Order No. 198: Declaring a Disaster in the Counties of Cayuga, Jefferson, Monroe, Niagara, Orleans, Oswego, St. Lawrence, and Wayne.

WHEREAS, pursuant to Executive Order Number 195, a disaster had been declared in the counties of Cayuga, Jefferson, Monroe, Niagara, Orleans, Oswego, St. Lawrence, and Wayne due to extensive flooding, widespread erosion, and water damage that caused significant damage to homes and other residential structures, businesses, and public infrastructure;

WHEREAS, historic high water levels in Lake Ontario and the St. Lawrence River continue to be of concern as a cause of flooding, widespread erosion, and water damage, which continues to jeopardize infrastructure, coastline structures, natural barriers, and navigation; and

WHEREAS, the Resiliency and Economic Development Initiative Commission has identified high-priority projects that are urgently needed to protect homes, businesses, and critical infrastructure; to sustainably maintain safe navigation channels; and to address the immediate and long-term resiliency of communities along Lake Ontario and the St. Lawrence River.

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find that a disaster exists for which the affected state agencies and local governments are unable to respond adequately. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby declare a State Disaster Emergency effective November 20, 2019, within the territorial boundaries of the counties of Cayuga, Jefferson, Monroe, Niagara, Orleans, Oswego, St. Lawrence, and Wayne. This Executive Order shall be in effect until May 20, 2020; and

FURTHER, pursuant to Section 29 of Article 2-B of the Executive Law, I direct the implementation of the State Comprehensive Emergency Management Plan and authorize, effective November 20, 2019, the State Office of Emergency Management, the Department of Health, the Department of Transportation, the Division of State Police, the Division of Military and Naval Affairs, the Department of Environmental Conservation, the Department of Corrections and Community Supervision, the Public Service Commission, the Office of Fire Prevention and Control, the Department of Labor, the Office of Parks, Recreation and Historic Preservation, the Office of General Services, the Thruway Authority, the Division of Homeland Security and Emergency Services, other State agencies as necessary, and the American Red Cross to take appropriate action to protect State property and to assist affected local governments and individuals in responding to and recovering from this continued disaster; and to provide such other assistance as necessary to protect the public health and safety.

IN ADDITION, this declaration satisfies the requirements of 49

C.F.R. 390.23(a)(1)(A), which provides relief from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSR). Such relief from the FMCSR is necessary to hasten the movement of crews into New York State.

FURTHER, 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 specific provisions of any statute, local law, ordinance, orders, rules or regulations, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder, or delay action necessary to address the disaster, hereby temporarily suspend, for the period from the date of this Executive Order through December 20, 2019, the following laws:

Section 38(1), (2) and (3) of the Highway Law, to the extent that the Commissioner of Transportation determines it necessary to authorize the award of emergency contracts and/or to combine design and construction services in contracts and to use such services when needed;

Section 9(2) and (4) of the Public Buildings Law, to the extent the Commissioner of General Services determines it necessary to authorize the award of emergency contracts and/or to combine design and construction services in contracts and/or to use such contracts and services when needed at a threshold above Six Hundred Thousand Dollars;

Section 97-G of the State Finance Law, to the extent that the Commissioner of General Services or the Commissioner of the Division of Homeland Security and Emergency Services determines it necessary to purchase food, supplies, services, and equipment or furnish or provide various centralized services, including but not limited to, building design and construction services to assist affected local governments, individuals, and other non-State entities in responding to and recovering from the disaster emergency;

Section 112 of the State Finance Law, to the extent consistent with Article V, Section 1 of the State Constitution, and to the extent that the Commissioner of Transportation, the Commissioner of General Services, or the Commissioner of the Division of Homeland Security and Emergency Services determines it necessary to add additional work, sites, and time to State contracts; to award emergency contracts or leases for relocation and support of State operations under Section 3 of the Public Buildings Law; to award emergency contracts under Section 9 of the Public Buildings Law; to award emergency contracts for professional services under Section 136-a of the State Finance Law; and to award emergency contracts for commodities, services, technology, and materials pursuant to Section 163 of the State Finance Law;

Section 136-a of the State Finance Law, to the extent that the Commissioner of Transportation or the Commissioner of General Services determines it necessary to combine design and construction services in one contract and/or to obtain design and construction inspection services;

Section 163 of the State Finance Law and Article 4-C of the Economic Development Law, to the extent of allowing the Commissioner of Transportation, the Commissioner of General Services, or the Commissioner of the Division of Homeland Security and Emergency Services to purchase necessary commodities, services, technology, and materials without following the standard notice and procurement processes;

Article 8 of the Environmental Conservation Law, and Part 15 of Title 17 and Part 617 of Title 6 of the New York Code of Rules and Regulations, to the extent that the Commissioner of Transportation, the Commissioner of General Services, or the Commissioner of the Division of Homeland Security and Emergency Services determines that work is immediately necessary for the replacement, rehabilitation, or reconstruction of structures; and

Part F of Chapter 60 of the Laws of 2015, and Part RRR of Chapter 59 of the Laws of 2017, to the extent of allowing the Commissioner of Transportation or the Commissioner of General Services to award design-build and best value contracts without following the proscribed procurement process.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twentieth day of November in the year two thousand nineteen.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor