
NEW YORK STATE

REGISTER

INSIDE THIS ISSUE:

- Substantially Equivalent Instruction for Nonpublic School Students
- Feeding of Wild Deer and Moose, Use of 4-Poster™ Devices
- Black Bear Hunting

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 September 1, 2019
- the 45-day period expires on August 17, 2019
- the 30-day period expires on August 2, 2019

**ANDREW M. CUOMO
GOVERNOR**

**ROSSANA ROSADO
SECRETARY OF STATE**

NEW YORK STATE DEPARTMENT OF STATE

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E-mail: adminrules@dos.ny.gov

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The New York State Register (ISSN 0197 2472) is published weekly. Subscriptions are \$80 per year for first class mailing and \$40 per year for periodical mailing. The *New York State Register* is published by the New York State Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001. Periodical postage is paid at Albany, New York and at additional mailing offices.

POSTMASTER: Send address changes to NY STATE REGISTER, the Department of State, Division of Administrative Rules, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001

 printed on recycled paper

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

Education Department

1 / Substantially Equivalent Instruction for Nonpublic School Students (P)

Environmental Conservation, Department of

5 / Feeding of Wild Deer and Moose, Use of 4-Poster Devices (P)

9 / Black Bear Hunting (P)

Health, Department of

10 / Medical Use of Marihuana (A)

11 / Body Scanners in Local Correctional Facilities (A)

14 / Managed Care Organizations (MCOs) (A)

Human Rights, Division of

14 / Gender Identity or Expression Discrimination (P)

Mental Health, Office of

15 / Expansion of Telemental Health (Telepsychiatry) Services to Additional OMH Licensed Settings and Programs (A)

Motor Vehicles, Department of

17 / Limited Use Vehicles — Provides That Number of Characters in a VIN be in Conformance with Federal Standards (P)

18 / Private Service Bureaus — Employment of Persons Who Have Been Convicted of a Crime in Accordance with Article 23-A of Correction Law (P)

18 / Driving Schools — Relates to Employment of Persons Convicted of a Crime in Accordance with Article 23-A of Correction Law (P)

Public Service Commission

18 / Tariff Amendments Regarding the Standby Service Multi-Party Offset Provision (A)

19 / Transfer of Gas Pipeline (A)

19 / Property Lease Agreement (A)

19 / Initial Rate Filing (A)

19 / Tariff Amendments Containing the Rate Year 2 SC1-VTOU Service Class Rates (A)

20 / Transfer of Street Lighting Facilities (A)

20 / Tariff Revisions Establishing Updated Pole Attachment Rates (A)

20 / Transfer of Street Lighting Facilities (A)

20 / Tariff Amendments (A)

21 / Tariff Provisions for SHR Demonstration Project Customers (P)

21 / Implementation of Consolidated Billing for Distributed Energy Resources (P)

21 / Tariff Provisions for SHR Demonstration Project Customers (P)

22 / Notice of Intent to Submeter Electricity (P)

State, Department of

22 / New York State Uniform Fire Prevention and Building Code (the Uniform Code) (P)

27 / State Energy Conservation Construction Code (the “Energy Code”) (P)

Workers’ Compensation Board

32 / Medical Fee Schedules (P)

Hearings Scheduled for Proposed Rule Makings / 35

Action Pending Index / 37

Securities Offerings

81 / State Notices

Miscellaneous Notices/Hearings

83 / Notice of Abandoned Property Received by the State Comptroller

83 / Public Notice

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.

Education Department

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Substantially Equivalent Instruction for Nonpublic School Students

I.D. No. EDU-27-19-00010-P

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

Proposed Action: Addition of Part 130 to Title 8 NYCRR.

Statutory authority: Education Law, sections 207, 215, 305(1), (2), 3204(1), (2), (3), 3205(1), 3210(2) and 3234

Subject: Substantially Equivalent Instruction for Nonpublic School Students.

Purpose: Provide guidance to local school authorities to assist them in fulfilling their responsibilities under the Compulsory Education Law.

Substance of proposed rule (Full text is posted at the following State website: <http://www.counsel.nysed.gov/rules/full-text-indices>): The purpose of the proposed regulation is to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools. The intent of the substantial equivalency process is to ensure that all students receive the education to which they are entitled under the law. The substantial equivalency process must be a collaborative effort between LSAs and nonpublic schools.

The proposed regulation requires LSAs to make substantial equivalency determinations for all nonpublic schools within their geographical boundaries, except registered high schools, state-approved private special educa-

tion schools, state-operated and state-supported schools, which are already subject to Department review, and nonpublic schools for which the Commissioner is required to make a substantial equivalency determination pursuant to Education Law § 3204(2)(ii)-(iii). Pursuant to Education Law § 3204(2)(ii)-(iii), the Commissioner is responsible for making final determinations on substantial equivalency reviews for nonpublic schools that meet the enumerated statutory criteria.

For schools that meet the statutory criteria for a Commissioner's determination, LSAs must review such schools for substantial equivalency and forward a recommendation and supporting documentation to the Commissioner for his/her final determination.

The Department is proposing the following recommended timelines:

- New nonpublic schools that open on or after the effective date of the proposed regulation must be reviewed and all recommendations and final determinations should be made within three years of when the nonpublic school commences instruction and regularly thereafter.

- Existing nonpublic schools that are operating on the effective date of the proposed regulation must be reviewed and all recommendations and final determinations should be made by the end of the 2022-2023 school year or as soon as practicable thereafter and regularly thereafter.

The proposed regulation also recommends regular contact and communication between public and nonpublic schools, in an effort to keep each other informed of important updated information.

The proposed regulation states that substantial equivalency reviews and determinations should be conducted in a flexible and inclusive manner and should be the result of a collaboration between the LSA and the nonpublic school. Five core principles, defined in the regulation, are essential to the review process: objective, mindful, sensitive, respectful, and consistent.

The proposed regulation sets forth a recommended procedure for substantial equivalency reviews. Prior to commencing a substantial equivalency review, the LSA, after consulting with the nonpublic school, shall determine whether the Commissioner is responsible for making the final determination pursuant to Education Law § 3204(2)(ii) or (iii), or whether the LSA is responsible for making such final determination. Except for registered nonpublic high schools, state-approved private special education schools, state-operated schools and state supported schools, the superintendent or his/her designee (which may include a BOCES, where authorized under § 1950 of the Education Law) should review all nonpublic schools in the LSA's geographic boundaries, including nonpublic schools that meet the criteria for a Commissioner's determination, and, in conducting such reviews, the LSA must use the criteria outlined in the proposed regulation. For schools that meet the criteria for a Commissioner's final determination, the LSA conducts the review using the appropriate criteria and makes a recommendation to the Commissioner for his/her final determination.

The proposed regulation recommends that a substantial equivalency review should be conducted by a team of at least two individuals, including individuals with expertise in instruction and the ability to communicate well with the nonpublic school community.

The proposed regulation sets forth a recommended procedure for LSAs to render determinations regarding substantial equivalency. If there are concerns about the substantial equivalency of the instruction, the proposed regulation recommends, among other things, that the LSA and nonpublic school work collaboratively to develop a clear plan and timeline, including benchmarks and targets, for attaining substantial equivalency in an amount of time that is reasonable given the concerns identified. The proposed regulation indicates that services must continue to nonpublic school students during any period for attaining substantial equivalency.

If, after the consultation described above, the concerns identified are addressed appropriately, the following steps should occur:

- the superintendent or his/her designee should inform the board of education in writing that the nonpublic school appears to be at least substantially equivalent.

- the LSA should send written notification to the administration of the nonpublic school and provide a letter for the nonpublic school to distribute to parents;

- the LSA must notify SORIS of the positive determination; and
- the superintendent or designee should share the positive finding with superintendents of school districts in which the nonpublic school's students reside.

If, after the consultation described above, the concerns cannot be remedied or if the nonpublic school does not make the changes necessary to achieve substantial equivalency, the following steps should occur:

- The superintendent or designee should notify the board of education that the nonpublic school does not appear to be substantially equivalent, and the board of education will vote and make a final determination in a regularly scheduled, public board meeting.
- The LSA should notify nonpublic school administration of the date that the board of education will consider the matter of substantial equivalency.
- The nonpublic school should be provided an opportunity to present additional relevant materials and/or a written statement to the board of education prior to its determination.
- The LSA must provide written notification to the administration of the nonpublic school and the parents or persons in parental relationship to students attending the nonpublic school of such determination and that the students will be considered truant if they continue to attend that school.
- The board must provide a reasonable timeframe, giving due consideration to the statutory and regulatory timeframes for services to nonpublic school students, for parents or persons in parental relationship to identify and enroll their children in a different appropriate educational setting, consistent with Education Law § 3204.
- SORIS must be notified of the negative determination in a manner prescribed by the Commissioner.
- Required services to the nonpublic school and must continue until the end of the reasonable timeframe.
- Student records shall be managed consistent with section 104.2 of this Title.

Additionally, the proposed regulation requires LSAs to report the following information to SORIS by September 1, 2020 and each September 1 thereafter:

- List of all nonpublic schools within the LSA's geographical boundaries.
- List of all nonpublic schools in LSA's boundaries that are state-approved private special education schools, state-operated schools, and state-supported schools.
- List of all the nonpublic schools in the LSA's boundaries that are registered high schools pursuant to 8 NYCRR 100.2(p).
- List of all the nonpublic schools that are in the LSA's boundaries that are not state-approved private special education schools, state-supported schools, state-operated schools, or registered high schools and are subject to Commissioner's review pursuant to Education Law § 3204(2)(ii)-(iii).
- A list of the remaining nonpublic schools identified in the LSA's boundaries for which the LSA is responsible for making the final substantial equivalency determination.

The proposed regulation also requires that, commencing on September 1, 2024 and each September 1 thereafter, LSAs must submit an attestation that they:

- Made a final substantial equivalency determination for each nonpublic school in their geographic area subject to their final determination, and
- Forwarded a substantial equivalency recommendation to the Commissioner for each nonpublic school in their geographic area that is subject to a final determination by the Commissioner.

The proposed regulation includes procedures for the Commissioner's determination of substantial equivalency. For nonpublic schools for which the Commissioner is required to make a final determination, the LSA must conduct a review and forward its recommendation regarding substantial equivalency and all relevant documentation to support its recommendation to the Commissioner. The proposed regulation sets forth procedures for when a school subject to a Commissioner's determination appears not to be substantially equivalent and for when the Commissioner renders a positive or negative substantial equivalency determination. Such procedures are similar to those described above for LSAs to follow when making a final determination.

The proposed regulation provides that, when making a substantial equivalency determination, an LSA, and the Commissioner, when he/she is responsible for making the final determination, must consider the following criteria:

- Instruction given only by a competent teacher.
- English is the language of instruction for common branch subjects.
- Appropriate programs for students who have limited English proficiency.
- Accreditation materials should be taken into account if a nonpublic school has been accredited within the last five years.
- Whether the instructional program in the nonpublic school incorporates instruction in the following subjects:

o during grades 1 through 6, mathematics, including arithmetic, science, and technology; English language arts; social studies; the arts; career development and occupational studies; health education, physical education, and family and consumer sciences. Instruction in these subjects may be integrated or incorporated into the syllabus or syllabi of other courses;

o during grades 7 and 8, mathematics (two units of study); English language arts (two units of study); social studies (two units of study); science (two units of study); career and technical education, wherein the unit of study requirement may be initiated in grade 5 (one and three-fourths units of study); physical education (similar courses of instruction to those required in public schools pursuant to section 135.4 of this Title); health education (one-half unit of study); visual arts (one-half unit of study); music (one-half unit of study); library and information skills, which may be incorporated or integrated into any other subjects (the equivalent of one period per week in grades 7 and 8); career development and occupational studies, which may be incorporated or integrated into any other subjects;

o during grades 9 through 12, instruction in English (four units of study); social studies (four units of study); mathematics (three units of study); science (three units of study); health (one-half unit of study); physical education (two units of study); the arts (one unit of study);

• Whether the nonpublic school meets other statutory instructional requirements, including requirements pursuant to Education Law §§ 305(52), 801, 803(4), 804, 806, 807, 808, 3204(3), (5); and 8 NYCRR §§ 100.2(c)(1), 100.2(c)(3)-(7), 100.2(c)(11).

• Pursuant to Education Law § 3204 for nonpublic elementary and middle schools subject to a Commissioner's final determination pursuant to Education Law § 3204(2)(ii), the LSA, when making a recommendation and the Commissioner in his/her final determination, must take into consideration whether the school's instructional program meets the criteria set forth in Education Law § 3204(2)(ii).

• For nonpublic high schools that meet the criteria for a Commissioner's final determination pursuant to Education Law § 3204(2)(iii), the Commissioner and the LSA making a recommendation to the Commissioner will take into consideration whether the curriculum provides academically rigorous instruction that develops critical thinking skills in the school's students, the outcomes of which, taking into account the entirety of the curriculum, result in a sound basic education.

The proposed regulation also sets forth the rights and responsibilities of parents and persons in a parental relationship to nonpublic school students, LSAs and nonpublic school leaders related to substantial equivalency determinations.

For the full text of the regulation, please refer to our website at <http://www.counsel.nysed.gov/rules/full-text-indices>.

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

Data, views or arguments may be submitted to: Christina Coughlin, NY Education Department, SORIS, 89 Washington Avenue, Room 1075 EBA, Albany, NY 12234, (518) 474-7206, email: seregcomments@nysed.gov

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

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

Summary of Regulatory Impact Statement (Full text is posted at the following State website: <http://www.counsel.nysed.gov/rulesandregs>):

1. STATUTORY AUTHORITY:

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

Education Law 215 authorizes the Commissioner to require schools and school districts to submit reports containing such information as Commissioner shall prescribe.

Education Law 305(1) empowers the Commissioner of Education to be the chief executive officer of the State system of education and the Board of Regents and authorizes the Commissioner to enforce laws relating to the educational system and to execute educational policies determined by the Board of Regents. Education Law section 305(2) authorizes the Commissioner to have general supervision over all schools subject to the Education Law.

Education Law 3204(1) provides that minors required to attend upon instruction pursuant to the Compulsory Education Law may attend at a public school or elsewhere.

Education Law 3204(2) requires, among other things, that instruction may be given only by a competent teacher, English shall be the language of instruction, and that instruction in nonpublic schools must be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools. Paragraph (ii) of that section requires the Commissioner to make final substantial equivalency determinations

regarding (1) nonpublic elementary and middle schools that are non-profit corporations, have a bi-lingual program, and have an educational program that extends from no later than nine a.m. until no earlier than four p.m. for grades one through three, and no earlier than five thirty p.m. for grades four through eight, on the majority of weekdays and (2) nonpublic high schools that are established for pupils in high school who have graduated from an elementary school that provides instruction as described in Education Law 3204(2), are a non-profit corporation, have a bi-lingual program, and have an educational program that extends from no later than nine a.m. until no earlier than six p.m. on the majority of weekdays.

Education Law 3204(3) provides for required courses of study in the public schools and authorizes the State Education Department to alter such required subjects of instruction.

Education Law 3205(1) requires each child of compulsory school age to attend upon full time day instruction.

Education Law section 3210(2) provides the amount and character of required attendance for nonpublic school students, with the exception that a child may be permitted to attend for a shorter school day and/or year if the instruction received has been approved by the local school authorities as being substantially equivalent in amount and quality to that required by the Compulsory Education Law.

Education Law section 3234 gives the Commissioner authority to supervise enforcement of the Compulsory Education Law by withholding public school moneys for certain failures to enforce the Compulsory Education Law.

2. LEGISLATIVE OBJECTIVES:

Consistent with the above statutory authority, the proposed rule is necessary to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools.

3. NEEDS AND BENEFITS:

The purpose of the proposed regulation is to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools. The intent of the substantial equivalency process is to ensure that all students receive the education to which they are entitled under the law.

For the complete Regulatory Impact Statement, please visit the following website: <http://www.counsel.nysed.gov/rulesandregs>.

4. COSTS:

(a) Costs to State government: The proposed regulation does not impose additional costs on the State beyond what is already required by law.

(b) Costs to local government: No additional costs are imposed on local governments beyond those imposed by law. The proposed rule is necessary to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools. The procedures and timelines set forth in the regulation for substantial equivalency reviews are merely recommendations to local school authorities and do not impose any requirements on LSAs beyond those imposed by law. Moreover, the Department developed a CO-SER by which an LSA may engage with a board of cooperative educational services to conduct substantial equivalency reviews, which may be used to offset any costs incurred by local governments to fulfill their statutory obligations under Education Law §§ 3204, 3205, and 3210.

The Department expects that any annual reporting requirements in the regulation would be necessary for the LSA to fulfill its existing statutory obligations.

(c) Costs to private regulated parties: No additional costs are imposed on regulated private parties.

(d) Costs to regulating agency for implementation and continued administration of this rule: The proposed regulation does not impose additional costs on the State beyond what is already required by law.

5. LOCAL GOVERNMENT MANDATES:

The proposed rule is necessary to direct LSAs to make determinations and recommendations to the Commissioner, as applicable, regarding the substantial equivalency of instruction in nonpublic schools in accordance with Education Law §§ 3204, 3205, and 3210. The proposed regulation recommends a timeline and procedure for substantial equivalency reviews and determinations. The proposed regulation recommends regular contact and communication between public and nonpublic schools. It also requires an LSA to consider the listed criteria when making a substantial equivalency determination or recommendation to the Commissioner. The

proposed regulation also imposes an annual reporting requirement on LSAs. See Needs and Benefits (contained in the complete Regulatory Impact Statement) and Paperwork sections for more information.

6. PAPERWORK:

The proposed rule requires LSAs to send recommendations and supporting documents to the Commissioner regarding the substantial equivalency of instruction at nonpublic schools that meet the criteria in Education Law § 3204(2). It also requires LSAs to document and retain findings of substantial equivalence and non-substantial equivalence and provide written confirmation to the nonpublic school.

The proposed rule requires LSAs to report to *SORIS* by September 1, 2020 and each September 1 thereafter: a list of all nonpublic schools located within the LSA's geographic boundaries; a list of all nonpublic schools in LSA's boundaries that are state-approved private special education schools, state-operated schools, and state-supported schools; a list of all the nonpublic schools in the LSA's boundaries that are registered high schools pursuant to 8 NYCRR § 100.2(p); a list of all the nonpublic schools that are in the LSA's boundaries that are not state-approved private special education schools, state-supported schools, state-operated schools, or registered high schools and are subject to Commissioner's review pursuant to Education Law § 3204(2)(ii)-(iii); and a list of the remaining nonpublic schools identified in the LSA's boundaries for which the LSA is responsible for making the final substantial equivalency determination. The proposed rule also requires that, commencing on September 1, 2024 and each September 1 thereafter, LSAs must submit an attestation that they made a final substantial equivalency determination for each nonpublic school in their geographic area subject to their final determination, and forwarded a substantial equivalency recommendation to the Commissioner for each nonpublic school in their geographic area that is subject to a final determination by the Commissioner.

The proposed rule requires nonpublic schools to maintain a complete and accurate archive copy that includes detailed records of substantial equivalency determinations in the same manner as required for pupil academic records pursuant to 8 NYCRR 104.2.

7. DUPLICATION:

The proposed rule does not duplicate existing State or Federal regulations.

8. ALTERNATIVES:

The proposed rule is necessary to ensure that students who attend nonpublic schools receive substantially equivalent instruction to that provided in the public schools pursuant to Education Law § 3204. The Department engaged in a consultative process for over two years to produce the guidance that was released in November 2018. The proposed regulations make the following major changes to the updated guidance:

- Recommends that new schools be reviewed within three years of operation and that existing schools be reviewed by the end of the 2022-23 school year or as soon as practicable thereafter and regularly thereafter.
- Provides additional due process to the nonpublic school throughout the substantial equivalency process.
- Focuses on providing instruction in subject areas required by law rather than specific state learning standards.
- Explicitly allows for integrated curriculum that delivers content by incorporating more than one subject into the content of a course.
- Requires LSAs to annually file a list of nonpublic schools subject to their review and Commissioner's review by Sep. 1, 2020 and each September 1 thereafter; and
- Requires LSAs to file an annual update regarding the status of substantial equivalency reviews by Sep. 1, 2024 and each September 1 thereafter.

Thus, many alternatives were considered in the development of the proposed regulation.

9. FEDERAL STANDARDS:

There are no related Federal standards.

10. COMPLIANCE SCHEDULE:

The Department is proposing the following recommended timelines:

- New nonpublic schools that open on or after the effective date of the proposed regulation must be reviewed and all recommendations and final determinations should be made within three years of when the nonpublic school commences instruction and regularly thereafter.
- Existing nonpublic schools that are operating on the effective date of the proposed regulation must be reviewed and all recommendations and final determinations should be made by the end of the 2022-2023 school year or as soon as practicable thereafter and regularly thereafter.

Summary of Regulatory Flexibility Analysis (Full text is posted at the following State website: <http://www.counsel.nysed.gov/rulesandregs>):

(a) Small businesses:

The proposed amendment will not impose any additional compliance requirements on small businesses, and is necessary to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining

whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools.

(b) Local government:

The proposed rule is necessary to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools. The proposed rule is necessary to direct LSAs to make determinations and recommendations to the Commissioner, as applicable, regarding the substantial equivalency of instruction in nonpublic schools in accordance with Education Law §§ 3204, 3205, and 3210. The proposed regulation recommends a timeline and procedure for substantial equivalency reviews and determinations. The proposed regulation recommends regular contact and communication between public and nonpublic schools. It also requires an LSA to consider the listed criteria when making a substantial equivalency determination or recommendation to the Commissioner. The proposed regulation also imposes an annual reporting requirement on LSAs.

1. EFFECT OF RULE:

The proposed rule applies to each of the 695 public school districts in the State.

2. COMPLIANCE REQUIREMENTS:

The purpose of the proposed regulation is to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools. The intent of the substantial equivalency process is to ensure that all students receive the education to which they are entitled under the law.

For the complete Regulatory Flexibility Analysis for Small Business and Local Government, please visit the following website: <http://www.counsel.nysed.gov/rulesandregs>.

3. PROFESSIONAL SERVICES:

The rule imposes no additional professional service requirements.

4. COMPLIANCE COSTS:

(a) Costs to State government: The proposed regulation does not impose additional costs on the State beyond what is already required by law.

(b) Costs to local government: No additional costs are imposed on local governments beyond those imposed by law. The proposed rule is necessary to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools. The procedures and timelines set forth in the regulation for substantial equivalency reviews are merely recommendations to local school authorities and do not impose any requirements on LSAs beyond those imposed by law. Moreover, the Department developed a CO-SER by which an LSA may engage with a board of cooperative educational services to conduct substantial equivalency reviews, which may be used to offset any costs incurred by local governments to fulfill their statutory obligations under Education Law §§ 3204, 3205, and 3210.

The Department expects that any annual reporting requirements in the regulation would be necessary for the LSA to fulfill its existing statutory obligations.

(c) Costs to private regulated parties: No additional costs are imposed on regulated private parties.

(d) Costs to regulating agency for implementation and continued administration of this rule: The proposed regulation does not impose additional costs on the State beyond what is already required by law.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The rule imposes no technological requirements on school districts. Costs are discussed under the "Compliance Costs" section above.

6. MINIMIZING ADVERSE IMPACT:

The proposed rule is necessary to ensure that students who attend nonpublic schools receive substantially equivalent instruction to that provided in the public schools pursuant to Education Law § 3204. The Department engaged in a consultative process for over two years to produce the guidance that was released in November 2018. The proposed regulations make the following major changes to the updated guidance:

- Recommends that new schools be reviewed within three years of operation and that existing schools be reviewed by the end of the 2022-23 school year or as soon as practicable thereafter and regularly thereafter.

- Provides additional due process to the nonpublic school throughout the substantial equivalency process.

- Focuses on providing instruction in subject areas required by law rather than specific state learning standards.

- Explicitly allows for integrated curriculum that delivers content by incorporating more than one subject into the content of a course.

- Requires LSAs to annually file a list of nonpublic schools subject to their review and Commissioner's review by Sep. 1, 2020 and each September 1 thereafter; and

- Requires LSAs to file an annual update regarding the status of substantial equivalency reviews by Sep. 1, 2024 and each September 1 thereafter.

Thus, many alternatives were considered in the development of the proposed regulation.

Because the statutory requirements upon which the proposed rule is based applies to the instruction received by all New York students elsewhere than at a public school, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt schools in rural areas from coverage by the proposed amendment.

7. LOCAL GOVERNMENT PARTICIPATION:

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

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:

The proposed rule applies to all school districts in the State, including those located in the 44 rural counties with less than 200,000 inhabitants and the 71 towns in urban counties with a population density of 150 per square mile or less.

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

The proposed rule is necessary to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools. The proposed rule is necessary to direct LSAs to make determinations and recommendations to the Commissioner, as applicable, regarding the substantial equivalency of instruction in nonpublic schools in accordance with Education Law §§ 3204, 3205, and 3210. The proposed regulation recommends a timeline and procedure for substantial equivalency reviews and determinations. The proposed regulation recommends regular contact and communication between public and nonpublic schools. It also requires an LSA to consider the listed criteria when making a substantial equivalency determination or recommendation to the Commissioner. The proposed regulation also imposes an annual reporting requirement on LSAs.

The proposed rule requires LSAs to send recommendations and supporting documents to the Commissioner regarding the substantial equivalency of instruction at nonpublic schools that meet the criteria in Education Law § 3204(2). It also requires LSAs to document and retain findings of substantial equivalence and non-substantial equivalence and provide written confirmation to the nonpublic school.

The proposed rule requires LSAs to report to SORIS by September 1, 2020 and each September 1 thereafter: a list of all nonpublic schools located within the LSA's geographic boundaries; a list of all nonpublic schools in LSA's boundaries that are state-approved private special education schools, state-operated schools, and state-supported schools; a list of all the nonpublic schools in the LSA's boundaries that are registered high schools pursuant to 8 NYCRR § 100.2(p); a list of all the nonpublic schools that are in the LSA's boundaries that are not state-approved private special education schools, state-supported schools, state-operated schools, or registered high schools and are subject to Commissioner's review pursuant to Education Law § 3204(2)(ii)-(iii); and a list of the remaining nonpublic schools identified in the LSA's boundaries for which the LSA is responsible for making the final substantial equivalency determination. The proposed rule also requires that, commencing on September 1, 2024 and each September 1 thereafter, LSAs must submit an attestation that they made a final substantial equivalency determination for each nonpublic school in their geographic area subject to their final determination, and forwarded a substantial equivalency recommendation to the Commissioner for each nonpublic school in their geographic area that is subject to a final determination by the Commissioner.

The proposed rule requires nonpublic schools to maintain a complete and accurate archive copy that includes detailed records of substantial equivalency determinations in the same manner as required for pupil academic records pursuant to 8 NYCRR 104.2.

3. COSTS:

(a) Costs to State government: The proposed regulation does not impose additional costs on the State beyond what is already required by law.

(b) Costs to local government: No additional costs are imposed on local governments beyond those imposed by law. The proposed rule is necessary to provide guidance to local school authorities (LSAs) to assist them

in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools. The procedures and timelines set forth in the regulation for substantial equivalency reviews are merely recommendations to local school authorities and do not impose any requirements on LSAs beyond those imposed by law. Moreover, the Department developed a CO-SER by which an LSA may engage with a board of cooperative educational services to conduct substantial equivalency reviews, which may be used to offset any costs incurred by local governments to fulfill their statutory obligations under Education Law §§ 3204, 3205, and 3210.

The Department expects that any annual reporting requirements in the regulation would be necessary for the LSA to fulfill its existing statutory obligations.

(c) Costs to private regulated parties: No additional costs are imposed on regulated private parties.

(d) Costs to regulating authority for implementation and continued administration of this rule: The proposed regulation does not impose additional costs on the State beyond what is already required by law.

4. MINIMIZING ADVERSE IMPACT:

The proposed rule is necessary to ensure that students who attend nonpublic schools receive substantially equivalent instruction to that provided in the public schools pursuant to Education Law § 3204. The Department engaged in a consultative process for over two years to produce the guidance that was released in November 2018. The proposed regulations make the following major changes to the updated guidance:

- Recommends that new schools be reviewed within three years of operation and that existing schools be reviewed by the end of the 2022-23 school year or as soon as practicable thereafter and regularly thereafter.
- Provides additional due process to the nonpublic school throughout the substantial equivalency process.
- Focuses on providing instruction in subject areas required by law rather than specific state learning standards.
- Explicitly allows for integrated curriculum that delivers content by incorporating more than one subject into the content of a course.
- Requires LSAs to annually file a list of nonpublic schools subject to their review and Commissioner’s review by Sep. 1, 2020 and each September 1 thereafter; and
- Requires LSAs to file an annual update regarding the status of substantial equivalency reviews by Sep. 1, 2024 and each September 1 thereafter.

Thus, many alternatives were considered in the development of the proposed regulation. Because the statutory requirements upon which the proposed rule is based applies to the instruction received by all New York students elsewhere than at a public school, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt schools in rural areas from coverage by the proposed amendment.

5. RURAL AREA PARTICIPATION:

Comments on the proposed amendment were solicited from the Department’s Rural Advisory Committee, whose membership includes school districts located in rural areas.

Job Impact Statement

The proposed rule is necessary to provide guidance to local school authorities (LSAs) to assist them in fulfilling their responsibilities under Education Law §§ 3204, 3205, and 3210 in determining whether students in nonpublic schools are receiving instruction that is at least substantially equivalent to the instruction being provided to students of like age and attainments at the public schools.

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

Department of Environmental Conservation

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

Feeding of Wild Deer and Moose, Use of 4-Poster™ Devices

I.D. No. ENV-27-19-00001-P

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

Proposed Action: Addition of Part 186; amendment of Part 189 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 3-0301(1)(b), (c), 11-0303(2) and 11-0325(1)

Subject: Feeding of wild deer and moose, use of 4-Poster™ devices.

Purpose: To prohibit feeding of wild deer and moose, to define conditions for use of 4-Poster™ devices.

Text of proposed rule: A new Part 186 is added to 6 NYCRR to read as follows:

Part 186 Feeding of wild white-tailed deer or wild moose

186.1 Findings and purpose. The Department of Environmental Conservation (“Department”) finds that the intentional feeding of wild white-tailed deer or wild moose is not in the public interest, and will unnaturally concentrate wild white-tailed deer or wild moose and thereby lead to environmental harm including: destruction of natural habitat; disruption of natural movements; increased risks for introduction, transmission or spread of disease; and alterations of behavior in wild white-tailed deer or wild moose that may increase danger to people or damage to property, or both. The purpose of this part is to define the limited circumstances and lawful practices by which wild white-tailed deer or wild moose may be intentionally fed but not result in unnatural concentrations or environmental harm, to require that commercially produced foods for attracting or feeding deer or moose be labeled with a warning about the feeding prohibition, and to provide a clear procedure for the authorization and use of automated feeding devices to dispense Tickicide, such as 4-Poster™ for control of ticks on deer that may transmit disease to humans.

186.2. Definitions. For the purposes of this Part, the following terms have the indicated meanings:

(a) “Automated feeding devices” are automated feeding devices that dispense food material, such as corn, as well as 4-Poster™ Tickicide (Environmental Protection Agency Registration No. 39039-12, Special Local Need Registration SLN NY-120001) onto deer to kill ticks.

(b) “Commercial deer foods” means food or food products labeled or packaged as a product to be used for feeding or attracting deer or moose, including those in packages that depict hunters, hunting, live or dead deer or moose, or antlers, use camouflage or bright orange coloration, or include words related to hunting, harvesting, or attracting deer or moose.

(c) “Deer or moose” means free-ranging wild white-tailed deer or moose.

(d) “Feed or feeding of deer or moose” means to intentionally place or distribute food or food products, or any act to maintain the availability of such material that results in the attraction of deer or moose to a particular site or location and the consumption by deer or moose of such material or the substrate on which it is distributed. Placing or distributing commercial deer foods such that they are accessible to wild deer or moose is presumptive evidence of intent to feed deer or moose.

(e) “Food or food products” means any material including but not limited to any powders, liquids, fruits, vegetables, grains, minerals, or commercially produced foods made for consumption by humans or domestic or wild animals.

(f) “Incidental or indirect feeding” means using, placing, giving, exposing, depositing, distributing or scattering any material for a different purpose than feeding or attracting deer or moose to a particular location but that results in the attraction of one or more deer or moose. This includes the use and storage of birdseed in a manner that is accessible to deer or moose. This does not include normal agricultural or horticultural practices.

(g) “Municipality” is a State, County, Town or Village government official or agency.

186.3. Prohibitions.

(a) No person shall intentionally feed deer or moose at any time in New York State except:

(1) under a license or permit issued by the Department pursuant to article 11 of the Environmental Conservation Law for bona fide scientific research, mitigation of wildlife damage or nuisance problems, wildlife disease surveillance and response, or wildlife population reduction programs only;

(2) by use of an automated feeding device that has tickicide such as 4-Poster™ as permitted by the Department in accordance with Section 186.4;

(3) by planting, cultivating or harvesting of vegetation associated with normal agricultural or horticultural practices;

(4) by planting, cultivating or harvesting plants to enhance wildlife habitat conditions;

(5) by distribution of food material for livestock directly associated with livestock husbandry;

(6) by distribution of food material for legally possessed captive animals of the family Cervidae where measures are in place to eliminate the availability of food material to deer or moose; or

(7) by cutting of trees or brush.

(b) No person shall incidentally or indirectly feed deer or moose or maintain the availability of incidental or indirect food sources for deer or moose after the Department has issued a written warning notice to the person or persons directly responsible for the incidental or indirect feeding of a deer or moose.

(c) No person shall feed wild or captive animals of the family Cervidae with any material that contains protein derived from any mammalian tissue.

(d) No person shall sell at retail or offer for retail sale in New York commercial deer foods or deer feeding equipment unless such products or equipment are affixed with a label that reads as follows:

NOTICE TO CUSTOMERS

It is illegal to intentionally feed wild white-tailed deer and moose in New York State. Placing this product so that it is accessible to wild deer or moose in New York is presumptive evidence of intent to feed deer or moose. Any person found intentionally feeding this product to wild deer or moose will be subject to prosecution pursuant to 6 NYCRR Part 186.

(1) Such label may be obtained by download from the Department's website at www.dec.ny.gov and must measure at least 3 inches by 4 inches and be prominently displayed on the top or the top half of the front of the product or package.

186.4 Authorization of automated feeding devices, with 4-Poster™ Tickicide.

(a) Eligible permittees. The Department may, at its discretion, issue permits pursuant to this section for any of the following entities to deploy automated feeding devices using whole kernel corn in parts of the state where 4-Poster™ Tickicide is registered for use:

(1) Municipalities, for use on any lands that they own or that are under their jurisdiction;

(2) Individual landowners or homeowner associations that, singly or in combination, own and control a contiguous land area inhabited by white-tailed deer and totaling at least 40 acres in size.

(b) Criteria for permit issuance. The following criteria must be met before a permit may be issued by the Department pursuant to this section:

(1) The applicant must identify the specific properties (e.g., tax parcel numbers, latitude/longitude, or UTM coordinates of proposed deployment locations) that are included in the proposed deployment area and their owners;

(2) The identified properties must include a contiguous land area totaling at least 40 acres in size;

(3) The applicant(s) must be one or more of the person(s) who own(s) property included in the application, or be an agent with written permission from one or more owners of the property(ies) where the device(s) will be located;

(4) Written consent of all property owners included in the minimum 40-acre contiguous area must be provided as part of the application;

(5) The applicant must provide a written deer management plan using a format provided by the Department that will be implemented in conjunction with the use of a Tickicide, such as 4-Poster™, and an automated feeding device. At a minimum, the plan must include measures to ensure that white-tailed deer populations and the impacts of deer (e.g., vehicle collisions and damage to ornamental plantings and native vegetation) will not increase as a result of deploying the automated feeding devices. The deer management plan may include, but is not limited to, recreational hunting, culling, surgical sterilization, fencing of sensitive areas, and enforcement of State and local deer feeding prohibitions pursuant to this Part or local laws or regulations. The plan must clearly indicate how it relates to any deer management plans currently in place for the municipality where automated feeding devices would be deployed. Prior to the issuance of a permit for an automated feeding device using a Tickicide, the deer management plan must be approved by the Department. The Department may deny a permit to any person that it determines has not adequately considered and incorporated deer population management techniques in conjunction with deployment of automated feeding devices. Examples of this would include, but not be limited to, maintaining landowner restrictions on deer hunting that exceed State and local statutes necessary to ensure public safety;

(6) If the applicant is not a municipality, written approval of the specific location(s) of deployment of automated feeding devices with Tickicide must be provided by the municipality with jurisdiction where the property is located; and

(7) Permit applications may be submitted at any time of year using forms provided by the Department.

(c) Permit conditions and reporting requirements:

(1) Automated feeding devices may only be used in parts of the state where a Tickicide, such as 4-Poster™ Tickicide is registered for use and may be deployed only at the locations identified in an application approved by the Department;

(2) Permits may be issued for up to a 3-year period, but will include

an annual reporting requirement using a form provided by the Department. Annual reports shall be submitted to the Department on or before December 31 and shall include a summary of bait consumption and 4-Poster™ Tickicide applications by week for each automated feeding device, recommendations for future use of automated feeding devices in the areas covered by the permit, and a summary of actions employed by the permittee to control deer population growth and impacts and monitor impacts;

(3) Permits may allow deployment and maintenance of automated feeding devices with Tickicide at any time of year;

(4) Automated feeding devices with Tickicide may not be placed within 300 feet of a public highway pursuant to Environmental Conservation Law 11-0505(8);

(5) Automated feeding devices with Tickicide may not be placed within 300 feet of any dwelling, multiple dwelling, playground or any other locations where children may be present without adult supervision, unless the area around the automated feeding device with Tickicide is surrounded with a fence 28 to 30 inches high with a minimum diameter of 29 feet and constructed in accordance with specifications outlined in New York State-approved labeling for 4-Poster™ Tickicide;

(6) The Department may, when it determines that attraction of black bears or other non-target species (e.g., raccoons) poses an ecological or public safety risk, require that automated feeding devices with Tickicide be surrounded with an electrified fence with a minimum diameter of 29 feet, constructed and maintained in such a manner as to prevent any non-target species of concern from gaining access to the automated feeding device;

(7) Any person that receives a permit to use an automated feeding device with Tickicide and any municipality that endorses such a permit issued to any entity located in their jurisdiction must take steps to inform the public, including landowners, hunters, and local law enforcement agencies, of the presence and locations of automated feeding devices in their area. Examples of such steps would include but not be limited to notices on municipal websites, in local newspapers, and posted at entrances to properties where automated feeding devices with Tickicide are deployed;

(8) The permittee shall deploy automated feeding devices with Tickicide in accordance with the manufacturer's instructions, in compliance with U.S. Environmental Protection Agency and New York State label requirements and subject to the applicable provisions of Environmental Conservation Law Article 33;

(9) An automated feeding device with Tickicide shall only be baited with feed when rollers are charged with 4-Poster™ Tickicide and all bait shall be removed and disposed of in an approved waste disposal facility upon cessation of 4-Poster™ Tickicide application; and

(10) Additional permit conditions may be included at the Department's discretion.

(d) Revocation. Permits may be revoked for violation of permit conditions or failure to implement and maintain deer management measures as described in the Department-approved deer management plan, or when the Department determines that the continued use of automated feeding devices with Tickicide poses a threat of disease spread or transmission.

(e) An automated feeding device with Tickicide deployed in accordance with a Department-issued permit shall not be considered a "pre-established bait pile" that would prohibit the taking of deer by a licensed hunter pursuant to ECL 11-0901 (4)(b)(7).

Section 189.2 is amended as follows:

Subdivision (f) is repealed.

Subdivisions (g) through (k) are renumbered as subdivision (f) through (j).

Section 189.3 is amended as follows:

Subdivisions (b) and (c) are repealed, and existing subdivisions (d) through (h) are renumbered as subdivisions (b) through (f).

Text of proposed rule and any required statements and analyses may be obtained from: Michael Schiavone, Division of Fish and Wildlife, Department of Environmental Conservation, 625 Broadway, Albany, NY 12233, (518) 402-8883, email: michael.schiavone@dec.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:

The Commissioner of the Department of Environmental Conservation (Department), pursuant to Environmental Conservation Law (ECL) section 3-0301, has authority to protect the wildlife resources of New York State. Section 11-0303 of the Environmental Conservation Law (ECL) directs the Department to develop and carry out programs that will maintain desirable species in ecological balance, and to observe sound management practices. This directive is to be met with regard to: ecological factors, the compatibility of production and harvest of wildlife with other land uses, the importance of wildlife for recreational purposes, pub-

lic safety, and protection of private premises. ECL section 11-0325 provides the authority to take action necessary to protect fish and wildlife from dangerous diseases. ECL 11-0505(8) prohibits the placement of any substance to attract or entice deer to feed within 300 feet of a public highway.

2. Legislative objectives:

The legislative objective of ECL section 3-0301 is to grant the Commissioner the powers necessary for the Department to protect New York's natural resources, including wildlife, in accordance with the environmental policy of the State. ECL 11-0303 mandates the adoption of sound management practices for the State's wildlife resources. ECL 11-0325 enables rapid response to wildlife diseases to ensure that wildlife populations are protected. ECL 11-0505(8) attempts to prevent deer impacts on public safety that could occur as a result of deer feeding activities. The proposed regulation achieves these objectives by restricting unauthorized intentional feeding of wild deer and moose that can lead to environmental harm, public hazard, and increased wildlife disease risks. By permitting under specified conditions the use of automated feeding devices, in conjunction with use of 4-Poster™ Tickicide, the regulation allows the public to address local tick densities while mitigating potential deer-related problems.

3. Needs and benefits:

This rule making addresses three issues. First, existing regulations (6 NYCRR Part 189) meant to prevent the introduction or spread of chronic wasting disease (CWD) do not adequately address the need for general prohibitions on the feeding of wild white-tailed deer and moose. The existing regulations were originally promulgated in 2002 in response to the threat of CWD being introduced into New York. However, the justifications for prohibiting the feeding of deer and moose extend well beyond risks associated with CWD. Intentionally feeding deer and moose can artificially increase populations and cause behavioral changes, leading to harmful effects on wildlife, habitats and people. Second, a Sullivan County court ruled that portions of the Department's existing regulations related to feeding wild deer were not lawful, rendering enforcement of the regulations in Sullivan County and perhaps other counties problematic. The proposed regulations clarify and cure the deficits identified by the court. Third, 4-Poster™ Tickicide is registered by the Department to kill ticks on deer, in accordance with EPA Special Local Need Registration SLN NY-120001. Because the automated feeding devices used to administer 4-Poster™ Tickicide on deer rely on attracting deer with food such as corn, a clear regulatory regime is needed to govern the use of these devices and limit the associated negative impacts.

This rule making proposes to strengthen and clarify the existing prohibition on intentionally feeding of wild deer and moose and require that products packaged to be sold as a food or attractant for deer or moose carry a clear label stating that such use is illegal in New York. The rule will continue to provide appropriate exceptions for wildlife plantings, agricultural practices, livestock husbandry, and research and nuisance abatement actions permitted by the Department. It also clarifies that incidental feeding such as the attraction of deer or moose to a birdfeeder would only be considered a violation if the Department had previously issued a written warning to the person responsible for the incidental feeding. This will allow the Department to respond to specific nuisance situations without limiting bird feeding in general. Additionally, this rule making proposes to define the application procedures and conditions for issuance of a permit for the use of a 4-Poster™ Tickicide, including the requirement that automated feeding devices used with 4-Poster™ be used only in the context of a comprehensive management approach that also addresses local deer abundance.

A general prohibition on feeding wild deer and moose is a best management approach to reduce risks associated with communicable wildlife diseases, including CWD. Additionally, supplemental feeding can negatively affect deer behavior, leading to increased social conflict among deer, habituation of deer to humans, and alteration of migratory movements. Supplemental feeding can increase deer populations above ecologically sustainable levels, resulting in significant harm to local biodiversity and forest health.

The Department amended regulations in 2005 to prohibit the sale of "feed or equipment which is specifically labeled or packaged as a product to be used for feeding or attracting wild white-tailed deer," and to require that signs notifying customers of the deer feeding prohibition be posted wherever feed for domestic livestock or wildlife was sold. Because the provision applied to all retailers offering feed for domestic livestock, including stores that sold small quantities of bird seed or suet, enforcement was difficult and the provisions were rescinded in 2010. Subsequently, though intentionally feeding wild deer and moose remained unlawful, the quantity of products labeled or packaged for feeding wild deer has increased dramatically in New York stores. The presence of products available for purchase but illegal for use sends a mixed message to consumers that likely contributes substantially to illegal feeding of deer. The proposed amendments require that products packaged to be sold as a

food or attractant for deer or moose carry a clear label stating that such intentional use is illegal in New York. This should discourage the sale and illegal use of such products without affecting sale of products used to feed domestic livestock or other wildlife such as birds.

The 4-Poster™ deer treatment automated feeding device is a pesticide delivery system, designed to apply a dose of the synthetic pyrethroid permethrin to the neck and shoulder area of deer to kill ticks that have the potential to transmit disease to humans and domestic animals. The device presents corn as a bait through a small opening. When deer feed from the small opening, their necks contact rollers that are impregnated with permethrin, coating their hair with the pesticide.

Though 4-Poster™ Tickicide is a registered pesticide in New York, the Department has concerns with the unregulated use of feed to attract deer to the devices. Some have argued that the potential reduction of tick numbers in the environment near automated feeding devices with 4-Poster™ Tickicide and a possible reduction in human health risks outweigh all other considerations, and that the Department should allow the use of these devices without any restrictions. However, the potential widespread use of automated feeding devices could have broad-ranging ecological impacts. To ensure that deployment of automated feeding devices does not worsen impacts associated with high deer populations, the proposed regulation clearly defines and limits the conditions under which the device may be allowed. Specifically:

- 4-Poster™ Tickicide may only be used by a municipality, landowner association, or private individual/corporation that has control over or ownership of at least 40 acres of deer habitat. This is necessary to comply with the product label, which states that automated feeding devices with 4-Poster™ Tickicide should be deployed at a rate of one device per 40 acres of treatment area.

- The user of an automated feeding device with 4-Poster™ Tickicide will need to provide location information on its placement. This will enable the Department to track their use, and to evaluate potential impacts on deer-car collisions, habitat damage and hunter participation and behavior, as well as reports of increased populations of deer or other species that cause conflicts with people (e.g., raccoons, Canada geese).

- 4-Poster™ Tickicide may only be used as one component of a comprehensive deer management plan (provided by the applicant) that includes measures to ensure that deer impacts will not increase as a result of deploying the 4-Poster™ devices. Specifically, applicants will be required to identify deer management actions they will take to ensure that deer density will not increase as a result of the enhanced food supply for deer within the area where automated feeding devices with 4-Poster™ Tickicide would be deployed. Such actions may include, but are not limited to, recreational hunting, culling deer, and surgical sterilization.

- The user of an automated feeding device with 4-Poster™ Tickicide, as well as municipalities approving the use of such devices on land within their jurisdiction, must take steps to inform the public, including landowners, hunters, and local law enforcement agencies, of the presence and locations of automated feeding devices with 4-Poster™ Tickicide deer treatment in their area.

- Attraction of bears to the automated feeding devices could create a serious public safety hazard. In areas where bears may be present, the Department may require any user of an automated feeding device with 4-Poster™ Tickicide to install and maintain an appropriately designed fence to ensure that bears will not be able to gain access to the device. The Department may also require fencing if it determines that attraction of other non-target species (e.g. raccoons) poses an ecological or public safety risk. The Department will provide advice on fence design.

4. Costs:

The costs associated with adopting the proposed regulation relate to the outreach needed to the regulated community of these changes. These costs are minimal and entail production of press releases, bulletins for hand-out, and updates to the Department's website. This rulemaking should reduce costs associated with Department staff time reviewing permit applications for use of 4-Poster™ Tickicide, as terms and conditions will be codified in regulation rather than being addressed on a case-by-case basis.

5. Local government mandates:

The proposed rule does not impose any mandates on local governments. Municipalities that desire a permit to deploy automated feeding devices with 4-Poster™ Tickicide for deer treatment on lands that they own or oversee will need to prepare a deer management plan, submit annual reports to the Department, and conduct outreach to inform community members of the presence and locations of automated feeding devices.

6. Paperwork:

Under the proposed rule, municipalities, landowners, or associations of landowners desiring to deploy automated feeding devices with 4-Poster™ Tickicide for deer treatment must prepare an application with supporting documents, and if approved submit annual reports to the Department.

7. Duplication:

The proposed amendment does not duplicate any state or federal requirement.

8. Alternatives:

The Department could attempt to enforce the existing deer feeding prohibition, but the legal precedent set by the Sullivan County case jeopardizes enforcement of the existing regulation throughout the State. For example, law enforcement personnel could be confronted with local justices who refuse to consider a specific case because of the prior Sullivan County decision. This would result in inefficient use of resources and potentially unequal application and enforcement throughout the State.

The Department could modify the deer feeding regulation to address the Sullivan County court decision but not address the sale of feed or attractants for wild deer and moose. However, the Department does not believe this is a good option because the continued sale of feed and attractants for wild deer, despite their being illegal for use in New York, would perpetuate confusion among consumers and reduce the effectiveness of the feeding prohibition.

The Department could prohibit the use of automated feeding devices with 4-Poster™ Tickicide in the State, but that would be contrary to the Department's 2012 decision to approve registration of the automated feeding device with 4-Poster™ Tickicide as a legal method for dispensing permethrin into the environment in Nassau and Suffolk counties and the 2017 expansion of that registration to the entire State. Those approvals were granted despite concerns related to the supplemental feeding of deer that occurs when automated feeding devices with 4-Poster™ Tickicide are deployed.

The Department could allow any person to use automated feeding devices with 4-Poster™ Tickicide in any location in New York, subject to the limitations of 4-Poster™ Tickicide registration. However, the Department strongly contends that excessive use of automated feeding devices with 4-Poster™ Tickicide would concentrate deer, alter their behavior, and potentially increase local deer populations, which would exacerbate negative deer impacts on habitats and the public. Indiscriminate placement of automated feeding devices with 4-Poster™ Tickicide throughout New York would also expand and intensify risks associated with non-target wildlife feeding. Notably, automated feeding devices could promote human-bear conflicts, and the supplemental feeding of raccoons would increase human health concerns associated with raccoon rabies. Some level of reasonable regulation, as proposed here, is needed.

9. Federal standards:

None.

10. Compliance schedule:

The regulated community will be required to comply with these regulations upon their adoption.

Regulatory Flexibility Analysis

This rulemaking would amend the Department of Environmental Conservation's (Department) general regulations found in Part 189 and adopt a new Part 186 of the New York State Codes, Rules and Regulations governing the feeding of wild white-tailed deer and moose. This rulemaking is necessary to strengthen and clarify existing prohibitions on feeding wild deer and moose and to define conditions under which the Department may issue permits for baiting of automated feeding devices with 4-Poster™ Tickicide. These changes are needed to protect deer and moose populations and to ensure that the public does not suffer adverse consequences associated with feeding deer.

1. Effect of rule:

The proposed regulations require that retail products packaged to be sold as a food or edible attractants for wild deer or moose carry a clear label stating that such use is illegal in New York. Such labeling will reduce the risk that consumers will be misled into thinking that the products are legal for use simply by the presence of such products in major sporting retailer stores. Accordingly, retail stores that choose to offer for sale food, food products, or equipment which is labeled or packaged as a product to be used for feeding or attracting deer or moose must comply with the rule by placing labels on the products notifying customers that it is illegal to intentionally feed wild deer or moose in New York. The Department anticipates that this will affect several large retail outlets and numerous small businesses that carry hunting supplies or livestock feed.

Municipal governments may seek to deploy automated feeding devices with 4-Poster™ Tickicide as part of their municipal deer management programs, and this rule facilitates that process.

2. Compliance requirements:

Reporting and recordkeeping associated with the implementation and enforcement of the proposed regulation are principally the responsibility of the Department. Retail stores that choose to offer for sale food, food products, or equipment which is labeled or packaged as a product to be used for feeding or attracting deer or moose must comply with the rule by placing labels on the products notifying customers that it is illegal to intentionally feed wild deer or moose in New York. Also, individuals or municipalities seeking to use automated feeding devices with 4-Poster™ Tickicide to treat deer will be required to submit an application to the Department that includes a deer management plan outlining measures to

be taken to ensure deer-related impacts will not increase as a result of the intended use of automated feeding devices. Individuals or municipalities holding a permit for use of an automated feeding device with 4-Poster™ Tickicide will be required to submit an annual report summarizing bait consumption and 4-Poster™ Tickicide applications by week for each automated feeding device, recommendations for future deployment and continued use of 4-Poster™ Tickicide in the areas covered by the permit, and a summary of actions employed by the permittee to control deer population growth and impacts.

3. Professional services:

The Department does not believe any professional services will be needed to comply with the provisions of this rule related to feeding deer or moose. Municipalities seeking a permit to use 4-Poster™ devices may opt to use professional wildlife consultants to develop the required deer management plan and handle annual reporting requirements. However, many municipalities use existing staff or task community boards to accomplish such work. Additionally, in accordance with the pesticide label and irrespective of the proposed rule, deployment of automated feeding devices with 4-Poster™ Tickicide requires the services of a certified pesticide applicator.

4. Compliance costs:

Costs associated with the implementation and enforcement of the proposed regulation are principally the responsibility of the Department. Retail stores that choose to offer for sale food, food products, or equipment which is labeled or packaged as a product to be used for feeding or attracting deer or moose will be required to print and place labels on the products notifying customers that it is illegal to intentionally feed wild deer or moose in New York. The estimated cost to retail stores is expected to not exceed \$0.04 per product unit.

Municipalities and individuals may incur some cost in developing and implementing a comprehensive deer management plan and compiling annual reports, though the cost is expected to be minimal compared to the annual cost of deploying and maintaining automated feeding devices for treating deer with Tickicide.

5. Economic and technological feasibility:

Based on the Department's past experience in promulgating regulations of this nature, and based on the professional judgment of Department staff, the Department has determined that this rule making is fully economically and technologically feasible for small business and local governments.

6. Minimizing adverse impact:

The Department has determined that this rule making will have minimal adverse impact on small business and local governments. Related to prohibitions on intentionally feeding wild deer and moose and associated sale of food products, the proposed rule does not prohibit sale of products. Rather the proposed rule requires retail stores that choose to offer for sale food, food products, or equipment which is labeled or packaged as a product to be used for feeding or attracting deer or moose to place labels on the products notifying customers that it is illegal to intentionally feed wild deer or moose in New York. These labels may reduce sales of such products as consumers recognize that the products may not be legally used in New York.

Provisions of the proposed rule related to automated feeding devices with 4-Poster™ Tickicide are expressly intended to reduce and monitor potential adverse environmental and public health impacts associated with the device use. The Department will assist municipalities in development of management plans and annual reporting by providing template formats and supplying reporting forms for permittees, using automated feeding devices to treat deer with Tickicide.

7. Small business and local government participation:

Key elements of this rule were conveyed to the regulated community as pre-proposal concepts via the Department's website, and the Department reviewed preliminary comments. Following proposal of the rule, the Department will receive comment from small businesses and municipalities for 60 days.

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

Proposed section 186.3(b) [Prohibitions] provides that first-time violators will receive a written warning from DEC; if, after receiving a written warning, an additional violation occurs, then a violation would be subject to ECL 71-4003 which provides for a civil penalty of not more than \$500.

Rural Area Flexibility Analysis

This rulemaking would amend the Department of Environmental Conservation's (Department) general regulations found in Part 189 and adopt a new Part 186 of the New York State Codes, Rules and Regulations governing the feeding of wild white-tailed deer and moose. This rulemaking is necessary to strengthen and clarify existing prohibitions on feeding wild deer and moose and to define conditions under which the Department may issue permits for baiting of an automated feeding device to treat deer with 4-Poster™ Tickicide. These changes are needed to protect the deer population and to ensure that the public does not suffer adverse consequences associated with feeding deer.

1. Types and estimated numbers of rural areas:

White-tailed deer are ubiquitous in New York. Consequently, the proposed restriction on feeding deer impacts rural areas throughout New York State. The portion of the proposed rule governing use of automated feeding devices with 4-Poster™ Tickicide is unlikely to significantly affect rural areas because such devices are most likely to be used in urban and suburban areas with high deer densities.

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

Reporting and recordkeeping associated with the implementation and enforcement of the proposed regulation are principally the responsibility of the Department. Retail stores that choose to offer for sale food, food products, or equipment which is labeled or packaged as a product to be used for feeding or attracting wild deer or moose must comply with the rule by placing labels on the products notifying customers that it is illegal to intentionally feed wild deer or moose in New York. Also, individuals or municipalities seeking to use automated feeding devices to treat deer with 4-Poster™ Tickicide will be required to submit an application to the Department that includes a deer management plan outlining measures to be taken to ensure deer-related impacts will not increase as a result of the intended use of automated feeding devices. Individuals or municipalities holding a permit to use automated feeding devices with 4-Poster™ Tickicide will be required to submit an annual report summarizing bait consumption and 4-Poster™ Tickicide applications by week for each automated feeding device, recommendations for future deployment and continued use of 4-Poster™ Tickicide in the areas covered by the permit, and a summary of actions employed by the permittee to control deer population growth and impacts.

3. Costs:

Costs associated with the implementation and enforcement of the proposed regulation are principally the responsibility of the Department. Retail stores that choose to offer for sale food, food products, or equipment which is labeled or packaged as a product to be used for feeding or attracting deer or moose will be required to print and place labels on the products notifying customers that it is illegal to intentionally feed wild deer or moose in New York. The estimated cost to retail stores is expected to not exceed \$0.04 per product unit.

Municipalities and individuals that utilize automated feeding devices with 4-Poster™ Tickicide may incur some cost in developing and implementing a comprehensive deer management plan and compiling annual reports, though the cost is expected to be minimal compared to the annual cost of deploying and maintaining automated feeding devices for deer treatment. Further, the proposed rule clarifies that the Department will assist by providing the desired format for the management plan and will supply a form for the annual report.

4. Minimizing adverse impact:

Based on the Department’s past experience in promulgating regulations of this nature, and based on the professional judgment of Department staff, the Department has determined that this rule making will have no adverse impact on rural areas. In fact, the Department expects the rule making to be beneficial for rural areas by reducing the risk of disease transmission and spread among deer and by reducing the negative impacts to rural habitats due to concentrated feeding of deer.

Provisions of the proposed rule related to automated feeding devices with 4-Poster™ Tickicide are expressly intended to reduce and monitor potential adverse environmental impacts associated with the device use.

5. Rural area participation:

Key elements of this rule were conveyed to the regulated community as pre-proposal concepts via the Department’s website, and the Department reviewed preliminary comments. Following proposal of the rule, the Department will receive comment from the public in rural areas for 45 days.

Job Impact Statement

The purpose of this rule making is to amend the regulations pertaining to the feeding of deer, including the use of corn for the use of 4-Poster Tickicide™ in an automated feeding device. These changes are needed to protect the deer population and deer habitat and to ensure that the public does not suffer adverse consequences associated with feeding deer. The Department of Environmental Conservation (Department) has determined that this rule making will not have a substantial adverse impact on jobs and employment opportunities, and that by its nature and purpose (protecting wild deer), the proposed rule will likely help to protect jobs and employment opportunities associated with wild deer. Therefore, the Department has determined that a job impact statement is not required.

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

Black Bear Hunting

I.D. No. ENV-27-19-00003-P

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

Proposed Action: Amendment of section 1.31 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0303, 11-0903 and 11-0907

Subject: Black Bear hunting.

Purpose: Expand bear hunting opportunities in Wildlife Management Unit 4W to reduce bear abundance.

Text of proposed rule: The table in 6 NYCRR Paragraph 1.31(b)(2) is amended as follows:

Bear range	Season Dates	Wildlife Management Unit (WMU)
Northern	First Saturday after the second Monday in September through the Friday immediately preceding the Northern muzzleloading bear season	5A, 5C, 5F, 5G, 5H, 5J, 6C, 6F, 6H and 6J
Southern	First Saturday after Labor Day for 16 days	3A, 3C, 3H, 3J, 3K, 3M, 3P, 3R, 4P, [and] 4R, and 4W

Text of proposed rule and any required statements and analyses may be obtained from: Jeremy Hurst, Division of Fish and Wildlife, Department of Environmental Conservation, 625 Broadway, Albany, NY 12233, (518) 402-8867, email: jeremy.hurst@dec.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:

The Commissioner of the Department of Environmental Conservation (Department), pursuant to Environmental Conservation Law (ECL) section 3-0301, has authority to promote the management of the wildlife resources of New York State. Section 11-0303 of the Environmental Conservation Law directs the Department to develop and carry out programs that will maintain desirable species in ecological balance, and to observe sound management practices. This directive is to be met with regard to ecological factors, the compatibility of production and harvest of wildlife with other land uses, the importance of wildlife for recreational purposes, public safety, and protection of private premises. Section 11-0903(8) provides the authority to set open seasons, open areas, bag limit, manner of taking, possession and disposition of bear and parts of bears, and the intentional and incidental feeding of bears. Section 11-0907 governs open seasons and bag limits for deer and bear.

2. Legislative objectives:

The legislative objective behind the statutory provisions listed above is to establish, or authorize the Department to establish by regulation, certain basic wildlife management tools, including the setting of open areas, and restrictions on methods of take and possession. These tools are used by the Department to maintain desirable wildlife species in ecological balance, while observing sound management practices.

3. Needs and benefits:

This rulemaking is necessary to reduce bear population growth in Wildlife Management Unit (WMU) 4W which includes parts of Delaware and Sullivan counties. The current objective for WMU 4W, as identified in DEC’s Black Bear Management Plan for New York State, 2014-2024 is to maintain a moderate population density. However, current harvest levels are not adequate to achieve that objective, and the bear population in 4W is greater than desired and growing. Including WMU 4W in the early bear season is expected to yield the modest increase in bear harvest necessary to reduce population growth.

The early bear hunting season in portions of southeastern New York was initiated in 2014 as a management action to reduce the bear population in 10 WMUs and provides a supplemental, firearms hunting season in early-mid September. Since 2014, the early season has contributed to increased bear harvest in these units as intended.

4. Costs:

The costs associated with adopting the proposed regulation relate to the outreach needed to inform hunters and other members of the regulated community of these changes. These costs are minimal and entail such things as production of press releases and updates to the Department's website and annual hunting and trapping regulations guide.

5. Local government mandates:

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

6. Paperwork:

The proposed rule does not create a need for additional paperwork.

7. Duplication:

The proposed amendment does not duplicate any state or federal requirement.

8. Alternatives:

No change. If bear hunting opportunity remains unchanged in WMU 4W, we expect the bear population in the unit to continue to grow. While human-bear conflicts and agriculture damage from bears in the unit is not excessive currently, as the bear population continues to grow, conflicts could increase.

Broaden the expansion of the early bear season. DEC considered whether it would be appropriate or not to expand the early bear season more broadly in southeastern New York into new WMUs (e.g., 4O and 4S). However, current bear hunting strategies are satisfactorily achieving the management objectives in other southeastern units.

9. Federal standards:

None.

10. Compliance schedule:

The regulated community will be required to comply with these regulations upon their adoption.

Regulatory Flexibility Analysis

This rulemaking would amend the Department of Environmental Conservation's (Department) regulations found in Part 1.31 of the New York State Codes, Rules and Regulations governing the bear hunting seasons. This rulemaking is necessary to reduce bear population growth in Wildlife Management Unit (WMU) 4W which includes parts of Delaware and Sullivan counties.

The proposed regulation would include WMU 4W in the early bear hunting season in the Southern Zone, increasing harvest as needed to reduce bear population growth. The Department has historically made regular revisions to its hunting regulations in New York. Based on the department's experience in promulgating those revisions and the familiarity of the department's regional personnel with the Southern Zone, the Department has determined that this rule making will not have an adverse economic effect on small businesses or local governments.

Few, if any, small businesses directly participate in hunting activities. Such a business (e.g., professional hunting guides) will not suffer any substantial adverse impact as a result of this proposed rule making because it increases the number of wildlife management units open to bear hunting and could increase the number of participants or the frequency of participation in the bear hunting season.

All reporting, recordkeeping, and compliance requirements associated with black bear hunting is administered by the department. Therefore, the Department has determined that this rule making will not impose any reporting, record-keeping, or other compliance requirements on small businesses or local governments.

The Department has determined that a Regulatory Flexibility Analysis for Small Businesses and Local Governments is not needed.

Rural Area Flexibility Analysis

This rulemaking would amend the Department of Environmental Conservation's (Department) regulations found in Part 1.31 of the New York State Codes, Rules and Regulations governing the bear hunting seasons. This rulemaking is necessary to reduce bear population growth in Wildlife Management Unit (WMU) 4W which includes parts of Delaware and Sullivan counties.

The proposed regulation would include WMU 4W in the early bear hunting season in the Southern Zone, increasing harvest as needed to reduce bear population growth.

1. Types and estimated numbers of rural areas:

Black bears live in many rural areas of New York, but their populations are particularly numerous in portions of the Catskills in southeastern New York. The proposed regulation is specific to WMU 4W which includes portions of Delaware and Sullivan counties and will affect rural areas in those counties.

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

Reporting and recordkeeping associated with the implementation and enforcement of the proposed regulation are principally the responsibility of the Department.

3. Costs:

Costs associated with the implementation and enforcement of the proposed regulation are principally the responsibility of the Department.

4. Minimizing adverse impact:

Based on the Department's past experience in promulgating regulations of this nature, and based on the professional judgment of Department staff, the Department has determined that this rule making will have no adverse impact on rural areas. In fact, the Department expects the rule making to be beneficial for rural areas. The proposed changes will continue management actions recommended by the public and enhance bear hunter satisfaction, thereby having a positive effect on rural areas. Additionally, increased bear harvest early in the season has potential to remove some bears responsible for agricultural damage.

5. Rural area participation:

The potential for this rule proposal was discussed with hunters, land-owners, and municipal officials throughout the affected area, and the concept received favorable response. Following proposal of the rule, the Department will receive comment from the public in rural areas for 60 days.

Job Impact Statement

This rulemaking would amend the Department of Environmental Conservation's (Department) regulations found in Part 1.31 of the New York State Codes, Rules and Regulations governing the bear hunting seasons. This rulemaking is necessary to reduce bear population growth in Wildlife Management Unit (WMU) 4W which includes parts of Delaware and Sullivan counties. The proposed regulation would include WMU 4W in the early bear hunting season in the Southern Zone, increasing harvest as needed to reduce bear population growth.

The Department has determined that this rule making will not have a substantial adverse impact on jobs and employment opportunities. Few, if any, persons actually hunt as a means of employment. Such a person, for whom hunting is an income source (e.g., professional guides), will not suffer any substantial adverse impact as a result of this proposed rule making, because it increases the number of wildlife management units open to bear hunting and could increase the number of participants or the frequency of participation in the bear hunting season. For this reason, the Department anticipates that this rule making will have no impact on jobs and employment opportunities.

Therefore, the Department has determined that a job impact statement is not required.

Department of Health

NOTICE OF ADOPTION**Medical Use of Marihuana**

I.D. No. HLT-31-18-00005-A

Filing No. 584

Filing Date: 2019-06-17

Effective Date: 2019-07-03

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

Action taken: Amendment of section 1004.2 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 3369-a

Subject: Medical Use of Marihuana.

Purpose: To add additional serious conditions for which patients may be certified to use medical marihuana.

Text or summary was published in the August 1, 2018 issue of the Register, I.D. No. HLT-31-18-00005-P.

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

Revised rule making(s) were previously published in the State Register on April 3, 2019.

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

Revised Regulatory Impact Statement

Statutory Authority:

The Commissioner of Health is authorized pursuant to Section 3369-a of the Public Health Law (PHL) to promulgate rules and regulations necessary to effectuate the provisions of Title V-A of Article 33 of the PHL. The Commissioner of Health is also authorized pursuant to Section

3360(7) of the PHL to add serious conditions under which patients may qualify for the use of medical marihuana.

Legislative Objectives:

The legislative objective of Title V-A is to comprehensively regulate the manufacture, sale and use of medical marihuana, by striking a balance between potentially relieving the pain and suffering of those individuals with serious conditions, as defined in Section 3360(7) of the PHL, and protecting the public against risks to its health and safety.

Needs and Benefits:

The regulatory amendments are necessary to conform the regulations to recent amendments to Section 3360(7) of the PHL that added post-traumatic stress disorder, pain that degrades health and functional capability where the use of medical marihuana is an alternative to opioid use, and substance use disorder, as serious conditions for which patients may be certified to use medical marihuana. This regulatory amendment will particularly benefit patients with these conditions as medical marihuana will now be an available treatment option. Requiring practitioners to expressly state the precise underlying condition will help the Department to better understand how medical marihuana can be used as an alternative or adjunctive therapy to prescription opioids.

In addition, adding substance use disorder as a severe debilitating or life-threatening condition and opioid use disorder as a clinically associated condition will allow individuals who are addicted to opioids to use medical marihuana as part of their treatment. The regulation requires practitioners certifying patients for substance use disorder and opioid use disorder to hold a federal Drug Addiction Treatment Act of 2000 (DATA 2000) waiver.

Costs:

Costs to the Regulated Entity:

Patients certified by their practitioner for the medical use of marihuana will have to pay a \$50 non-refundable application fee to obtain a registry identification card to register with the Medical Marihuana Program. However, the Department may waive or reduce this fee in cases of financial hardship, and is currently waiving this fee for all patients and caregivers. Patients will also have a cost associated with the fees charged by registered organizations for the purchase of medical marihuana products.

Costs to Local Government:

This amendment to the regulation does not require local governments to perform any additional tasks; therefore, it is not anticipated to have an adverse fiscal impact.

Costs to the Department of Health:

With the inclusion of these new serious conditions, additional patient registrations will need to be processed by the Department. In addition, there may be an increase in the number of practitioners who register with the program to certify patients who may benefit from the use of medical marihuana for these new serious conditions. This regulatory amendment may result in an increased cost to the Department for additional staffing to provide registration support for patients and practitioners as well as certification support for registered practitioners. However, any resulting cost of additional staffing is greatly outweighed by the benefit of making another treatment option available to practitioners who are treating patients suffering from severe pain or opioid use disorder.

Local Government Mandates:

This amendment does not impose any new programs, services, duties or responsibilities on local government.

Paperwork:

Registered practitioners who certify patients for the program will be required to maintain a copy of the patient's certification in the patient's medical record.

Duplication:

No relevant rules or legal requirements of the Federal and State governments duplicate, overlap or conflict with this rule.

Alternatives:

An alternative would be to not amend the regulation to align with Section 3360(7) of the PHL. However, this was not considered a viable alternative, as it would create confusion for registered practitioners and patients seeking to be certified for the medical use of marihuana.

Federal Standards:

Federal requirements do not include provisions for a medical marihuana program.

Compliance Schedule:

There is no compliance schedule imposed by these amendments, which shall be effective upon publication of a notice of adoption in the State Register.

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Body Scanners in Local Correctional Facilities

I.D. No. HLT-10-19-00004-A

Filing No. 587

Filing Date: 2019-06-18

Effective Date: 2019-07-03

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

Action taken: Addition of section 16.70; and amendment of Part 89 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 201, 225 and 3502

Subject: Body Scanners in Local Correctional Facilities.

Purpose: Establish operational requirements for local correctional facilities that use body scanning imaging equipment for security purposes.

Text of final rule: New section 16.70 is added to Part 16 to read as follows:

16.70 Use of Body Scanning.

(a) This section shall not apply in cities having a population of two million or more.

(b) Practitioners licensed under Article 35 of the Public Health Law and unlicensed personnel employed at a local correctional facility may utilize body imaging scanning equipment that applies ionizing radiation to humans for purposes of screening inmates committed to such facility, solely in connection with the implementation of such facility's security program and in accordance with the provisions of this Part.

(c) Definitions

(1) "Body imaging scanning equipment" or "equipment" means equipment that is specifically manufactured for security screening purposes and utilizes a low dose of ionizing radiation, with a maximum exposure per scan equal to or less than 10 μ Sv (1 mrem), to produce an anatomical image capable of detecting objects placed on, attached to or secreted within a person's body. The utilization of body imaging scanning equipment is for purposes of screening inmates committed to such facility, in connection with the implementation of such facility's security program.

(2) "Local correctional facility" shall mean a local correctional facility as defined in Correction Law section 2(16).

(3) "Equipment operator" or "operator" means personnel employed at the local correctional facilities that have successfully completed a training course approved by the Department.

(4) "Screening" means the sum of radiation exposures or scans necessary to image objects concealed on all sides of the body as intended by the system design under normal conditions.

(d) Equipment use and installation requirements

(1) Prior to the equipment's first use on humans at a specific physical location or upon any major repairs that could influence image quality or exposure:

(i) body imaging scanning equipment purchased or installed at a local correctional facility must be registered with the Department, in accordance with § 16.50 of this Part; and

(ii) radiation protection survey, shielding evaluation and verification of image usefulness for detecting foreign objects must be completed by a licensed medical physicist.

(2) Equipment must have a clearly marked restricted area and one or more indicators when a scan is in process that is clearly visible to all security screening system operators and anyone approaching the restricted area.

(3) Equipment must be periodically inspected by the Department as described in § 16.10 of this Part.

(4) Equipment must be tested by a licensed medical physicist annually to verify the equipment is operating as designed.

(5) The facility must maintain a policy and procedure manual describing equipment operations, body scanning procedures, records and associated facility policies shall be maintained and available upon request by the Department. The policy and procedure manual must include the following items:

(i) operating procedures appropriate for the specific equipment and intended scan types;

(ii) policy prohibiting the use of the equipment on individuals who are not inmates;

(iii) policy regarding the determination of pregnancy that has been approved by the jail physician;

(iv) emergency contact information in the event the equipment overexposes any individual or there is equipment related failure that potentially requires service prior to scanning other inmates;

(v) requirements for exposure records to be provided to an inmate upon release or transfer to another facility; and

(vi) exposure per scan for each scan protocol used.

(6) Records and documentation of the program operation shall be maintained in accordance with § 16.14 of this Part and shall include, at a minimum, the following:

(i) the number of times the equipment was used on inmates upon intake, after visits, and upon the suspicion of contraband, as well as any other event that triggers the use of such equipment;

(ii) the average, median, and highest number of times the equipment was used on any inmate, with corresponding exposure levels;

(iii) the number of times the use of the equipment detected the presence of drug contraband, weapon contraband, and any other illegal or impermissible object or substance; and

(iv) the number of times an inmate has been scanned.

(e) Exposure limits and reporting requirements

(1) No person other than an inmate of a local correctional facility shall be exposed to the useful beam and then only by an individual that has met the provisions of subdivision (f) of this section.

(2) Limits on the use of equipment and exposure to inmates are:

(i) no more than fifty percent of the annual exposure limits for non-radiation workers as specified by applicable regulations, not to exceed 0.5 mSv (50 mrem);

(ii) inmates under the age of eighteen shall not be subject to more than five percent of such annual exposure limits, not to exceed 0.05 mSv (5 mrem); and

(iii) pregnant women shall not be subject to scanning at any time.

(3) The following events shall be reported to the Department in writing within 30 days:

(i) incidents or any injuries or illness resulting from the use of such equipment or reported by persons scanned by such equipment; and

(ii) exposure that exceeds the limits set forth in this Part.

(f) Training Requirements

(1) Every equipment operator shall receive initial operator training, to be provided by the equipment manufacturer or their approved representative, or another source approved by the Department.

(2) The contents of the initial operator training must include radiation safety, equipment operations, exposure and exposure limits for occupational exposed staff and inmates; applicable regulations; and facility policies and procedures.

(3) Initial operator training must be documented and available for review by the Department upon request. Such documentation must include the names of the presenter or sources, attendees, dates and contents of the training.

(4) Every equipment operator shall receive refresher training, to be provided by the equipment manufacturer or their approved representative, or another source approved by the Department. Such training shall meet the requirements listed in paragraphs (1), (2) and (3) of this subdivision and include any changes to the policies and procedures manual or updates to the regulations.

Section 89.30 is amended by adding a new subdivision (c) to read as follows:

(c) A person employed at a local correctional facility, as defined by Correction Law section 2(16), is exempt from licensure as a radiologic technologist when operating body imaging scanning equipment that applies ionizing radiation to humans for purposes of screening inmates committed to such facility, in connection with the implementation of such facility's security program.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 16.70(a), (b), (c), (d) and (e).

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

Revised Regulatory Impact Statement

Statutory Authority:

The Department of Health (Department) is required by Public Health Law (PHL) § 201(1)(r) to supervise and regulate the public health aspects of ionizing radiation. PHL § 225(4) authorizes the Public Health and Health Planning Council (PHHPC) to establish, amend and repeal provisions of the State Sanitary Code (SSC), subject to the approval of the Commissioner of Health. PHL §§ 225(5)(p) and (q) and 201(1)(r) authorize PHHPC to establish regulations in the SSC to protect the public from the adverse effects of ionizing radiation.

PHL § 3502 authorizes personnel employed at local correctional facilities to utilize body imaging scanning equipment that applies ionizing radiation to humans for purposes of screening inmates as part of the facilities' screening program, provided that the use of such equipment is in accordance with regulations promulgated by the Department.

Legislative Objectives:

The legislative intent of PHL §§ 201(1)(r) and 225(5)(p) and (q) is to protect the public from the adverse effects of ionizing radiation. Establishing regulations to ensure safe and effective use of radiation producing equipment is consistent with this legislative objective.

The legislative intent of Article 35 of the PHL is to ensure that when radiation is applied to a human being it is being done appropriately and by a qualified individual. Although in general radiation should only be applied to humans for medical reasons, PHL § 3502 allows correctional facilities to utilize very low dose x-ray equipment for security screening of inmates, while protecting the health of screened inmates.

Needs and Benefits:

Effective January 30, 2019, PHL § 3502(6) permits unlicensed personnel working at local correctional facilities to utilize body imaging scanning equipment that applies ionizing radiation to humans, for purposes of screening inmates committed to such facilities, in connection with the implementation of a facility's security program. Such equipment can be an efficient method of detecting contraband, such as knives, other weapons, and illegal drugs including heroin and opioids, and will enhance the safety of both inmates and correction officers.

These regulations provide protections to the inmates and staff by establishing requirements and controls to ensure appropriate operation of the body scanning imaging equipment. These include testing of the equipment by a licensed medical physicist prior to use and annually thereafter; annual training for equipment operators to ensure proper operation and application; establishment of policies and procedures for use of the equipment; and documentation and inspection requirements to monitor and ensure that inmates are not overexposed to radiation based on the dose limits set forth in the law. The regulations will permit local correctional facilities to take advantage of the enhanced security that body imaging scanning equipment can provide, while minimizing the risk to inmates posed by exposure to ionizing radiation.

Costs:

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

The regulations will impose little or no cost to regulated entities. The regulations would only apply to local correctional facilities that voluntarily choose to use body imaging scanning equipment as part of the facility's security program. Local correctional facilities that choose to utilize body imaging scanning equipment will be subject to equipment purchase costs; costs to hire a licensed medical physicist to test the body scanning imaging equipment annually, at a cost of approximately \$500 per test; administrative costs associated with maintaining records of the use of the equipment; and annual staff training costs. County facilities must register their new x-ray equipment, but they are fee-exempt and will not be charged by the Department for registration or inspections.

Costs to State and Local Governments:

These regulations apply only to local correctional facilities operated by county governments that voluntarily choose to use body imaging scanning equipment as part of the facility's security program. Such facilities will be subject to the costs described above.

Costs to the Department of Health:

This regulation will require an increase in inspections of no more than 60 additional facilities out of a total of approximately 11,000 currently registered facilities that are inspected by the Department's Bureau of Environmental Radiation Protection. The Department will incur costs through preparing and disseminating guidance to the New York State Commission of Correction (NYSCOC) and the NYS Sheriffs Association as well as any local correctional facilities that wish to utilize body imaging scanning equipment. Staff time for registering, inspecting and providing guidance is expected to be handled using existing resources and staff.

Local Government Mandates:

The regulation does not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district. The regulations apply only to local correctional facilities that voluntarily choose to use body imaging scanning equipment as part of the facility's security program. Such facilities will be subject to the costs described above.

Paperwork:

Local correctional facilities that voluntarily choose to use body imaging scanning equipment as part of the facility's security program will be required to register the equipment and maintain records related to the policies, procedures and utilization of the equipment.

Duplication:

The regulations do not duplicate, overlap or conflict with any existing federal or state rules or regulations.

Alternatives:

There are no suitable alternatives to the regulations that would meet the requirements of PHL § 3502 while adequately protecting the health of inmates.

Federal Standards:

Not applicable. The operation of radiation producing equipment is regulated by the State only.

Compliance Schedule:

There is no compliance schedule imposed by these regulations, which shall be effective upon publication of a Notice of Adoption in the New York State Register.

Revised Regulatory Flexibility Analysis**Effect of Rule:**

The regulation will only apply to local correctional facilities, operated by county governments, that voluntarily choose to use body imaging scanning equipment as part of the facility's security program. This regulation will not impact local governments unless they operate such facilities. The regulation will have no impact on small businesses.

Compliance Requirements:

A local correctional facility that chooses to use body imaging scanning equipment as part of the facility's security program will need to ensure that equipment is installed properly and is operating as designed through licensed medical physicist verification. In addition, the local correctional facility must develop and maintain policies and a procedure manual; provide all personnel who will utilize the equipment with required training; and maintain records of the utilization.

Professional Services:

A local correctional facility that chooses to use body imaging scanning equipment as part of the facility's security program will be required to have equipment installed by qualified installers for the specific brand of body imaging scanning equipment being used. At facilities with female inmates, the jail physician will be required to develop policies regarding the determination of pregnancy and to update those policies over time as needed. Body scanning imaging equipment will require annual testing by a licensed medical physicist with an estimated cost of approximately \$500; such testing is also required prior to use of the equipment.

Compliance Costs:

A local correctional facility that chooses to use body imaging scanning equipment as part of the facility's security program will acquire the equipment based on their own requirements. Annual compliance costs are expected to be minimal, and will consist of the costs of refresher training, annual testing by a licensed medical physicist, and record keeping of the inmates scanned.

Economic and Technology Feasibility:

This regulation is economically and technically feasible, as these regulations only impose requirements on local correctional facilities that choose to use body imaging scanning equipment as part of the facility's security program. Such facilities will acquire equipment based on their own requirements and, as described above, ongoing compliance costs are minimal.

Minimizing Adverse Impact:

The impact of this regulation is expected to be minimal as these regulations only impose requirements on local correctional facility that choose to use body imaging scanning equipment as part of the facility's security program. To assist such facilities in minimizing any adverse impact, the Department will provide guidance to NYSCOC and the NYS Sheriffs Association as well as any local correctional facilities that wish to utilize body imaging scanning equipment.

Small Business and Local Government Participation:

The Department has consulted with the NYS Sheriffs' Association and the New York City Department of Health and Mental Hygiene during the development of the regulations.

Cure Period:

Chapter 524 of the Laws of 2011 requires agencies to include a "cure period" or other opportunity for ameliorative action to prevent the imposition of penalties on the party or parties subject to enforcement under the proposed regulation. This regulatory amendment governing the utilization of body imaging scanning equipment by local correctional facilities does not mandate that local correctional facilities use such equipment. Hence, no cure period is necessary.

Revised Rural Area Flexibility Analysis and Job Impact Statement

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

Initial Review of Rule

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

Assessment of Public Comment

The New York State Department of Health ("Department") received two public comments in response to the proposed rulemaking amending Sections 16.70 and Part 89 of Title 10 of the New York State Code of

Rules and Regulations. The comments and the Departments responses are summarized below.

Comment: A commenter requested that the Legislature and Department consider shifting resources away from surveillance through body scanning imaging equipment and toward providing adequate mental healthcare.

Response: This request is outside the scope of this proposed rulemaking, which implements legislation specifically permitting the use of body scanning equipment for purposes of implementing security screening programs at local correctional facilities. No changes were made to the proposed regulations as a result of this comment.

Comment: A commenter requested that the Department require facilities to provide inmates with more information concerning the risks of body scanning imaging equipment and access to their personal dose information.

Response: The maximum allowed annual exposure for inmates is low and does not represent a level of risk that is distinguishable from background levels of exposure. The rulemaking requires the reporting of exposure information to inmates upon release or transfer. No changes were made to the proposed regulations as a result of this comment.

Comment: A commenter suggested that local correctional facilities should only routinely scan those inmates that have a recorded history of contraband use, and that inmates should be provided with an opt-out option to avoid a scan and instead have a body search.

Response: Exposure levels permitted by the proposed regulations are low and do not represent a level of risk that is distinguishable from background levels of exposure. Provided that the use of body scanning equipment is in compliance with the proposed regulations, decisions concerning overall security and inmate supervision are appropriately the responsibility of the local correctional facility. No changes were made to the proposed regulations as a result of this comment.

Comment: A commenter suggested that local corrections facilities develop policies to only permit female corrections officers to scan female inmates and provide for confidential handling of scanned images, to require immediate destruction of images if no contraband is identified, and to impose penalties on any corrections officer identified misusing the images generated by the equipment.

Response: This suggestion is outside the scope of this proposed rulemaking. Decisions related to inmate supervision are the responsibility of the local correctional facility. No changes were made to the proposed regulations as a result of this comment.

Comment: A commenter requested that local correctional facilities maintain records of body scanner use upon intake, after visits, and upon the suspicion of contraband, but not upon "any other event that triggers the use of such equipment," as required by Section 16.70(c)(6)(i).

Response: This requirement to maintain records of the use of body scanners upon "any other event that triggers the use of such equipment" ensures that all uses of the scanner are documented, regardless of the reason, so that records and documentation are complete. This requirement does not place an unreasonable burden on the facility. No changes were made to the proposed regulations as a result of this comment.

Comment: A commenter requested clarification that exposure limits established by the regulation were intended to be an annual sum.

Response: The exposure limits established by this regulation are expressly "annual exposure limits," a term that is consistently used throughout Public Health Law (PHL) Article 35 and 10 NYCRR Part 16. No changes were made to the proposed regulations as a result of this comment.

Comment: A commenter requested Section 16.70(d)(3) be amended to read "incidents, including any complaint by inmates of misuse or abuse of equipment, or any injuries..."

Response: The proposed regulation requires the reporting of any "incidents" resulting from the use of body scanning imaging equipment or reported by persons scanned by the equipment. Further qualification of this requirement is not necessary. No changes were made to the proposed regulations as a result of this comment.

Comment: A commenter suggested promoting increased training and professionalism among those who operate the body scanning imaging equipment, and a requirement for operators to obtain a license, to ensure that such equipment is not used excessively or without appropriate cause.

Response: These regulations address training requirements for operators and documentation of such training. Imposing a licensing requirement on operators would require an amendment of PHL § 3502(6), which specifically permits unlicensed personnel working at local correctional facilities to utilize body imaging scanning equipment. No changes were made to the proposed regulations as a result of this comment.

Comment: A commenter suggested that the Department require additional reporting mechanisms to enable greater long-term effectiveness of the equipment.

Response: PHL § 3502(6) already requires that "any local government agency that utilizes body imaging scanning equipment in a local cor-

rectional facility under its jurisdiction shall submit an annual report to the department, the speaker of the assembly, and the temporary president of the senate. Such report shall be submitted within eighteen months after the initial date of registration of such equipment with the department, and annually thereafter." The statute further specifies the content of such report. No changes were made to the proposed regulations as a result of this comment.

Comment: A commenter requested clarification of the term "image usefulness."

Response: The regulations require that body scanning imaging equipment must not be operated unless they produce images that can be used for satisfactory security screening purposes. Local correctional facilities, in consultation with a licensed medical physicist, are responsible for determining whether their equipment can produce images of sufficient quality to meet this requirement.

Comment: A commenter suggested that radiation protection surveys required upon installation or major repair of body scanning imaging equipment could be conducted by a "certified health physicist" rather than a "licensed medical physicist," as currently required, and further commented that the costs associated with licensed medical physicists exceeded the Department's estimates.

Response: Article 166 of the Education Law requires that a licensed medical physicist oversee the quality assurance of diagnostic imaging. A Certified Health Physicist may be able to perform certain other radiation protection functions, but a licensed medical physicist is the best qualified to make determinations of image quality.

The cost estimate provided by the Department was based on the initial radiation protection survey, the shielding evaluation, the verification of image usefulness for detecting foreign objects, and the annual testing to assure proper operation of equipment. While facilities may employ licensed medical physicists for other related radiation safety and training activities, the tasks explicitly requiring a licensed medical physicist in these regulations are limited. Rates charged by licensed medical physicist rates in New York City were not included in the estimate, as the proposed regulations only apply to correctional facilities outside of New York City.

NOTICE OF ADOPTION

Managed Care Organizations (MCOs)

I.D. No. HLT-14-19-00001-A

Filing No. 585

Filing Date: 2019-06-17

Effective Date: 2019-07-03

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

Action taken: Amendment of section 98-1.11(e) of Title 10 NYCRR.

Statutory authority: Public Health Law, section 4403(2)

Subject: Managed Care Organizations (MCOs).

Purpose: To amend contingent reserve requirements for MCOs.

Text or summary was published in the April 3, 2019 issue of the Register, I.D. No. HLT-14-19-00001-P.

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

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

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Division of Human Rights

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Gender Identity or Expression Discrimination

I.D. No. HRT-27-19-00002-P

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

Proposed Action: Amendment of section 466.13 of Title 9 NYCRR.

Statutory authority: Executive Law, section 295.5

Subject: Gender Identity or Expression Discrimination.

Purpose: To conform the Division's regulations with Executive Law as amended by chapter 8 of the Laws of New York 2019.

Text of proposed rule: A new Section 466.13 is amended to read as follows:

9 New York Code of Rules and Regulations (NYCRR) § 466.13

466.13 Discrimination on the basis of gender identity or expression.

(a) Statutory Authority. Pursuant to N.Y. Executive Law § 295.5, it is a power and a duty of the Division to adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of the N.Y. Executive Law, article 15 (Human Rights Law).

(b) Definitions.

(1) Gender identity or expression means a person's actual or perceived gender-related identity [having or being perceived as having a gender identity, self image], appearance, behavior, [or] expression or other gender-related characteristic regardless of [whether or not that a gender identity, self image, appearance, behavior or expression is different from that traditionally associated with] the sex assigned to that person at birth, including, but not limited to, the status of being transgender.

(2) A transgender person is an individual who has a gender identity or expression different from the sex assigned to that individual at birth.

(3) Gender dysphoria is a recognized medical condition related to an individual having a gender identity or expression different from the sex assigned at birth.

(c) Gender identity or expression is a protected category defined in the Human Rights Law, and discrimination on the basis of gender identity or expression is unlawful in all areas of jurisdiction covered by the Human Rights Law.

[(c)] (d) Discrimination on the basis of gender identity or expression is also sex discrimination.

(1) The term "sex" when used in the Human Rights Law includes gender identity or expression and the status of being transgender.

(2) The prohibitions contained in the Human Rights Law against discrimination on the basis of sex, in all areas of jurisdiction where sex is a protected category, also prohibit discrimination on the basis of gender identity or expression or the status of being transgender.

(3) Harassment on the basis of a person's gender identity or expression or the status of being transgender is sexual harassment.

[(d)] (e) Discrimination on the basis of gender dysphoria or other condition meeting the definition of disability in the Human Rights Law set out below is disability discrimination.

(1) The term "disability" as defined in Human Rights Law § 292.21, means (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term shall be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held.

(2) The term "disability" when used in the Human Rights Law includes gender dysphoria or other condition meeting the definition of disability in the Human Rights Law set out above.

(3) The prohibitions contained in the Human Rights Law against discrimination on the basis of disability, in all areas of jurisdiction where disability is a protected category, also prohibit discrimination on the basis of gender dysphoria or other condition meeting the definition of disability in the Human Rights Law set out above.

(4) Refusal to provide reasonable accommodation for persons with gender dysphoria or other condition meeting the definition of disability in

the Human Rights Law set out above, where requested and necessary, and in accordance with the Divisions regulations on reasonable accommodation found at 9 NYCRR § 466.11, is disability discrimination.

(5) Harassment on the basis of a person's gender dysphoria or other condition meeting the definition of disability in the Human Rights Law set out above is harassment on the basis of disability.

Text of proposed rule and any required statements and analyses may be obtained from: Edith Allen, Administrative Aide, Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458, (718) 741-8398, email: edith.allen@dhr.ny.gov

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

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

Regulatory Impact Statement

Statutory authority: Pursuant to Executive Law, section 295.5, it is a power and a duty of the Division of Human Rights to adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of the Executive Law, article 15 (Human Rights Law).

Legislative objectives: To conform the Division's regulations with the Executive Law, Article 15, as amended by Chapter 8 of the Laws of New York 2019 which defines gender identity or expression and adds it as a protected class.

Needs and benefits: The Division is the agency that enforces the Human Rights Law. The Human Rights Law was amended by chapter 8 of the laws of 2019, signed by the Governor on January 25, 2019 and effective immediately. The amendment defined "gender identity or expression" as "a person's actual or perceived gender-related identity, appearance, behavior, expression or other gender-related characteristic regardless of the sex assigned to that person at birth, including but not limited to, the status of being transgender." Executive Law section 292(35). Currently, the Division's regulations define "gender identity" as "having or being perceived as having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth."

Although the two definitions are similar, they are not identical. In order to avoid any unforeseen conflict or confusion, the Division is amending 9 NYCRR 466.13(b) to conform the definition with the associated statutory language.

In addition, the phrase "gender identity" will be substituted with "gender identity or expression" throughout the regulation.

A new section, 9 NYCRR 466.13(c), is added to clarify that "gender identity or expression" is now explicitly a separate protected class under the Human Rights Laws. Sections 9 NYCRR 466.13(b)(3) and amended 466.13(d) and (e) remain to clarify that discrimination based on gender identity or expression is a type of sex discrimination and a type of disability discrimination. It has long been the practice of the Division of Human Rights to accept and process Human Rights Law complaints alleging discrimination because of gender identity, on the basis of the protected categories of both sex and, where appropriate, disability. Since the amendment, the Division of Human Rights accepts complaints alleging discrimination because of gender identity or expression on that basis but will also continue to accept and process such Human Rights Law complaints as alleging discrimination because of sex and, where appropriate, disability, because as shown below such claims are afforded expanded protections.

Under the Human Rights Law, a person meeting the criteria for a medical diagnosis of gender dysphoria is entitled to the disability protections of the Human Rights Law. This includes being entitled to reasonable accommodations that may be requested based on treatments relative to the condition. At the complainant's option, these kinds of cases are taken on the additional basis of disability.

Also, under the Human Rights Law, a person who brings a claim for harassment based on sex (including gender identity or expression) is afforded enhanced protections over claims alleging harassment based on other protected classes. All employers, not only those with four or more employees, may be liable for sexual harassment in the workplace. Executive Law Section 292(5). In addition, attorneys' fees are also available to prevailing parties that bring claims for discrimination in employment or credit based on sex. Executive Law Section 297(10). Finally, non-employees such as independent contractors, consultants, service providers, or delivery persons who are working while on the employer's premises are protected from sexual harassment. Executive Law Section 296-d.

The statutory amendment was intended to expand rights for New Yorkers based on gender identity or expression. The new law declares it is a civil right of New Yorkers to have the opportunity to obtain employment, education, use of places of public accommodations, ownership, use, and occupancy of housing accommodations and commercial space without discrimination on the basis of gender identity or expression. Executive Law Sections 291(1) and (2). The amendment also made explicit that it is

unlawful to discriminate against persons because of their gender identity or expression in employment or licensing, public accommodations, the sale, rental or lease of public and private housing and commercial space, volunteer firefighting, credit, or in domestic work. Executive Law sections 296(1)(a)-(d), 296(1-a)(b)-(d), 296(2)(a), 296(2-a)(a)-(c-1), 296(3-b), 296(4), 296(5), 296(9)(a), 296(13), 296-a)(1)-(3), 296-b(b).

The statutory amendment makes explicit that "gender identity or expression" is a protected class. The Division's regulations will clarify the extended coverage of gender dysphoria as a disability under the New York State Human Rights Law, and the impact of considering discrimination based on gender identity or expressions as a form of sex discrimination thus providing information as to these important rights to all New Yorkers.

Costs:

a. Costs to regulated parties for the implementation of and continuing compliance with the rule: No new costs are anticipated for regulated parties. The amendment of this rule conforms the Division's regulations with the Human Rights Law.

b. Costs to the agency, the State and local governments for the implementation and continuation of the rule: No new costs are anticipated for the agency or state and local governments.

c. The information, including the source(s) of such information and the methodology upon which the cost analysis is based.

Local government mandates: None.

Paperwork: None.

Duplication: This proposed rule duplicates existing state requirements.

Alternatives: No significant alternatives were considered.

Federal standards: None.

Compliance schedule: This regulation does not impose any new compliance requirements or create new penalties for non-compliance.

Regulatory Flexibility Analysis

The proposed rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments because the amendment of this rule conforms 9 NYCRR 466.13 with sections 291, 291, 295, 296, 296-a, and 296-b of the Executive Law as amended by chapter 8 of the laws of 2019, and does not impose any additional requirements.

Rural Area Flexibility Analysis

The proposed rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas because the amendment of this rule conforms 9 NYCRR 466.13 with sections 291, 291, 295, 296, 296-a, and 296-b of the Executive Law as amended by chapter 8 of the laws of 2019, and does not impose any additional requirements.

Job Impact Statement

The proposed rule will not have any adverse impact on jobs and employment opportunities because the amendment of this rule conforms 9 NYCRR 466.13 with sections 291, 291, 295, 296, 296-a, and 296-b of the Executive Law as amended by chapter 8 of the laws of 2019, and does not impose any additional requirements.

Office of Mental Health

NOTICE OF ADOPTION

Expansion of Telemental Health (Telepsychiatry) Services to Additional OMH Licensed Settings and Programs

I.D. No. OMH-04-19-00002-A

Filing No. 579

Filing Date: 2019-06-17

Effective Date: 2019-07-03

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

Action taken: Amendment of Part 596 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09, 31.02, 31.04; Public Health Law, section 2999-dd

Subject: Expansion of Telemental Health (Telepsychiatry) services to additional OMH licensed settings and programs.

Purpose: To implement Public Health Law section 2999-dd and address shortages in psychiatrists and nurse practitioners in psychiatry.

Substance of final rule: OMH has revised Part 596 in response to public

comments received. The following is a summary of the changes that were made:

- The use of the word “patient” was changed to “recipients” throughout, to more accurately reflect person-centered language.
- The use of the phrase “licensed” was changed to “designated or licensed” or “licensed or authorized” throughout to reflect inclusion of Children’s Mental Health Rehabilitation Programs, or other programs that may be designated/authorized by OMH.
- Several revisions were made to the reference to “spoke/originating site” in Sections 596.4(c), 596.5(a), and 596.7(a) & (b) to clarify and be consistent throughout.
- “Definitions” section: The language was updated from ‘permit’ to ‘permit or limited permit’ where applicable. ‘Creative arts therapists’, ‘psychoanalysts’, and ‘marriage and family therapists’ were added as eligible practitioners able to deliver services via telemental health under ‘Telemental Health Practitioner’.
- “Approval to Utilize Telemental Health Services” section: Language was added to 596.5(c)(1) to include ‘or because they are necessary to address workforce shortages’, to identify this as an additional reason that providers may seek to offer services via Telemental Health. In Section 596.5(d) the language was changed from ‘on-site visit’ to ‘remote readiness review’, to more accurately reflect what occurs.
- “Requirements for Telemental Health Services” section: In Section 596.6(a)(1)(vi) language was added to state ‘from a secure site/location which ensures the minimum standards for privacy for recipient-clinician interaction are met’, to ensure that the distant/hub site meets the same standards as for in-person delivery. In Section 596.6(a)(5) language was removed regarding the requirement that the Telemental Health Practitioner display their license and current registration at the distant site throughout the encounter, as this was noted to not be the current practice for in-person encounters. In Sections 596.6(b)(2) & 596.6(b)(2)(i) clarifying language was added regarding informed consent to be consistent with in-person requirements/practices.
- “Reimbursement for Telemental Health Services” section: In Section 596.7(b)(4) language was removed regarding the requirement that the results and findings of the encounter be communicated to the requesting provider of services, as this was noted to be unnecessary since documentation of such services should be within an Electronic Health Record and as such immediately available.
- The “Recordkeeping” section was changed to read “Ownership and Maintenance of Records” to more clearly reflect the purpose of the section.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 596.1, 596.3, 596.4, 596.5, 596.6, 596.7 and 596.8

Text of rule and any required statements and analyses may be obtained from: Nancy Pepe, Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: Nancy.Pepe@omh.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. The changes to the text are not substantial, do not change the meaning of any provision and therefore do not change 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 Office of Mental Health has received public comments from eight stakeholder entities, including providers and provider organizations. All of the comments were reviewed, assessed and taken into consideration. Below are the collective responses to each of the issues presented.

1. Comment: A suggestion was made to expand the stated benefits of telemental health, to include when recipients are reluctant to engage with clinicians except through media interaction with which they are more comfortable and familiar, as is the case with children and adolescents.

Response: No changes to the regulations were made as a result of this comment. Clarification regarding additional benefits may be provided in guidelines of the Office.

2. Comment: Several comments suggested inclusion of Children’s Mental Health Rehabilitation Programs as eligible to apply for approval to utilize telemental health services.

Response: In response to these comments, language in subdivision (a) of Section 596.3 was amended to read “The provisions of this Part shall apply to any designated or licensed program of services pursuant to Article 31...”.

3. Comment: A suggestion was made to change the care of the patient

from the responsibility of both the spoke/originating site and hub/distant site to just the distant telemental health practitioner.

Response: No changes to the regulations were made as a result of this comment. The patient should be the direct responsibility of both the Article 31 spoke/originating site and the hub/distant practitioner, since the patient is enrolled in the Article 31 site.

4. Comment: Several comments suggested that the new definition of spoke/originating site did not align with other references to spoke/originating site throughout the regulation.

Response: In response to these comments, language was added in Sections 596.4(c), 596.5(a), 596.7(a) and (b) to clarify and to be consistent.

5. Comment: One comment stated that Section 596.7(b)(1) did not specifically list “place of residence” as an eligible site for reimbursement, and asked if it was implied.

Response: No changes to the regulations were made as a result of this comment. Yes, it is implied. The 2019 NYS Medicaid Update Special Edition: Expansion of Telehealth outlines eligible settings for reimbursement.

6. Comment: Several comments asked that the term “temporary”, within the spoke/originating site definition, be more clearly explained.

Response: No changes to the regulations were made as a result of these comments. The definition of spoke/originating site is taken from PHL Article 29-G. Additional clarification for “temporary” will be defined in the upcoming multiagency guidance document to be released later this year.

7. Comment: One comment suggested that the definition of licensed psychiatrist should be the same as the definition in 596.4(g), which includes certification by the Osteopathic Board.

Response: This is incorrect. The definition in Section 596.4(g) was already being amended to remove the following: “who is (i) a diplomat of the American Board of Psychiatry and Neurology or is eligible to be certified by that Board, or (ii) is certified by the American Osteopathic Board of Neurology and Psychiatry or is eligible to be certified by that Board”. The new language reads: “Physician means a physician currently licensed to practice medicine in New York State pursuant to the New York State Education Law.”

8. Comment: One comment suggested that it seemed incorrect that all LPNs, RNs and PAs regardless of behavioral health training are considered MH professionals but physicians other than psychiatrists are not.

Response: No changes to the regulations were made as a result of this comment. As specified in Section 596.3(b): “The provisions of this Part shall not be construed to alter the scope of practice of any licensee or authorize the delivery of services in a setting, or in a manner, not otherwise authorized by law.”

9. Comment: Several comments suggested that all individuals licensed under Title 8, Article 163 of the State Education Law be included as eligible telemental health practitioners.

Response: In response to these comments, language in subdivision (p) of Section 596.4 has been changed such that it now reads as follows: “Telemental Health Practitioner means a physician, nurse practitioner in psychiatry, psychologist, mental health counselor, social worker, marriage and family therapist, creative arts therapist, or psychoanalyst as each such term is defined in subdivision (a), (e), (g), (h), (j), (k), (m) or (o) of this Section, who is providing telemental health services from a distant or hub site in accordance with the provisions of this Part.”

10. Comment: Several comments were made about the limits of the language in Section 596.5(c)(1).

Response: In response to these comments, language in subdivision (c)(1) of Section 596.5 was amended to include “or because they are necessary to address workforce shortages”.

11. Comment: Several comments suggested that OMH issue guidance of what would constitute a proper procedure for “assessing patients to determine whether they can be properly treated via telemental health”, and stated that a patient may need to engage in the treatment for a while before this determination can be made.

Response: No changes to the regulations were made as a result of these comments. OMH believes the initial assessment is crucial to determine if services can be delivered via telemental health.

12. Comment: One question was asked about whether both the practitioner and patient can be outside of a New York State Medicaid setting.

Response: Section 596.6(a)(1)(vi)(a) states “Psychiatrists and nurse practitioners in psychiatry may deliver services from a site located within the United States, including from a space in a place of residence approved by the Office of Mental Health”, Section 596.6(a)(1)(vi)(b) states “Mental health practitioners may deliver services from a site located within the state of New York, including from a space in a place of residence approved by the Office of Mental Health”, and Section 596.4(f) states “Originating or ‘spoke’ site means a site where the recipient is physically located at the time mental health services are delivered to her/him by means of Telemental Health Services, within the State of New York, or another temporary location within or outside the State of New York.”

13. Comment: Several comments were made about the need for prior written approval before providing telemental health services.

Response: No changes to the regulations were made as a result of these comments. First, the ability to offer telemental health services is an optional choice for providers – they are not required to offer this service. Second, the approval process established in the regulations is essential in order to ensure the quality standards set forth in regulation are adhered to. This administrative process in local (through the regional office) and OMH anticipates requests for approval will be issued in a timely manner.

14. Comment: Several comments were made about the limits of telemental health services within the ACT and PROS settings.

Response: No changes to the regulations were made as a result of these comments. The limitations set forth are to assure services are delivered within these programs consistent with the fidelity and philosophy of the model.

15. Comment: One comment questioned the implications of suspension of permission to provide telemental health services if the requirements of the regulation were not met.

Response: No changes to the regulations were made as a result of this comment. OMH has the authority to enforce the regulatory standards we set in place.

16. Comment: One comment questioned the need for an “on-site visit” prior to issuing approval.

Response: In response to this comment, language in subdivision (d) of Section 596.5 was changed from “on-site visit” to “remote readiness review”.

17. Comment: One comment asked if there are specific telemental health practice guidelines that must be followed and if so, where are they located.

Response: No changes to the regulations were made as a result of this comment. Further information is provided in the guidelines of the Office.

18. Comment: One comment asked if the distant/hub site included the home of the MD/NPP, if the spoke/originating site included the home of the patient, and how this would be approved by OMH.

Response: No changes to the regulations were made as a result of this comment. This is defined within Sections 596.6(a)(1)(vi)(A), 596.4(e), and 596.5.

19. Comment: One comment asked for clarification regarding the specifications of the equipment.

Response: No changes to the regulations were made as a result of this comment. Further information is provided in the guidelines of the Office.

20. Comment: One comment asked for further clarification regarding the prescribing of medications via telemental health.

Response: No changes to the regulations were made as a result of this comment. Procedures must be in accordance with applicable NYS and federal regulations.

21. Comment: Several comments suggested removal of the notation within the clinical record that indicates the service was provided via telemental health, as well as removal of the rationale for the encounter.

Response: No changes to the regulations were made as a result of these comments. It is important for OMH to be able to distinguish services delivered in-person via telemental health in order to properly assess the effectiveness of this modality of treatment for purposes of possible expansion in the future.

22. Comment: Several comments suggested removal of the requirement that the practitioner have their license or current registration visible during the encounter.

Response: In response to these comments, language regarding the posting of the license or registration in subdivision (a)(5) of section 596.6 was removed.

23. Comment: One comment questioned the intent of preventing CPL 730 examinations from being conducted via telemental health.

Response: No changes to the regulations were made as a result of this comment. CPL 730 examinations are outside the authority of telemental health regulations.

24. Comment: Several comments suggested that the regulation expand the use of telemental health to allow for “commitment evaluations”.

Response: No changes to the regulations were made as a result of these comments. However, the Office will take these comments under advisement as it continues to evaluate and develop the use of technology in the delivery of mental health services.

25. Comment: Several comments suggested removal of the requirement that the results/findings be communicated to the requesting provider of service.

Response: In response to these comments, language regarding communication to the requesting provider in subdivision (b)(5) of 596.7 was removed. The language now simply reads: “The clinical record includes documentation that the telemental health service encounter or consultation occurred.”

26. Comment: Several comments suggested further guidance/explanation regarding administrative expenses.

Response: No changes to the regulations were made as a result of these comments. Clarification regarding administrative expenses will be provided in guidelines of the Office, and within the upcoming multiagency guidance document to be released later this year.

27. Comment: One comment asked what the rates were for telemental health.

Response: No changes to the regulations were made as a result of this comment. There are no separate rate codes for telemental health.

28. Comment: One comment suggested more clarification regarding the notice of provider contracts outlined in Section 596.8(b).

Response: No changes to the regulations were made as a result of this comment. Clarification regarding notice of provider contracts will be provided in guidelines of the Office.

29. Comment: One comment suggested that telehealth regulations be aligned across agencies, as many providers operate dually-license facilities.

Response: No changes to the regulations were made as a result of this comment. Per the 2018/2019 State Budget the four NYS agencies were charged with developing a multiagency guidance document to be released later this year.

Department of Motor Vehicles

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Limited Use Vehicles — Provides That Number of Characters in a VIN be in Conformance with Federal Standards

I.D. No. MTV-27-19-00011-P

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

Proposed Action: This is a consensus rule making to amend section 102.8 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 215(a) and 2270

Subject: Limited Use Vehicles — provides that number of characters in a VIN be in conformance with Federal standards.

Purpose: Conforms regulation with statute.

Text of proposed rule: Subdivision (d) of Section 102.8 is amended to read as follows:

(d) Vehicle identification number. The vehicle identification number assigned to a limited use motor vehicle must be unique for each limited use vehicle and must be embossed or engraved upon the frame of each limited use motorcycle and affixed to a limited use automobile in accordance with Federal standards. The *number of characters of the vehicle identification number [may not consist of more than 13 characters] must be in accordance with Federal standards.*

Text of proposed rule and any required statements and analyses may be obtained from: Heidi Bazicki, Department of Motor Vehicles, 6 Empire State Plaza, Room 522A, Albany, NY 12228, (518) 474-0871, email: dmv.sm.legal@dmv.ny.gov

Data, views or arguments may be submitted to: John Kenefick, Department of Motor Vehicles, 6 Empire State Plaza, Rm. 522A, Albany, NY 12228, (518) 474-0871, email: dmv.sm.legal@dmv.ny.gov

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

Consensus Rule Making Determination

Subdivision (d) of section 102.8 of the Commissioner’s Regulations currently provides that a vehicle identification number assigned to a limited use motor vehicle must be in accordance with Federal standards and that the vehicle identification number may not consist of more than 13 characters. However, the Federal standards for vehicle identification numbers state that a vehicle identification number shall consist of seventeen (17) characters (49 CFR § 565.13(b)). By amending subsection (d) of section 102.8 of the Commissioner’s Regulations to provide that the number of characters must be accordance with Federal standards, the amendment will conform to and encompass the current 17-character Federal standard/requirement as well as provide flexibility should the current standard change in the future.

This proposed rulemaking is being submitted as a consensus rule because it amends an outdated regulation and conforms the regulation to the Federal standard.

Job Impact Statement

A Job Impact Statement is not submitted with these proposals because there is no adverse impact on job creation or development in New York State.

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

Private Service Bureaus — Employment of Persons Who Have Been Convicted of a Crime in Accordance with Article 23-A of Correction Law

I.D. No. MTV-27-19-00012-P

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

Proposed Action: This is a consensus rule making to amend section 77.6 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 215(a) and 394(8)

Subject: Private Service Bureaus — employment of persons who have been convicted of a crime in accordance with article 23-A of Correction Law.

Purpose: Conforms regulation with statute.

Text of proposed rule: Section 77.6 is amended to read as follows:

No person may be employed in any capacity in [a licensed drivers' school or] a licensed private service bureau who has been convicted of a felony or a misdemeanor unless such person is approved by the Commissioner of Motor Vehicles.

Text of proposed rule and any required statements and analyses may be obtained from: Heidi Bazicki, Department of Motor Vehicles, 6 Empire State Plaza, Room 522A, Albany, NY 12228, (518) 474-0871, email: dmv.sm.legal@dmv.ny.gov

Data, views or arguments may be submitted to: John J. Kenefick, Department of Motor Vehicles, 6 Empire State Plaza, Rm. 522A, Albany, NY 12228, (518) 474-0871, email: dmv.sm.legal@dmv.ny.gov

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

Consensus Rule Making Determination

Section 77.6 of the Commissioner's Regulations currently prohibits a drivers' school from employing a person who has been convicted of a felony or a misdemeanor. However, Chapter 55 of the Laws of 2019, effective April 12, 2019, amended subdivision 9 of section 394 to allow a drivers' school to employ a person who has been convicted of a crime in accordance with article 23-A of the Correction Law. By amending section 77.6 of the Commissioner's Regulations, the regulation will conform to the current law.

This proposed rulemaking is being submitted as a consensus rule because it is necessary to conform this regulation to the Vehicle and Traffic Law.

Job Impact Statement

A Job Impact Statement is not submitted with these proposals because there is no adverse impact on job creation or development in New York State.

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

Driving Schools — Relates to Employment of Persons Convicted of a Crime in Accordance with Article 23-A of Correction Law

I.D. No. MTV-27-19-00013-P

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

Proposed Action: This is a consensus rule making to repeal section 76.15 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 215(a) and 394(8)

Subject: Driving Schools — relates to employment of persons convicted of a crime in accordance with article 23-A of Correction Law.

Purpose: Conforms regulation with statute.

Text of proposed rule: Subdivision (a) of section 76.15 is hereby REPEALED and reserved.

Text of proposed rule and any required statements and analyses may be obtained from: Heidi Bazicki, Department of Motor Vehicles, 6 Empire State Plaza, Room 522A, Albany, NY 12228, (518) 474-0871, email: dmv.sm.legal@dmv.ny.gov

Data, views or arguments may be submitted to: John J. Kenefick, Department of Motor Vehicles, 6 Empire State Plaza, Rm. 522A, Albany, NY 12228, (518) 474-0871, email: dmv.sm.legal@dmv.ny.gov

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

Consensus Rule Making Determination

Subdivision (a) of section 76.15 of the Commissioner's Regulations mirrors Vehicle and Traffic Law section 394(9) by prohibiting a drivers' school from knowingly employing any person as an instructor or in any capacity whatsoever, who has been convicted of a felony or any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude. However, Chapter 55 of the Laws of 2019, effective April 12, 2019, amended subdivision 9 of section 394 to allow a drivers' school to employ a person who has been convicted of a crime in accordance with article 23-A of the Correction Law. By repealing subdivision (a) of section 76.15 of the Commissioner's Regulations, the regulation will conform to the current law.

This proposed rulemaking is being submitted as a consensus rule because it is necessary to conform this regulation to the Vehicle and Traffic Law.

Job Impact Statement

A Job Impact Statement is not submitted with these proposals because there is no adverse impact on job creation or development in New York State.

Public Service Commission

NOTICE OF ADOPTION

Tariff Amendments Regarding the Standby Service Multi-Party Offset Provision

I.D. No. PSC-37-18-00003-A

Filing Date: 2019-06-17

Effective Date: 2019-06-17

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

Action taken: On 6/13/19, the PSC adopted an order directing Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) to file tariff amendments regarding the Multi-Party Offset provision, contained in P.S.C. No. 220—Electricity, effective July 1, 2019.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff amendments regarding the Standby Service Multi-Party Offset provision.

Purpose: To direct National Grid to file tariff amendments regarding the Standby Service Multi-Party Offset provision.

Substance of final rule: The Commission, on June 13, 2019, adopted an order directing Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) to file tariff amendments regarding the Multi-Party Offset provision of Service Classification No. 7 – Sale of Standby Service to customers with on-site Generation Facilities, contained in P.S.C. No. 220 – Electricity, on not less than five days' notice, to become effective July 1, 2019, 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-E-0500SA1)

NOTICE OF ADOPTION

Transfer of Gas Pipeline

I.D. No. PSC-05-19-00014-A

Filing Date: 2019-06-18

Effective Date: 2019-06-18

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

Action taken: On 6/13/19, the PSC adopted an order, subject to conditions, approving Selkirk Cogen Partners, L.P. (Selkirk) and SABIC Innovative Plastics, U.S., L.L.C.'s (SABIC) petition for the transfer of a gas pipeline from Selkirk to SABIC.

Statutory authority: Public Service Law, sections 2(10)-(13), (21), (22), 5(1)(b), 66(13), 70 and 79-83

Subject: Transfer of gas pipeline.

Purpose: To approve Selkirk and SABIC's petition to transfer a gas pipeline from Selkirk to SABIC.

Substance of final rule: The Commission, on June 13, 2019, adopted an order, subject to conditions, approving Selkirk Cogen Partners, L.P. (Selkirk) and SABIC Innovative Plastics, U.S., L.L.C.'s (SABIC) petition for the transfer of a 12-inch diameter, approximately 2.1-mile natural gas supply line (Pipeline) located in Selkirk, New York, from Selkirk to SABIC. The Commission also approved a transfer of a Certificate of Environmental Compatibility and Public Need governing Pipeline ownership and operation and that the lightened and incidental regulatory regime currently applicable to Selkirk will continue to be applicable to SABIC after the proposed transactions are consummated, 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-0771SA1)

NOTICE OF ADOPTION

Property Lease Agreement

I.D. No. PSC-07-19-00011-A

Filing Date: 2019-06-17

Effective Date: 2019-06-17

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

Action taken: On 6/13/19, the PSC adopted an order approving New York State Electric & Gas Corporation's (NYSEG) petition to lease additional office space within its facility to Coughlin & Gerhart, L.L.P./COIF Realty Corporation (Coughlin & Gerhart).

Statutory authority: Public Service Law, section 70

Subject: Property lease agreement.

Purpose: To approve NYSEG's petition to lease additional office space within its facility to Coughlin & Gerhart.

Substance of final rule: The Commission, on June 13, 2019, adopted an order approving New York State Electric & Gas Corporation's petition to lease additional office space within its facility at 18 Link Drive, Binghamton, New York to Coughlin & Gerhart, L.L.P./COIF Realty Corporation, 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-M-0755SA1)

NOTICE OF ADOPTION

Initial Rate Filing

I.D. No. PSC-07-19-00012-A

Filing Date: 2019-06-17

Effective Date: 2019-06-17

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

Action taken: On 6/13/19, the PSC adopted an order approving Pond Shore Water Works, Inc.'s (Pond Shore) initial tariff schedule, P.S.C. No. 1—Water, to become effective on July 1, 2019.

Statutory authority: Public Service Law, sections 5(4) and 89-c(2)

Subject: Initial rate filing.

Purpose: To approve Pond Shore's initial rate filing.

Substance of final rule: The Commission, on June 13, 2019, adopted an order approving Pond Shore Water Works, Inc.'s (Pond Shore) initial electronic tariff schedule, P.S.C. No. 1 – Water, to become effective on July 1, 2019, setting forth the rates, charges, rules and regulations under which Pond Shore proposes to provide service, and granted a waiver of the Commission's rate setting authority, 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-W-0055SA1)

NOTICE OF ADOPTION

Tariff Amendments Containing the Rate Year 2 SC1-VTOU Service Class Rates

I.D. No. PSC-13-19-00013-A

Filing Date: 2019-06-17

Effective Date: 2019-06-17

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

Action taken: On 6/13/19, the PSC adopted an order directing Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) to file tariff amendments regarding the RY2 SC1-VTOU rates, contained in P.S.C. No. 220 — Electricity, to become effective July 1, 2019.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff amendments containing the Rate Year 2 SC1-VTOU service class rates.

Purpose: To direct National Grid to file tariff amendments regarding the Rate Year 2 SC1-VTOU rates.

Substance of final rule: The Commission, on June 13, 2019, adopted an order directing Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) to file tariff amendments regarding the Rate Year 2 Residential Optional Time of Use Delivery and Commodity (SC1-VTOU) service class rates, contained in P.S.C. No. 220 — Electricity, to become effective July 1, 2019. National Grid shall use the relevant SC1-VTOU rates identified in the body of the Order when it files the required tariff amendments to implement authorized rate changes for Rate Year 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.

(17-E-0238SA7)

NOTICE OF ADOPTION**Transfer of Street Lighting Facilities****I.D. No.** PSC-13-19-00016-A**Filing Date:** 2019-06-13**Effective Date:** 2019-06-13

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

Action taken: On 6/13/19, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) petition to transfer street lighting facilities located in the Village of Cazenovia (Cazenovia) to Cazenovia.

Statutory authority: Public Service Law, section 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To approve National Grid's petition to transfer street lighting to Cazenovia.

Substance of final rule: The Commission, on June 13, 2019, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's petition to transfer street lighting facilities located in the Village of Cazenovia (Cazenovia) to Cazenovia, 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-0119SA1)

NOTICE OF ADOPTION**Tariff Revisions Establishing Updated Pole Attachment Rates****I.D. No.** PSC-13-19-00019-A**Filing Date:** 2019-06-17**Effective Date:** 2019-06-17

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

Action taken: On 6/13/19, the PSC adopted an order approving Central Hudson Gas & Electric Corporation's (Central Hudson) tariff revisions establishing updated pole attachment rates, contained in P.S.C. No. 15 — Electricity, to become effective July 1, 2019.

Statutory authority: Public Service Law, sections 65 and 66(12)

Subject: Tariff revisions establishing updated pole attachment rates.

Purpose: To approve Central Hudson's tariff revisions establishing updated pole attachment rates.

Substance of final rule: The Commission, on June 13, 2019, adopted an order approving Central Hudson Gas & Electric Corporation's (Central Hudson) tariff revisions establishing updated pole attachment rates, contained in P.S.C. No. 15 — Electricity, to become effective July 1, 2019. Central Hudson is also directed to file a cancellation supplement, effective on not less than one day's notice, on or before June 26, 2019, cancelling the tariff amendment listed in the Appendix, 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-0134SA1)

NOTICE OF ADOPTION**Transfer of Street Lighting Facilities****I.D. No.** PSC-13-19-00022-A**Filing Date:** 2019-06-13**Effective Date:** 2019-06-13

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

Action taken: On 6/13/19, the PSC adopted an order approving New York State Electric & Gas Corporation's (NYSEG) petition to transfer street lighting facilities located in the Town of Lancaster (Lancaster) to Lancaster.

Statutory authority: Public Service Law, section 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To approve NYSEG's petition to transfer street lighting to Lancaster.

Substance of final rule: The Commission, on June 13, 2019, adopted an order approving New York State Electric & Gas Corporation's petition to transfer street lighting facilities located in the Town of Lancaster (Lancaster) to Lancaster, 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-0077SA1)

NOTICE OF ADOPTION**Tariff Amendments****I.D. No.** PSC-14-19-00004-A**Filing Date:** 2019-06-13**Effective Date:** 2019-06-13

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

Action taken: On 6/13/19, the PSC adopted an order adopting the emergency action on a permanent basis approving Consolidated Edison Company of New York, Inc.'s (Con Edison) tariff amendments to P.S.C. No. 10—Electricity.

Statutory authority: Public Service Law, sections 5, 65(1), (8), 66(1) and (12)

Subject: Tariff amendments.

Purpose: To adopt the emergency action on a permanent basis approving Con Edison's tariff amendments.

Substance of final rule: The Commission, on June 13, 2019, adopted an order adopting the emergency action on a permanent basis approving Consolidated Edison Company of New York, Inc.'s tariff amendments to reduce the rates applicable to customers that will take service under its Innovative Pricing Pilot, Riders Z and AA, for Residential/Religious and Small Commercial customers, respectively, in Staten Island, the County of Westchester and Brooklyn, contained in P.S.C. No. 10 — Electricity, 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-E-0397SA2)

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

Tariff Provisions for SHR Demonstration Project Customers

I.D. No. PSC-27-19-00006-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 a proposal filed by Orange and Rockland Utilities, Inc. to modify its electric tariff schedule, P.S.C. No. 3, regarding the Smart Home Rates (SHR) Program.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff provisions for SHR Demonstration Project customers.

Purpose: To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Substance of proposed rule: The Commission is considering a proposal filed by Orange and Rockland Utilities, Inc. (O&R or the Company) on June 10, 2019, to amend its electric tariff schedule, P.S.C. No. 3, to decrease the demand-based Smart Homes Rate Demonstration Project (SHR) rate by approximately 4.1% effective October 1, 2019.

O&R states that its requested proposal is based on an analysis of customer interval usage data that indicates that the demand-based rates should be adjusted downward by approximately 4.1%. The Company proposes to adjust the demand-based SHR rates to reflect the revised billing determinants so that they will be based on the most recent, accurate data. Since O&R has not begun to bill customers under the SHR, and does not plan to do so prior to October 1, 2019, the Company states that no current customer billing will be affected by the proposed change.

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: Kathleen H. Burgess, 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-0456SP1)

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

Implementation of Consolidated Billing for Distributed Energy Resources

I.D. No. PSC-27-19-00007-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 directing the investor-owned electric utilities to institute consolidated billing for Community Distributed Generation projects.

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

Subject: Implementation of consolidated billing for distributed energy resources.

Purpose: To facilitate development of and participation in Community Distributed Generation projects.

Substance of proposed rule: The Public Service Commission is considering directing the investor-owned electric utilities to institute consolidated billing for Community Distributed Generation (CDG) projects.

The CDG program allows utility customers to receive bill credits based on the electric production of an eligible distributed energy resources man-

aged by a CDG Sponsor. Often, that Sponsor bills the customers each month for their subscription to the CDG project. Currently, while the bill credits appear directly on customers' utility bills, the Sponsor must send the customer a separate bill for the subscription and must separately collect the subscription charge. Consolidated billing would enable the Sponsor to instead inform the utility of the subscription charge, which would then be added to the utility bill and remitted to the Sponsor by the utility. The subscription charge would be offset by the bill credits. The Commission will also consider implementation details for consolidated billing, including how information will be communicated and how funds will be exchanged between utilities and Sponsors, what billing models will be implemented, what consumer protection rules are appropriate, and whether consolidated billing will be limited to certain customer classes or available for all customers.

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: Kathleen H. Burgess, 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-M-0463SP1)

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

Tariff Provisions for SHR Demonstration Project Customers

I.D. No. PSC-27-19-00008-P

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

Proposed Action: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. to modify its electric tariff schedule, P.S.C. No. 10, regarding the Smart Home Rates (SHR) Program.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff provisions for SHR Demonstration Project customers.

Purpose: To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Substance of proposed rule: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison or the Company) on June 10, 2019, to amend its electric tariff schedule, P.S.C. No. 10, to decrease the demand-based Smart Homes Rate Demonstration Project (SHR) rate by approximately 4.1% effective October 1, 2019.

Con Edison states that its requested proposal is based on an analysis of customer interval usage data that indicates that the demand-based rates should be adjusted downward by approximately 4.1%. The Company proposes to adjust the demand-based SHR rates to reflect the revised billing determinants so that they will be based on the most recent, accurate data. Since Con Edison has not begun to bill customers under the SHR, and does not plan to do so prior to October 1, 2019, the Company states that no current customer billing will be affected by the proposed change.

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: Kathleen H. Burgess,

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-0457SP1)

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

Notice of Intent to Submeter Electricity

I.D. No. PSC-27-19-00009-P

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

Proposed Action: The Commission is considering the notice of intent of Safon Owner LLC to submeter electricity at 2 Washington 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: Notice of intent to submeter electricity.

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

Substance of proposed rule: The Commission is considering the notice of intent filed by Safon Owner LLC on June 5, 2019, requesting authorization to submeter electricity at 2 Washington Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

In the notice of intent, Safon Owner LLC requests authorization to take electric service from Con Edison and then distribute and meter that electricity to its residents. Submetering of electricity to residential residents is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

The full text of the notice of intent and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, 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-0439SP1)

Department of State

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

New York State Uniform Fire Prevention and Building Code (the Uniform Code)

I.D. No. DOS-27-19-00014-P

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

Proposed Action: Repeal of Parts 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229; addition of new Parts 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227; amendment of sections 1264.4(b), (e), 1265.3(c), (h), (j), and (k) of Title 19 NYCRR.

Statutory authority: Executive Law, sections 377, 382-a and 382-b

Subject: New York State Uniform Fire Prevention and Building Code (the Uniform Code).

Purpose: To repeal the existing Uniform Code and adopt a new Uniform Code and to make conforming changes to 19 NYCRR Parts 1264 and 1265.

Public hearing(s) will be held at: 10:00 a.m., Sept. 5, 2019 at Department of State, 99 Washington Ave., Conference Rm. 505, Albany, NY; 10:00 a.m., Sept. 5, 2019 at Department of State, 123 William St., Conference Rm. 231, New York, NY; 10:00 a.m., Sept. 5, 2019 at Perry B. Duryea Jr. State Office Bldg., 250 Veterans Memorial Hwy., Rms. 2 and 3, Hauppauge, NY; 10:00 a.m., Sept. 5, 2019 at Utica State Office Bldg., 207 Genesee St., 1st Fl. Conference Rm. A, Utica, NY; and 10:00 a.m., Sept. 5, 2019 at Amherst Town Hall, Council Chambers, 2nd Fl., 5583 Main St., Williamsville, NY.

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

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

Substance of proposed rule (Full text is posted at the following State website: <http://www.dos.ny.gov/DCEA/>): 19 NYCRR Parts 1219 through 1227

This rule making would repeal the current versions of Parts 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, and 1227 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York and add new Parts. The individual Parts pertain to specified portions of the Uniform Fire Prevention and Building Code and are summarized below:

PART 1219. NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

Section 1219.1 New York State Uniform Fire Prevention and Building Code.

The New York State Uniform Fire Prevention and Building Code (the Uniform Code), adopted pursuant to Article 18 of the Executive Law, includes Part 1220 (Residential Construction), Part 1221 (Building Construction), Part 1222 (Plumbing Systems), Part 1223 (Mechanical Systems), Part 1224 (Fuel Gas Equipment and Systems), Part 1225 (Fire Prevention), Part 1226 (Property Maintenance), and Part 1227 (Existing Buildings) of this Title and the publications incorporated by reference into those Parts.

Section 1219.2 Definitions.

(a) General. In this Part and in Parts 1220 through 1227 of this Title, the following terms are defined:

- (1) 2020 BCNYS.
- (2) 2020 EBCNYS.
- (3) 2020 FCNYS.
- (4) 2020 FGCNYS.
- (5) 2020 MCNYS.
- (6) 2020 PCNYS.
- (7) 2020 PMCNYS.
- (8) 2020 RCNYS.
- (9) Accessory structure.
- (10) Agricultural building.
- (11) Bed and breakfast dwelling.
- (12) Dwelling.
- (13) Dwelling unit.
- (14) Existing building.
- (15) Guestroom.
- (16) Live/work unit.
- (17) Lodging house.
- (18) Story above grade plane.
- (19) Townhouse.

(b) Other terms. Terms used in the definitions and not defined shall have the meanings ascribed to those terms in the 2020 BCNYS, 2020 EBCNYS, 2020 FCNYS, 2020 FGCNYS, 2020 MCNYS, 2020 PCNYS, 2020 PMCNYS, and/or 2020 RCNYS.

PART 1220. RESIDENTIAL CONSTRUCTION

Section 1220.1 Definitions.

In this Part, the terms 2020 BCNYS, 2020 RCNYS, bed and breakfast dwelling, dwelling, live/work unit, lodging house, story above grade plane, and townhouse are defined in section 1219.2.

Section 1220.2 Requirements.

(a) General. Except as otherwise provided in subdivision (d) of this sec-

tion, the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of the following buildings and structures shall comply with the provisions and requirements of the 2020 RCNYS:

(1) detached one-family dwellings that are not more than three stories above grade plane in height, and their accessory structures that are not more than three stories above grade plane in height;

(2) detached two-family dwellings that are not more than three stories above grade plane in height and in which each dwelling unit has a separate means of egress, and their accessory structures that are not more than three stories above grade plane in height;

(3) townhouses that are not more than three stories above grade plane in height, and their accessory structures that are not more than three stories above grade plane in height;

(4) bed and breakfast dwellings that are not more than three stories above grade plane in height, and their accessory structures that are not more than three stories above grade plane in height;

(5) live/work units that are located in townhouses that are not more than three stories above grade plane in height and comply with the requirements of Section 419 of the 2020 BCNYS, and their accessory structures that are not more than three stories above grade plane in height; and

(6) owner-occupied lodging houses that are not more than three stories above grade plane in height, have five or fewer guestrooms, and are provided with a residential fire sprinkler system complying with Section P2904 of the 2020 RCNYS, and their accessory structures that are not more than three stories above grade plane in height.

(b) Incorporation by reference. The 2020 RCNYS is incorporated herein by reference.

(c) Referenced standards. Certain published standards are denoted in the 2020 RCNYS as incorporated by reference.

(d) Exception. Notwithstanding the provisions of subdivision (a) of this section, application of the provisions and requirements of the 2020 BCNYS, rather than the provisions and requirements of the 2020 RCNYS, to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of any buildings or structures listed in subdivision (a) of this section is permitted, provided that such construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal or demolition complies with all applicable provisions and requirements of the 2020 BCNYS.

PART 1221. BUILDING CONSTRUCTION

Section 1221.1 Definitions.

In this Part, the terms 2020 BCNYS, 2020 RCNYS, and agricultural building are defined in section 1219.2.

Section 1221.2 Requirements.

(a) General. Except as otherwise provided in subdivision (d) of this section, the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure, and every appurtenance connected or attached to any building or structure, shall comply with the provisions and requirements of the 2020 BCNYS.

(b) Incorporation by reference. The 2020 BCNYS is incorporated herein by reference.

(c) Referenced standards. Certain published standards are denoted in the 2020 BCNYS as incorporated by reference.

(d) Exceptions. Notwithstanding the provisions of subdivision (a) of this section:

(1) buildings and structures listed in subdivision (a) of section 1220.2 of Part 1220 of this Title shall comply with the provisions and requirements of the 2020 RCNYS, except as otherwise provided in subdivision (d) of said section 1220.2;

(2) agricultural buildings that are used directly and solely for agricultural purposes shall not be subject to the construction-related provisions and requirements of the 2020 BCNYS;

(3) construction trailers that are used as temporary offices for the purpose of monitoring construction at a construction site shall not be subject to the provisions and requirements of 2020 BCNYS; and

(4) structures such as radio and television transmission, communication and wind generation towers, and ground-mounted photovoltaic arrays that are neither a building appurtenance nor are attached to a building shall not be subject to the provisions and requirements of the 2020 BCNYS.

PART 1222. PLUMBING SYSTEMS

Section 1222.1 Definitions.

In this Part, the terms 2020 EBCNYS, 2020 PCNYS, and 2020 RCNYS are defined in section 1219.2.

Section 1222.2 Requirements.

(a) General. Except as otherwise provided in subdivision (d) of this section, the erection, installation, alteration, repair, relocation, replacement, addition to, use, and maintenance of plumbing systems and nonflammable medical gas, inhalation anesthetic, vacuum piping, nonmedical oxygen,

and sanitary and condensate vacuum collection systems, shall comply with the provisions and requirements of the 2020 PCNYS.

(b) Incorporation by reference. The 2020 PCNYS is incorporated herein by reference.

(c) Referenced standards. Certain published standards are denoted in the 2020 PCNYS as incorporated by reference.

(d) Exceptions. Notwithstanding the provisions of subdivision (a) of this section:

(1) buildings and structures listed in subdivision (a) of section 1220.2 of Part 1220 of this Title shall comply with the provisions and requirements of the 2020 RCNYS, except as otherwise provided in subdivision (d) of said section 1220.2; and

(2) plumbing systems in existing buildings that are undergoing repairs, alterations, changes in occupancy or construction of additions shall be permitted to comply with the provisions and requirements of the 2020 EBCNYS.

PART 1223. MECHANICAL SYSTEMS

Section 1223.1 Definitions.

In this Part, the terms 2020 EBCNYS, 2020 MCNYS, and 2020 RCNYS are defined in section 1219.2.

Section 1223.2 Requirements.

(a) General. Except as otherwise provided in subdivision (d) of this section, the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings shall comply with the provisions and requirements of the 2020 MCNYS.

(b) Incorporation by reference. The 2020 MCNYS is incorporated herein by reference.

(c) Referenced standards. Certain published standards are denoted in the 2020 MCNYS as incorporated by reference.

(d) Exceptions. Notwithstanding the provisions of subdivision (a) of this section:

(1) buildings and structures listed in subdivision (a) of section 1220.2 of Part 1220 of this Title shall comply with the provisions and requirements of the 2020 RCNYS, except as otherwise provided in subdivision (d) of said section 1220.2; and

(2) mechanical systems in existing buildings that are undergoing repairs, alterations, changes in occupancy or construction of additions shall be permitted to comply with the provisions and requirements of the 2020 EBCNYS.

PART 1224. FUEL GAS EQUIPMENT AND SYSTEMS

Section 1224.1 Definitions.

In this Part, the terms 2020 EBCNYS, 2020 FGCNYS, and 2020 RCNYS are defined in section 1219.2.

Section 1224.2 Requirements.

(a) General. Except as otherwise provided in subdivision (d) of this section, the design, installation, maintenance, alteration, and inspection of fuel gas piping and equipment, fuel gas-fired appliances, and fuel gas-fired appliance venting systems that are (i) permanently installed and (ii) specifically addressed in the 2020 FGCNYS, shall comply with the provisions and requirements of the 2020 FGCNYS.

(b) Incorporation by reference. The 2020 FGCNYS is incorporated herein by reference.

(c) Referenced standards. Certain published standards are denoted in the 2020 FGCNYS as incorporated by reference.

(d) Exceptions. Notwithstanding the provisions of subdivision (a) of this section:

(1) buildings and structures listed in subdivision (a) of section 1220.2 of Part 1220 of this Title shall comply with the provisions and requirements of the 2020 RCNYS, except as otherwise provided in subdivision (d) of said section 1220.2; and

(2) fuel gas piping system in existing building that are undergoing repairs, alteration, or changes in occupancy or construction of additions shall comply with the provisions and requirements of the 2020 EBCNYS.

PART 1225. FIRE PREVENTION

Section 1225.1 Definitions.

In this Part, the term 2020 FCNYS are defined in section 1219.2.

Section 1225.2 Requirements.

(a) General. All buildings and structures, whether currently existing or hereafter constructed; all premises; all processes; the storage, handling, or use of buildings, structures, materials, or devices; the occupancy and operation of buildings, structures, and premises; and the construction, extension, repair, alteration or removal of fire suppression and alarm systems, shall comply with the provisions and requirements of the 2020 FCNYS.

(b) Incorporation by reference. The 2020 FCNYS is incorporated herein by reference.

(c) Referenced standards. Certain published standards are denoted in the 2020 FCNYS as incorporated by reference.

PART 1226. PROPERTY MAINTENANCE

Section 1226.1 Definitions.

In this Part, the terms 2020 PMCNYS and existing building are defined in section 1219.2.

Section 1226.2 Requirements.

(a) General. All existing buildings and all premises, and the occupancy and operation of all existing buildings and all premises, shall comply with the provisions and requirements of the 2020 PMCNYS.

(b) Incorporation by reference. The 2020 PMCNYS is incorporated herein by reference.

(c) Referenced standards. Certain published standards are denoted in the 2020 PMCNYS as incorporated by reference.

PART 1227. EXISTING BUILDINGS

Section 1227.1 Definitions.

In this Part, the terms 2020 EBCNYS, 2020 RCNYS, and existing building are defined in section 1219.2.

Section 1227.2 Requirements.

(a) General. Except as otherwise provided in subdivision (d) of this section, the repair, alteration, change of occupancy, addition to, and relocation of existing buildings shall comply with the requirements of the 2020 EBCNYS.

(b) Incorporation by reference. The 2020 EBCNYS is incorporated herein by reference.

(c) Referenced standards. Certain published standards are denoted in the 2020 EBCNYS as incorporated by reference.

(d) Exception. Notwithstanding the provisions of subdivision (a) of this section, buildings and structures listed in subdivision (a) of section 1220.2 of Part 1220 of this Title shall comply with the provisions and requirements of the 2020 RCNYS, except as otherwise provided in subdivision (d) of said section 1220.2.

19 NYCRR Parts 1228 and 1229

This rule making would repeal 19 NYCRR Parts 1228 and 1229 in their entirety.

19 NYCRR Parts 1264 and 1265

This rule making would amend 19 NYCRR Parts 1264 and 1265 to reference the new versions of the Uniform Code (2020 BCNYS and 2020 RCNYS), as opposed to the existing versions of the Uniform Code (2015 IBC and 2015 IRC, as amended by the 2017 Uniform Code Supplement).

Text of proposed rule and any required statements and analyses may be obtained from: Jeffrey Hinderliter, Department of State, 99 Washington Avenue, Suite 1160, Albany, NY 12231, (518) 474-4073, email: code.development@dos.ny.gov

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

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

Summary of Regulatory Impact Statement (Full text is posted at the following State website: <http://www.dos.ny.gov/DCEA/>):

1. STATUTORY AUTHORITY

Article 18 of the Executive Law (§ 370-383) establishes the State Fire Prevention and Building Code Council (hereinafter "Code Council") and authorizes such council to formulate a code to be known as the Uniform Fire Prevention and Building Code (hereinafter "Uniform Code").

Executive Law § 377 provides that the Uniform Code shall provide reasonably uniform standards and requirements for construction and construction materials for public and private buildings, including factory manufactured homes, consonant with accepted standards of engineering and fire prevention practices. Executive Law § 372(3) defines "building" as a combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals, or property. Included within the legislative findings and purposes for the Uniform Code is that such Uniform Code shall provide a basic minimum level of protection to all people of the State from hazards of fire and inadequate building construction and to reconcile the myriad of existing and potentially conflicting regulations which apply to different types of buildings and occupancies. See Executive Law § 371(2)(b)(1).

Executive Law § 378 provides that the Uniform Code shall address certain specified subjects. The subjects are listed in the full Regulatory Statement.

Executive Law § 377(1) provides that the Code Council shall periodically review the entire Uniform Code to assure that it effectuates the purposes of Article 18 of the Executive Law and the specific objectives and standards set forth in such article. Executive Law § 377(1) also provides that the Code Council may from time to time amend particular provisions of the Uniform Code.

The current version of the Uniform Code is based on International Codes developed and published by the International Code Council (hereinafter "ICC"). This rule making would repeal the current version of the Uniform Code which is based upon the 2015 editions of eight (8) individ-

ual model codes developed and published by the ICC, as modified by the 2017 Uniform Code Supplement, and adopt new text based primarily upon the 2018 editions of model codes developed by the ICC, with modifications to accommodate statutory requirements and to address concerns specific to New York State. The individual codes that would be included in the Uniform Code as proposed by this rule are as follows: the 2020 Residential Code of New York State (2020 RCNYS), the 2020 Building Code of New York State (2020 BCNYS), the 2020 Plumbing Code of New York State (2020 PCNYS), the 2020 Mechanical Code of New York State (2020 MCNYS), the 2020 Fuel Gas Code of New York State (2020 FGCNYS), the 2020 Fire Code of New York State (2020 FCNYS), the 2020 Property Maintenance Code of New York State (2020 PMCNYS), and the 2020 Existing Building Code of New York State (2020 EBCNYS). Consequently, it is the determination of the Department of State and the Code Council that Executive Law § 377, the statutory authority for this particular rule making, authorizes the proposed regulation.

Please note that the Energy Conservation Construction Code will be the subject of a separate rule making.

2. LEGISLATIVE OBJECTIVES

Executive Law § 371(2) states that it shall be the public policy of the State of New York to provide for promulgation of a Uniform Code addressing building construction and fire prevention in order to provide a basic minimum level of protection to all people of the State from the hazards of fire and inadequate building construction. The Code Council is assigned the task of formulating the Uniform Fire Prevention and Building Code.

Executive Law § 377 not only empowers the Code Council to amend provisions of the Uniform Code, it also directs the Code Council to periodically review the entire Uniform Code to assure that it effectuates the purposes, objectives and standards set forth in Article 18 of the Executive Law. Further, Executive Law § 371(2)(b)(4) provides that it is the policy of the State of New York to require new and existing buildings to keep pace with advances in technology concerning fire prevention and building construction.

Upon review of the current text of the Uniform Code, the Code Council has concluded that it would further the purposes, objectives, and standards of Article 18 to propose this rule, which would repeal the current Uniform Code text and replace it with updated text based upon the 2020 RCNYS, 2020 BCNYS, 2020 PCNYS, 2020 FCNYS, 2020 MCNYS, 2020 FGCNYS, 2020 PMCNYS, and 2020 EBCNYS.

3. NEEDS AND BENEFITS

The current version of the Uniform Code is based upon the 2015 editions of the ICC model codes and a supplement that modifies the ICC model codes to make the Uniform Code more appropriate to New York State's statutes and special conditions. This rule making will repeal the current version of the Uniform Code and replace the text with the following New York specific code books based primarily upon the 2018 editions of the ICC model codes: 2020 RCNYS, 2020 BCNYS, 2020 FCNYS, 2020 PCNYS, 2020 MCNYS, 2020 FGCNYS, 2020 PMCNYS, and 2020 EBCNYS.

This change is necessary for New York State to remain competitive with the rest of the nation in matters involving building construction and to provide an adequate level of building safety to its residents. It is also necessary to meet New York State's goal to keep pace with evolving technology concerning fire prevention and building construction and to have a building and fire prevention code which is consistent with nationally accepted model codes.

Included in Item #3 of the full Regulatory Impact Statement, the Needs and Benefits of significant new provisions of the Uniform Code are discussed.

4. COSTS

a. COST TO REGULATED PARTIES FOR THE IMPLEMENTATION OF, AND CONTINUING COMPLIANCE, WITH THE PROPOSED RULE

Further information concerning the costs of significant provisions of the Uniform Code is discussed in the full Regulatory Impact Statement. The new provisions of the Uniform Code are expected to reduce some building and development costs and increase others. While costs vary depending on the construction or modification project, the Department does not anticipate that the costs will differ greatly from those associated with the current code. This rule reflects performance based regulatory requirements providing regulated parties more alternatives to protect the occupants and users of buildings while at the same time fulfilling programmatic space needs with the most cost-effective solution.

b. COST TO THE AGENCY, THE STATE AND LOCAL GOVERNMENTS FOR THE IMPLEMENTATION OF, AND CONTINUED ADMINISTRATION OF, THE RULE

The Department of State, State agencies that administer and enforce the Uniform Code, State agencies that own or construct buildings, and local governments that administer and enforce the Uniform Code will be required to obtain copies of the new code books. It is anticipated that the

set of code books will cost between \$620 and \$862. Smaller agencies and local governments typically require only one set of code books. Larger local governments may require multiple sets. Approximately 4,000 code enforcement officials in 1,600 municipalities will be affected by a new version of the Uniform Code.

Further information concerning costs and savings of the most significant of the new provisions of the Uniform Code are discussed within Item #3 of the full Regulatory Impact Statement.

5. LOCAL GOVERNMENT MANDATES

This rule making will impose some programs, services, duties and responsibilities upon counties, cities, towns, villages, school districts, fire districts and other special districts. When any of the aforementioned governmental entities undertake the construction of a building or structure, the construction process is subject to the provisions of the proposed rule to the same extent that the construction of a private building or structure would be regulated.

Pursuant to Executive Law § 381, every city, town and village is responsible for administering and enforcing the Uniform Code. Consequently, local government personnel will require training in the details of this rule. However, the Department of State, Building Standards and Codes Division has funding available to provide for training local government code enforcement officials. This training will provide knowledge to enable local government to enforce this regulation.

6. PAPERWORK

This rule will not impose any additional reporting or recordkeeping requirements. No additional paperwork is anticipated.

7. DUPLICATION

The Uniform Code provides standards for the construction and maintenance of buildings and structures and for the protection of buildings and structures and their occupants from the hazards of fire. The federal government does not impose comprehensive requirements for these matters. The federal government has addressed the topic of accessible and usable facilities for persons with disabilities through adoption of the Americans with Disabilities Act (ADA) and the Fair Housing Act. Although the existence of federal and state standards may raise issues of overlap or conflict, no such overlap or conflict exists with this proposed rule.

Several State agencies have promulgated regulations which impose requirements upon buildings or structures that house activities licensed or regulated by the particular agency. Although such regulations may affect the construction and/or maintenance of particular buildings or structures, they are not a comprehensive building and fire prevention code like the Uniform Code. Such regulations may impose an additional layer of regulation upon the construction, maintenance, or use of certain categories of buildings. These other regulations, however, are focused upon activities or occupants regulated or protected by the particular State agency and have been promulgated pursuant to statutory authority other than Article 18 of the Executive Law.

To the extent that any other State agency regulation conflicts with provisions of the Uniform Code, such other regulation is superseded by the code. See Executive Law § 383(1).

8. ALTERNATIVES

It is the policy of the Department of State to modernize and amend the Uniform Code, so as to maintain consistency with the national model codes, to keep building practices in New York State consistent with practice nationally, and to incorporate new technical developments in a timely manner. Consequently, the alternative of maintaining existing provisions of the Uniform Code was rejected.

To assist the Code Council, staff at the Department of State, Building Standards and Codes Division reviewed the ICC Codes and made recommendations to the Code Council to ensure that the new provisions of the Uniform Code would remain appropriate and applicable to developing design and construction issues and needs in New York State.

Proposed New York modifications were posted on the DOS website for public inspection. In addition, the Department maintains a list of over 10,000 interested parties that have signed up for e-bulletins regarding code issues.

Public hearings will be held after a notice of proposed rule making has been published in the State Register in accordance with the provisions of the State Administrative Procedure Act. A draft of the proposed code will also be available on the Department's website and an e-bulletin will be sent announcing that fact.

9. FEDERAL STANDARDS

The Uniform Code provides standards for the construction and maintenance of buildings and structures and for the protection of buildings and structures and their occupants from the hazards of fire. The federal government does not impose comprehensive requirements for these matters. The federal government has addressed the topic of accessible and usable facilities for persons with disabilities through adoption of the Americans with Disabilities Act (ADA) and the Fair Housing Act. Although the existence of federal and state standards may raise issues of overlap or conflict, no such overlap or conflict exists with this proposed rule.

10. COMPLIANCE SCHEDULE

Upon publication of the notice of adoption for this rule making, a transition period will commence. During this period, regulated parties will have the option of construction in compliance with either current code provisions or the newly adopted provisions.

The delay of the effective date of the new Uniform Code provisions and the option of compliance with either the existing or the new Code during that period ensures that regulated parties will be able to achieve compliance with the rule on the date it becomes effective.

Regulatory Flexibility Analysis

1. EFFECT OF RULE.

This proposed rule making would repeal the current version of the Uniform Fire Prevention and Building Code (Uniform Code) and adopt new text for the code. The current version of the Uniform Code is based upon the 2015 editions of model codes developed by the International Code Council (ICC), with some New York modifications. This proposed rule would repeal the existing text of the Uniform Code and adopt new text based primarily upon the 2018 editions of model codes developed by the ICC, with modifications to accommodate statutory requirements and to address concerns specific to New York State. The individual codes that would be included in the Uniform Code as proposed by this rule are as follows: the 2020 Residential Code of New York State (2020 RCNYS), the 2020 Building Code of New York State (2020 BCNYS), the 2020 Plumbing Code of New York State (2020 PCNYS), the 2020 Mechanical Code of New York State (2020 MCNYS), the 2020 Fuel Gas Code of New York State (2020 FGCNYS), the 2020 Fire Code of New York State (2020 FCNYS), the 2020 Property Maintenance Code of New York State (2020 PMCNYS), and the 2020 Existing Building Code of New York State (2020 EBCNYS). The Uniform Code is applicable in all areas of the State with the exception of the City of New York.

This proposed rule has the potential to affect small businesses that own or operate buildings in all areas of the State except the City of New York as well as small businesses that provide services, directly or indirectly, to building owners and operators. Small businesses that construct, own, or operate buildings or structures are subject to provisions of the Uniform Code and therefore will be required to comply with this rule. Businesses that provide services to building owners, such as facility managers, design professionals (e.g., architects and engineers), general and specialty contractors (including home builders), and product suppliers, though not directly regulated by this rule, will be impacted by this rule. It is not possible to estimate the exact number of businesses that will be affected by this rule, but the effect of the rule will be widespread. For example, according to the New York State Department of Education, as of January 1, 2019, there were 11,429 architects¹, 15,504 engineers² and 845 landscape architects³ with active licenses in New York State.

There are approximately 1,605 local governments in New York, including 932 towns, 554 villages, 62 cities, and 57 counties⁴. Local governments will be affected by this rule if the government constructs, owns, or operates structures that are subject to the provisions of the Uniform Code. In those circumstances, a local government is in no different situation than that of any building owner or operator, public or private. Therefore, adoption of this rule making will affect all cities, towns, and villages of the State with the exception of the City of New York. In addition, Executive Law § 381 provides that every city, town, and village of the State shall administer and enforce the Uniform Code within its boundaries, except in limited specific circumstances. Consequently, in most instances, the cities, towns and villages of the State are responsible for enforcement of the Uniform Code within their boundaries and will be responsible for enforcing the new Uniform Code provisions proposed for adoption by this rule making.

2. COMPLIANCE REQUIREMENTS.

This proposed rule making will not change local government responsibility for administering and enforcing the Uniform Code. There will be no change in requirements for local governments concerning reporting, recordkeeping, and other compliance requirements.

As the owner, operator, or occupant of a building or structure, both small businesses and local governments will be required to comply with requirements for new building construction and for operation and maintenance of newly constructed buildings, as well as provisions of this rule that apply to existing buildings.

3. PROFESSIONAL SERVICES.

Regulated parties will continue to rely upon professionals to advise them of the requirements of the Uniform Code. Building owners typically rely on professionals with respect to design, construction and operation and maintenance of buildings because of their expertise in building regulations.

4. COMPLIANCE COSTS.

The adoption of new text for the Uniform Code will affect the construction, configuration, and cost of new buildings. Remodeling or construction of additions in existing buildings will be similarly affected. It is anticipated

that regulated parties will see a change in construction costs and building operation costs as a result of this proposed rule making, with some increases and some decreases depending on the project. There is such a broad range of potential projects that it is not possible to give a single estimate or even a reasonably accurate range.

Code enforcement personnel employed by the cities, towns, villages, and counties that are required to administer and enforce the Uniform Code will need to receive training regarding the new and changed provisions of the Uniform Code. However, such code enforcement personnel are already required by regulation (19 NYCRR Part 1208) to receive 24 hours of annual in-service training, and it is anticipated that the training needed to familiarize code enforcement personnel with the revised Uniform Code to be implemented by this rule will be accomplished within that annual in-service training. It is customary practice for registered design professionals and construction personnel to receive continuing education throughout their careers. In New York State, architects and engineers are required by the Education Law to receive continuing education in order to maintain an active registration to practice the profession. Depending on availability, designers may choose to take the free Department of State training courses regarding the new code.

Regulated parties, local governments, and design professionals will need to purchase a set of the code books from ICC. It is anticipated that the set of code books will cost between \$620 and \$862.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY.

The new code provisions proposed for adoption by this rule making will continue to provide regulated parties with a broad range of compliance options. These provisions are performance based and therefore provide an opportunity to select the most cost-effective alternative for compliance.

Regulatory change, like technological innovation, is constant in the construction industry. Regulated parties as well as those who provide services to them (i.e. architects, engineers, designers, contractors, and builders) are accustomed to such change. This rule making is expected to encourage innovation in the construction industry and to provide increased opportunities for small businesses to grow.

This rule making will repeal the current version of the Uniform Code and replace the text with the following New York specific code books based primarily upon the 2018 editions of the ICC model codes: 2020 RCNYS, 2020 BCNYS, 2020 FCNYS, 2020 PCNYS, 2020 MCNYS, 2020 FGCNYS, 2020 PMCNY, and 2020 EBCNYS. Training resources are available for impacted parties to learn the proposed new provisions of the Uniform Code. The staff of the Division of Building Standards and Codes of the Department of State will provide training for local government enforcement personnel. In addition, when class size permits, courses are open to design professionals and contractors. From time to time, the Department of State also offers specific courses to these groups relating to new code requirements.

6. MINIMIZING ADVERSE IMPACT.

The Department of State, Division of Building Standards and Codes will provide training on the new provisions of the Uniform Code for all local government code enforcement personnel in the State. Article 18 of the Executive Law contemplates that the Uniform Code be enforced in a meaningful and effective manner, and in accordance with Part 1203. Executive Law § 381 provides that local governments which do not wish to enforce the Uniform Code may relinquish that responsibility to the county in which they are located. In turn, a county may relinquish enforcement responsibility to the Department of State. As the health, safety, and security of the people of the State are at issue, exemption from coverage by the rule was not considered an option for minimizing the impact on local governments and/or small businesses.

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION.

The Department of State notified interested parties throughout the State of the proposed adoption of this rule by means of notices posted on the Department's website and notices published in Building New York, an electronic news bulletin covering topics related to the Uniform Code and the construction industry. Building New York is prepared by the Department of State and is currently distributed to approximately 10,000 subscribers, including local governments, design professionals and others involved in all aspects of the construction industry. Further notification and opportunity to participate in the rule making process involved with consideration of adopting this rule on a permanent basis will be provided by way of a public comment period that will commence upon publication of this Notice in the State Register. Public hearings will be held during the public comment period associated with this rule making. A draft of the proposed new code text will also be available on the Department's website and an e-bulletin will be sent announcing that fact.

8. VIOLATIONS AND PENALTIES ASSOCIATED WITH VIOLATIONS.

This rule will not directly establish or modify a violation, and this rule will not establish or modify penalties associated with a violation.

¹ http://www.op.nysed.gov/prof/arch/archcounts.htm?_sm_au_=_iVvHh7WHRjWJZtP

² http://www.op.nysed.gov/prof/pels/pecounts.htm?_sm_au_=_iVvHh7WHRjWJZtP

³ http://www.op.nysed.gov/prof/larch/larchcounts.htm?_sm_au_=_iVvHh7WHRjWJZtP

⁴ NYSDOS Local Government Issues in Focus, October 2006 (Vol. 2, No.3)

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:

This proposed rule making would repeal the current version of the Uniform Fire Prevention and Building Code (Uniform Code) and adopt new text for the code. The current version of the Uniform Code is based upon the 2015 editions of model codes developed by the International Code Council (ICC), with some New York modifications. This proposed rule would repeal the existing text of the Uniform Code and adopt new text based primarily upon the 2018 editions of model codes developed by the ICC, with modifications to accommodate statutory requirements and to address concerns specific to New York State. The individual codes that would be included in the Uniform Code as proposed by this rule are as follows: the 2020 Residential Code of New York State (2020 RCNYS), the 2020 Building Code of New York State (2020 BCNYS), the 2020 Plumbing Code of New York State (2020 PCNYS), the 2020 Mechanical Code of New York State (2020 MCNYS), the 2020 Fuel Gas Code of New York State (2020 FGCNYS), the 2020 Fire Code of New York State (2020 FCNYS), the 2020 Property Maintenance Code of New York State (2020 PMCNY), and the 2020 Existing Building Code of New York State (2020 EBCNYS).

The Uniform Code is applicable in all areas of the State with the exception of the City of New York. Therefore, adoption of this rule making will apply to all rural areas of the State.

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

This proposed rule-making will have no significant impact on reporting and recordkeeping requirements in rural areas or elsewhere in New York. Building owners and operators in rural areas will continue to be required to comply with requirements of the Uniform Code for building construction, for operation and maintenance of newly constructed buildings, and for maintenance of existing buildings. There will be some changes in these requirements with the new text of the Uniform Code. Regulated parties will continue to rely upon professionals to advise them of the requirements of the Uniform Code. Building owners typically rely on professionals for their expertise in building regulations with respect to design, construction, and operation and maintenance of buildings. The need for professionals in rural areas does not differ from such need in non-rural areas.

3. COSTS:

The new provisions of the Uniform Code are expected to reduce some building and development costs and increase others. In general, those costs are expected to increase slightly from the cost of construction based on current Uniform Code provisions. The proposed new provisions of the Uniform Code have been developed in response to updates in the building and fire safety industry. Any associated costs are expected to occur in rural communities as well as urban and suburban areas of the State.

4. MINIMIZING ADVERSE IMPACT:

The proposed rule requires uniform standards for building construction and fire prevention in all areas of the State with the exception of New York City, where only State buildings and structures must conform to the Uniform Code. The proposed rule will require compliance and reporting requirements similar to those required by the current provisions of the Uniform Code. As the health, safety, and welfare of the people of New York are at issue, exemption from coverage by the rule was not considered an option for minimizing impact on rural areas.

5. RURAL AREA PARTICIPATION:

The Department of State notified interested parties throughout the State of this proposed rule by means of notices posted on the Department's website and notices published in Building New York, an electronic news bulletin covering topics related to the Uniform Code and the construction industry. Building New York is prepared by the Department of State and is currently distributed to approximately 10,000 subscribers, including local governments, design professionals and others involved in all aspects of the construction industry. Further notification and opportunity to participate in the rule making process involved with consideration of adopting this rule on a permanent basis will be provided by way of a public comment period that will commence upon publication of this Notice in the State Register. Public hearings will be held during the public comment period associated with this rule making. A draft of the proposed new code text will also be available on the Department's website and an e-bulletin will be sent announcing that fact.

Job Impact Statement

The Department of State has determined that this rule will not have a substantial adverse impact on jobs and employment opportunities.

This proposed rule making would repeal the current version of the Uniform Fire Prevention and Building Code (Uniform Code) and adopt new text for the code. The current version of the Uniform Code is based upon the 2015 editions of model codes developed by the International Code Council (ICC), with some New York State modifications. This proposed rule would repeal the existing text of the Uniform Code and adopt new text based primarily upon the 2018 editions of model codes developed by the ICC, with modifications which address topics specific to New York State. The individual codes that would be included in the Uniform Code as proposed by this rule are as follows: the 2020 Residential Code of New York State (2020 RCNYS), the 2020 Building Code of New York State (2020 BCNYS), the 2020 Plumbing Code of New York State (2020 PCNYS), the 2020 Mechanical Code of New York State (2020 MCNYS), the 2020 Fuel Gas Code of New York State (2020 FGCNYS), the 2020 Fire Code of New York State (2020 FCNYS), the 2020 Property Maintenance Code of New York State (2020 PMCNYS), and the 2020 Existing Building Code of New York State (2020 EBCNYS).

The ICC model codes incorporate the most current technology in the areas of building construction and fire prevention. ICC codes are updated on a three-year cycle to keep current with industry practice and technical and life-safety evolution. As a consequence, the Department of State concludes that this proposed rule which is based upon the newer (2018) versions of the ICC Codes will not have an impact on current job trends in the construction of new buildings and rehabilitation of existing buildings. Therefore, this proposed rule making will not have a substantial adverse impact on jobs and employment opportunities within New York.

PROPOSED RULE MAKING HEARING(S) SCHEDULED

State Energy Conservation Construction Code (the “Energy Code”)

I.D. No. DOS-27-19-00015-P

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

Proposed Action: Repeal of Part 1240; addition of new Part 1240 to Title 19 NYCRR.

Statutory authority: Energy Law, section 11-103(2)

Subject: State Energy Conservation Construction Code (the “Energy Code”).

Purpose: To repeal the existing Energy Code and to adopt a new, updated Energy Code.

Public hearing(s) will be held at: 10:00 a.m., Sept. 5, 2019 at Department of State, 99 Washington Ave., Conference Rm. 505, Albany, NY; 10:00 a.m., Sept. 5, 2019 at Department of State, 123 William St., Conference Rm. 231, New York, NY; 10:00 a.m., Sept. 5, 2019 at Perry B. Duryea Jr. State Office Bldg., 250 Veterans Memorial Hwy., Rms. 2 and 3, Hauppauge, NY; 10:00 a.m., Sept. 5, 2019 at Utica State Office Bldg., 207 Genesee St., 1st Fl. Conference Rm. A, Utica, NY; and 10:00 a.m., Sept. 5, 2019 at Amherst Town Hall, Council Chambers, 2nd Fl., 5583 Main St., Williamsville, NY.

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

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

Substance of proposed rule (Full text is posted at the following State website: <http://www.dos.ny.gov/DCEA/>): This rule making would repeal the current version of Part 1240 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York and add a new Part 1240. Part 1240 pertains to the State Energy Conservation Construction Code (the Energy Code) and the sections are summarized below:

Part 1240. STATE ENERGY CONSERVATION CONSTRUCTION CODE

Section 1240.1 State Energy Conservation Construction Code.

This Part and the publications incorporated by reference in this Part constitute the State Energy Conservation Construction Code (the Energy Code) promulgated pursuant to article 11 of the Energy Law.

Section 1240.2 Definitions.

For the purposes of Part 1240, the following terms are defined:

- (a) 2020 ECCCNYs.
- (b) 2020 ECCCNYs commercial provisions.
- (c) 2020 ECCCNYs residential provisions.
- (d) ASHRAE 90.1-2016.
- (e) ASHRAE 90.1-2016 (as amended).
- (f) Commercial building.
- (g) Energy Code.
- (h) Historic building.
- (i) Residential building.
- (j) Townhouse unit.

Section 1240.3 Amendments made to ASHRAE 90.1-2016

For the purposes of applying ASHRAE 90.1-2016 (as amended) in New York State, the following provisions of ASHRAE 90.1-2016 shall be deemed to be amended:

- (a) Amendments to Section 3.2 (Definitions).
- (b) Amendments to Section 3.3 (Abbreviations and Acronyms).
- (c) Amendments to Section 4.2.1.3 (Alterations of existing buildings).
- (d) Amendments to Section 5.9.1 (Inspections).
- (e) Amendments to Section 6.4.3.11.1 (Monitoring).
- (f) Amendments to Section 6.4.4.2.2 (Duct Leakage Tests).
- (g) Amendments to Section 6.5.4.4 (Chilled- and Hot-Water Temperature Reset Controls).
- (h) Amendments to Table 6.8.1-10 (Electrically Operated Variable-Refrigerant-Flow and Applied Heat Pumps – Minimum Efficiency Requirements (Continued)).
- (i) Amendments to Table 6.8.3-1 (Minimum Piping Insulation Thickness Heating and Hot Water Systems^{a, b, c, d, e} (Steam, Steam Condensate, Hot-Water Heating and Domestic Water Systems)).
- (j) Amendments to Section 9.4.1.1.
- (k) Amendments to Section 9.4.1.1 (Interior Lighting Controls).
- (l) Amendments to Section 12 (Normative References).
- (m) Amendments to Informative Appendix E Informative References.
- (n) Amendments to Section G3.1.3.11 (Heat Rejection (Systems 7, 8, 9, 12, and 13)).
- (o) Amendments to Table G3.1.1-3 (Baseline HVAC System Types).
- (p) Amendments to Table H-1 (Addenda to ANSI/ASHRAE/IES Standard 90.1-2013 (Continued)).
- (q) Amendments to Section Annex1-1: ASHRAE Standard 69-2013, Section A3 (Climate Zone Definitions).
- (r) Amendments to Footnotes.

Section 1240.4 Energy Code provisions applicable to commercial buildings.

(a) 2020 ECCCNYs Commercial Provisions. Except as otherwise provided in section 1240.6 of this Part, the construction of all new commercial buildings; all additions to, alterations of, and/or renovations of existing commercial buildings; and all additions to, alterations of, and/or renovations of building systems in existing commercial buildings shall comply with the requirements of the 2020 ECCCNYs Commercial Provisions. The 2020 ECCCNYs Commercial Provisions are incorporated herein by reference.

(b) ASHRAE 90.1-2016 (as amended). To the extent provided in the 2020 ECCCNYs Commercial Provisions, compliance with the requirements of ASHRAE 90.1-2016 (as amended) shall be permitted in lieu of compliance with specified sections of the 2020 ECCCNYs Commercial Provisions. ASHRAE 90.1-2016 (as amended) is ASHRAE 90.1-2016, as said publication is deemed to be amended by section 1240.3 of this Part. ASHRAE 90.1-2016 is incorporated herein by reference.

(c) Referenced standards. The referenced standards listed in Chapter 6 of the 2020 ECCCNYs Commercial Provisions are considered to be part of the 2020 ECCCNYs Commercial Provisions, subject to the provisions and limitations set forth in sections C107.1, C107.1.1, and C107.1.2 of the 2020 ECCCNYs Commercial Provisions. The following referenced standards are incorporated herein by reference and shall be considered to be part of the 2020 ECCCNYs Commercial Provisions, subject to the provisions and limitations set forth in sections C107.1, C107.1.1, and C107.1.2 of the 2020 ECCCNYs Commercial Provisions:

(1) AAMA. The following publication published by the American Architectural Manufacturers Association is incorporated herein by reference: North American Fenestration Standard/Specifications for Windows, Doors and Unit Skylights, publication date 2017 (AAMA/WDMA/CSA 101/I.S.2/A C440-17).

(2) AHRI. The following publications published by the Air Conditioning, Heating, and Refrigeration Institute are incorporated herein by reference:

(i) Performance Rating of Room Fan Coils, publication date 2008 (AHRI 440-08); and

(ii) Performance Rating of Unit Ventilators, publication date 2015 (AHRI 840-15).

(3) ASHRAE. The following publications published by American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. are incorporated herein by reference:

(i) ASHRAE HVAC Systems and Equipment Handbook - 2016, publication date 2016 (ASHRAE-2016);

(ii) ANSI/ASHRAE/IES Standard 90.1-2016, Energy Standard for Buildings Except Low-Rise Residential Buildings, October 2016 printing (ASHRAE 90.1-2016) (NOTE: ASHRAE 90.1-2016 is published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., is jointly sponsored by the Illuminating Engineering Society of North America and the American National Standards Institute, and is also known as ANSI/ASHRAE/IES 90.1-2016); and

(iii) Peak Cooling and Heating Load Calculations in Buildings, Except Low-Rise Residential Buildings, publication date 2014 (ANSI/ASHRAE/ACCA Standard 183-2007 [RA 2014]).

(4) ASTM. The following publications published by ASTM International are incorporated herein by reference:

(i) Standard Test Method for Determining Air Leakage Rate by Fan Pressurization, publication date 2010 (ASTM E 779-10);

(ii) Specification for Air Barrier (AB) Material or System for Low-Rise Framed Building Walls, publication date 2011 (ASTM E 1677-11); and

(iii) Standard Test Methods for Determining Airtightness of Building Using an Orifice Blower Door, publication date 2011 (ASTM E1827-11).

(5) ICC. The following publications published by International Code Council, Inc. are incorporated herein by reference:

(i) 2020 Building Code of New York State (publication date: June 2019);

(ii) 2020 Fire Code of New York State (publication date: June 2019);

(iii) 2020 Fuel Gas Code of New York State (publication date: June 2019);

(iv) 2020 Mechanical Code of New York State (publication date: June 2019);

(v) 2020 Plumbing Code of New York State (publication date: June 2019);

(vi) 2020 Property Maintenance Code of New York State (publication date: June 2019); and

(vii) 2020 Residential Code of New York State (publication date: June 2019).

(6) NFPA. The following publication published by National Fire Protection Association is incorporated hereby by reference: National Electrical Code, publication date 2017 (NFPA 70-17).

(7) SMACNA. The following publication published by Sheet Metal and Air Conditioning Contractors National Association, Inc. is incorporated herein by reference: HVAC Air Duct Leakage Test Manual Second Edition, publication date 2012 (SMACNA-2012).

(8) UL. The following publications published by Underwriters Laboratory are incorporated herein by reference:

(i) Oil-Fired Central Furnaces - with Revisions through October 2013, publication date 2013 (UL 727-06); and

(ii) Oil-fired Unit Heaters - with Revisions through October 2013, publication date 2013 (UL 731-95).

Section 1240.5 Energy Code provisions applicable to residential buildings.

(a) 2020 ECCCNY Residential Provisions. Except as otherwise provided in section 1240.6 of this Part, the construction of all new residential buildings; all additions to, alterations of, and/or renovations of existing residential buildings; and all additions to, alterations of, and/or renovations of building systems in existing residential buildings shall comply with the requirements of the 2020 ECCCNY Residential Provisions. The 2020 ECCCNY Residential Provisions are incorporated herein by reference.

(b) Referenced standards. The referenced standards listed in Chapter 6 of the 2020 ECCCNY Residential Provisions are considered to be part of the 2020 ECCCNY Residential Provisions, subject to the provisions and limitations set forth in sections R107.1, R107.1.1, and R107.1.2 of the 2020 ECCCNY Residential Provisions. The following referenced standards are incorporated herein by reference and shall be considered to be part of the 2020 ECCCNY Residential Provisions, subject to the provisions and limitations set forth in sections R107.1, R107.1.1, and R107.1.2 of the 2020 ECCCNY Residential Provisions:

(1) AAMA. The following publication published by the American Architectural Manufacturers Association is incorporated herein by reference: North American Fenestration Standard/Specifications for Windows, Doors and Unit Skylights, publication date 2017 (AAMA/WDMA/CSA 101/I.S.2/A C440-17).

(2) ACCA. The following publications published by Air Conditioning Contractors of America are incorporated herein by reference:

(i) Residential Load Calculation, eighth edition, publication date 2011 (Manual J - 2011); and

(ii) Residential Equipment Selection, publication date 2013 (Manual S-13).

(3) ANSI. The following publication published by American National Standards Institute is hereby incorporated herein by reference: Method for

Measuring Floor Area in Office Buildings, publication date 1996 (Z65-96).

(4) ASHRAE. The following publications published by American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. are incorporated herein by reference:

(i) ASHRAE Handbook of Fundamentals - 2017, publication date 2017 (ASHRAE - 2017); and

(ii) 2001 ASHRAE Handbook of Fundamentals, publication date 2001 (ASHRAE - 2001).

(5) ASTM. The following publications published by ASTM International are incorporated herein by reference:

(i) Standard Test Method for Determining Air Leakage Rate by Fan Pressurization, publication date 2010 (ASTM E 779-10); and

(ii) Standard Test Method for Determining Airtightness of Building Using an Orifice Blower Door, publication date 2011 (ASTM E 1827-11).

(6) ICC. The following publications published by International Code Council, Inc. are incorporated herein by reference:

(i) 2020 Building Code of New York State (publication date: June 2019);

(ii) 2020 Fire Code of New York State (publication date: June 2019);

(iii) 2020 Fuel Gas Code of New York State (publication date: June 2019);

(iv) 2020 Mechanical Code of New York State (publication date: June 2019);

(v) 2020 Plumbing Code of New York State (publication date: June 2019);

(vi) 2020 Property Maintenance Code of New York State (publication date: June 2019);

(vii) 2020 Residential Code of New York State (publication date: June 2019);

(viii) Standard for the Calculation and Labeling of the Energy Performance of Low-rise Residential Buildings using an Energy Rating Index First Published March 7, 2014, publication date January 2016 (ANSI/RESNET/ICC 301-2014);

(ix) Standard for Testing Airtightness for Building Enclosures, Airtightness of Heating and Cooling Air Distribution Systems and Airflow of Mechanical Ventilation Systems, publication date January 2016 (ANSI/RESNET/ICC 380-2016);

(x) 2015 International Energy Conservation Code, publication date 2015 (IECC-2015); and

(xi) Energy Conservation Construction Code of New York State, publication date 2010.

(7) NFPA. The following publication published by National Fire Protection Association is incorporated herein by reference: National Electric Code, publication date 2017 (NFPA 70-17).

Section 1240.6 Exceptions.

(a) Historic buildings. The Energy Code shall not apply to the alteration or renovation of an historic building.

(b) Certain alterations. The Energy Code shall not apply to the following alterations of existing buildings, provided that the alteration will not increase the energy usage of the building:

(1) storm windows installed over existing fenestration;

(2) glass only replacements in an existing sash and frame;

(3) existing ceiling, wall, or floor cavities exposed during construction provided that these cavities are filled with insulation;

(4) construction where the existing roof, wall, or floor cavity is not exposed;

(5) reroofing for roofs where neither the sheathing nor the insulation is exposed; roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing;

(6) replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door, provided, however, that an existing vestibule that separates such conditioned space from the exterior shall not be removed;

(7) alterations that replace less than 50 percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power; and

(8) alterations that replace only the bulb and ballast within the existing luminaires in a space provided that the alteration does not increase the installed interior lighting power.

Text of proposed rule and any required statements and analyses may be obtained from: Emma Gonzalez-Laders, Department of State, 99 Washington Ave, Albany, NY 12231-0001, (518) 474-4073, email: code.development@dos.ny.gov

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

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

Summary of Regulatory Impact Statement (Full text is posted at the following State website: <http://www.dos.ny.gov/DCEA/>):

1. STATUTORY AUTHORITY.

This proposed rulemaking would repeal the current version of the State

Energy Conservation Construction Code (Energy Code), the building energy code adopted by the State Fire Prevention and Building Code Council (Code Council) and adopt new text for the code pursuant to Article 11 of the Energy Law. The current version of the Energy Code is set forth in (1) the 2015 International Energy Conservation Code (the "2015 IECC"), (2) the 2013 edition of the Energy Standard for Buildings Except Low Rise Residential Buildings ("ASHRAE 90.1-2013"), and (3) the 2016 Supplement to the New York State Energy Conservation Construction Code (the "2016 Energy Code Supplement"). This proposed rule would repeal the existing text of the Energy Code and adopt new text set forth in (1) the 2020 Energy Conservation Construction Code of New York State, and (2) the 2016 edition of the Energy Standard for Buildings Except Low Rise Residential Buildings ("ASHRAE 90.1-2016"). For the purposes of applying ASHRAE 90.1-2016 in New York State, ASHRAE 90.1-2016 will be deemed to be amended in the manner provided in Part 1240 as proposed by this rule. This proposed rule is authorized by Energy Law § 11-103(2).

2. LEGISLATIVE OBJECTIVES.

Energy Law § 11-103(2) provides that the Energy Code for commercial buildings must meet or exceed the 2007 edition of the publication entitled "Energy Standard for Buildings Except Low-Rise Residential Buildings" (ASHRAE 90.1), or achieve equivalent or greater energy savings; and that the Energy Code for residential buildings must meet or exceed the then most recently published edition of the publication entitled "International Energy Conservation Code" ("IECC"), or achieve equivalent or greater energy savings.

The current version of the Energy Code for commercial buildings equals or exceeds the 2013 edition of ASHRAE 90.1 ("ASHRAE 90.1-2013"). The proposed rule will amend the Energy Code for commercial buildings to a code that equals or exceeds the 2016 edition of ASHRAE 90.1 ("ASHRAE 90.1-2016"). The United States Department of Energy (DOE) previously issued a determination indicating that ASHRAE 90.1-2013 exceeds the 2007 edition of ASHRAE 90.1 ("ASHRAE 90.1-2007"). DOE recently issued a determination indicating that the ASHRAE 90.1-2016 exceeds ASHRAE 90.1-2013. Therefore, the Energy Code, as proposed by this rule, will satisfy that part of Energy Law § 11-103(2) that requires the Energy Code for commercial buildings to meet or exceed ASHRAE 90.1-2007.

The current version of the Energy Code for residential buildings is based on the 2015 edition of the IECC ("the "2015 IECC"). The proposed rule will amend the Energy Code for residential buildings to a code that includes the "Residential Provisions" of the 2020 Energy Conservation Construction Code of New York State (2020 ECCCNY) based upon the most recent (2018) edition of the IECC (the "2018 IECC"). Therefore, the Energy Code, as proposed by this rule, will satisfy that part of Energy Law § 11-103(2) that requires the Energy Code for residential buildings to meet or exceed the most recent edition of the IECC.

As more fully discussed in Part 3 ("Needs and Benefits") of the full Regulatory Impact Statement, it is anticipated that (1) buildings that comply with the Energy Code, as proposed by this rule, will use less energy than buildings that comply with the current Energy Code; (2) on average, the Energy Code, as proposed by this rule, will be cost effective for commercial buildings and for residential buildings; and (3) on average, the increase in the cost of constructing a commercial or residential building according to the requirements of the Energy Code as proposed by this rule over the cost of constructing a similar commercial or residential building according to the requirements of the current version of the Energy Code will be less than the present value of the of savings in energy costs that could be expected over a ten year period.

3. NEEDS AND BENEFITS.

Purpose.

The purpose of this proposed rule is to amend and update the Energy Code. The provisions of the Energy Code that apply to commercial buildings will be updated from a code that equals or exceeds the requirements of ASHRAE 90.1-2013 to a code that equals or exceeds the requirements of ASHRAE 90.1-2016. The provisions of the Energy Code that apply to residential buildings will be updated from a code based on the 2015 IECC to a code based on the 2020 ECCCNY (primarily based on the 2018 IECC).

Necessity.

This proposed rule is necessary to encourage conservation of energy in the construction and operation of new commercial and industrial buildings; to protect the health, safety and security of the people of the State by helping to assure a continuing supply of energy for future generations; to maximize the extent to which the use of modern technical methods, devices and improvements which tend to minimize consumption of energy will be permitted; to encourage the improvement of energy conservation construction practices, methods, equipment, materials and techniques; to mandate that economically reasonable energy conservation techniques be used; to provide a cost effective building energy code for commercial

buildings; and otherwise help achieve the legislative objectives described above.

In addition, this proposed rule is necessary to ensure that the Energy Code will comply with Title III of the Federal Energy Conservation and Production Act.

Benefits.

The principal benefits to be derived from this proposed rule will be (1) the reduction in the energy used by buildings that comply with the Energy Code as amended by this proposed rule, and (2) the savings in energy costs to be realized by owners of buildings that comply with the Energy Code as amended by this proposed rule. The Energy Code as amended by this proposed rule will also be more user friendly than the current Energy Code in that all provisions (if not using the ASHRAE 90.1 compliance option) will be contained within one publication, the 2020 ECCCNY, as opposed to the current Energy Code which is comprised of both the 2015 IECC and the 2016 Supplement to the New York State Energy Conservation Construction Code (Revised August 2016). For commercial buildings, the flexibility to utilize either the 2020 ECCCNY or ASHRAE 90.1 is still available.

The more significant changes to the Energy Code to be implemented by this proposed rule, and the needs and benefits associated with each such change, are discussed in greater detail in the full Regulatory Impact Statement.

4. COSTS.

(a) Costs to Regulated Parties.

Implementation Costs – "First Costs". In general, the costs to regulated parties for implementing this rule will include the "first costs," i.e. the increase (or decrease) in the costs of constructing a building to the requirements of the proposed Energy Code rather than the requirements of the current Energy Code.

For the six commercial building prototypes studied in Climate Zones 4A and 5A, the "first costs" range from a decrease of \$183,450 (for a small hotel in Zone 4A) to an increase of \$601,949 (for a large office building in Zone 4A).

For the residential building prototypes studied, the "first costs" average ranges from an increase of \$176.09 (for a residential building in Zone 5A) to a decrease of \$133.44 (for a residential building in Zone 6A). The cost reduction in Climate Zone 6A is partly due to the lower exterior wall insulation and slab-edge insulation in Option 2 of the prescriptive envelope requirements in the proposed 2020 ECCCNY compared to the current Energy Code.

Other Implementation Costs. A copy of the 2020 ECCCNY costs approximately \$124 to \$172 and a copy of ASHRAE 90.1-2016 costs approximately \$133 to \$157.

Continuing Compliance Costs. In general, the on-going costs of continuing to comply with this rule will consist of the change (increase or decrease) in (1) the cost of maintaining energy-related systems and equipment, (2) the cost of periodic replacement of energy-related systems and equipment, and (3) a decrease in average energy use cost of 8.3% for commercial buildings and 1.97% for residential buildings.

(b) Costs to the Department of State, the State, and Local Governments.

The Department of State's Division of Building Standards and Codes ("DBSC") will offer training on the Energy Code, as revised by this proposed rule, to code enforcement personnel, registered design professional, and other interested parties. However, offering such training is part of the DBSC's core mission, and the DOS anticipates that DBSC will be able to offer such training using its existing staff and facilities, at no significant additional cost to the agency.

Most local governments (cities, towns, and villages) and some counties are required by existing law to administer and enforce the Energy Code within their boundaries. It is not anticipated that this proposed rule will have any significant impact on the existing code administration and enforcement obligations of local governments, counties, and State agencies.

Local governments, counties, and State agencies that currently administer and enforce the Energy Code will be required to purchase one or more copies of the 2020 ECCCNY (about \$124 to \$174) and one or more copies of ASHRAE 90.1-2016 (\$133 to \$157).

Local governments, counties, and State agencies that construct commercial buildings and residential buildings for their own use will be required to comply with the Energy Code as amended by this proposed rule and the costs should be substantially similar to the costs realized by any other regulated party.

5. LOCAL GOVERNMENT MANDATES.

Existing Law makes most local governments and certain counties responsible for enforcing the Energy Code. This proposed rule will not change the existing code enforcement responsibilities of any local government or county.

Local governments and counties that construct buildings for their own use are required to comply with the current Energy Code and will be

required to comply with the Energy Code as amended by this proposed rule.

6. PAPERWORK.

This proposed rule will not add any new or additional reporting or paperwork requirements.

7. DUPLICATION.

DOS believes that this proposed rule does not duplicate or conflict with any rule or other legal requirement of the State or the Federal government.

8. ALTERNATIVES.

Simply adopting ASHRAE 90.1-2016 as the new Energy Code for commercial buildings was considered as an alternative. However, the Department of State and the Code Council determined that adopting the 2020 ECCCNY Commercial Provisions provides greater flexibility to building owners and design professionals, while still assuring that the New York State Energy Code for commercial buildings meets or exceeds ASHRAE 90.1-2016 or results in equal or greater energy savings.

Simply adopting the 2018 IECC and also adopting a separate publication (similar to the 2016 Supplement to the New York State Energy Conservation Construction Code (Revised August 2016)) was considered as an alternative. However, this alternative was not incorporated into this proposed rule because having all provisions contained in one publication, the 2020 ECCCNY, was found to be more user friendly than the current Energy Code comprised of both the 2015 IECC and the 2016 Supplement to the New York State Energy Conservation Construction Code.

9. FEDERAL STANDARDS.

This proposed rule will not cause the Energy Code to violate or exceed any applicable Federal standard.

10. COMPLIANCE SCHEDULE.

This rule will be effective 90 days after the date of publication of the Notice of Adoption. DOS anticipates that regulated parties will be able to comply with the amended Energy Code immediately upon the rule becoming effective.

Regulatory Flexibility Analysis

1. EFFECT OF RULE.

This proposed rule making would repeal the current version of the State Energy Conservation Construction Code (Energy Code) and adopt new text for the code. The current version of the Energy Code is set forth in (1) the 2015 International Energy Conservation Code (the "2015 IECC"), (2) the 2013 edition of the Energy Standard for Buildings Except Low Rise Residential Buildings ("ASHRAE 90.1-2013"), and (3) the 2016 Supplement to the New York State Energy Conservation Construction Code (the "2016 Energy Code Supplement"). This proposed rule would repeal the existing text of the Energy Code and adopt new text set forth in (1) the 2020 Energy Conservation Construction Code of New York State, and (2) the 2016 edition of the Energy Standard for Buildings Except Low Rise Residential Buildings ("ASHRAE 90.1-2016"). For the purposes of applying ASHRAE 90.1-2016 in New York State, ASHRAE 90.1-2016 will be deemed to be amended in the manner provided in Part 1240 as proposed by this rule.

Article 11 of the Energy Law provides that the Energy Code (1) is applicable in all parts of the State and (2) applies to all new buildings, public and private, and to renovations and alterations of and additions to all existing buildings. Therefore, the Energy Code, as amended by this rule, will apply to every small business or local government that constructs a new building or renovates, alters, or enlarges an existing building anywhere in the State. The Department of State (DOS) is not able to estimate the number of small businesses and local governments that will construct new buildings or renovate, alter, or enlarge existing buildings, but that number is likely to be large.

There are approximately 1,600 local governments in New York. Local governments will be affected by this rule if the government constructs, owns, or operates structures that are subject to the provisions of the Energy Code. In those circumstances, a local government is in no different situation than that of any building owner or operator, public or private. Therefore, adoption of this rule making will affect all cities, towns, and villages of the State. In addition, Energy Law § 11-107 provides that the administration and enforcement of the provisions of the Energy Code with respect to any building shall be the responsibility of that governmental entity which is responsible for the administration and enforcement of the provisions of the Uniform Fire Prevention and Building Code (Uniform Code), or other applicable fire prevention and building construction code with respect to such building, consistent with the standards and procedures adopted pursuant to Executive Law § 381. Furthermore, Executive Law § 381 provides that every city, town, and village of the State shall administer and enforce the Uniform Code within its boundaries, except in limited specific circumstances. Consequently, in most instances, the cities, towns and villages of the State are responsible for enforcement of the Uniform Code and Energy Code within their boundaries and will be responsible for enforcing the new Energy Code provisions proposed for adoption by this rule making.

2. COMPLIANCE REQUIREMENTS.

This proposed rule making will not change local government responsibility for administering and enforcing the Energy Code. Any small business or local government that constructs, renovates, alters or enlarges a building is now required to comply with the current version of the Energy Code (the "Existing Energy Code"); to prepare construction documents, including documents that demonstrate compliance with the Existing Energy Code; and to submit those documents with its building permit application. When this rule becomes effective, any such small business or local government will be required to comply with the Energy Code as amended by this rule (the "Amended Energy Code"); to prepare construction documents, including documents that demonstrate compliance with the Amended Energy Code; and to submit those documents with its building permit application. There will be no change in requirements for local governments concerning reporting, record keeping, and other compliance requirements.

As the owner, operator, or occupant of a building or structure, both small businesses and local governments will be required to comply with the energy requirements for new building construction and for operation and maintenance of newly constructed buildings, as well as provisions of this rule that apply to existing buildings.

The Energy Code, as amended by this rule, will be set forth in certain publications, including the 2020 ECCCNY and ASHRAE 90.1-2016. Local governments that enforce the Energy Code, design professionals who provide services to building owners, and other interested parties may find that it is necessary to obtain the 2020 ECCCNY and ASHRAE 90.1-2016.

Local governments that enforce the Energy Code will be required to see that their code enforcement officials receive training on the amendments to the Energy Code made by this rule. Certain indirectly affected parties, such as design professionals who provide services to owners of buildings, may find it necessary to receive similar training.

3. PROFESSIONAL SERVICES.

Regulated parties will continue to rely upon professionals to advise them of the requirements of the Energy Code. Building owners typically rely on professionals with respect to design, construction and operation and maintenance of buildings because of their expertise in building and energy conservation regulations.

4. COMPLIANCE COSTS.

The new provisions of the Energy Code will be cost effective, meaning that the present value of savings in energy costs resulting from constructing buildings according to requirements of the Energy Code as proposed by this rule, rather than the requirements of the current version of the Energy Code, will exceed the sum of the increase in initial construction costs plus the present value of the increase in maintenance and replacement costs resulting from constructing buildings according to requirements of the Energy Code as proposed by this rule, rather than the requirements of the current version of the Energy Code.

The "incremental first costs" will vary depending on the type of the building and the climate zone in which the building is located. Based on the studies more fully described in the full Regulatory Impact Statement, DOS anticipates that:

(1) for the commercial building prototypes studied in Climate Zones 4A and 5A, the "first costs" will range from a decrease of \$183,450 (for a small hotel in Zone 4A) to an increase of \$601,949 (for a large office building in Zone 4A).

(2) for the residential building prototypes studied, the "first costs" average will range from an increase of \$176.09 (for a residential building in Zone 5A) to a decrease of \$133.44 (for a residential building in Zone 6A). The cost reduction in Climate Zone 6A is due to the lower exterior wall insulation and slab-edge insulation in Option 2 of the prescriptive envelope requirements in the proposed 2020 ECCCNY compared to the current Energy Code.

For local governments, design professionals, and other interested parties who find it necessary to obtain the amended Energy Code, DOS estimates that a copy of the 2020 ECCCNY will cost approximately \$124 to \$172 and a copy of ASHRAE 90.1-2016 will cost approximately \$133 to \$157.

In general, the on-going costs of continuing to comply with this rule will consist of the change (increase or decrease) in (1) the cost of maintaining energy-related systems and equipment, (2) the cost of periodic replacement of energy-related systems and equipment, and (3) a decrease in average energy use cost of 8.3% for commercial buildings and 1.97% for residential buildings.

Code enforcement personnel employed by the cities, towns, villages, and counties that are required to administer and enforce the Energy Code will need to receive training regarding the new and changed provisions of the Energy Code. However, such code enforcement personnel are already required by regulation (19 NYCRR Part 1208) to receive 24 hours of annual in-service training, and it is anticipated that the training needed to

familiarize code enforcement personnel with the new Energy Code to be implemented by this rule will be accomplished within that annual in-service training.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY.

The new code provisions proposed for adoption by this rule making will continue to provide regulated parties with a broad range of compliance options. These provisions are performance based and therefore provide an opportunity to select the most cost-effective alternative for compliance.

Regulatory change, like technological innovation, is constant in the construction industry. Regulated parties as well as those who provide services to them (i.e. architects, engineers, designers, contractors, and builders) are accustomed to such change. This rule making is expected to encourage innovation in the construction industry and to provide increased opportunities for small businesses to grow.

This proposed rule making consists primarily of updating the Energy Code by adopting the 2020 ECCCNY, based on the recent 2018 International Energy Conservation Code with some additional New York modifications, and ASHRAE 90.1-2016, as amended by Part 1240. Training resources are available for impacted parties to learn the proposed new provisions of the Energy Code. The staff of the Division of Building Standards and Codes of the Department of State will provide training for local government enforcement personnel. In addition, when class size permits, courses are open to design professionals and contractors. From time to time, the Department of State also offers specific courses to these groups relating to new code requirements.

6. MINIMIZING ADVERSE IMPACT.

The Energy Code as amended by this rule will provide several compliance options, including a performance-based option for all buildings, as well as an energy rating index option for residential buildings. This will allow small businesses and local governments that own buildings to select the most cost-effective alternative.

Energy Law § 11-101 provides that the Energy Code shall “mandate that economically reasonable energy conservation techniques be used in the design and construction of all new public and private buildings in New York.” The American Recovery and Reinvestment Act of 2009 requires participating states to develop a plan for achieving at least a 90% rate of compliance with energy codes. Therefore, DOS did not consider establishing differing compliance or reporting requirements or timetables for small businesses and local governments, or providing an exemption from coverage by the rule for small businesses and local governments.

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION.

The Department of State notified interested parties throughout the State of the proposed adoption of this rule by means of notices posted on the Department’s website and notices published in Building New York, an electronic news bulletin covering topics related to the Energy Code and the construction industry. Building New York is prepared by the Department of State and is currently distributed to approximately 10,000 subscribers, including local governments, design professionals and others involved in all aspects of the construction industry. Further notification and opportunity to participate in the rule making process involved with consideration of adopting this rule on a permanent basis will be provided by way of a public comment period that will commence upon publication of this Notice in the State Register. A draft of the proposed new code text will also be available on the Department’s website and an e-bulletin will be sent announcing that fact.

8. VIOLATIONS AND PENALTIES ASSOCIATED WITH VIOLATIONS.

This rule will not directly establish or modify a violation, and this rule will not establish or modify penalties associated with a violation.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS.

This proposed rule making would repeal the current version of the State Energy Conservation Construction Code (Energy Code) and adopt new text for the code. The current version of the Energy Code is set forth in (1) the 2015 International Energy Conservation Code (the “2015 IECC”), (2) the 2013 edition of the Energy Standard for Buildings Except Low Rise Residential Buildings (“ASHRAE 90.1-2013”), and (3) the 2016 Supplement to the New York State Energy Conservation Construction Code (the “2016 Energy Code Supplement”). This proposed rule would repeal the existing text of the Energy Code and adopt new text set forth in (1) the 2020 Energy Conservation Construction Code of New York State, and (2) the 2016 edition of the Energy Standard for Buildings Except Low Rise Residential Buildings (“ASHRAE 90.1-2016”). For the purposes of applying ASHRAE 90.1-2016 in New York State, ASHRAE 90.1-2016 will be deemed to be amended in the manner provided in Part 1240 as proposed by this rule.

The Energy Code is applicable in all areas of the State. Therefore, adoption of this rule making will apply to all rural areas of the State.

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS.

This proposed rule-making will have no significant impact on reporting and record-keeping requirements in rural areas or elsewhere in New York. Building owners and operators in rural areas will continue to be required to comply with requirements of the Energy Code for building construction, for operation and maintenance of newly constructed buildings, and for maintenance of existing buildings. There will be some changes in these requirements with the new text of the Energy Code. Regulated parties will continue to rely upon professionals to advise them of the requirements of the Energy Code.

3. PROFESSIONAL SERVICES.

Building owners typically rely on design professionals for their expertise in building and energy conservation regulations. The need for professionals in rural areas does not differ from such need in non-rural areas. When this rule becomes effective, owners of buildings (including owners of buildings located in rural areas) will continue to rely on design professionals for advice on the requirements of the new text of the Energy Code.

Local governments (including local governments in rural areas) that enforce the Energy Code rely on trained code enforcement personnel to review permit applications and/or to conduct construction inspections to determine compliance with the Energy Code. When this rule becomes effective, local governments (including local governments in rural areas) will continue to rely on trained code enforcement personnel to determine compliance with the new text of the Energy Code.

4. COSTS.

The new provisions of the Energy Code will be cost effective, meaning that the present value of savings in energy costs resulting from constructing buildings according to requirements of the Energy Code as proposed by this rule, rather than the requirements of the current version of the Energy Code, will exceed the sum of the increase in initial construction costs plus the present value of the increase in maintenance and replacement costs resulting from constructing buildings according to requirements of the Energy Code as proposed by this rule, rather than the requirements of the current version of the Energy Code.

The “incremental first costs” will vary depending on the type of the building and the climate zone in which the building is located. Based on the studies more fully described in the full Regulatory Impact Statement, DOS anticipates that:

(1) for the commercial building prototypes studied in Climate Zones 4A and 5A, the “first costs” will range from a decrease of \$183,450 (for a small hotel in Zone 4A) to an increase of \$601,949 (for a large office building in Zone 4A).

(2) for the residential building prototypes studied, the “first costs” average will range from an increase of \$176.09 (for a residential building in Zone 5A) to a decrease of \$133.44 (for a residential building in Zone 6A). The cost reduction in Climate Zone 6A is due to the lower exterior wall insulation and slab-edge insulation in Option 2 of the prescriptive envelope requirements in the proposed 2020 ECCCNY compared to the current Energy Code.

For local governments, design professionals, and other interested parties who find it necessary to obtain the amended Energy Code, DOS estimates that a copy of the 2020 ECCCNY will cost approximately \$124 to \$172 and a copy of ASHRAE 90.1-2016 will cost approximately \$133 to \$157.

In general, the on-going costs of continuing to comply with this rule will consist of the change (increase or decrease) in (1) the cost of maintaining energy-related systems and equipment, (2) the cost of periodic replacement of energy-related systems and equipment, and (3) a decrease in average energy use cost of 8.3% for commercial buildings and 1.97% for residential buildings.

Code enforcement personnel employed by the cities, towns, villages, and counties that are required to administer and enforce the Energy Code will need to receive training regarding the new and changed provisions of the Energy Code. However, such code enforcement personnel are already required by regulation (19 NYCRR Part 1208) to receive 24 hours of annual in-service training, and it is anticipated that the training needed to familiarize code enforcement personnel with the new Energy Code to be implemented by this rule will be accomplished within that annual in-service training.

Any associated costs are expected to occur in rural communities as well as urban and suburban areas of the State.

5. MINIMIZING ADVERSE IMPACT.

The proposed rule requires uniform standards and requirements for construction and construction materials for the improvement of energy conservation construction practices in all areas of the State. The proposed rule will require compliance and reporting requirements similar to those required by the current provisions of the Energy Code. As the health, safety, and security of the people of New York and the need to assure a

continuing supply of energy for future generations are at issue, exemption from coverage by the rule was not considered an option for minimizing impact on rural areas. The proposed new text of the Energy Code will provide several compliance options, including a performance-based option for all buildings, and an energy rating index option for residential buildings. This will allow regulated parties (including regulated parties in rural areas) to select the most cost-effective alternative.

Energy Law § 11-101 provides that the Energy Code shall “mandate that economically reasonable energy conservation techniques be used in the design and construction of all new public and private buildings in New York.” The American Recovery and Reinvestment Act of 2009 requires participating states to develop a plan for achieving at least a 90% rate of compliance with energy codes. Therefore, the Code Council and DOS did not consider establishing differing compliance or reporting requirements or timetables that take into account the resources available to rural areas or providing an exemption from coverage by the rule, or by any part thereof, for public or private entities in rural areas.

6. RURAL AREA PARTICIPATION.

The Department of State notified interested parties throughout the State including interested parties in rural areas, of this proposed rule by means of notices posted on the Department’s website and notices published in Building New York, an electronic news bulletin covering topics related to the Energy Code and the construction industry. Building New York is prepared by the Department of State and is currently distributed to approximately 10,000 subscribers, including local governments, design professionals and others involved in all aspects of the construction industry. Further notification and opportunity to participate in the rule making process involved with consideration of adopting this rule on a permanent basis will be provided by way of a public comment period that will commence upon publication of this Notice in the State Register. A draft of the proposed new code text will also be available on the Department’s website and an e-bulletin will be sent announcing that fact.

Job Impact Statement

The Department of State has determined that this proposed rule will not have a substantial adverse impact on jobs and employment opportunities.

The proposed rule will repeal the existing State Energy Conservation Construction Code (the “Energy Code”) and adopt new text for the Energy Code. The new text of the Energy Code will be set forth in (1) the 2020 Energy Conservation Code of New York State (the “2020 ECCNYS”) and (2) the 2016 edition of the Energy Standard for Buildings Except Low Rise Residential Buildings (“ASHRAE 90.1-2016”). For the purposes of applying ASHRAE 90.1-2016 in New York State, ASHRAE 90.1-2016 will be deemed to be amended in the manner provided in Part 1240 as proposed by this rule.

The new Energy Code, as proposed by this rule, will be (1) a building energy code for residential buildings which is based on the 2020 ECCNYS Residential Provisions and (2) a building energy code for commercial buildings which is based on the 2020 ECCNYS Commercial Provisions and ASHRAE 90.1-2016, as amended by Part 1240.

The 2020 ECCNYS is based on the 2018 International Energy Conservation Code developed and published by the International Code Council, Inc. ASHRAE 90.1-2016 is a standard published by the American Society of Heating, Refrigeration and Air Conditioning Engineers, Inc. Both the 2020 ECCNYS and ASHRAE 90.1-2016 incorporate more current technology in the area of energy conservation. In addition, as a performance-based, rather than a prescriptive, code, the 2020 ECCNYS provides for alternative methods of achieving code compliance, thereby allowing regulated parties to choose the most cost-effective method.

As further discussed in the full Regulatory Impact Statement issued for this rule making, the Department of State anticipates that the Energy Code, as proposed by this rule, will be cost effective, meaning that the present value of savings in energy costs resulting from constructing buildings according to requirements of the Energy Code as proposed by this rule, rather than the requirements of the current version of the Energy Code, will exceed the sum of the increase in initial construction costs plus the present value of the increase in maintenance and replacement costs resulting from constructing buildings according to requirements of the Energy Code as proposed by this rule, rather than the requirements of the current version of the Energy Code.

As a consequence, the Department of State concludes that the Energy Code, as proposed by this rule, will provide a greater incentive for the construction of new buildings and the rehabilitation of existing buildings than exists with the current version of the Energy Code. The implementation of new technology, and advances in compliance methodology which may lead to an increase in the need for engineering, inspection and testing infrastructure, have the overall effect of potentially increasing employment in the construction of commercial buildings and residential buildings. Therefore, the Department of State concludes that this rule will not have an adverse impact on jobs and employment opportunities within New York and may result in an increase in employment opportunities for those involved in the field of building technology.

Workers’ Compensation Board

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Medical Fee Schedules

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

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

Proposed Action: Addition of Part 329-4; amendment of Part 333, sections 301.3, 329-1.3 and 348.2 of Title 12 NYCRR.

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

Subject: Medical Fee Schedules.

Purpose: Add new providers to the fee schedule.

Text of proposed 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] July 3, 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 July 3, 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 July 3, 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] *July 3, 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] *July 3, 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.

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

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

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

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

Regulatory Impact Statement

1. Statutory Authority

The statutory authority for this rule comes from §§ 13, 117(1) and 141 of the Workers' Compensation Law, which allows the Chair to adopt reasonable rules to supplement the provisions of the chapter and the labor law.

2. Legislative Objectives

In April 2019, the amendments to section 13-b of the workers' compensation law were enacted. The new law expanded the categories of providers who may become authorized to treat injured workers to include nurse practitioners, physician assistants, licensed clinical social workers, physical and occupational therapists and acupuncturists.

The proposed amendments add nurse practitioners, physician assistants and licensed clinical social workers to the existing fee schedules and adds a new fee schedule for acupuncturists and physical and occupational therapists. The proposal also provides for testimony fees for nurse practitioners and licensed clinical social workers.

3. Needs and Benefits

The bill expanding the list of providers who can become authorized to treat injured workers under the Workers' Compensation Law will provide more access to different types of providers, and more types of medical care for injured workers. Modifications to the chiropractic fee schedule will align them with fee for similar types of new providers.

The chair is required to set fee schedules for medical providers treating injured workers. Fee schedules also create clarity and reduce billing disputes.

4. Costs

The proposed amendments should not impose significant costs. Modifications to the chiropractic fee schedule will align them with fee for similar types of new providers. New providers may wish to purchase the medical fee schedules and interested parties may wish to purchase the Acupuncture and Physical Therapy and Occupational Therapy Fee Schedule. By amending the current fee schedule and combining acupuncture and physical and occupational therapy into a single fee schedule, the Board seeks to minimize any costs.

5. Local Government Mandates

There are no specific mandates on local governments as a result of this proposal.

6. Paperwork

The proposal does not require any additional paperwork.

7. Duplication

There is no duplication of state or federal regulations or standards.

8. Alternatives

The Board did not consider any other alternative as the fee schedules are required by statute and this model follows the existing fee schedule framework. Modifications to the chiropractic fee schedule will align them with fee for similar types of new providers. By amending the current fee schedule and combining acupuncture and physical and occupational therapy into a single fee schedule, the Board seeks to minimize any costs.

9. Federal Standards

There are no applicable federal standards or regulations related to the proposed amendments.

10. Compliance Schedule

The statute becomes takes effect January 1, 2020.

Regulatory Flexibility Analysis

1. Effect of rule

The statute expands the list of providers that may become authorized to treat injured workers under the NYS Workers' Compensation Law. This may mean that new provider types added in the statute that operate as small businesses will now be able to apply for authorization.

2. Compliance requirements

The proposal updates existing fee schedules to include new providers and adds fee schedules for acupuncturists and physical and occupational therapists.

3. Professional services

It is believed that no professional services will be needed by small businesses or local governments to comply with the proposed regulation.

4. Compliance costs

Compliance with the proposed regulations should not impose compliance costs on small businesses or local governments unless such small business are new providers and wish to purchase the fee schedules. In such a case, the fee schedules would facilitate an increase in income due to participation in the workers' compensation system.

5. Economic and technological feasibility

Compliance with the proposed regulations is technologically and economically feasible for small business and local government. No technology is required.

6. Minimizing adverse impact

The proposed fee schedules are drafted in accordance with the Board's current fee schedule. The new providers are being added to the existing fee schedule and acupuncture and physical and occupational therapy are being paired in a single fee schedule to minimize cost.

7. Small business and local government participation

The Board will duly consider all public comments received from small businesses or local governments during the public comment period.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas

The proposed regulations implement the statute expanding provider types who can be authorized to treat injured workers across NYS. Any licensed provider type in the statute can apply to become authorized, including those in rural areas.

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

The same compliance and application requirements apply to providers in rural areas as in metropolitan areas. The application process (and reregistration process) will be prescribed by the Board, and no special professional services should be required by rural or any other areas. The regulations seek to implement the statute.

3. Costs

The proposed amendments should not impose costs. The proposal provides guidance and clarity to implement the statute, while avoiding costs outside what the law requires. The updates to the medical fee schedules, etc. are all to implement what the statute requires, and the proposal does not impose any independent additional costs.

4. Minimizing adverse impact

The proposed regulations were written to provide a framework to implement the statute expanding the list of providers in accordance with the statute, in the clearest, smoothest way possible. To further minimize any impact, the regulations are being proposed now, and the statute takes effect on 1/1/20.

5. Rural area participation

The Board will duly consider all public comments received from rural areas during the public comment period.

Job Impact Statement

The proposed regulation will not have an adverse impact on jobs. The proposed amendments establish fees for new medical providers. The proposal is not expected to have any impact on jobs.

**HEARINGS SCHEDULED
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
Environmental Conservation, Department of		
ENV-24-19-00002-P	Hazardous waste management regulations (FedReg5)	Department of Environmental Conservation, 625 Broadway, Rm. 129, Albany, NY—August 19, 2019, 1:00 p.m.
Housing and Community Renewal, Division of		
HCR-21-19-00019-P	Low-income housing qualified allocation plan	<p>Division of Housing and Community Renewal, 38-40 State St., 1st Fl., Albany, NY—July 22, 2019, 1:00 p.m.</p> <p>Division of Housing and Community Renewal, 25 Beaver St., Rm. 642, New York, NY—July 22, 2019, 1:00 p.m.</p> <p>Division of Housing and Community Renewal, 620 Erie Blvd. W, Suite 312, Syracuse, NY—July 22, 2019, 1:00 p.m.</p> <p>Division of Housing and Community Renewal, 535 Washington St., Suite 105, Buffalo, NY—July 22, 2019, 1:00 p.m.</p>
Housing Finance Agency		
HFA-21-19-00020-P	Low-income housing qualified allocation plan	<p>Division of Housing and Community Renewal, 38-40 State St., 1st Fl., Albany, NY—July 22, 2019, 1:00 p.m.</p> <p>Division of Housing and Community Renewal, 25 Beaver St., Rm. 642, New York, NY—July 22, 2019, 1:00 p.m.</p> <p>Division of Housing and Community Renewal, 620 Erie Blvd. W, Suite 312, Syracuse, NY—July 22, 2019, 1:00 p.m.</p> <p>Division of Housing and Community Renewal, 535 Washington St., Suite 105, Buffalo, NY—July 22, 2019, 1:00 p.m.</p>
Public Service Commission		
PSC-22-19-00011-P	Proposed major increase in KEDNY’s gas delivery revenues by \$236.8 million (13.6% increase in total revenues)	<p>Department of Public Service, Three Empire State Plaza, Albany, NY—January 21, 2020, 10:00 a.m. (Evidentiary Hearing)*</p> <p>*On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, public notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 19-G-0309.</p>
PSC-22-19-00014-P	Proposed major increase in KEDNY’s gas delivery revenues by \$49.4 million (4.1% increase in total revenues)	<p>Department of Public Service, Three Empire State Plaza, Albany, NY—January 21, 2020, 10:00 a.m. (Evidentiary Hearing)*</p> <p>*On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, public notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 19-G-0310.</p>
PSC-23-19-00005-P	Proposed major increase in SWNY’s annual base revenues of approximately \$31.5 million (or 19.8% in total revenues)	<p>Department of Public Service, Agency Bldg. 3, 3rd Fl. Hearing Rm., Albany, NY—August 7, 2019, 10:30 a.m. and continuing daily as needed. (Evidentiary Hearing)*</p> <p>*On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case</p>

19-W-0168.

State, Department of

DOS-27-19-00014-P New York State Uniform Fire Prevention and Building Code (the Uniform Code)

Department of State, 99 Washington Ave., Conference Rm. 505, Albany, NY—September 5, 2019, 10:00 a.m.

Department of State, 123 William St., Conference Rm. 231, New York, NY—September 5, 2019, 10:00 a.m.

Perry B. Duryea Jr. State Office Bldg., 250 Veterans Memorial Hwy., Rms. 2 and 3, Hauppauge, NY—September 5, 2019, 10:00 a.m.

Utica State Office Bldg., 207 Genesee St., 1st Fl., Conference Rm. A, Utica, NY—September 5, 2019, 10:00 a.m.

Amherst Town Hall, 5583 Main St., Council Chambers, 2nd Fl., Williamsville, NY—September 5, 2019, 10:00 a.m.

DOS-27-19-00015-P State Energy Conservation Construction Code (the “Energy Code”)

Department of State, 99 Washington Ave., Conference Rm. 505, Albany, NY—September 5, 2019, 10:00 a.m.

Department of State, 123 William St., Conference Rm. 231, New York, NY—September 5, 2019, 10:00 a.m.

Perry B. Duryea Jr. State Office Bldg., 250 Veterans Memorial Hwy., Rms. 2 and 3, Hauppauge, NY—September 5, 2019, 10:00 a.m.

Utica State Office Bldg., 207 Genesee St., 1st Fl., Conference Rm. A, Utica, NY—September 5, 2019, 10:00 a.m.

Amherst Town Hall, 5583 Main St., Council Chambers, 2nd Fl., Williamsville, NY—September 5, 2019, 10:00 a.m.

ACTION PENDING INDEX

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

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

For additional information concerning any of the proposals

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

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

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

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

AGE-44-18-00005-P 10/31/19	Nutrition Program	The purpose of this rule is to update the regulations governing the Nutrition Program
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AGRICULTURE AND MARKETS, DEPARTMENT OF

AAM-17-19-00001-P 04/23/20	Farm wineries, breweries, and distilleries; hops processors; and cideries	To update references to regulations and to exempt small hops processors from food processing licensing requirements
AAM-18-19-00001-P	..... 04/30/20	Incorporation by reference of the 2017 edition of the Grade A Pasteurized Milk Ordinance ("PMO").	To require certain producers, processors and manufacturers of milk and milk products to comply with the 2017 edition of the PMO.
AAM-21-19-00002-EP	..... 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.

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-19-19-00006-EP	..... 05/07/20	Procedures for addressing children absent without consent from foster care, conditional releases and searches	To put into place procedures for children absent without consent from foster care, conditional releases and searches
CFS-19-19-00009-EP	..... exempt	Child Care Market Rates	To adjust child care market rates in accordance with the results of the most recent cost of care market survey
CFS-20-19-00001-EP	..... 05/14/20	To eliminate requirement that victims of domestic violence apply for public assistance to pay for cost of shelter and services	To eliminate requirement that victims of domestic violence apply for public assistance to pay for cost of shelter and services

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-33-18-00007-P	08/15/19	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-06-19-00001-P	02/06/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-13-19-00003-P	03/26/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-14-19-00003-P	04/02/20	Supplemental military leave benefits	To extend the availability of supplemental military leave benefits for certain New York State employees until December 31, 2019
CVS-15-19-00001-P	04/09/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-15-19-00002-P	04/09/20	Jurisdictional Classification	To delete a position from and classify a position in the non-competitive class
CVS-15-19-00003-P	04/09/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-15-19-00004-P	04/09/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt class and to delete a position from the non-competitive class
CVS-15-19-00005-P	04/09/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-15-19-00006-P	04/09/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-18-19-00007-P	04/30/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-18-19-00008-P	04/30/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-25-19-00001-P	06/18/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt and non-competitive classes.
CVS-25-19-00002-P	06/18/20	Jurisdictional Classification	To classify positions in the exempt class.
CVS-25-19-00003-P	06/18/20	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-25-19-00005-P	06/18/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class.
CVS-25-19-00006-P	06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-25-19-00007-P	06/18/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class.
CVS-25-19-00008-P	06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-25-19-00009-P	06/18/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt and non-competitive classes.
CVS-25-19-00010-P	06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.
CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF			
CCS-05-19-00006-P	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.
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-21-19-00004-P	05/21/20	Changes the accrediting authority to the ANSI-ASQ National Accreditation Board.	To change the accrediting authority to the ANSI-ASQ National Accreditation Board.
EDUCATION DEPARTMENT			
EDU-40-18-00010-RP	10/03/19	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-P	01/30/20	Protecting Personally Identifiable Information	To implement the provisions of Education Law section 2-d
EDU-05-19-00017-ERP	01/30/20	Assessments and Student Official Transcripts and Permanent Records	To continue the effectiveness of Part AA, Subpart B of Ch.56 L.2014 as amended by Section 35 of Part CCC of Ch. 56 L.2018
EDU-13-19-00009-ERP	03/26/20	The Execution by Registered Professional Nurses of Non-Patient Specific Orders to Administer Immunizations	To conform the regulation to current immunization standards
EDU-17-19-00005-EP	04/23/20	Extension of the Educational Technology Specialist Content Specialty Test Safety Net	Safety net enables candidates to take either the revised Educational Technology Specialist CST or the predecessor CST
EDU-17-19-00006-P	04/23/20	Registration requirements for school counselor programs and certification requirements for school counselors	To amend requirements for registered school counselor programs and the certification requirements for school counselors
EDU-17-19-00007-P	04/23/20	Extension of the edTPA Safety Net for Candidates Who Receive a Failing Score on the Library Specialist edTPA	The safety net enables candidates to be held harmless during the handbook revision process
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
EDU-21-19-00007-EP	05/21/20	The Certification of Manufacturers and Wholesalers for Export Purposes	To clarify who may issue free sale certificates to New York State registered manufacturers or wholesalers
EDU-21-19-00008-P	05/21/20	Continuing Teacher and Leader Education (CTLE) for Educators in nonpublic schools.	To make technical amendments to the CTLE regulations for educators employed in nonpublic schools.
EDU-21-19-00009-P	05/21/20	Creation of safety nets for the science Content Specialty Tests (CSTs)	Allow candidates to be held harmless during a one-year transition period from the predecessor CSTs to the revised CST's
EDU-21-19-00010-P	05/21/20	Conditional initial certificate requirements.	Provides that candidates may be eligible for an Initial certificate even after their conditional initial certificate expires.
EDU-21-19-00011-P	05/21/20	Educational Broadcast Councils and Radio Stations	Reduce costs incurred by each Council and Radio Station for redundant annual certified audits & to streamline reporting process
EDU-21-19-00012-P	05/21/20	Requirements for Transitional D Programs that Lead to School District Leader Certification	Certificate enables the candidates to work in a school dist. /BOCES as a school dist. leader while they complete their requireme
EDU-25-19-00014-EP	06/18/20	Eligibility Requirements for the Endorsement Pathway for Certification as an Educator in the Classroom Teaching Service	To provide candidates with more flexibility to be eligible for the endorsement pathway
EDU-25-19-00015-EP	06/18/20	Statement of continued eligibility for certain teachers of students with disabilities	Extends the deadline to apply for a statement of continued eligibility for certain teachers of students with disabilities
EDU-26-19-00001-P	06/25/20	Reports of child abuse in an educational setting	To implement the provisions of Chapter 363 of the Laws of 2018 relating to reports of child abuse in an educational setting
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

ELECTIONS, STATE BOARD OF

SBE-14-19-00005-P	04/02/20	Pre-registering voters who are 16 and 17-years-old	To permit persons who are 16 or or 17-years-old to per-register to vote
SBE-14-19-00006-EP	04/02/20	Establishing a process for transferring a voter's registration and enrollment from one county to another	To establish a process where a voter who moves from one county to another can transfer their voter registration
SBE-22-19-00001-EP	05/28/20	Audit Status for Early Voting	Establishes Process for Auditing Early Voting Machines and Systems
SBE-22-19-00002-EP	05/28/20	Related to the Minimum Required Voting Machines and Privacy Booths needed for Early Voting Polling Sites	Establishes the Minimum Required Voting Machines and Privacy Booths needed for Early Voting Polling Sites
SBE-22-19-00003-EP	05/28/20	Process for Early Voting	Establishing Process for Early Voting

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-09-19-00015-P	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-12-19-00002-P	05/23/20	Air emissions regulation of cleaning solutions containing volatile organic compounds.	Update existing regulation with latest emission control requirements and add requirements recently issued by EPA.
ENV-12-19-00003-P	05/23/20	Revised Part 208 will incorporate the new federal emission guideline for MSW landfills pursuant to 40 CFR Part 60, Subpart Cf.	Part 208 controls landfill gas emissions by requiring a gas collection and control system.
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 TM devices.	To prohibit feeding of wild deer and moose, to define conditions for use of 4-Poster TM 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.
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-30-18-00007-P	07/25/19	Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure	To clarify requirements regarding coverage and disclosure of information for contraceptives
DFS-36-18-00003-P	09/05/19	Professional Bail Agents; Managing General Agents; et al	To provide greater protection to consumers, and raise the standards of integrity in the bail business.
DFS-46-18-00014-P	11/14/19	Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act- Claims for Personal Injury Protection Benefit	To give insurer option to void assignment of benefits when insurer issues denial for EIP's failure to attend IME or EUO
DFS-08-19-00003-P	02/20/20	Charges for Professional Health Services	To delay the effective date of the Workers' Compensation fee schedule increases for no-fault reimbursement
DFS-16-19-00009-EP	04/16/20	Registration and Financial Responsibility Requirements for Mortgage Loan Servicers	To implement the registration requirement of chapter 472, Laws of 2008 and inform servicers of registration process details

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
FINANCIAL SERVICES, DEPARTMENT OF			
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-20-19-00002-P	05/14/20	Electronic Filings and Submissions	To require certain filings or submissions to be made electronically
DFS-20-19-00004-P	05/14/20	Valuation of Individual and Group Accident and Health Insurance Reserves	To adopt the 2016 Cancer Claim Cost Valuation Tables
DFS-20-19-00005-P	05/14/20	SECURITY AT AUTOMATED TELLER FACILITIES	To update the regulation to ensure the removal of obsolete language from the reporting requirements under Part 301
DFS-21-19-00005-P	05/21/20	Continuing Care Retirement Communities	Amend rules related to permitted investments, financial transactions, reporting requirements and add new optional contract type.
GAMING COMMISSION, NEW YORK STATE			
SGC-39-18-00003-P	09/26/19	Heads Up Hold 'Em poker.	To set forth the practices and procedures for the operation of Heads Up Hold 'Em poker as a casino table game.
SGC-17-19-00009-P	04/23/20	Pick-six jackpot wager for Thoroughbred racing	To improve Thoroughbred pari-mutuel wagering and generate reasonable revenue for the support of government
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-42-18-00008-P	10/17/19	Office-Based Surgery Practice Reports	Requires accredited Office-Based Surgery practices to submit adverse event & practice information which includes procedural data
HLT-51-18-00016-P	12/19/19	Nursing Home Weekly Bed Census Survey	To require nursing homes to electronically submit weekly bed census data to the DOH through the Health Commerce System
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-05-19-00005-P	01/30/20	Midwifery Birth Center Services	To set the standards for all birth centers to follow the structure of Article 28 requirements
HLT-09-19-00004-P	02/27/20	Cardiac Catheterization Laboratory Centers	To amend existing Certificate of Need requirements for the approval and operation of Cardiac Catheterization Laboratory Centers.
HLT-17-19-00002-EP	04/23/20	Medical Use of Marihuana	To clarify requirements for laboratories seeking approval to test medical marihuana products in New York State
HLT-18-19-00016-P	04/30/20	Blood Lead Level	To improve the current understanding of lead poisoning risks to children and pregnant women

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HEALTH, DEPARTMENT OF			
HLT-20-19-00006-P	05/14/20	Schroon Lake Water District	The regulation is no longer needed since Horseshoe Pond no longer serves as the public drinking water source
HLT-22-19-00015-P	05/28/20	Residents' Rights	Require nursing homes provide info. about home and community based services & comm. transition progs. to residents upon admission
HLT-25-19-00013-P	06/18/20	Registered Nurses in the Emergency Department	To remove a barrier to new graduate nurse recruitment in the emergency department
HIGHER EDUCATION SERVICES CORPORATION			
ESC-22-19-00004-EP	05/28/20	The New York State Teacher Loan Forgiveness Program	To implement The New York State Teacher Loan Forgiveness Program
ESC-22-19-00005-EP	05/28/20	New York State Masters-in-Education Teacher Incentive Scholarship Program	To implement the New York State Masters-in-Education Teacher Incentive Scholarship Program
ESC-22-19-00006-EP	05/28/20	New York State Get on Your Feet Loan Forgiveness Program	To implement the New York State Get on Your Feet Loan Forgiveness Program
ESC-22-19-00007-EP	05/28/20	NYS Part-time Scholarship (PTS) Award Program	To implement the NYS Part-time Scholarship (PTS) Award Program
ESC-22-19-00008-EP	05/28/20	The New York State Achievement and Investment in Merit Scholarship (NY-AIMS)	To implement The New York State Achievement and Investment in Merit Scholarship (NY-AIMS)
ESC-25-19-00012-EP	06/18/20	Eligibility criteria for student financial aid award programs under article 14 of the Education Law	To implement the eligibility criteria for student financial aid award programs under article 14 of the Education Law
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 o flow-income housing tax credits.
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-17-18-00005-P	07/11/19	Hours Worked, 24-Hour Shifts	To clarify that hours worked may exclude meal periods and sleep times for employees who work shifts of 24 hours or more

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LAW, DEPARTMENT OF			
LAW-41-18-00021-P	10/10/19	Arbitration program regulations for defective farm equipment	To set forth the procedures for the operation of an alternative arbitration mechanism for defective farm equipment disputes
LIQUOR AUTHORITY, STATE			
LQR-02-19-00006-P	05/28/20	Delinquent (C.O.D.) list procedures	To modernize outdated delinquent (C.O.D.) list procedures and provide for electronic notification for same
LONG ISLAND POWER AUTHORITY			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
LPA-33-18-00018-P	exempt	The net energy metering and related provisions of the Authority's Tariff for Electric Service.	To conform the Tariff to orders issued in the Value of Distributed Energy Resources proceeding of the New York DPS.
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.
MENTAL HEALTH, OFFICE OF			
OMH-08-19-00005-P	02/20/20	Establish standards for providers who wish to become licensed Children's Mental Health Rehabilitation programs	The Children's Mental Health Rehabilitation Program (CMHRS) is a vehicle for implementing the new State Plan services
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
MOTOR VEHICLES, DEPARTMENT OF			
MTV-25-19-00011-P	06/18/20	Alcohol & Drug Rehabilitation Programs - Restricted Use License eligibility provision	Conforms regulation with statute

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
MOTOR VEHICLES, DEPARTMENT OF			
MTV-27-19-00011-P	07/02/20	Limited Use Vehicles - provides that number of characters in a VIN be in conformance with Federal standards.	conforms regulation with statute
MTV-27-19-00012-P	07/02/20	Private Service Bureaus-employment of persons who've been convicted of a crime in accordance with Article 23-A of Correction Law	conforms regulation with statute
MTV-27-19-00013-P	07/02/20	Driving Schools-relates to employment of persons convicted of a crime in accordance with Article 23-A of Correction Law.	conforms regulation with statute
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
NIAGARA FRONTIER TRANSPORTATION AUTHORITY			
NFT-18-19-00004-P	04/30/20	Procurement Guidelines of the Niagara Frontier Transportation Authority and Niagara Frontier Transit Metro System, Inc.	To amend Procurement Guidelines to reflect changes in law, clarifying provisions and change in signing authority.
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
PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR			
PDD-18-19-00002-P	04/30/20	Transportation of female patients at OPWDD facilities	Repeal as statutory language has been revised and on longer is reflective in this regulation
PDD-20-19-00007-P	05/14/20	Site Based Prevocational Services	To make technical corrections
PDD-22-19-00010-P	05/28/20	Person Centered Planning: Care Management and Home and Community Based Services	To ensure consistency with person-centered planning regulations
PDD-23-19-00002-EP	06/04/20	Enrollment in Medicare Prescription Drug Plans and Fully Integrated Duals Advantage Plans for IDD	To allow individuals to be enrolled in a FIDA-IDD plan when individuals are unable to enroll themselves

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
POWER AUTHORITY OF THE STATE OF NEW YORK			
*PAS-01-10-00010-P	..... exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PUBLIC SERVICE COMMISSION			
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11

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PUBLIC SERVICE COMMISSION			
*PSC-27-05-00018-P exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	..... exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures

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PUBLIC SERVICE COMMISSION			
*PSC-37-06-00017-P exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	..... exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.

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PUBLIC SERVICE COMMISSION			
*PSC-45-07-00005-P exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*PSC-34-09-00017-P	..... exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	..... exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	..... exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	..... exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	..... exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	..... exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-36-10-00010-P	..... exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	..... exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	..... exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order.	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing.
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*PSC-23-12-00007-P	..... exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	..... exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	..... exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	..... exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements
*PSC-45-12-00008-P	..... exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	..... exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	..... exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	..... exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*PSC-08-13-00014-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	..... exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	..... exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines.	To help ensure efficient and economic expansion of the natural gas system as appropriate.
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.
*PSC-28-13-00017-P	..... exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	..... exempt	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices
*PSC-32-13-00012-P	..... exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island.	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.
*PSC-45-13-00022-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines.	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity.	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	..... exempt	Conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.	Consideration of conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00011-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	..... exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties.	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties.
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336.	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00008-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	..... exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	..... exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets.	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator.	To consider waiver of RG&E's tariffed definition of emergency generator.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-26-14-00020-P	..... exempt	New electric utility backup service tariffs and standards for interconnection may be adopted.	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established.	To balance the need for the information necessary to support a robust market with customer privacy concerns.
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets.	To consider the Comcast and Charter transfer of systems, franchise and assets.
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter.	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive,Albany, NY.
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*PSC-36-14-00009-P	..... exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
*PSC-38-14-00003-P	..... exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison's low income program to include Medicaid recipients.	Whether to expand Con Edison's low income program to include Medicaid recipients.
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*PSC-40-14-00008-P	..... exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.
*PSC-40-14-00009-P	..... exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality.	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1.
*PSC-40-14-00011-P	..... exempt	Late Payment Charge.	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-40-14-00015-P	..... exempt	Late Payment Charge.	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY..
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-08-15-00009-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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)
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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-48-15-00010-P	..... exempt	Lightened and incidental regulation of a 55 MW electric and steam generating facility.	Consider the lightened and incidental regulation of a 55 MW electric and steam generating facility.
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	..... exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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 Hanehan.	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan.
*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
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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-15-18-00008-P	..... exempt	Amendments to the Uniform Business Practices.	Consideration of revised consumer protections and business practices of energy service companies.
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
*PSC-18-18-00009-P	..... exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	..... exempt	Whether to impose consequences on Aspiry for its non-compliance with Commission requirements.	To ensure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-23-18-00014-P	..... exempt	Proposed major rate increase of approximately \$11.7 million to cover its Franklin and St. Lawrence Counties expansion project.	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-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-30-18-00004-P	..... exempt	Ownership of St. Lawrence Gas Company, Inc.	To consider whether a proposed transfer of ownership interests in St. Lawrence Gas Company, Inc. is in the public interest.
PSC-31-18-00011-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-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-36-18-00005-P	..... exempt	Permanent operator of gas wells and certain gas facilities.	To resolve ownership of overlapping gas facilities associated with wells transferred to two gas companies.
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
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.
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-42-18-00014-P	..... exempt	The disposition of a refund from NYPA to the Village of Solvay of \$733,000 for overcharge for electricity over several years.	To determine whether the proposed disposition of the NYPA refund is just and reasonable.
PSC-44-18-00012-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
PSC-44-18-00013-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
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-46-18-00005-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.
PSC-47-18-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer 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-50-18-00003-P	..... exempt	Proposed transfer of interests in an electric generating facility and dedicated natural gas pipeline	To consider the transfer of generating facility and dedicated gas pipeline if there is no market power or ratepayer harm
PSC-52-18-00008-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-52-18-00011-P	..... exempt	LED Street Lighting.	To provide customers with more efficient, lower cost LED street lighting options.
PSC-52-18-00012-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-01-19-00007-P	..... exempt	Northbrook Lyons Falls LLC's 3 hydro facilities with a combined capacity of 8.59 MW located in Mill, Gouldtown, and Kosterville.	To promote and maintain renewable electric energy resources.
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-02-19-00009-P	..... exempt	The 2018 Electric Emergency Response Plans for electric utilities.	To consider the adequacy of the 2018 Electric Emergency Response Plans.
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-05-19-00009-P	..... exempt	Transfer of street lighting facilities	To consider whether the transfer of certain street lighting facilities is in the public interest
PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program.	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects.
PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements.	To insure the provision of safe and adequate energy service at just and reasonable rates.
PSC-07-19-00010-P	..... exempt	The rates and charges for non-roadway LED service offerings for outdoor lighting customers.	To determine whether to amend National Grid's P.S.C. No. 214 - Outdoor Lighting Tariff to provide new LED service offerings.
PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
PSC-09-19-00007-P	..... exempt	Exemptions from standby rates.	To consider whether the standby rate exemptions proposed by the City of New York are reasonable and in the public interest.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
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-09-19-00013-P	..... exempt	Cyber Security requirements.	Establish a framework to ensure the protection of utility systems and customer data from cyber events.
PSC-10-19-00005-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-10-19-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-11-19-00002-P	..... exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-11-19-00003-P	..... exempt	Transfer of street lighting facilities	To consider whether the transfer of certain street lighting facilities is in the public interest
PSC-11-19-00004-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-12-19-00005-P	..... exempt	The request to issue long-term debt securities.	To assume debt for general corporate purposes, including working capital and other financial requirements
PSC-12-19-00006-P	..... exempt	Transfer of utility property.	To determine whether to approve the transfer of utility property.
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-13-19-00011-P	..... exempt	Modifications to the Gas Cost Factor and Daily Delivery Service Programs.	To ensure safe and reliable service for customers at just and reasonable rates.
PSC-13-19-00012-P	..... exempt	Paperless billing credit.	To provide just and reasonable rates.
PSC-13-19-00014-P	..... exempt	Eligibility for annual per-plug incentives for DCFC stations.	To increase electric vehicle infrastructure penetration to accomplish New York's Zero Emission Vehicle adoption mandate.
PSC-13-19-00015-P	..... exempt	Use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-13-19-00017-P	..... exempt	Use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-13-19-00018-P	..... exempt	Use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-13-19-00020-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-13-19-00021-P	..... exempt	Modifications to the Gas Supply Charge and Balancing Service Programs.	To ensure safe and reliable service for customers at just and reasonable rates.
PSC-14-19-00008-P	..... exempt	Residential meter reading	To establish provisions for a special meter read for when service is discontinued to residential customers
PSC-15-19-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-15-19-00009-P	..... exempt	Cancellation of Society's tariff.	To consider whether cancellation of Society's tariff is in the public service.
PSC-15-19-00010-P	..... exempt	Tariff provisions for Interruptible and Off-Peak Firm Service Customers.	To amend certain penalties for non-compliant Interruptible and Off-Peak Firm Customers.
PSC-16-19-00001-P	..... exempt	Waiver of certain rules, i.e., 5-year buildout and 7-day installation requirements pertaining to cable television franchise.	To determine whether to waive any rules and regulations.
PSC-16-19-00002-P	..... exempt	NYSEG and RG&E Implementation Plan and audit recommendations.	To consider NYSEG and RG&E's Implementation Plan.
PSC-16-19-00003-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-16-19-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
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-16-19-00006-P	..... exempt	Waiver of certain rules, i.e., 5-year buildout and 7-day installation requirements pertaining to cable television franchise.	To determine whether to waive any rules and regulations.
PSC-16-19-00007-P	..... exempt	Recommendation 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-17-19-00010-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-17-19-00011-P	..... exempt	Purchased power adjustment.	To ensure existing customers are not harmed by an increase in rates attributable to any incremental supply.
PSC-17-19-00012-P	..... exempt	Establishment of a consumer awareness program to encourage renewable energy resources and energy efficiencies in Westchester.	To encourage clean energy development in Westchester.
PSC-17-19-00013-P	..... exempt	Tariff amendments regarding minimum monthly storage inventory levels.	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-17-19-00014-P	..... exempt	Minor rate filing.	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-18-19-00014-P	..... exempt	Revenue neutral revenue adjustment to the demand and energy charges under SC No. 3.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
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-19-19-00011-P	..... exempt	To consider a settlement agreement.	Modification of Network Expansion Condition.
PSC-19-19-00012-P	..... exempt	Minor rate filing.	To ensure that the Village of Silver Spring provides safe and adequate service and that its rates are just and reasonable.
PSC-19-19-00013-P	..... exempt	Proposed merger of three water utilities into one corporation.	To determine if the proposed merger is in the public interest.
PSC-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-19-19-00015-P	..... exempt	Establishment of the regulatory regime applicable to an energy storage facility of up to 316 MW.	Consideration of a lightened regulatory regime for an energy storage facility of up to 316 MW
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-20-19-00011-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-20-19-00012-P	..... exempt	Waiver of 16 NYCRR Section 894.4(b)(2) pertaining to publishing notice of the RFP in national publications	To determine whether to waive any rules and regulations
PSC-20-19-00013-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-20-19-00014-P	..... exempt	Transfer of street lighting facilities	To consider the transfer of street lighting facilities to the City of Oneonta
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-21-19-00015-P	..... exempt	The Implementation Plan used to recover the costs of ZECs from Load Serving Entities.	To more accurately calculate Load Serving Entities' future ZEC obligation payments.
PSC-21-19-00016-P	..... exempt	Use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-21-19-00017-P	..... exempt	Residential meter reading.	To establish provisions for a special meter read for when service is discontinued to residential customers.
PSC-21-19-00018-P	..... exempt	Methodology used to set discount level for income-based discounts to residential electric and gas utility bills.	To ensure that income-based discounts are adjusted in a manner that moderates annual changes.
PSC-22-19-00011-P	..... exempt	Proposed major 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-22-19-00012-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-22-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-22-19-00014-P	..... exempt	Proposed major rate increase in KEDLI's gas delivery revenues by \$49.4 million (4.1% increase in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
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-23-19-00004-P	..... exempt	Individually negotiated contracts.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
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-24-19-00003-P	..... exempt	Three-year pilot for inspecting gas services at intervals longer than existing regulations require.	To use risk-based reasoning for gas service lines inspection intervals on a pilot basis.
PSC-24-19-00004-P	..... exempt	Municipal Gross Receipts Taxes.	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-24-19-00005-P	..... exempt	Non-Firm Demand Response service classes.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-24-19-00006-P	..... exempt	Municipal Gross Receipts Taxes.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-24-19-00007-P	..... exempt	Municipal Gross Receipts Taxes.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-24-19-00008-P	..... exempt	Non-Firm Demand Response service classes.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-24-19-00009-P	..... exempt	Municipal Gross Receipts Taxes.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-25-19-00016-P	..... exempt	The request of New York Transco LLC to assume debt with a repayment period that exceeds 12 months.	To consider a petition to incur debt.
PSC-25-19-00017-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-26-19-00002-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-27-19-00006-P	..... exempt	Tariff provisions for SHR Demonstration Project customers.	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-27-19-00008-P	..... exempt	Tariff provisions for SHR Demonstration Project customers.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-27-19-00009-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
STATE, DEPARTMENT OF			
DOS-23-19-00001-P	..... 06/04/20	Prospective licensee requirements	To conform current NYS standards to existing applicable federal requirements for licensure
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
STATE UNIVERSITY OF NEW YORK			
SUN-15-19-00007-P	04/09/20	Proposed amendments to Appointment of Employees and Leave of Absences for Employees in the Professional Service.	Allow a temporary cessation of service credit during birth/adoption/foster care placement of child and update leave accruals.
TAXATION AND FINANCE, DEPARTMENT OF			
TAF-09-19-00005-EP	02/27/20	The Congestion Surcharge.	To implement the Congestion Surcharge and related registration, recordkeeping and reporting requirements.
TAF-21-19-00006-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.	To set the sales tax component and the composite rate per gallon for the period July 1, 2019 through September 30, 2019.
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-14-19-00002-P	04/02/20	Enforcement of support obligations and issuance of income withholding orders (IWOs)	To clarify the requirements for income withholding for persons served by the Title IV-D child support program (IV-D) to conform with changes to the federal IV-D IWO/Notice for Support form
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-19-19-00007-P	05/07/20	Adult-Care Facilities and Shelters for Adults	To update State regulations pertaining to general provisions, inspections and enforcement, and shelters for adults
TDA-19-19-00008-P	05/07/20	Shelters for Families	To update State regulations pertaining to shelters for families
TDA-19-19-00010-P	05/07/20	Elimination of finger imaging requirement for public assistance applicants and recipients	To update State regulations to align public assistance programs with other State benefit programs regarding identification verification requirements
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
WORKERS' COMPENSATION BOARD			
WCB-22-19-00009-P	05/28/20	Group self-insured trusts that are inactive but not insolvent	Provide assistance with inactive but not insolvent group self-insured trusts to purchase ALPs to wind down liabilities
WCB-25-19-00018-P	06/18/20	Prior authorization for medical treatment and variances form the Medical Treatment Guidelines	Add new authorized medical provider types to rules regarding prior authorizations and variances
WCB-25-19-00019-P	06/18/20	Medical Provider Authorization	Describe the process for providers to become authorized by the Board and maintain authorization

Action Pending Index**NYS Register/July 3, 2019**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
WORKERS' COMPENSATION BOARD			
WCB-27-19-00004-P	..... 07/02/20	Medical Fee Schedules	Add new providers to the fee schedule
WCB-27-19-00005-P	..... 07/02/20	Medical Fee Schedules	Add new providers to the fee schedule

SECURITIES OFFERINGS

STATE NOTICES

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

DEALERS; BROKERS

Alexander Capital, L.P.
17 State St., 5th Fl., New York, NY 10004
Partnership — Nesa Management LLC

At Peak Resources Inc.
19 E. 80th St., Unit 2B, New York, NY 10075
State or country in which incorporated — Delaware

Aureus, Inc.
1170 Peachtree St., #1200, Atlanta, GA 30309
State or country in which incorporated — Nevada

Aurora Associates VI L.P.
10877 Wilshire Blvd., Suite 2100, Los Angeles, CA 90024
Partnership — Aurora Capital Partners VI L.P.

Aurora Equity Partners VI L.P.
10877 Wilshire Blvd., Suite 2100, Los Angeles, CA 90024
Partnership — Aurora Capital Partners VI L.P.

Aurora Equity Partners VI-A L.P.
10877 Wilshire Blvd., Suite 2100, Los Angeles, CA 90024
Partnership — Aurora Capital Partners VI L.P.

Basin Acquisition Fund II, LP
1320 S. University Dr., Suite 400, Fort Worth, TX 76107
Partnership — Basin Acquisition Fund GP II, LLC

BBH Wealth Strategies, LLC - Cat Rock Capital Partners Series
140 Broadway, New York, NY 10005
State or country in which incorporated — Delaware

Blue Opportunity Fund, LP
12100 Wilshire Blvd., Suite 620, Los Angeles, CA 90025
Partnership — Maze Investments, LLC

BR DeSota, DST
712 Fifth Ave., 9th Fl., New York, NY 10019
State or country in which incorporated — Delaware

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

CHC Medical Partners, Inc.
162 Industry Dr., Pittsburgh, PA 15275
State or country in which incorporated — Delaware

Cottages Of Savannah, LLC
6673 Doonbeg Dr., Frisco, TX 75035
State or country in which incorporated — Texas

Dominus Capital Partners III, L.P.
135 W. 50th St., 19th Fl., New York, NY 10020
Partnership — Dominus Capital GP III, L.P.

Dominus Capital Partners (Offshore) III, L.P.
135 W. 50th St., 19th Fl., New York, NY 10020
Partnership — Dominus Capital GP III, L.P.

Drive Media Inc., The
One Pier 76, 408 12th Ave., New York, NY 10018
State or country in which incorporated — Delaware

Eller Capital Multifamily Fund, LLC
1350 Environ Way, Chapel Hill, NC 27517
State or country in which incorporated — Delaware

Encourage Solar Finance, L.P.
c/o Encourage Capital Solar Finance GP, L.P., 156 Fifth Ave., Suite
804, New York, NY 10010
Partnership — Encourage Capital Solar Finance GP, L.P.

Four Corners Frisco Associates, L.P.
910 Harvest Dr., Suite 105, Blue Bell, PA 19422
Partnership — Four Corners Frisco General, LLC

Hornet Corporation
111 Imperial Blvd., Bldg. D400, Hendersonville, TN 37075
State or country in which incorporated — Tennessee

KOA Investment Holdings LLC
22 Hudson Place, Hoboken, NJ 07030
State or country in which incorporated — Delaware

LM Lufkin Road, LLC
37 W. 39th St., Suite 402, New York, NY 10018
State or country in which incorporated — Connecticut

Loyal Valley Capital Advantage Fund II LP
c/o Walkers Corporate Limited, Cayman Corporate Centre, 27
Hospital Rd., George Town, Grand Cayman KY1-9008, Cayman
Islands
Partnership — Loyal Valley Capital Advantage Fund II Limited

Mainsail Partners V, L.P.
One Front St., Suite 3000, San Francisco, CA 94111
Partnership — Mainsail GP V, LLC

Nephros, Inc.
380 Lackawanna Place, South Orange, NJ 07079
State or country in which incorporated — Delaware

Ocean Link Partners II Interholding L.P.
PO Box 309, Ugland House, Grand Cayman, Cayman Islands KY1-1104
Partnership — Ocean Link Team Limited

ZORA Israel Impact Fund, LP
13 Rothschild Blvd., Fl. 1, Tel Aviv, Israel 6688118
State or country in which incorporated — Delaware

Qrons Inc.
50 Battery Place, #7T, New York, NY 10280
State or country in which incorporated — Wyoming

Radview Asheville, LLC
PO Box 18723, Asheville, NC 28814
State or country in which incorporated — North Carolina

Rotunda Capital Partners Fund II, L.P.
Three Bethesda Metro Center, Suite 830, Bethesda, MD 20814
Partnership — Rotunda Capital Partners GP II, L.P.

Rotunda Capital Partners Fund II-A, L.P.
Three Bethesda Metro Center, Suite 830, Bethesda, MD 20814
Partnership — Rotunda Capital Partners GP II, L.P.

SCP Legacy, LP
25 Orinda Way, Suite 300, Orinda, CA 94563
Partnership — SCP Investment, LP

SimpsX Technologies LLC
248 Bryn Mawr Circle, Houston, TX 77024
State or country in which incorporated — Delaware

Tabata Fund, L.P.
830 Third Ave., 8th Fl., New York, NY 10022
Partnership — Interval Capital II, LLC

Tabata Offshore Fund, Ltd.
c/o Maples Corporate Services Limited, PO Box 309, Ugland House,
Grand Cayman KY1-1104 Cayman Islands
State or country in which incorporated — Cayman Islands

Tilden Marcellus Holdings, LLC
842 W. Sam Houston Pkwy., Suite 520, Houston, TX 77024
State or country in which incorporated — Texas

Tiverton Macro Fund LLC
109 S. Fifth St., Brooklyn, NY 11249
State or country in which incorporated — New York

TMP Venture LLC
5671 Santa Teresa Blvd., Suite 216, San Jose, CA 95123
State or country in which incorporated — Delaware

TriBuild Inc.
329 Interlocken Pkwy., Suite 120, Broomfield, CO 80021
State or country in which incorporated — Delaware

Twin Bridge Narrow Gate Fund, L.P.
One S. Wacker Dr., Suite 3220, Chicago, IL 60606
Partnership — Twin Bridge Narrow Gate GP, L.P.

tZero Group, Inc.
One World Trade Center, 58th Fl., New York, NY 10007
State or country in which incorporated — Delaware

Walk on the Moon LLC
c/o Jumpstart Productions, 1460 Broadway, New York, NY 10036
State or country in which incorporated — New York limited liability company

Wells Fargo Investment Institute, Inc.
401 S. Tryon St., Charlotte, NC 28202
State or country in which incorporated — Delaware

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

Department of Civil Service

PURSUANT to the Open Meetings Law, the New York State Civil Service Commission hereby gives public notice of the following:

Please take notice that the regular monthly meeting of the State Civil Service Commission for July 2019 will be conducted on July 17 and July 18 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY with live coverage available at <https://www.cs.ny.gov/commission/>.

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. One, Albany, NY 12239, (518) 473-6598

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.

2019-0368 In the matter of Wladis Law Firm, PLLC, Timothy Lambrecht, Esq, 6312 Fly Road, East Syracuse, NY 13057, for Burnman LLC concerning fire safety requirements including a variance to allow two existing underground gasoline storage tanks to remain after out of service for more than one year.

Involved are the existing underground fuel storage tanks located at 27117/119 State Route Three, Town of LeRay, County of Jefferson, New York.

PUBLIC NOTICE

Department of State

Uniform Code Variance / Appeal Petitions

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2019-0371 Petition in the matter of MTACC- ESA Project, New York City Transit, Two Broadway, New York, NY 10004, for a routine variance concerning egress exits as required in the 2015 International Building Code as adopted by the State of New York, providing for landing on exit side of door for the G 02 Substation of the MTACC-ESA project, located at the intersection of Skillman Avenue and Honeywell Street in the Harold Interlocking Yard, City of New York, Borough of Queens, County of Queens, State of New York.

PUBLIC NOTICE

Department of State

Uniform Code Variance / Appeal Petitions

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2019-0373 In the matter of Michelle Collver, Six Park Avenue, Whitesboro, NY 13492 for a variance concerning requirements for a second means of egress, combustible materials on walls and ceilings in stairs or entrance halls, fire rated cellar ceiling and enclosure of cellar stairs.

Involved is an existing Multiple Residence occupancy, three stories in height, located at Six Park Avenue, Village of Whitesboro, County of Oneida, New York.

