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- Use of Force
- Process for Early Voting
- Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness

Notice of Availability of State and Federal Funds

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 December 22, 2019
- the 45-day period expires on December 7, 2019
- the 30-day period expires on November 22, 2019
ANDREW M. CUOMO
GOVERNOR

ROSSANA ROSADO
SECRETARY OF STATE

NEW YORK STATE DEPARTMENT OF STATE

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

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

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

Department of Agriculture and Markets

Emergency Rule Making

Spotted Lanternfly ("SL")

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

Filing No. 905

Filing Date: 2019-10-04

Effective Date: 2019-10-29

Pursuant to the provisions of the State Administrative Procedure Act, notice is hereby given of the following action:

Action taken: Amendment of Part 142 of Title 1 NYCRR.

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

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

Specific reasons underlying the finding of necessity: The Spotted Lanternfly (Lycorma delicatula) is an insect nonindigenous to the United States. It was first detected in Berks County, Pennsylvania, in September, 2014, and since then has been detected in other counties in Pennsylvania and in other states, most recently to Dauphin County in Pennsylvania and Cecil County in Maryland ("the designated counties"). The proposed rule will require each person who wants to import, into New York, an article that originates in a designated county and that is capable of being infested by or with Spotted Lanternfly, to obtain a “certificate of inspection” from an appropriate state official, before importation into New York.

The proposed rule has been adopted, as an emergency rule, to protect the public welfare. The Spotted Lanternfly infests different types of trees, including fruit trees, as well as plants, including grape plants and hops plants. Once infested, a tree or plant is deprived of nutrients, is incapable of producing fruit to the extent it had prior to infestation, and is not useful as a source of wood. The proposed rule is designed to prevent the Spotted Lanternfly from entering the State from a designated county and thereby jeopardizing its forest-based industries and its fruit-based industries which, in sum, contribute approximately $7 billion to the State’s economy, annually.

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

Subject: Spotted Lanternfly ("SL").

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

Text of emergency rule: Subdivision (a) of section 142.2 of 1 NYCRR is amended to read as follows:

(a) In the Commonwealth of Pennsylvania, the counties of Berks, Bucks, Carbon, Chester, Dauphin, Delaware, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Philadelphia, and Schuylkill.

Section 142.2 of 1 NYCRR is amended by adding thereto a new subdivision (e) to read as follows:

(e) In the State of Maryland, the county of Cecil.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. AAM-34-19-00001-EA, Issue of August 21, 2019. The emergency rule will expire December 2, 2019.

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

Regulatory Impact Statement

1. Statutory authority:

Section 18 of the Agriculture and Markets Law provides, in part, that the Commissioner of Agriculture and Markets ("Commissioner") may enact, amend, and repeal necessary rules which shall provide generally for the exercise of the powers and performance of the duties of the Department of Agriculture and Markets ("Department") as prescribed in the Agriculture and Markets Law ("AML") and the laws of the State and for the enforcement of their provisions and the provisions of the rules that have been enacted.

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

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

2. Legislative objectives:

The proposed rule will amend section 142.2 of 1 NYCRR to require a person who wants to move a "regulated article" in the State that originated from Dauphin County in Pennsylvania, or Cecil County in Maryland, to obtain a certificate of inspection before doing so that indicates that such article is free of Spotted Lanternfly ("SL") before moving the regulated article into the State.

The proposed rule will further the legislature’s objective to help ensure that injurious insects, such as SLF, are not allowed to enter the State.
The proposed rule provides that the Department of Agriculture and Markets will not recognize a certificate of inspection unless the regulated article to be moved into the State, from a designated county, has been found to be free of Spotted Lanternfly or rendered free of that pest by having been properly treated, fumigated, or processed by an approved method – those procedures could require utilization of a professional service in the event the party still desires to move the regulated article into the State.

4. Compliance costs:

A regulated party will need to ensure that the article to be moved from a designated county into the State is free of Spotted Lanternfly. Furthermore, a small business that wants to move a regulated article into the State from a designated county will be able to obtain a certificate of inspection from Pennsylvania or Maryland, attesting that the article is free of Spotted Lanternfly, at no charge.

6. Minimizing adverse impact:

The Department has designed the proposed rule to minimize adverse economic impact on small businesses.

The Department of Agriculture and Markets, and the State will not incur any additional expenses due to the proposed rule.

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

Economic and technological feasibility:

Small businesses will be economically and technically able to comply with the proposed rule. The technology exists to render an infested article free of Spotted Lanternfly. Furthermore, a small business that wants to move a regulated article into the State from a designated county will be able to obtain a certificate of inspection from Pennsylvania or Maryland, attesting that the article is free of Spotted Lanternfly, at no charge.

7. Small business and local government participation:

The proposed rule is designed to ensure that Spotted Lanternfly does not enter the State from those counties and, thereby, have a negative impact upon the State’s agriculture and tourism industry which consists, in large part, of small businesses; the proposed rule could not have been designed any differently and would have adequately implemented its objective.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The proposed rule will require a person who wants to move a “regulated article” (that is, an item that is capable of harboring the invasive insect, Spotted Lanternfly) that originates from Dauphin County, in Pennsylvania, or Cecil County, in Maryland (“a designated county”) to obtain a certificate from an appropriate state regulatory agency, attesting that such article is free of Spotted Lanternfly. It is impossible to determine if residents of rural areas will themselves import “regulated articles” from a designated county into the State and, if so, the number of residents of such areas who will want to do so.

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

Each resident of a rural area who imports a regulated article from a designated county into the State will need to obtain a certificate of inspection from a state agency authorized to issue such a certificate or by a person duly-designated by such an agency.

3. Professional services:

The proposed rule provides that the Department of Agriculture and Markets will not recognize a certificate of inspection unless the regulated article to be moved into the State, from a designated county, has been found to be free of Spotted Lanternfly or rendered free of that pest by having been properly treated, fumigated, or processed by an approved method – those procedures could require utilization of a professional service in the event the party still desires to move the regulated article into the State.

4. Compliance costs:

A regulated party will need to ensure that the article to be moved from a designated county into the State is free of Spotted Lanternfly. Furthermore, a small business that wants to move a regulated article into the State from a designated county will be able to obtain a certificate of inspection from Pennsylvania or Maryland, attesting that the article is free of Spotted Lanternfly, at no charge.

6. Minimizing adverse impact:

The Department has designed the proposed rule to minimize adverse economic impact on small businesses.

The Department of Agriculture and Markets, and the State will not incur any additional expenses due to the proposed rule.

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7. Small business and local government participation:

The proposed rule is designed to ensure that Spotted Lanternfly does not enter the State from those counties and, thereby, have a negative impact upon the State’s agriculture and tourism industry which consists, in large part, of small businesses; the proposed rule could not have been designed any differently and would have adequately implemented its objective.

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

Each resident of a rural area who imports a regulated article from a designated county into the State will need to obtain a certificate of inspection from a state agency authorized to issue such a certificate or by a person duly-designated by such an agency.

3. Professional services:

The proposed rule provides that the Department of Agriculture and Markets will not recognize a certificate of inspection unless the regulated article to be moved into the State, from a designated county, has been found to be free of Spotted Lanternfly or rendered free of that pest by having been properly treated, fumigated, or processed by an approved method – those procedures could require utilization of a professional service in the event the party still desires to move the regulated article into the State.

4. Compliance costs:

A regulated party will need to ensure that the article to be moved from a designated county into the State is free of Spotted Lanternfly. Furthermore, a small business that wants to move a regulated article into the State from a designated county will be able to obtain a certificate of inspection from Pennsylvania or Maryland, attesting that the article is free of Spotted Lanternfly, at no charge.

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The Department has designed the proposed rule to minimize adverse economic impact on small businesses.

The Department of Agriculture and Markets, and the State will not incur any additional expenses due to the proposed rule.

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Small businesses will be economically and technically able to comply with the proposed rule. The technology exists to render an infested article free of Spotted Lanternfly. Furthermore, a small business that wants to move a regulated article into the State from a designated county will be able to obtain a certificate of inspection from Pennsylvania or Maryland, attesting that the article is free of Spotted Lanternfly, at no charge.

7. Small business and local government participation:

The proposed rule is designed to ensure that Spotted Lanternfly does not enter the State from those counties and, thereby, have a negative impact upon the State’s agriculture and tourism industry which consists, in large part, of small businesses; the proposed rule could not have been designed any differently and would have adequately implemented its objective.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The proposed rule will require a person who wants to move a “regulated article” (that is, an item that is capable of harboring the invasive insect, Spotted Lanternfly) that originates from Dauphin County, in Pennsylvania, or Cecil County, in Maryland (“a designated county”) to obtain a certificate from an appropriate state regulatory agency, attesting that such article is free of Spotted Lanternfly. It is impossible to determine if residents of rural areas will themselves import “regulated articles” from a designated county into the State and, if so, the number of residents of such areas who will want to do so.

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

Each resident of a rural area who imports a regulated article from a designated county into the State will need to obtain a certificate of inspection from a state agency authorized to issue such a certificate or by a person duly-designated by such an agency.

3. Professional services:

The proposed rule provides that the Department of Agriculture and Markets will not recognize a certificate of inspection unless the regulated article to be moved into the State, from a designated county, has been found to be free of Spotted Lanternfly or rendered free of that pest by having been properly treated, fumigated, or processed by an approved method – those procedures could require utilization of a professional service in the event the party still desires to move the regulated article into the State.

4. Compliance costs:

A regulated party will need to ensure that the article to be moved from a designated county into the State is free of Spotted Lanternfly. Furthermore, a small business that wants to move a regulated article into the State from a designated county will be able to obtain a certificate of inspection from Pennsylvania or Maryland, attesting that the article is free of Spotted Lanternfly, at no charge.

6. Minimizing adverse impact:

The Department has designed the proposed rule to minimize adverse economic impact on small businesses.

The Department of Agriculture and Markets, and the State will not incur any additional expenses due to the proposed rule.

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

Economic and technological feasibility:

Small businesses will be economically and technically able to comply with the proposed rule. The technology exists to render an infested article free of Spotted Lanternfly. Furthermore, a small business that wants to move a regulated article into the State from a designated county will be able to obtain a certificate of inspection from Pennsylvania or Maryland, attesting that the article is free of Spotted Lanternfly, at no charge.

7. Small business and local government participation:

The proposed rule is designed to ensure that Spotted Lanternfly does not enter the State from those counties and, thereby, have a negative impact upon the State’s agriculture and tourism industry which consists, in large part, of small businesses; the proposed rule could not have been designed any differently and would have adequately implemented its objective.
importation, attesting that such articles were free of Spotted Lanternfly. States, known to harbor Spotted Lanternfly, to obtain certificates, prior to objection to requiring importers of regulated articles from counties in other Appendices, consisting in part of businesses located in rural areas, of its intent to Committee, the New York State Turfgrass Association, the New York Farm Lanternfly were to become endemic in the State, residents of, and businesses in, rural areas would suffer disproportionally, both economically and otherwise.

5. Rural area participation:
NYCRR Part 142 was originally made effective on September 19, 2018. During the comment period, the Department informed a number of organizations, consisting in part of businesses located in rural areas, of its intent to promulgate 1 NYCRR Part 142; such organizations consisted of the Empire State Forest Products Association, the Invasive Species Advisory Committee, the New York State Turfgrass Association, the New York Farm Bureau, the New York State Trucking Association, and the Catskill Regional Invasive Species Partnership.

The Department received input from these organizations, none of whom objected to requiring importers of regulated articles from counties in other states, known to harbor Spotted Lanternfly, to obtain certificates, prior to importation, attesting that such articles were free of Spotted Lanternfly.

Job Impact Statement
The proposed rule will amend Part 142 to 1 NYCRR, requiring that a person who wants to move a designed article from Dauphin County, in Pennsylvania, or Cecil County, in Maryland, into New York State to obtain a “certificate of inspection” that indicates that the article is free of “Spotted Lanternfly”, before doing so. Spotted Lanternfly is an invasive insect that causes severe economic damage to grapes, hops, and various types of trees including fruit trees and deciduous trees.

The proposed rule will not have an adverse impact on jobs or employment opportunities and, in fact, will likely aid in protecting jobs and employment opportunities now and in the future. Forest related activities in New York State provide employment for approximately 70,000 people. Of that number, 55,000 jobs are associated with the wood-based forest economy and including manufacturing. The forest-based economy generates payrolls of more than $2 billion. New York State’s fruit industry is the largest on the east coast excluding citrus. New York State’s fruit crop is valued at over $400 million annually. The two largest components of that is apples and grapes. New York State ranks 2nd nationally in production of apples and ranks 3rd nationally in the production of grapes. New York State’s apple industry has 694 commercial apple orchards that directly employ 10,000 people and indirectly employ 7,500 people. New York State produces 29.5 million bushels of apples per year. The New York State grape and wine industry has 1,631 vineyards and over 400 wineries. New York State produces over 175 million bottles of wine annually. The grape, wine, and juice industry generates over $4.8 billion annually. The New York State tourism industry employs over 780,000 people generating $64 billion in direct sales and $34.6 billion in salary.

Implementation of the proposed rule will aid in preventing the further spread of this pest into the State from Dauphin County or from Cecil County. A spread of the infestation would have very adverse economic consequences. Additionally, a spread of the infestation could result in the imposition of more restrictive quarantines by the federal government, other states and foreign countries, which would have a detrimental impact upon the financial well-being of these industries.

By helping to prevent the spread of Spotted Lanternfly, the proposed rule helps prevent such adverse economic consequences, which protects the jobs and employment opportunities associated with the State’s nursery, fruit growing, craft beverage, tourism, and forestry industries.

Assessment of Public Comment
The agency received no public comment.

PROPOSED RULE MAKING

NO HEARING(S) SCHEDULED

Control of the Asian Long Horned Beetle (ALB)

I.D. No.: AAM-43-19-00009-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 139.2 of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 18, 163 and 167.

Subject: Control of the Asian Long Horned Beetle (ALB).

Purpose: To lift approximately 58 square miles of Asian long horned beetle quarantine in Brooklyn and western Queens.

Text of proposed rule: Section 139.2 of 1 NYCRR is amended to read as follows:

(a) That area in the boroughs of Brooklyn and Queens in the City of New York that is bounded by a line beginning at the point where the Robert F. Kennedy/Triborough Bridge intersects with the Queens shoreline; then north and east along the Queens shoreline to its intersection with Flushing Creek; then south along the western shoreline of Flushing Creek until intersection with Roosevelt Avenue; then northeast along Roosevelt Avenue to its intersection with the Van Wyck Expressway (Interstate 678); then south along the Van Wyck Expressway (Interstate 678) to its intersection with the Jackie Robinson Parkway; then west along the Jackie Robinson Parkway to Park Avenue; then south at Park Avenue and then north along Liberty Avenue; then west on Liberty Avenue to Euclid Avenue; then south on Euclid Avenue to Linden Boulevard; then west on Linden Boulevard to Caton Avenue; then west on Caton Avenue to the Prospect Expressway; then north and west on the Prospect Expressway to the Gowanus Expressway (Interstate 278); then north and west on the Gowanus Expressway (Interstate 278) to the Hugh L. Carey/Brooklyn Battery Tunnel (Interstate 478); then north through the Hugh L. Carey/Brooklyn Battery Tunnel (Interstate 478) to the point where the tunnel meets the Brooklyn shoreline then north along the Brooklyn and then Queens shoreline of the East River to the point of beginning.
(b) That area in the Villages of Amityville, Babylon, Farmingdale, Lindenhurst, Massapequa Park and the hamlets of North Amityville, Bethpage, Old Bethpage, North Babylon, West Babylon, Copiague, Deer Park, East Farmingdale, South Farmingdale, North Babylon, Massapequa, East Massapequa, N. Massapequa, Wheatley Heights, Massapequa Park, Wantagh, Wantagh West, Wantagh Heights, Wyandanch; in the Towns of Babylon, Oyster Bay and Huntington; in the Counties of Nassau and Suffolk and bounded by a line beginning at a point where West Main Street intersects the west shoreline of Carli's River; then north along Long Avenue (Route 2C) to its intersection with Chuck Boulevard; then northeast along Chuck Boulevard to its intersection with Erlanger Boulevard; then east along Erlanger Boulevard to its intersection with Woods Road; then north along Woods Road to its intersection with Westview Avenue; then west along Westview Avenue to its intersection with West 24th Street; then north along West 24th Street to its intersection with Grand Boulevard; then east on Grand Boulevard to its intersection with West 23rd Street; then north along West 23rd Street continuing north over the Long Island Rail Road tracks and intersecting with Acorn Street; then west along Acorn Street to its junction with Adams Street; then south along Adams Street north and then east to its junction with Somerset Place; then north on Somerset Place to its intersection with Nicolls Road; then west on Nicolls Road to its intersection with Venedia Drive; then north on Venedia Drive to its intersection with Straight Path; then southwest on Straight Path to its junction with Brown Boulevard; then south on Brown Boulevard to its intersection with Lace Place; then west on Lace Place to its intersection with Landscape Drive; then north on Landscape Drive to the point it becomes West Hills Place; then north on West Hills Place to the point it intersects with West Farm Drive; then west on West Farm Drive to its intersection with Bagatelle Road; then north along Bagatelle Road to its intersection with the south service road of the Long Island Expressway, following the south service road of the Long Island Expressway west to its intersection with Round Swamp Road; then south on Round Swamp Road to its junction with Quaker Meeting House Road; then southwest on Quaker Meeting House Road until it intersects with Merritts Road; then west on Merritts Road until the point it becomes Central Avenue; continuing west on Central Avenue until it intersects with the Bethpage Parkway; then south on the Bethpage Parkway until its intersection with Hempstead Turnpike (Route 24); then west on Hempstead Turnpike (Route 24) to its intersection with Hemlock Drive; then south along Hemlock Drive to its intersection with Cheryl Lane North; then east and south along Cheryl Lane North to its intersection with Boundary Avenue; then east on Boundary Avenue to its intersection with North Broadway; then south on North Broadway and Brooklyn Avenue to its junction with Hicksville Road; then south along Hicksville Road to the point it becomes Division Avenue continuing south along Division Avenue to its intersection with South Oyster Bay; then east along the shoreline to Carli's River, then north along the west shoreline of Carli's River to the point of beginning.

Text of proposed rule and any required statements and analyses may be obtained from: Christopher Logue, Department of Agriculture and Markets, 10b Airline Drive, Albany, NY 12235, (518) 457-2087, email: christopher.logue@agriculture.ny.gov

Christopher Logue, Department of Agriculture and Markets, 10b Airline Drive, Albany, NY 12235, (518) 457-2087, email: christopher.logue@agriculture.ny.gov

3
The Department has considered the proposed rule making and has determined that the rule is a consensus rule within the meaning of the State Administrative Procedure Act section 102(11) in that no person is likely to object to the rule as written since it is noncontroversial.

The proposed rule amends section 139.2 of 1 NYCRR to lift approximately 58 square miles of the Asian Long Horned Beetle (ALB) from the quarantine in Brooklyn and western Queens. This action is appropriate at this time since the insect has not been detected in this area during two comprehensive surveys and one tree climbing survey of host trees. Further, the United States Department of Agriculture (USDA) has already released these portions of Brooklyn and Queens from the federal quarantine.

The Department considered the effect of this proposed rule and the changes on jobs in the State and has determined that the proposal would not have an adverse impact on jobs as it removes a regulatory burden.

The lifting of the quarantine in Brooklyn and western Queens will ease regulatory burdens on nursery dealers, nursery growers, landscaping companies, transfer stations, compost facilities and general contractors and private citizens within Brooklyn, and western Queens, by allowing them to move ALB host materials from those areas without the need for compliance agreements or phytosanitary certificates and incurring expenses incident thereto. The lifting of the quarantines will ease burdens on regulated parties without compromising plant health, thereby promoting the general welfare.

Accordingly, since the rule would relax a regulatory burden, it is unlikely that anyone will object to this rule as written since it is noncontroversial.

**Job Impact Statement**

The proposed regulation would amend section 139.2 of 1 NYCRR by lifting the Asian Long Horned Beetle quarantine in Brooklyn and western Queens.

The Department considered the effect of this proposed rule and the changes on jobs in the State and has determined that the proposal would not have an adverse impact on jobs as it removes a regulatory burden.

The proposed rule sets forth reporting and recordkeeping procedures, regarding use force pursuant to section 837-t of the Executive Law, to be followed by the chief of every police department, each county sheriff, and the superintendent of state police which employs police officers or peace officers, and by the Division of Criminal Justice Services.

The proposed regulations require such employers of police and peace officers to report, to the Division, any instance or occurrence where a police or peace officer employs use of force. In addition, on an annual basis, the Commissioner of the Division is required to conspicuously publish on the Division’s website a comprehensive report including the use of force information received.

Repeat and highly publicized incidents of police use of force, and lack of data about these incidents, leaves an impression that there is a lack of accountability by police officers in these cases. The proposed rule provides a mechanism to produce a comprehensive view of use of force incidents reported, including the circumstances, subjects, and officers involved in such incidents. This data can subsequently assist with improving policies and procedures regarding use of force, providing better analyses of reported incidents, and increasing public awareness. This is necessary for the preservation of public safety and the general welfare of people of the State of New York, as it will foster better relations between police and the communities they serve.

On the other hand, the failure to promulgate this rule on an emergency basis will undermine public safety, as the use of force by police, especially if excessive and unchecked, is unsafe for the community, and detrimental to its general welfare. For that reason, it would, in this case, be contrary to public interest to adhere to the normal requirements of the regulation and rule proposal process.

**Subject:** Use of Force.

**Purpose:** Set forth use of force reporting and recordkeeping procedures.

**Text of emergency rule:** New Part 6058 - USE OF FORCE DATA COLLECTION, ANALYSIS AND REPORTING

6058.1 Purpose.

At the forefront of the national discussion involving policing in America is law enforcement use of force, and the lack of statistical data to analyze use of force incidents.

The purpose of this Part is to set forth reporting and recordkeeping procedures, regarding use force pursuant to section 837-t of the Executive Law, to be followed by the chief of every police department, each county sheriff, and the superintendent of state police which employs police officers or peace officers, and by the Division of Criminal Justice Services.

6058.2 Definitions.

As used in this Part, the following terms shall have the following meanings:

(a) Division means the Division of Criminal Justice Services.

(b) Commissioner means the Commissioner of the Division of Criminal Justice Services, or his or her designee.

(c) FBI means the Federal Bureau of Investigation.

(d) Employer means the chief of every police department, each county sheriff, and the superintendent of state police which employs police officers or peace officers.

(e) Police officer means a person designated as such in section 1.20(34) of the Criminal Procedure Law.

(f) Peace officer means a person designated as such in section 2.10 of the Criminal Procedure Law.

(g) Use of force means when a police officer or peace officer does the following:

(1) brandishes, uses or discharges a firearm at or in the direction of another person; or

(2) uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air; or

(3) displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas; or

(4) brandishes, uses or deploys an electronic control weapon, including, but not limited to, oleoresin capsicum, pepper spray or tear gas; or

(5) brandishes, uses or deploys an electronic control weapon, including, but not limited to, a baton or billy; or

(6) engages in conduct which results in the death or serious bodily injury of another person.

(h) Serious bodily injury means a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ or mental faculty.

6058.3 Employer Reporting Requirements.

(a) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, submit or cause to be submitted any instance or occurrence where a police or peace officer employed by it employs use of force.

(b) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, with respect to each use of force event reported, submit or cause to be submitted the following:

(1) the type of use of force;

(2) the date of the event;

(3) village, town, or city, and county location of the event;
(4) the law enforcement agencies involved;
(5) a description of the circumstances of the event;
(6) the race, sex, ethnicity, and age (or, if unknown, approximate age) of all persons engaging in the use of force; and
(7) the race, sex, ethnicity, and age (or, if unknown, approximate age) of all persons suffering an injury from the use of force.

(c) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, submit or cause to be submitted any additional information the commissioner may require the employer to report, including, but not limited to, use of force events and incident information, subject information, and officer information related to each event as required by the FBI in coordination with the FBI’s Uniform Crime Reporting (“UCR”) Program.

6058.4 Employer Reporting Form.

Each employer shall submit all information required to be reported in accordance with section 6058.3 of this Part to the division in the form and manner as prescribed by the division.

6058.5 Division Reporting Requirements.

(a) On an annual basis, the commissioner shall conspicuously publish on the division’s website a comprehensive report including the use of force information received under section 6058.3 of this Part during the preceding year.

(b) Such reports shall not identify the names of the individuals involved, but for each use of force event reported, shall list the following in accordance with section 837-t of the executive law:

(1) the type of use of force;  
(2) the date of the event;  
(3) the location of the event disaggregated by county and law enforcement agencies involved;  
(4) the town or city where the event occurred;  
(5) any additional relevant location information;  
(6) a description of the circumstances of the event;  
(7) the race, sex, ethnicity, age (or, if unknown, approximate age) of all persons engaging in the use of force; and  
(8) the race, sex, ethnicity, age (or, if unknown, approximate age) of all persons suffering an injury from the use of force.

This notice is intended to serve only as a notice of emergency adoption.

This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. CJS-30-19-00010-EP, Issue of July 24, 2019. The emergency rule will expire December 6, 2019.

Text of rule and any required statements and analyses may be obtained from: Natasha Harvin-Locklear, Esq., Division of Criminal Justice Services, 80 S. Swan St., Albany, NY 12210, (518) 457-8413, email: dcjslegalerulemaking@dcjs.ny.gov

Regulatory Impact Statement

1. Statutory authority: The authority for the promulgation of these regulations is contained in Executive Law § 837-t and Executive Law § 837(13).

Executive Law § 837-t sets forth use of force reporting procedures to be followed by the chief of every police department, each county sheriff, and the Superintendent of State Police which employs police officers or peace officers, and by the Division of Criminal Justice Services (Division).

Executive Law § 837(13) authorizes the Division to adopt, amend or rescind regulations “as may be necessary or convenient to the performance of the functions, powers and duties of the [D]ivision.”

2. Legislative objectives: Chapter 55 of the Laws of 2019 added Executive Law § 837-t. Pursuant to that section, the chief of every police department, each county sheriff, and the Superintendent of State Police is required to report, to the Division, any instance or occurrence in which one of its police officers or peace officers employs use of force. This includes the following:

(a) brandishes, uses or discharges a firearm at or in the direction of another person; or
(b) uses achokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air; or
(c) displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas; or
(d) brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy club; or
(e) brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb or long-range acoustic device; or
(f) engages in conduct which results in the death or serious bodily injury of another person.

In addition, on an annual basis, the Commissioner of the Division is required to conspicuously publish on the Division’s website a comprehensive report including the use of force information received, such as:

(a) the type of use of force;  
(b) the date of the event;  
(c) the location of the event disaggregated by county and law enforcement agencies involved;  
(d) the town or city where the event occurred;  
(e) any additional relevant location information;  
(f) a description of the circumstances of the event;  
(g) the race, sex, ethnicity, age (or, if unknown, approximate age) of all persons engaging in the use of force; and  
(h) the race, sex, ethnicity, age (or, if unknown, approximate age) of all persons suffering an injury from such use of force.

3. Needs and benefits: At the forefront of the national discussion involving policing in America is law enforcement’s use of force, and the lack of statistical data to analyze use of force incidents.

The proposed rule sets forth reporting and recordkeeping procedures, regarding use force pursuant to section 837-t of the Executive Law, to be followed by the chief of every police department, each county sheriff, and the Superintendent of State Police which employs police officers or peace officers, and by the Division. The proposed regulations require such employers of police and peace officers to report, to the Division, any instance or occurrence where a police or peace officer employs use of force. In addition, on an annual basis, the Commissioner of the Division is required to conspicuously publish on the Division’s website a comprehensive report including the use of force information received.

Repealed and highly publicized incidents of police use of force, and lack of data about these incidents, leaves an impression that there is a lack of accountability by police officers in these cases. The proposed rule provides a mechanism to produce a comprehensive view of use of force incidents reported, including the circumstances, subjects, and officers involved in such incidents. This data can subsequently assist with improving policies and procedures regarding use of force, providing better analyses of reported incidents, and increasing public awareness. This is necessary for the preservation of public safety and the general welfare of people of the State of New York, as it will foster better relations between police and the communities they serve.

4. Costs: No funds were appropriated in the Budget to offset any costs to regulated parties, the agency, or State and local governments for the implementation of and continuing compliance with the rule. However, the costs (and potential savings) are undetermined, but are expected to include:

• the training of police officers and peace officers on the new use of force reporting requirements;
• the creation/modification of use of force reporting forms and/or systems;
• professional services to create/update use of force forms and/or systems;
• professional services to update websites, and website hosting and maintenance fees;
• the use of existing resources; and
• the fact that, if not all, of the information that must be reported is already gathered or reported for other purposes.

5. Local government mandates: The proposed regulations will require employers of police and peace officers to report, to the Division, any instance or occurrence where a police or peace officer employed by it employs use of force.

6. Paperwork: The employers may have paperwork within its agency. However, each employer shall submit all information required to be reported to the Division electronically.

7. Duplication: The FBI established the National Use of Force Data Collection. However, participation by law enforcement is voluntary.

8. Alternatives: There are no alternatives. The proposed rule is pursuant to legislation.

9. Federal standards: The National Use of Force Data Collection includes three types of events:

(a) when use of force by a law enforcement officer causes a fatality;  
(b) when use of force by a law enforcement officer causes serious bodily injury; and  
(c) in the absence of either death or serious bodily injury, when a law enforcement officer discharges a firearm at or in the direction of a person.

The National Use of Force Data Collection also includes extensive incident information, subject information, and officer information related to each event.

Compliance schedule: Regulated parties are expected to be able to achieve compliance with the proposed rule as soon as it is adopted.

Regulatory Flexibility Analysis

1. Effect of rule: The proposed rule applies to every police department and sheriff’s office in New York State, and the New York State Police. The proposed rule does not apply to small businesses.

2. Compliance requirements: The proposed rule implements Executive Law § 837-t, which requires the chief of every police department, each county sheriff, and the Superintendent of State Police to report, to the
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Division of Criminal Justice Services (Division), any instance or occurrence in which one of its police officers or peace officers employs use of force. This includes the following:
(a) brandishes, uses or discharges a firearm at or in the direction of another person; or
(b) uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air; or
(c) displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas; or
(d) brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy; or
(e) brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb or long-range acoustic device; or
(f) engages in conduct which results in the death or serious bodily injury of another person.

In addition, on an annual basis, the Commissioner of the Division is required to conspicuously publish on the Division’s website a comprehensive report including the use of force information received, such as:
(a) the type of use of force;
(b) the date of the event;
(c) the location of the event disaggregated by county and law enforcement agencies involved;
(d) the town or city where the event occurred;
(e) any additional relevant location information;
(f) a description of the circumstances of the event;
(g) the race, sex, ethnicity, age (or, if unknown, approximate age) of all persons engaging in the use of force; and
(h) the race, sex, ethnicity, age (or, if unknown, approximate age) of all persons suffering an injury from the use of force.

3. Professional services: Professional printing and/or IT services will be needed to comply with the proposed rule.

4. Compliance costs: No funds were appropriated in the Budget to offset any costs to regulated parties, the agency, or State and local governments for the implementation of and continuing compliance with the rule. However, the costs (and potential savings) are undetermined, but are expected to include:
• the training of police officers and peace officers on the new use of force reporting requirements;
• the creation/modification of use of force reporting forms and/or systems;
• professional services to update websites, and website hosting and maintenance fees;
• the use of existing resources; and
• the fact that most, if not all, of the information that must be reported is already gathered or reported for other purposes.

5. Economic and technological feasibility: No economic or technological impediments to compliance have been identified.

6. Minimizing adverse impact: The mandates on local governments are minimal as law enforcement agencies already submit crime reports to the Division. Each employer is required to submit all information to the Division electronically.

7. Small business and local government participation: Use of force has long been a topic of discussion. A Use of Force Model Policy that references the new reporting requirements of Executive Law § 837-t, which are codified in the proposed regulations, was discussed and approved by the Municipal Police Training Council, which consists of members who are sheriffs, chiefs of police or commissioners of police, and the commissioner of New York City. The proposal does not apply to small businesses.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: The rule applies to every police department and sheriff’s office in New York State, and the New York State Police. Many law enforcement agencies are located in rural areas.

2. Reporting, recordkeeping and other compliance requirements: and professional services: The proposed rule implements Executive Law § 837-t, which requires the chief of every police department, each county sheriff, and the Superintendent of State Police to report, to the Division of Criminal Justice Services (Division), any instance or occurrence in which one of its police officers or peace officers employs use of force. This includes the following:
(a) brandishes, uses or discharges a firearm at or in the direction of another person; or
(b) uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air; or
(c) displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas; or
(d) brandishes, uses or deploys an impact weapon, including, but not limited to, an electronic stun gun, flash bomb or long-range acoustic device; or
(e) brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb or long-range acoustic device; or
(f) engages in conduct which results in the death or serious bodily injury of another person.

In addition, on an annual basis, the Commissioner of the Division is required to conspicuously publish on the Division’s website a comprehensive report including the use of force information received, such as:
(a) the type of use of force;
(b) the date of the event;
(c) the location of the event disaggregated by county and law enforcement agencies involved;
(d) the town or city where the event occurred;
(e) any additional relevant location information;
(f) a description of the circumstances of the event;
(g) the race, sex, ethnicity, age (or, if unknown, approximate age) of all persons engaging in the use of force; and
(h) the race, sex, ethnicity, age (or, if unknown, approximate age) of all persons suffering an injury from the use of force.

Each employer is required to submit all information as part of the employer’s monthly crime reports to the Division. Thus, the mandates on local governments are minimal as law enforcement agencies already report incident data to the Division.

Professional printing and/or IT services will be needed to comply with the proposed rule.

3. Costs: No funds were appropriated in the Budget to offset any costs to regulated parties, the agency, or State and local governments for the implementation of and continuing compliance with the rule. However, the costs (and potential savings) are undetermined, but are expected to include:
• the training of police officers and peace officers on the new use of force reporting requirements;
• the creation/modification of use of force reporting forms and/or systems;
• professional services to create/update use of force forms and/or systems;
• professional services to update websites, and website hosting and maintenance fees;
• professional services to update websites, and website hosting and maintenance fees;
• the use of existing resources; and
• the fact that most, if not all, of the information that must be reported is already gathered or reported for other purposes.

4. Minimizing adverse impact: The mandates on local governments are minimal as law enforcement agencies already submit crime reports to the Division. Each employer is required to submit all information to the Division electronically.

5. Rural area participation: Use of force has long been a topic of discussion. A Use of Force Model Policy that references the new reporting requirements of Executive Law § 837-t, which are codified in the proposed regulations, was discussed and approved by the Municipal Police Training Council, which consists of members who are sheriffs, chiefs of police or commissioners of police, and the commissioner of New York City.

Job Impact Statement

A Job Impact Statement is not being submitted with this Notice of Emergency Adoption and Proposed Rule Making because it is evident from the subject matter of the regulation that it will have no adverse impact on jobs or employment opportunities.

The proposed rule merely sets forth use of force reporting procedures to be followed by the chief of every police department, each county sheriff, and the Superintendent of State Police which employs police officers or peace officers, and by the Division of Criminal Justice Services.
**Finding of necessity for emergency rule:** Preservation of general welfare.

**Specific reasons underlying the finding of necessity:** Regulatory action is needed immediately to implement the statutory changes contained in Chapter 57 of the Laws of 2009. The emergency rule also clarifies the administrative procedures of the program, improves efficiency and helps make it more cost-effective and accountable to the State’s taxpayers, particularly in light of New York’s current fiscal climate. It bears noting that General Municipal Law section 959(a), as amended by Chapter 57 of the Laws of 2009, expressly authorizes the Commissioner of Economic Development to adopt emergency regulations to govern the program.

**Subject:** Economic Zones reform.

**Purpose:** Allow department to continue implementing Zones reforms and adopt changes that would enhance program’s strategic focus.

**Substance of emergency rule:** The emergency rule is the result of changes to Article 18-B of the General Municipal Law pursuant to Chapter 63 of the Laws of 2000, Chapter 63 of the Laws of 2005, and Chapter 57 of the Laws of 2009. These laws, which authorize the empire zones program, were changed to make the program more effective and less costly through higher standards for zone eligibility and the program and for continued eligibility to remain in the program. Existing regulations fail to address these requirements and the existing regulations contain several outdated references. The emergency rule will correct these items.

The rule contains in 5 NYCRR Parts 10 through 14, (now Parts 10-16 as amended), which governs the empire zones program, is amended as follows:

1. The emergency rule, tracking the requirements of Chapter 63 of the Laws of 2005, requires placement of zone acreage into "distinct and separate contiguous areas.

2. The emergency rule updates several outdated references, including:
   - the name change of the program from Economic Development Zones to Empire Zones, the replacement of Standard Industrial Codes with the North American Industrial Codes, the renaming of census-tract zones as investment zones, the renumbering of counties as development zones, and the replacement of the Job Training Partnership Act (and private industry councils) with the Workforce Investment Act (and local workforce investment boards).

3. The emergency rule adds the statutory definition of "cost-benefit analysis" and provides for its use and applicability.

4. The emergency rule also adds several other definitions (such as applicant municipality, chief executive, concurring municipality, empire zone capital tax credits or zone capital tax credits, clean energy research and development enterprise, change of ownership, benefit-cost ratio, capital investments, single business enterprise and regionally significant project) and conforms several existing regulatory definitions to statutory definitions, including zone equivalent areas, women-owned business enterprise, minority-owned business enterprise, qualified investment project, zone development plans, and significant capital investment projects.

5. The emergency rule grants discretion to the Commissioner to revise a zone’s boundaries. The primary effect of this is to limit the number of those businesses eligible for the Zone Capital Credit.

6. The emergency rule tracks the amended statute’s deletion of the category of contribution Empire Zone Capital Corporation from those businesses eligible for the Zone Capital Credit.

7. The emergency rule tracks the amended statute’s deletion of the category of contribution Empire Zone Capital Corporation from those businesses eligible for the Zone Capital Credit.

8. The emergency rule grants discretion to the Commissioner to determine the contents of an empire zone application form.

9. The emergency rule grants discretion to the Commissioner to determine the contents of an empire zone application form.

10. The emergency rule tracks the amended statute’s deletion of the category of contribution Empire Zone Capital Corporation from those businesses eligible for the Zone Capital Credit.

11. The emergency rule describes the amended certification and decertification processes. The authority to certify and decertify now rests solely with the Commissioner with reduced roles for the Department of Labor and the local zone. Local zone boards may recommend projects to the State for approval. The labor commissioner must determine whether an applicant firm has been engaged in substantial violations, or pattern of violations of laws regulating unemployment insurance, workers’ compensation, public work, child labor, employment of minorities and women, safety and health, or other conditions for the protection of workers as determined by final judgment of a judicial or administrative proceeding. If such applicant firm has been found in a criminal proceeding to have committed any such violations, the Commissioner may not certify that firm.

12. The emergency rule describes new eligibility standards for certification. The new factors may be considered by the Commissioner when deciding whether to certify a firm is (i) whether a non-manufacturing applicant firm projects a benefit-cost ratio of at least 20:1 for the first three years of certification; (ii) whether a manufacturing applicant firm projects a benefit-cost ratio of at least 10:1 for the first three years of certification; (iii) whether the business enterprise conforms with the zone development plan.

13. The emergency rule adds the following new justifications for decertification of firms: (a) the business enterprise, that has submitted at least three years of business annual reports, has failed to provide economically to the State in the form of tax credits or zone capital tax credits, clean energy research and development enterprise, if first certified prior to August 1, 2002, caused individuals to transfer from existing employment with another business enterprise with similar ownership and located in New York state to similar employment with the certified business enterprise or if the enterprise acquired, purchased, leased, or had transferred to it real property previously owned by an entity with similar ownership, regardless of form of incorporation or organization, that is under common ownership, that was located out of the Zone, (d) failure to pay wages and benefits or make capital investments as represented on the firm’s application, (e) the business enterprise makes a material misrepresentation of fact in any of its business annual reports, and (f) the business enterprise fails to invest in its facility substantially in accordance with the representations contained in its application. In addition, the regulations track the statute in permitting the decertification of a business enterprise if it failed to create new employment or prevent a loss of employment in the zone or zone equivalent area, and deletes the condition that such failure was not due to economic circumstances or conditions which such business could not anticipate or avoid which were beyond its control. The emergency rule provides that the Commissioner shall revoke the certification of a firm if the firm fails the standard set forth in (a) above, or if the Commissioner makes the findings in (b) above, unless the Commissioner determines in his or her discretion, after consultation with the Budget and the Commissioner, that economic and social and environmental factors warrant continued certification of the firm. The emergency rule further provides for a process to appeal revocations of certifications based on (a) or (b) above to the Empire Zones Designation Board. The emergency rule also provides that the Commissioner may revoke the certification of a firm upon a finding of any one of the other criteria for revocation of certification set forth in the rule.

14. The emergency rule adds a new Part 12 implementing record-keeping requirements. Any firm choosing to participate in the empire zones program must maintain and have available, for a period of six years, all information related to the application and business annual reports.

15. The emergency rule clarifies the statutory requirement from Chapter 63 of the Laws of 2005 that development zones (formerly county zones) create up to three areas within their reconfigured zones as investment (formerly census tract). The emergency rule further provides for a process to appeal revocations of certifications based on (a) or (b) above to the Empire Zones Designation Board. The emergency rule also provides that the Commissioner may revoke the certification of a firm upon a finding of any one of the other criteria for revocation of certification set forth in the rule.

16. The emergency rule clarifies the statutory requirements that zones reconfigure their existing acreage in up to three (for investment zones) or six (for development zones) distinct and separate contiguous areas, and that zones can allocate up to their total allotted acreage at the time of designation. These reconfigured zones must be presented to the Empire Zones Designation Board for unanimous approval. The emergency rule
makes clear that zones may not necessarily designate all of their acreage into three or six areas or use all of their allotted acreage; the rule removes the requirement that any subsequent additions after their official redesignation by the Designation Board will still require unanimous approval by that Board.

17. The emergency rule clarifies the statutory requirement that certain defined "regionally significant" projects can be located outside of the distinct and separate contiguous areas. There are four categories of projects: (i) a manufacturer projecting the creation of fifty or more net new jobs in the State of New York; (ii) an agri-food or bio-tech business making a capital investment of ten million dollars and creating twenty or more net new jobs in the State of New York; (iii) a financial or insurance business with three hundred or more net new jobs in the State of New York, and (iv) a clean energy research and development enterprise. Other projects may be considered by the zone designation board. Only one category of projects, manufacturers projecting the creation of 50 or more net new jobs, are allowed to progress before the identification of the distinct and separate contiguous areas and/or the approval of certain regulations by the Empire Zones Designation Board. Regionally significant projects that fall within the four categories listed above must be projects that are exporting 60% of their goods or services beyond the State's borders or exporting a substantial amount of goods or services outside the region and export a substantial amount of goods or services beyond the State.

18. The emergency rule clarifies the status of community development projects as a result of the statutory reconfiguration of the zones.

19. The emergency rule clarifies the provisions under Chapter 63 of the Laws of 2005 that allow for zones to designate businesses which will be located outside of the distinct and separate contiguous areas to receive zone benefits until decertified. The area which will be "grandfathered" shall be limited to the expansion of the certified business within the parcel or portion thereof that was originally located in the zone before redesignation. Each zone must identify such businesses by December 30, 2005.

20. The emergency rule elaborates on the "demonstration of need" requirement mentioned in Chapter 63 of the Laws of 2005 for the creation of new zones. A zone can demonstrate the need for a fourth or, as the case may be, a seventh distinct and separate contiguous area if (1) there is insufficient existing or planned infrastructure within the three or six distinct and separate contiguous areas to accommodate business development and there are other areas of the applicant municipality that can be characterized as economically distressed, and (b) accommodate development of strategic businesses as defined in the local development plan, or (2) placing all acreage in the three or six distinct and separate contiguous areas would be inconsistent with open space and wetland protection, or (3) there are insufficient lands available for further business development or projects within the distinct and separate contiguous areas.

The full text of the emergency rule is available at www.empire.state.ny.us

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires January 1, 2020.

Text of rule and any required statements and analyses may be obtained from: Thomas P Regan, Department of Economic Development, 625 Broadway, Albany, NY 12245, (518) 292-5123, email: thomas.regan@esd.ny.gov

Regulatory Impact Statement

STATUTORY AUTHORITY:

Section 959(a) of the General Municipal Law authorizes the Commissioner of Economic Development to adopt an emergency basis rules and regulations governing the criteria of eligibility for empire zone designation, the application process, the certification of a business enterprises as to eligibility of benefits under the program and the decertification of a business enterprise so as to revoke the certification of business enterprises for benefits under the program.

LEGISLATIVE OBJECTIVES:

The rulemaking accords with the public policy objectives the Legislature sought to advance because the majority of such revisions are in direct response to statutory amendments and the remaining revisions either conform to the regulations to existing statute or clarify administrative procedures of the program. These amendments further the Legislative goals and objectives of the Empire Zones program, particularly as they relate to regionally significant projects, the cost-benefit analysis, and the process for certification and decertification of business enterprises. The proposed rule amendments strengthen the rule by clarifying the addition of this program in a more efficient, effective, and accountable manner.

NEEDS AND BENEFITS:

The emergency rule is required in order to implement the statutory changes contained in Chapter 37 of the Laws of 2009. The emergency rule also clarifies the administrative procedures of the program, improves efficiency and helps make it more cost-effective and accountable to the State’s taxpayers, particularly in light of New York’s current fiscal climate.

COSTS:

A. Costs to private regulated parties: None. There are no regulated parties in the Empire Zones program, only voluntary participants.

B. Costs to the agency, the state, and local governments: There will be additional costs to the Department of Economic Development associated with the emergency rule. These costs pertain to the addition of personnel that may need to be hired to implement the Empire Zones program reforms. There may be savings for the Department of Labor associated with the streamlining of the State’s administration and concentration of authority within the Department of Economic Development. There is no additional cost to local governments.

C. Costs to the State government: None. There will be no additional costs to New York State as a result of the emergency rule making.

DEPARTMENT OF LABOR:

None. Local governments are not mandated to participate in the Empire Zones program. If a local government chooses to participate, there is a cost associated with local administration. It was the local government officials agreed to bear at the time of application for designation as an Empire Zone. One of the requirements for designation was a commitment to local administration and an identification of local resources that would be dedicated to local administration.

This emergency rule does not impose any additional costs to the local governments for administration of the Empire Zones program.

PAPERWORK:

The emergency rule imposes new record-keeping requirements on business entities choosing to participate in the Empire Zones program. The emergency rule requires all businesses that participate in the program to establish and maintain complete and accurate books relating to their participation in the Empire Zones program for a period of six years.

DUPLICATION:

The rule conforms to provisions of Article 18-B of the General Municipal Law and does not otherwise duplicate any state or federal statutes or regulations.

ALTERNATIVES:

No alternatives were considered with regard to amending the regulations in response to statutory revisions.

FEDERAL STANDARDS:

There are no federal standards in regard to the Empire Zones program. Therefore, the emergency rule does not exceed any Federal standard.

COMPLIANCE SCHEDULE:

The period of time the state needs to assure compliance is negligible.

The Department of Economic Development expects to be compliant immediately.

Regulatory Flexibility Analysis

1. Effect of rule:

The emergency rule imposes new record-keeping requirements on small businesses and large businesses choosing to participate in the Empire Zones program. The emergency rule requires all businesses that participate in the program to establish and maintain complete and accurate books relating to their participation in the Empire Zones program for a period of six years. Local governments are unaffected by this rule.

2. Compliance requirements

Each small business and large business choosing to participate in the Empire Zones program must establish and maintain complete and accurate books and records, documentation, and other evidence relating to such business’s application for entry into the Empire Zone program and relating to existing annual reporting requirements. Local governments are unaffected by this rule.

3. Professional services

No alternative services are likely to be needed by small and large businesses in order to establish and maintain the required records. Local governments are unaffected by this rule.

4. Compliance costs

No initial capital costs are likely to be incurred by small and large businesses choosing to participate in the Empire Zones program. Annual compliance costs are estimated to be negligible for both small and large businesses. Local governments are unaffected by this rule.

5. Economic and technological feasibility

The Department of Economic Development (“DED”) estimates that complying with this record-keeping is both economically and technologically feasible. Local governments are unaffected by this rule.

6. Minimizing adverse impact

DED finds no adverse economic impact on small or large businesses with respect to this rule. Local governments are unaffected by this rule.

7. Small business and local government participation

DED is in full compliance with SAPA Section 202-b(6), which ensures that small businesses and local governments have an opportunity to participate in the rule-making process. DED has conducted outreach within the small and large business communities and maintains continuous contact with small businesses and large businesses with regard to their participation in this program. Local governments are unaffected by this rule.
Rural Area Flexibility Analysis
The Empire Zones program is a statewide program. Although there are municipalities and businesses in rural areas of New York State that are eligible to participate in the program, participation by the municipalities and businesses is entirely at their discretion. The emergency rule imposes no additional reporting, record keeping or other compliance requirements on public or private entities in rural areas. Therefore, the emergency rule will not have a substantial adverse economic impact on rural areas or reporting, record keeping or other compliance requirements on public or private entities in such rural areas. Accordingly, a rural area flexibility analysis is not required and one has not been prepared.

Job Impact Statement
The emergency rule relates to the Empire Zones program. The Empire Zones program itself is a job creation incentive, and will not have a substantial adverse impact on jobs and employment opportunities. In fact, the emergency rule, which is being promulgated as a result of statutory reforms, will enable the program to continue to fulfill its mission of job creation and investment for economically distressed areas. Because it is evident from its nature that this emergency rule will have either no impact or a positive impact on job and employment opportunities, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

EMERGENCY RULE MAKING
START-UP NY Program

L.D. No. EDV-43-19-00003-E
Filing No. 904
Filing Date: 2019-10-04
Effective Date: 2019-10-04

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

Action taken: Addition of Part 220 to Title 5 NYCCR.

Statutory authority: Economic Development Law, art. 21, sections 435-36; L. 2013, ch. 68

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

Specific reasons underlying the finding of necessity: On June 24, 2013, Governor Andrew Cuomo signed into law the SUNY Tax-Free Areas to Revitalize and Transform Upstate New York (START-UP NY) program, which offers an array of tax benefits to eligible businesses and their employees that locate in facilities affiliated with New York universities and colleges. The START-UP NY program will leverage these tax benefits to attract innovative start-ups and high tech industries to New York so as to create jobs and promote economic development.

Regulatory action is required to implement the START-UP NY program. The legislation creating the START-UP NY program delegated to the Department of Economic Development the establishment of procedures for the implementation and execution of the START-UP NY program. Without regulatory action by the Department of Economic Development, procedures will not be in place to accept applications from institutions of higher learning desiring to create Tax-Free Areas, or businesses wishing to participate in the START-UP NY program.

Adoption of this rule will enable the State to begin accepting applications from businesses to participate in the START-UP NY program, and represent a step towards the realization of the strategic objectives of the START-UP NY program: attracting and retaining cutting-edge start-up companies, and positioning New York as a global leader in high tech business.

Eligibility of vacant land and space varies based on whether it is affiliated with a SUNY college, CUNY college, community college, or private college, and whether the land or space in question is located upstate, downstate, or in New York City. The regulation prohibits any allocation of land or space that would result in the closure or relocation of any program or service associated with a university or college that serves students, faculty, or staff.

5) The regulation establishes eligibility requirements for businesses to participate in the START-UP NY program, and enumerates excluded industries. To be eligible, a business must: be a new business to the State at the time of its application, subject to exceptions for NYS incubators, businesses previously relocated, or businesses the Commissioner has determined will create net new jobs; comply with applicable worker protection, environmental, and tax laws; align with the academic mission of the sponsoring institution (the Sponsor); demonstrate that it will create net new jobs in its first year of operation; and be engaged in the same line of business that it conducted at any time within the last five years in New York without the approval of the Commissioner. Businesses locating in upstate New York without the approval of the Commissioner. Businesses locating in upstate New York without the approval of the Commissioner. Businesses locating in downstate must be in the formative stages of development, or engaged in a high tech business. To remain eligible, the business must, at a minimum, maintain net new jobs and the average number of jobs that existed with the business immediately before entering the program.

6) The regulation describes the process for approval of Tax-Free Areas. An eligible institution may submit a plan to the Commissioner identifying land or space to be designated as a Tax-Free Area. This plan must: identify the location of the applicable land or space; describe business activities to be conducted on the land or space; establish that the business activities in question align with the mission of the institution; indicate how the business would generate positive community economic benefits; summarize the Sponsor’s procedures for attracting businesses; include a copy of the institution’s conflict of interest guidelines; and certify that the proposed Tax-Free Area will not jeopardize or conflict with any existing tax-exempt bonds used to finance the Sponsor; and certify that the Sponsor has not relocated or eliminated programs serving students, faculty, or staff to create the vacant land. Applications by private institutions require approval by both the Commissioner and the START-UP NY Approval Board.

The START-UP NY Approval Board is to approve applications so as to ensure balance among rural, urban and suburban areas throughout the state.

7) A sponsor applying to create a Tax-Free Area must provide a copy of its plan to the chief executive officer of any municipality in which the proposed Tax-Free Area is located, local economic development entities, the applicable university or college faculty senate, union representatives and the campus student government. Where the plan includes land or space outside of the campus boundaries of the university or college, the institution must consult with the chief executive officer of any municipality in which the proposed Tax-Free Area is to be located, and give preference to underutilized properties identified through this consultation. The Commissioner may enter onto any land or space identified in a plan, or audit any information supporting a plan application, as part of his or her duties in administering the START-UP program.

8) The regulation provides that amendments to approved plans may be made at any time through the same procedures as such plans were originally approved. Amendments that would violate the terms of a lease between a sponsor and a business in a Tax-Free Area will not be approved. Sponsors may amend their plans to reallocate vacant land or space in the case that a business, located in a Tax-Free Area, is disqualified from the program but elects to remain on the property.

9) The regulation describes application and eligibility requirements for businesses to participate in the START-UP program. Businesses are to submit applications to sponsoring universities and colleges by 12/31/20. An applicant must: (1) authorize the Department of Labor (DOL) and...
Department of Taxation and Finance (DTF) to share the applicant’s tax information with the Department of Economic Development (DED). The low DED to monitor the applicant’s compliance with the START-UP program and agree to submit an annual report in such form as the Commissioner shall require; (3) provide to DED, upon request, information related to the business’s tax returns, investment plans, development strategy, and non-competition with any businesses in the community but outside of the Tax-Free Area; (4) certify efforts to ascertain that the business would not compete with another business in the same community but outside the Tax-Free Area, including an affidavit that no request for the application was published in a daily publication no fewer than five consecutive days; (5) include a statement of performance benchmarks as to new jobs to be created through the applicant’s participation in START-UP; (6) provide a statement of consequences for non-conformance with the performance benchmarks program, including a proportional recovery of tax benefits when the business fails to meet job creation benchmarks in up to three years of a ten-year plan, and removal from the program for failure to meet job creation benchmarks in at least four years of a ten-year plan; (7) identify information submitted to DED that the business deems confidential, privileged, or a trade secret. Sponsors forward applications deemed to meet eligibility requirements to the Commissioner for further review. The Commissioner shall reject any application that does not satisfy the START-UP program eligibility requirements or purpose, and provide written notice of the rejection to the Sponsor. The Commissioner may approve an application any time after receipt; if the Commissioner approves the application, the business applicant is deemed accepted into the START-UP NY Program and can locate to the Sponsor’s Tax-Free NY Area. Applications not rejected will be deemed accepted after sixty days. The Commissioner is to provide documentation of acceptance to successful applicants.

10) The regulation provides that a business shall be deemed served three days after notice of appeal is mailed to the appeal officer who, in reaching his or her decision, may seek information from DED, DTF, and DOL to all records relating to facilities located in Tax-Free Areas at a business location within the State during normal business hours. DED, DTF, and DOL are to take reasonable steps to prevent public disclosure of information defining the business, the location, and the business and its Sponsor of the decision in writing. This removal notice provides the basis for the removal decision, the effective removal date, and the means by which the affected business may appeal the removal decision. A business shall be deemed served three days after notice is sent. Following a final decision, or waiver of the right to appeal by the business, DED is to forward a copy of the removal notice to DTF, and the business is not to receive further tax benefits under the START-UP program.

14) To appeal removal from the START-UP program, a business must send written notice of appeal to the Commissioner within thirty days from the mailing of the notice. The appeal notice is to be verified in full and contain specific factual information and all legal arguments that form the basis of the appeal. The appeal is to be adjudicated in the first instance by an appeal officer who, in reaching his or her decision, may seek information from outside sources, or require the parties to provide more information. The appeal officer is to prepare a report and make recommendations to the Commissioner. The Commissioner shall render a final decision based upon the appeal officer’s report, and provide reasons for any findings of fact or law that conflict with those of the appeal officer.

16) In order to assess business performance under the START-UP program, the Commissioner may require the applicant to submit annual reports on or before March 15 of each year describing the businesses’ continued satisfaction of eligibility requirements, jobs data, an accounting of wages paid to employees in net new jobs, and any other information the Commissioner may require. Information contained in businesses’ annual reports may be made public by the Commissioner.

The Freedom of Information Law is applicable to the START-UP program, subject to disclosure waivers to protect certain proprietary information submitted in support of application to the START-UP program.

18) All businesses must keep relevant records throughout their participation in the START-UP program, plus three years. DED has the right to inspect all such documents upon reasonable notice.

If the Commissioner determines that a business has acted fraudulently in connection with its participation in the START-UP program, the business shall be immediately terminated from the program, subject to criminal penalties, and liable for taxes that would have been levied against the business during the current year.

20) The regulation requires participating universities and colleges to maintain a conflict of interest policy relevant to issues that may arise during the START-UP program, and to report violations of said policies to the Commissioner for publication.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires January 1, 2020. Text of rule and any required statements and analyses may be obtained from: Thomas Regan, Department of Economic Development, 625 Broadway, Albany, NY 12207, (518) 292-5123, email: thomas.regan@esd.ny.gov.

Regulatory Impact Statement

Statutory Authority:

Chapter 68 of the Laws of 2013 requires the Commissioner of Economic Development to promulgate rules and regulations to establish procedures for the implementation and execution of the SUNY Tax-Free Areas and businesses wishing to participate in the START-UP NY. These procedures include, but are not limited to, the application processes for both academic institutions wishing to create Tax-Free NY Areas and businesses wishing to participate in the START-UP NY program, standards for evaluating applications, and any other provisions the Commissioner deems necessary and appropriate.

Legislative Objectives:

The proposed rule is in accord with the public policy objectives the New York State Legislature sought to advance by enacting the START-UP NY program, which provides an incentive to businesses to locate critical high-tech industries in New York State as opposed to other competitive markets in the U.S. and abroad. It is the public policy of the State to establish Tax-Free Areas affiliated with New York universities and colleges, and to afford significant tax benefits to businesses, and the employees of those businesses, that locate within these Tax-Free Areas. The tax benefits are designed to attract and retain innovative and high-tech industries, and secure for New York the economic activity they generate. The proposed rule helps to further such objectives by establishing the application process for the program, clarifying the nature of eligible businesses, and facilities, and describing key provisions of the START-UP NY program.

Needs and Benefits:

The emergency rule is necessary in order to implement the statute contained in Article 21 of the Economic Development Law, creating the START-UP NY program. The statute directs the Commissioner of Economic Development to establish procedures for the implementation and execution of the START-UP NY program.

Upstate New York has faced longstanding economic challenges due in part to the departure of major business actors from the region. This divestment from upstate New York has left the economic potential of the region unrealized, and left many upstate New Yorkers unemployed.

START-UP NY will promote economic development and job creation in New York, particularly the upstate region, through tax benefits conditioned on locating business facilities in Tax-Free NY Areas. Attracting high-tech industries in New York State is critical to restoring the economy of upstate New York, and to positioning the state as a whole to be competitive in a globalized economy. These goals cannot be achieved without first establishing procedures by which to admit businesses into the START-UP NY program.

The proposed regulation establishes procedures and standards for the implementation of the START-UP program, especially rules for the creation of Tax-Free NY Areas, application procedures for the admission of businesses into the program, and eligibility requirements for continued receipt of START-UP NY benefits for admitted businesses. These rules set the low for the prompt and efficient commencement of the START-UP NY program, ensure accountability of business participants, and promote the general welfare of New Yorkers.
The rule establishes certain property tax benefits for businesses locating in Tax-Free NY Areas that may impact local governments. However, as described in the accompanying statement in lieu of a regulatory flexibility analysis for small businesses and local governments, the program is expected to have a net-positive impact on local government.

PAPERWORK:
The rule establishes application and eligibility requirements for Tax-Free NY Areas proposed by universities and colleges, and participating businesses. These regulations establish paperwork burdens that include materials to be submitted as part of applications, documents that must be submitted to maintain eligibility, and information that must be retained for auditing purposes.

DUPLICATION:
The proposed rule will create a new section of the existing regulations of the Commissioner of Economic Development, Part 220 of 5 NYCRR. Accordingly, there is no risk of duplication in the adoption of the proposed rule.

ALTERNATIVES:
No alternatives were considered in regard to creating a new regulation in response to the statutory requirement. The regulation implements the statutory amendment of the START-UP NY program regarding the application process for creation of Tax-Free NY Areas and certification as an eligible business. This action is necessary in order to clarify program participation requirements and is required by the legislation establishing the START-UP NY program.

FEDERAL STANDARDS:
There are no federal standards applicable to the START-UP NY program; it is purely a State program that offers tax benefits to eligible businesses and their employees. Therefore, the proposed rule does not exceed any federal standard.

COMPLIANCE SCHEDULE:
The affected State agency (Department of Economic Development) and the business applicants will be able to achieve compliance with the regulation as soon as it is implemented.

Regulatory Flexibility Analysis
Participation in the START-UP NY program is entirely at the discretion of qualifying business that may choose to locate in Tax-Free NY Areas. Neither statute nor the proposed regulations impose any obligation on any business entity to participate in the program. Rather than impose burdens on small business, the program is designed to provide substantial tax benefits to start-up businesses located in New York, while providing protections to existing businesses against the threat of tax-privileged start-up companies located in the same community. Local governments may not be able to collect tax revenues from businesses located in certain Tax-Free NY Areas. However, the regulation is expected to have a net-positive impact on local governments in light of the substantial economic activity associated with businesses locating their facilities in these communities.

Because it is evident from the nature of the proposed rule that it will have a net-positive impact on small businesses and local government, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local government is not required and one has not been prepared.

Rural Area Flexibility Analysis
The START-UP NY program is open to participation from any business that meets the eligibility requirements, and is organized as a corporation, partnership, limited liability company, or sole proprietorship. A business’s decision to locate its facilities in a Tax-Free NY Area associated with a rural university or college would be no impediment to participation; in fact, START-UP NY allocates space for Tax-Free NY Areas specifically to the upstate region which contains many of New York’s rural areas. Furthermore, START-UP NY specifically calls for the balanced allocation of space for Tax-Free NY Areas between eligible rural, urban, and suburban areas in the state. Thus, the regulation will not have a substantial adverse economic impact on rural areas, and instead has the potential to generate significant economic activity in upstate rural areas designated as Tax-Free NY Areas. Accordingly, a rural flexibility analysis is not required and one has not been prepared.

Job Impact Statement
The regulation establishes procedures and standards for the administration of the START-UP NY program. START-UP NY creates tax-free areas designed to attract innovative start-ups and high-tech industries to New York so as to stimulate economic activity and create jobs. The regulation will not have a substantial adverse impact on jobs and employment opportunities; rather, the program is focused on creating jobs. Because it is evident from the nature of the rulemaking that it will have either no impact or a positive impact on job and employment opportunities, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

PROPOSED RULE MAKING

NO HEARING(S) SCHEDULED

Empire State Commercial Production Credit Program
I.D. No. EDV-43-19-00001-P

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

Proposed Action: Amendment of Part 180 of Title 5 NYCRR.

Statutory authority: L. 2006, ch. 62, as amended

Subject: Empire State Commercial Production Credit Program.

Purpose: Create administrative procedures for all components of the Empire State Commercial Production Credit Program.

Substance of proposed rule (Full text is posted at the following State website: www.esd.ny.gov): Chapter 62 of the Laws of 2006, as amended, established the Empire State Commercial Production Credit Program (the “Program”) and gave the Commissioner of the Department of Economic Development (the “Commissioner”) the authority to promulgate regulations establishing procedures for the allocations of tax credits issued under the Program. The Commissioner has promulgated such regulations in Part 180 of Title 5 of the New York Codes, Rules, and Regulations (“Part 180”). A series of recent statutory amendments modified the Program to eliminate the growth track of the Program, change the manner in which the update and downstate tracks of the Programs are calculated, and make other technical changes to the Program. Accordingly, the proposed rule amends Part 180 as follows:

1. The proposed rule amends section 180.1 to (a) eliminate references to the New York City Commercial Production Credit Program, which no longer exists; (b) eliminate references to the Department of Economic Development’s Governor’s Office for Motion Picture and Television Development, which no longer administers the Program; and (c) make other technical changes.

2. The proposed rule amends section 180.2 to (a) delete definitions that are no longer used in Part 180, (b) amend definitions in accordance with recent statutory amendments, and (c) make other technical changes.

3. The proposed rule amends section 180.3 to make technical changes.

4. The proposed rule amends section 180.4 to make technical changes.

5. The proposed rule amends section 180.5 to (a) delete references to the Growth Credit track of the Program, which was eliminated by recent statutory changes; (b) amend language related to how the Downstate Credit and Upstate Credit tracks of the Program are calculated to accord with modifications made by recent statutory changes; and (c) make other technical changes.

6. The proposed rule amends section 180.6 to make technical changes.

7. The proposed rule amends section 180.7 to make technical changes.

8. The proposed rule amends section 180.8 to make technical changes.

Text of proposed rule and any required statements and analyses may be obtained from: Craig Alfred, Department of Economic Development, 625 Broadway, Albany, New York 12245, (518) 312-6367, email: craig.alfred@esd.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 Section 8(e) of Part V of Chapter 62 of the Laws of 2006, as amended, the Department of Economic Development (the “Department”) has been granted the authority to promulgate regulations to establish procedures with respect to the Empire State Commercial Production Credit Program (the “Program”). In particular, the Department may provide for the allocation of such credits, the application process, standards for application evaluations, the documentation that will be provided to taxpayers to substantiate to the New York State Department of Taxation and Finance, the amount of credits allocated to such taxpayers and any other provisions deemed necessary and appropriate.

LEGISLATIVE OBJECTIVES:
The proposed amended rule is in accord with the public policy objec-
tives of the Department of Cultural Affairs. The proposed rule is intended
to advance by creating a tax credit program for the commercial industry. This program is an attempt to create an incen-
tive for commercial industry to bring productions to New York State as
opposed to other competitive markets, such as California and overseas. It
is the public policy of the State to offer a tax credit that will help provide
incentive for the commercial industry to bring productions to the State.
The proposed amended rule helps to further such objectives by conform-
ing the rule to recent statutory amendments.
NEEDS AND BENEFITS:
The proposed amended rule is necessary to properly administer the tax
credit program; without amending the rule, the rule would be out of
compliance with the statute in several key areas. For example, the recent
statutory amendments have eliminated the growth credit track of the
program and modify the way in which the upstate and downstate credit
tracks for program applicants are calculated. Adopting the proposed amended rule
would provide clarity to both Department staff and potential applicants on
the changes to the Program made by the Legislature in recent statutory
amendments.
COSTS:
I. Costs to private regulated parties (the Business applicants): None.
The proposed regulation will not impose any additional costs to the com-
mercial industry.
II. Costs to the regulating agency for the implementation and continued
administration of the rule: There will be no marginal costs associated with the
proposed amended rule. The Department has administered the Program
since its creation in 2006.
III. Costs to the State government: The Program shall not allocate more
than $7 million in any calendar year.
IV. Costs to local governments: None. The proposed regulation will not
impose any additional costs to local government.
LOCAL GOVERNMENT MANDATES:
None.
PAPERWORK:
The proposed amended rule creates no additional paperwork. The
Program currently uses an application process for eligible applicants,
including the creation of an application, certain tax certificates and forms
relating to commercial expenditures.
DUPLICATION:
The proposed rule will not duplicate or exceed any other existing
Federal or State statute or regulation.
ALTERNATIVES:
No alternatives were considered in regard to amending the rule in re-
sponse to the new statutory amendments. When the Program was first
established, the Department did an extraordinary amount of outreach to
various interested parties before submitting this proposed rule. Furth-
ernore, the Department was in close contact with representatives from the
State Tax and Finance Department and the Mayor’s Office of Film, The-
atre and Broadcasting to coordinate the details of the proposed rule.
FEDERAL STANDARDS:
There are no federal standards in regard to the Program; it is purely a
state program that offers a state tax credit to eligible applicants. Therefore,
the proposed rule does not exceed any federal standard.
COMPLIANCE SCHEDULE:
The affected State agencies (the Department) and the business ap-
licants will be able to achieve compliance with the proposed regulation
as soon as it is implemented.
Regulatory Flexibility Analysis
Participation in the Empire State commercial production credit program
is entirely at the discretion of qualified commercial production companies.
Neither Chapter 62 of the laws of 2006 as amended, nor the proposed
regulations impose any obligation on any local government or business
entity to participate in the program. The proposed regulation does not
impose any adverse economic impact or compliance requirements on small
businesses or local governments. In short, the new rule will not
have a positive economic impact on small businesses due to the possibility
that these businesses may enjoy a commercial production tax credit if they
qualify for the program’s tax credit.
Because it is evident from the nature of the proposed rule that it will
have either no impact or a positive impact on small businesses and local
government, no further affirmative steps were needed to ascertain that
fact, and none were taken. Accordingly, a regulatory flexibility analysis
for small business and local government is not required and one has not been prepared.
Rural Area Flexibility Analysis
This program is open to participation from all qualified commercial pro-
cduction companies, defined by statute to include corporations, partner-
ships, limited partnerships, or other entities or individuals making and
controlling a qualified commercial in New York. The locations of the
companies are irrelevant, so long as they meet the necessary qualifications
of the program. This program may impose responsibility on statewide
businesses that are qualified commercial production companies, in that
they must undertake an application process to receive the Empire State
commercial production credit. However, the proposed regulation will not
have a substantial adverse economic impact on rural areas. Accordingly, a
rural flexibility analysis is not required, and one has not been prepared.
Job Impact Statement
The proposed regulation modifies the application process for the Empire
State commercial production credit program. As a tax credit program, it is
designed to impact positively the commercial industry doing business in
New York State and have a positive impact on job creation. The proposed
regulation will not have a substantial adverse impact on jobs and employ-
ment opportunities. Because it is evident from the nature of the proposed
rulemaking that it will have either no impact, or a positive impact, on job
and employment opportunities, no further affirmative steps were needed
to ascertain that fact and none were taken. Accordingly, a job impact state-
ment is not required and one has not been prepared.

Education Department

EMERGENCY RULE MAKING

Instructional Time for State Aid Purposes
I.D. No. EDU-31-19-00009-E
Filing No. 917
Filing Date: 2019-10-08
Effective Date: 2019-10-08

PURSUANT TO THE PROVISIONS OF THE State Administrative Pro-
cedure Act, NOTICE is hereby given of the following action:
Action taken: Amendment of section 175.5 of Title 8 NYCRR.
Statutory authority: Education Law, sections 101, 207, 305, 3602, 3604
and 3609-a
Finding of necessity for emergency rule: Preservation of general welfare.
Specific reasons underlying the finding of necessity: The proposed
amendment is necessary for the preservation of the general welfare to
provide schools districts with notice that if they cannot meet the minimum
instructional requirements due to safety and/or scheduling issues they can
apply to the Commissioner for a single waiver for up to four school years
of such requirements by November 15, 2019.

Since the Board of Regents meets at fixed intervals, the earliest the
proposed rule can be presented for regular (non-emergency) adoption, af-
er expiration of the required 60-day public comment period for proposed
rulemakings provided for in the State Administrative Procedure Act
(SAPA) sections 201(1) and (5), would be the October 2019 Regents
meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effec-
tive date of the proposed rule, if adopted at the July 2019 meeting, would
be October 23, 2019, the date a Notice of Adoption would be published in
the State Register.

Therefore, emergency action is necessary at the July 2019 Regents
meeting for the preservation of the general welfare to ensure that school
districts are on notice that they must apply for the waiver by November 15,
2019.

Subject: Instructional Time for State Aid purposes.
Purpose: To provide school districts with additional flexibility when
establishing their school calendars.

Text of emergency rule: New subdivisions (k) and (l) shall be added to section
175.5 of the Regulations of the Commissioner of Education to read as follows:

(k) All claims submitted by school districts in accordance with section
175.10 of this Part for the payment of State aid for the 2019-2020 school
year and thereafter shall include the total number of instructional hours,
non-instructional hours, and session days for each grade level in each
school within the school district, and a completed calendar worksheet in a
format prescribed by the commissioner for each such school within the
school district.
(l) (1) Notwithstanding any other provision of this section to the con-
trary, certain school districts that have demonstrated a safety issue and/or
other scheduling challenges that prevented them from complying with the
annual instructional hour requirement set forth in subdivision (c) of this section for the 2018-2019 school year, may apply to the Commissioner by November 15, 2019 for a single waiver for up to four school years from such requirement for the 2018-2019, 2019-2020, 2020-2021 and/or 2021-2022 school years; provided that such school district meets the following requirements:

(i) the school district must be in session for at least 180 school days in each school year, which shall include superintendent’s conference days authorized under this section;

(ii) the school district must attest that the annual instructional hours for the 2018-2019 and 2019-2020 school years will be at least equal to the annual instructional hours provided in the 2017-2018 school year and that for the 2020-2021 and 2021-2022 school years the school district will demonstrate that the total number of its schools that are in compliance with the instructional hour requirements will increase annually by increments of no less than one-third, resulting in full compliance in the 2022-2023 school year;

(iii) the school district must describe the safety and/or scheduling challenges that prevented the school district from complying with such requirements; and

(iv) the school district must provide a plan to the Commissioner as to how it will comply with the instructional hour requirement in the 2022-2023 school year for all schools in the district.

(2) The Commissioner will post a list of school districts with approved waivers for the 2018-2019, 2019-2020, 2020-2021 and/or 2021-2022 school years on the Department’s website.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. EDU-31-19-00009-EP, Issue of July 31, 2019. The emergency rule will expire December 6, 2019.

Text of rule and any required statements and analyses may be obtained from: Brian Cechnicki, NYS Education Department, Office of Education Finance, 89 Washington Avenue, Room 139, Albany, NY 12234, (518) 486-2422, email: brian.cechnicki@nysed.gov

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

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

Education Law § 207 empowers Regents to adopt rules and regulations to carry out State education laws and functions and duties conferred on the Department.

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

Education Law § 3602 provides for the apportionment of public moneys to school districts employing eight or more teachers.

Education Law § 3604 sets forth the conditions under which districts are entitled to apportionment of State aid, including that districts must be in session in the district for not less than 190 days.

Education Law § 3609-a provides for the when and how apportioned moneys are payable.

2. LEGISLATIVE OBJECTIVES:

The proposed amendment is consistent with the above statutory authority and is necessary for the preservation of the general welfare to provide schools districts with notice that if they cannot meet the minimum instructional requirements due to safety and/or scheduling issues they can apply to the Commissioner for a single waiver for up to four school years of such requirements.

3. NEEDS AND BENEFITS:

At its December 2017 meeting, the Department proposed an amendment to the regulation to eliminate the current daily minimum instructional hour requirement and replace it with an aggregate yearly requirement (i.e., 900/990 hours over 180 days for full-day kindergarten through grade six and grades seven through twelve, respectively), to provide school districts with additional flexibility when establishing their school calendars. The Board of Regents adopted the revised proposed regulation as a permanent rule at the September 2018 meeting.

Concerns have been raised by a small number of school districts that have indicated that due to safety issues and/or other scheduling challenges, they are unable to meet the minimum annual instructional hour requirements, the proposed amendment allows such school districts to apply to the Commissioner by November 15, 2019 for a waiver for up to four school years (2018-2019, 2019-2020, 2020-2021 and/or 2021-2022 school years); provided that such school district meets the following requirements:

- The school district must be in session for at least 180 school days in each school year, which shall include superintendent’s conference days authorized under this section;
- The school district must attest that the annual instructional hours for the 2018-2019 and 2019-2020 school years will be at least equal to the annual instructional hours provided in the 2017-2018 school year and that for the 2020-2021 and 2021-2022 school years the school district will demonstrate that the total number of its schools that are in compliance with the instructional hour requirements will increase annually by increments of no less than one-third, resulting in full compliance in the 2022-2023 school year;
- The school district must describe the safety and/or scheduling challenges that prevented the school district from complying with such requirements; and
- The school district must provide a plan to the Commissioner as to how it will comply with the instructional hour requirement in the 2022-2023 school year for all schools in the district.

The proposed amendment also provides that the Commissioner will post a list of school districts with approved waivers for the 2018-2019, 2019-2020, 2020-2021 and/or 2021-2022 school years on the Department’s website and that all claims submitted by school districts for the payment of State aid for the 2019-2020 school year and thereafter shall include the total number of instructional hours, non-instructional hours, and session days for each grade level in each school within the school district, and a completed calendar worksheet in a format prescribed by the commissioner for each such school within the school district.

During the waiver period, Department staff will work with school districts to identify and address any emerging issues, particularly those related to safety.

4. COSTS:

- Cost to the State: None.
- Costs to local government: There are no additional costs beyond those imposed by the statute.
- Cost to private regulated parties: There are no additional costs beyond those imposed by the statute.

6. PAPERWORK:

- Cost to regulating agency for implementation and continued administration of this rule: None.

7. DUPLICATION:

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

8. ALTERNATIVES:

- The proposed amendment is necessary for the preservation of the general welfare to provide schools districts with notice that if they cannot meet the minimum instructional requirements due to safety and/or scheduling issues they can apply to the Commissioner for a single waiver for up to four school years of such requirements.

9. FEDERAL STANDARDS:

- There are no applicable Federal standards.

10. COMPLIANCE SCHEDULE:

- If adopted at the July 2019 Regents meeting, the proposed amendment will become effective as an emergency rule on July 16, 2019. Following the 60-day public comment period required under the State Administrative Procedure Act, it is anticipated that the proposed amendment will be presented to the Board of Regents for permanent adoption at its October 2019 meeting. If adopted at the October 2019 meeting, the proposed amendment will become effective on October 23, 2019. A second emergency action will also be needed at the October meeting to ensure that the emergency rule adopted at the July meeting remains continuously in effect until it can be adopted as a permanent rule.

Regulatory Flexibility Analysis

(a) Small businesses:

- The proposed amendment is necessary for the preservation of the general welfare to provide schools districts with notice that if they cannot
meet the minimum instructional requirements due to safety and/or scheduling issues, they can apply to the Commissioner for a single waiver for up to four school years of such requirements, and does not impose any adverse economic impact, reporting, record keeping or any other compliance requirements on small businesses.

Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

1. EFFECT OF RULE:

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

2. COMPLIANCE REQUIREMENTS:

The proposed amendment requires all school districts that receive a waiver to provide a plan to the Commissioner as to how it will comply with the instructional hour requirement in the 2022-2023 school year for all schools in the district. Additionally, the proposed amendment provides that the Commissioner will post a list of school districts with approved waivers for the 2018-2019, 2019-2020, 2020-2021 and/or 2021-2022 school years on the Department’s website and that all claims submitted by school districts for the payment of State aid for those school years on the Department’s website and that all claims submitted by school districts for the payment of State aid for the 2019-2020 school year and thereafter shall include the total number of instructional hours, non-instructional hours, and session days for each grade level in each school within the school district. The proposed regulation does not impose any program, service, duty or responsibility on small businesses beyond those inherent in the regulation.

3. NEEDS AND BENEFITS:

At its December 2017 meeting, the Department proposed an amendment to the regulation to eliminate the current daily minimum instructional hour requirement and replace it with an aggregate yearly requirement (i.e., 900/990 hours over 180 days for full-day kindergarten through grade six and grades seven through twelve, respectively), to provide school districts with additional flexibility when establishing their school calendars. The Board of Regents adopted the revised proposed regulation as a permanent rule at the September 2018 meeting.

Comments have been raised by a small number of school districts that have indicated that due to safety issues and/or other scheduling challenges, they are unable to meet the minimum annual instructional hour requirements, the proposed amendment allows such school districts to apply to the Commissioner by November 15, 2019 for a waiver for up to four school years of such requirements, and does not impose any adverse costs on local governments and small businesses.
School and District Safety Plans

I.D. No.  EDU-31-19-00010-E
Filing No.  913
Filing Date:  2019-10-08
Effective Date:  2019-10-14

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

Action taken:  Amendment of section 155.17 of Title 8 NYCRR.

Statutory authority:  Education Law, sections 101(not subdivided), 207(not subdivided), 305(1), (2), 2801-a, as amended by L. 2019, ch. 59

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

Specific reasons underlying the finding of necessity:  The 2019-20 Enacted State Budget included amendments to Education Law § 2801-a to require that school districts and charter schools adopt a written contract or memorandum of understanding that is developed with stakeholder input, that defines the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. The written contract or memorandum of understanding must clearly delegate the role of school discipline to school administration and be consistent with the code of conduct. Such contract or MOU is required to be incorporated and published as part of the school district safety plan. The amendments became effective on July 1, 2019.

In addition to the amendments to Education Law § 2801-a that were included in the 2019-20 Enacted State Budget, the New York State Office of the Comptroller (OSC) recently released its report summarizing its audit of the Department’s oversight of school and district efforts regarding school emergency planning. The audit included recommendations that the Department provide additional clarity regarding requirements for public comment periods and board adoption of district-wide safety plans. The proposed amendment clarifies that the district-wide safety plans and building plans shall be submitted on October 1 of each school year; instead of the previous requirement which required school districts to submit district-wide safety plans by October 1 and school-level building plans by October 15. This will simplify the plan submission process for the districts.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (non-emergency) adopted, after publication in the State Register and expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) Sections 202(1) and (5), is the October 2019 Regents meeting. Furthermore, pursuant to SAPA Section 203(1), the earliest effective date of the proposed amendment, if adopted at the July Regents meeting, is October 23, 2019, the date a Notice of Adoption would be published in the State Register. However, because Section 32 of Chapter 59 of the Laws of 2019 became effective on July 1, 2019, emergency action is necessary now for the preservation of the general welfare in order to conform section 155.17 of the Commissioner’s regulations with the amendments made to Education Law § 2801-a, as amended by Section 32 of Part YYY of Chapter 59 of the Laws of 2019.

Subject:  School and district safety plans.

Purpose:  To implement certain provisions of section 32 of part YYY of chapter 59 of the Laws of 2019.

Text of emergency rule:  Section 155.17 of the Regulations of the Commissioner of Education shall be amended to read as follows:

155.17 School safety plans.
(a) Development of school safety plans. Every board of education of a school district, every board of cooperative educational services and county vocational education and extension board and the chancellor of the City School District of the City of New York shall adopt by July 1, 2001, and shall update by July 1st for the 2002-2003 through the 2015-2016 school years and shall update and adopt by September 1st for the 2016-2017 school year and each subsequent September 1st thereafter, a comprehensive district-wide school safety plan and building-level emergency response plans regarding crisis intervention and emergency response and management, provided that written contract or memorandum of understanding that is developed with stakeholder input, that defines the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel, and is required to be incorporated and published as part of the district safety plan; and
(b) Building-level emergency response plans regarding crisis intervention and emergency response and management, provided that written contract or memorandum of understanding that is developed with stakeholder input, that defines the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel, and is required to be incorporated and published as part of the district safety plan; and

EMERGENCY RULE MAKING

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Rule Making Activities

Emergency response plan shall be reviewed by the appropriate school safety team on at least an annual basis, and updated as needed.
(b) Definitions.
As used in this section:
(1) . . .
(2) . . .
(3) . . .
(4) . . .
(5) . . .
(6) . . .
(7) . . .
(8) . . .
(9) . . .
(10) . . .
(11) . . .
(12) . . .
(13) . . .
(14) District-wide school safety team means a district-wide team appointed by the board of education, the chancellor in the case of the City of New York, or other governing board. The district-wide team shall include, but not be limited to, representatives of the school board, teacher, administrator, and parent organizations, school safety personnel and other school personnel. At the discretion of the board of education, or the chancellor in the case of the City of New York, a student may be allowed to participate on the safety team, provided however, that no portion of a confidential building-level emergency response plan shall be shared with such student nor shall such student be present when details of a confidential building-level emergency response plan or confidential portions of a district-wide emergency response strategy are discussed.
(15) . . .
(16) . . .
(17) . . .
(18) . . .

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This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, 5 D.C. 31-19-00010-EP, Issue of July 31, 2019. The emergency rule will expire December 6, 2019.

Text of rule and any required statements and analyses may be obtained from:

Kirti Goswami, Education Department, Room 148, 89 Washington Avenue, Albany, NY 12234, (518) 474-6400, email: kirti.goswami@nysed.gov

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

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

Education Law § 207 empowers Regents to adopt rules and regulations to carry out State education laws and functions and duties conferred on the Department.

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

Education Law § 2801-a requires the board of education or trustees of every school district, board of cooperative educational services, county vocational education and extension board, and the chancellor of the city school district of the city of New York to adopt and amend a comprehensive district-wide school safety plan and building-level emergency response plan and management plan.

Section 32 of Part YYY of Chapter 59 of the laws of 2019 amended Education Law § 2801-a, effective July 1, 2019, to require that school districts and charter schools adopt a written contract or memorandum of understanding that is developed with stakeholder input, that defines the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. The written contract or memorandum of understanding must clearly delineate the role of school discipline to school administration and be consistent with the code of conduct. Such contract or MOU is required to be incorporated and published as part of the school district safety plan.

2. LEGISLATIVE OBJECTIVES:

The proposed amendment is consistent with the above statutory authority and is necessary to conform the Commissioner’s regulations to Section 32 of Part YYY of Chapter 59 of the Laws of 2019.

3. NEEDS AND BENEFITS:

Over the past few decades, threats to schools have evolved and recent events nationwide have demonstrated that there are people who seek to commit violent acts in schools. Whether this threat is posed by a member of the school community or an outside individual or group, school staff must be prepared to take immediate protective action in the event of such an incident. To enhance efforts of school administrators and staff to maintain school safety, many school districts now utilize school safety and security staff or School Resource Officers on a daily basis.

Although not defined by law in New York State, a School Resource Officer (SRO) is often a police officer who has received additional training in school policing prior to working in a school setting. Incorporating schools into SROs and security officers or SROs in schools raises concerns about escalating adolescent behavior or issues of school discipline to law enforcement. Studies have found that in schools with SROs, students were significantly more likely to be arrested for disorderly conduct and other minor infractions than students in schools that did not have SROs.

The 2019-2020 Enacted State Budget included amendments to Education Law § 2801-a to require that school districts and charter schools adopt a written contract or memorandum of understanding that is developed with stakeholder input, that defines the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. The written contract or memorandum of understanding must clearly delineate the role of school discipline to school administration and be consistent with the code of conduct. Such contract or MOU is required to be incorporated and published as part of the school district safety plan. The amendments became effective on July 1, 2019.

In addition to the amendments to Education Law § 2801-a that were included in the 2019-20 Enacted State Budget, the New York State Office of the Comptroller (OSC) recently released its report summarizing its audit of the Department’s oversight of school and district efforts regarding school emergency planning. The audit included recommendations that the Department provide additional clarity regarding requirements for public comment periods and board adoption of district-wide safety plans. The proposed amendment therefore clarifies that both the district-wide safety plans and building plans shall be submitted by October 1 of each school year; instead of the previous requirement which required school districts to submit district-wide safety plans by October 1 and school-level building plans by October 15. This will simplify the plan submission process for the districts.

4. COSTS:

Cost to the State: None.

Costs to local government: There are no additional costs beyond those imposed by the statute.

Cost to private regulated parties: There are no additional costs beyond those imposed by the statute.

Cost to regulating agency for implementation and continued administration of this rule: None.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment is necessary to conform the Commissioner’s Regulations to Section 32 of Part YYY of Chapter 59 of the Laws of 2019, and does not impose any additional program, service, duty or responsibility upon local governments beyond those inherent in the statute.

6. PAPERWORK:

The proposed amendment is necessary to conform the Commissioner’s Regulations to Section 32 of Part YYY of Chapter 59 of the Laws of 2019, and does not impose any specific recordkeeping, reporting or other paperwork requirements beyond those inherent in the statute. Consistent with the statute, the proposed amendment requires that, in addition to the existing plan submission requirements, school districts must now adopt a written contract or memorandum of understanding that defines the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. The written contract or memorandum of understanding must clearly delineate the role of school discipline to school administration and be consistent with the code of conduct. Such contract or MOU is required to be incorporated and published as part of the existing method for submis-
sion of the school district safety plan and it is anticipated that such contract or MOU will not be overly burdensome.

7. DUPLICATION: The proposed amendment does not duplicate existing State or federal requirements.

8. ALTERNATIVES: The proposed amendment is necessary to implement Section 32 of Part YYY of Chapter 59 of the Laws of 2019. Therefore, no alternatives were considered.

9. FEDERAL STANDARDS: There are no applicable Federal standards.

10. COMPLIANCE SCHEDULE: If adopted by the Board of Regents as an emergency measure at the July Board of Regents meeting, the proposed amendment will become effective on July 16, 2019. Following the 60-day public comment period required under the State Administrative Procedure Act, it is anticipated that the proposed amendment will be presented to the Board of Regents for adoption at the October 2019 Regents meeting. If adopted by the Board at its October meeting, the proposed amendment will be adopted as a permanent rule on October 23, 2019. A second emergency adoption will also be necessary at the October Regents meeting to ensure that the emergency rule adopted by the Board of Regents at its July 2019 meeting remains in effect until it can be adopted as a permanent rule.

Regulatory Flexibility Analysis

(a) Small businesses: The proposed amendment is necessary to implement Section 32 of Part YYY of Chapter 59 of the Laws of 2019, and does not impose any adverse economic impact, reporting, record keeping or any other compliance requirements on small businesses. Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

1. EFFECT OF RULE: The proposed amendment applies to each of the 695 public school districts in the State.

2. COMPLIANCE REQUIREMENTS: The proposed amendment is necessary to timely implement Section 32 of Part YYY of Chapter 59 of the Laws of 2019 and does not impose any additional compliance requirements beyond those inherent in the statute.

3. NEEDS AND BENEFITS: Over the past few decades, threats to schools have evolved and recent events nationwide have demonstrated that there are people who seek to commit violent acts in schools. Whether this threat is posed by a member of the school community or an outside individual or group, school staff must be prepared to take immediate protective action in the event of such an incident. To enhance efforts of school administrators and staff to maintain school safety, many school districts now utilize school safety and security staff or School Resource Officers on a daily basis.

Although not defined by law in New York State, a School Resource Officer (SRO) is often a police officer who has received additional training hours in school policing prior to working in a school setting. Incorporating school safety and security staff or SROs in schools raises concerns about escalating adolescent behavior or issues of school discipline to law enforcement. Students who are in conflict with SROs, students were significantly more likely to be arrested for disorderly conduct and other minor infractions than students in schools that did not have SROs.

The 2019-2020 Enacted State Budget included amendments to Education Law § 2801-a to require that school districts and charter schools adopt a written contract or memorandum of understanding that is developed with stakeholder input, that defines the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. The written contract or memorandum of understanding must clearly delegate the role of school discipline to school administration and be consistent with the code of conduct. Such contract or MOU is required to be incorporated and published as part of the school district safety plan.

4. PROFESSIONAL SERVICES: Consistent with the statute, the proposed amendment requires that school districts and charter schools adopt a written contract or memorandum of understanding that is developed with stakeholder input, that defines the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. The written contract or memorandum of understanding must clearly delegate the role of school discipline to school administration and be consistent with the code of conduct. Such contract or MOU is required to be incorporated and published as part of the school district safety plan.

5. COMPLIANCE COSTS: The proposed amendment is necessary to conform the Commissioner’s Regulations to Section 32 of Part YYY of Chapter 59 of the Laws of 2019 and does not impose any additional costs or technological requirements on local governments.

6. ECONOMIC AND TECHNOLOGICAL FEASIBILITY: The proposed rule does not impose any additional costs or technological requirements on local governments.

7. MINIMIZING ADVERSE IMPACT: The proposed amendment implements Section 32 of Part YYY of Chapter 59 of the Laws of 2019 and applies to all school districts in the State. Accordingly, no alternatives were considered.

8. 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 amendment is necessary to timely implement Section 32 of Part YYY of Chapter 59 of the Laws of 2019, and does not impose any specific recordkeeping, reporting or other paperwork requirements beyond those inherent in the statute.

3. MINIMIZING ADVERSE IMPACT: Because the statutory requirement applies to all schools in the State, it is not feasible to establish differing compliance or reporting requirements or timetables or to exempt schools in rural areas from coverage by the proposed amendment.

4. 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 Section 32 of Part YYY of Chapter 59 of the Laws of 2019 which requires that school districts and charter schools adopt a written contract or memorandum of understanding that is developed with stakeholder input, that defines the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. The written contract or memorandum of understanding must clearly delegate the role of school discipline to school administration and be consistent with the code of conduct. Such contract or MOU is required to be incorporated and published as part of the school district safety plan.

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

Assessment of Public Comment

The agency received no public comment.
The key changes include:

- Annual Professional Performance Reviews of Classroom Teachers and Building Principals.

**Other Deep Changes In this Law**

1. **Part YYY of Chapter 59 of the Laws of 2019 relating to annual professional performance reviews** of classroom teachers and building principals.

2. **Regulation’s** with the amendments made to Education Law § 3012-d by Section 52-m, as amended by Chapter 59 of the Laws of 2019.

3. **Purpose:** The purpose of the proposed regulation is to align the Commissioner’s requirements for teacher and principal evaluations. The key changes include:

   - Required Student Performance Measures
   - The selection and use of the assessment(s) for an educator’s SLO is now subject to collective bargaining, rather than district determined.
   - Optional Student Performance Measures
   - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an evaluator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.
   - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an educator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.
   - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an educator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.

4. **Proposed Action:** Repeal of Subpart 30-2; renumbering and amendment of Subpart 30-3 to Subpart 30-2; and addition of new Subpart 30-3 to Title 8 NYCRR.

5. **Statutory authority:** Education Law, sections 101, 207, 215, 305, 3009, 3012-d; L. 2019, ch. 59, part YYY

6. **Finding of necessity for emergency rule:** Preservation of general welfare. Specific reasons underlying the finding of necessity: The 2019-2020 Enacted Budget makes several changes to Education Law § 3012-d, which governs annual principal and principal evaluations. The key changes include:

   - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an educator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.

7. **Purpose:** The purpose of the proposed regulation is to align the Commissioner’s requirements for teacher and principal evaluations. The key changes include:

   - Required Student Performance Measures
   - The selection and use of the assessment(s) for an educator’s SLO is now subject to collective bargaining, rather than district determined.
   - Optional Student Performance Measures
   - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an evaluator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.

8. **Proposed Action:** Repeal of Subpart 30-2; renumbering and amendment of Subpart 30-3 to Subpart 30-2; and addition of new Subpart 30-3 to Title 8 NYCRR.

9. **Statutory authority:** Education Law, sections 101, 207, 215, 305, 3009, 3012-d; L. 2019, ch. 59, part YYY

10. **Finding of necessity for emergency rule:** Preservation of general welfare. Specific reasons underlying the finding of necessity: The 2019-2020 Enacted Budget makes several changes to Education Law § 3012-d, which governs annual principal and principal evaluations. The key changes include:

    - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an educator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.

11. **Purpose:** The purpose of the proposed regulation is to align the Commissioner’s requirements for teacher and principal evaluations. The key changes include:

    - Required Student Performance Measures
    - The selection and use of the assessment(s) for an educator’s SLO is now subject to collective bargaining, rather than district determined.
    - Optional Student Performance Measures
    - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an evaluator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.

12. **Proposed Action:** Repeal of Subpart 30-2; renumbering and amendment of Subpart 30-3 to Subpart 30-2; and addition of new Subpart 30-3 to Title 8 NYCRR.

13. **Statutory authority:** Education Law, sections 101, 207, 215, 305, 3009, 3012-d; L. 2019, ch. 59, part YYY

14. **Finding of necessity for emergency rule:** Preservation of general welfare. Specific reasons underlying the finding of necessity: The 2019-2020 Enacted Budget makes several changes to Education Law § 3012-d, which governs annual principal and principal evaluations. The key changes include:

    - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an educator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.

15. **Purpose:** The purpose of the proposed regulation is to align the Commissioner’s requirements for teacher and principal evaluations. The key changes include:

    - Required Student Performance Measures
    - The selection and use of the assessment(s) for an educator’s SLO is now subject to collective bargaining, rather than district determined.
    - Optional Student Performance Measures
    - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an evaluator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.
the teacher evaluation system set forth in Education Law § 3012-d. To implement the law, the proposed amendment requires building principals to be evaluated based on two categories: the student performance category and the school visit category.

Section 30-3.16 describes a process which permits a district or BOCES to apply for a variance from one or more of the provisions of this Subpart to meet specific needs and circumstances of the district or BOCES so long as such plan remains consistent with the requirements of Education Law § 3012-d. Section 30-3.17 provides for the severability of each section of this Subpart.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire January 5, 2020.

Text of rule and any required statements and analyses may be obtained from: Krishna Goswami, Education Department, 89 Washington Avenue, Room 148, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Data, views or arguments may be submitted to: Alexander Trikalinos, Office of Educator Quality and Professional Development, 89 Washington Avenue, 360EBA, Albany, NY 12234, (518) 486-2573, email: Alexander.Trikalinos@nysed.gov

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

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

Education Law 207 (not subdivided) grants general rule-making authority to the Regents to carry into effect State educational laws and policies.

Education Law 215 authorizes the Regents to visit and inspect any educational institution under its supervision in the state and to require reporting from such institutions.

Education Law 305(1) authorizes the Commissioner to enforce laws relating to the State educational system and execute Regents educational policies. Section 305(2) provides the Commissioner with general supervision over schools and authority to advise and guide school district officers in their duties and the general management of their schools.

Education Law 3012-d provides for the development and implementation of annual professional performance reviews of teachers and principals.

Chapter 59 of the Laws of 2019 amends provisions of Education Law 3012-d relating to the development and implementation of periodic professional performance reviews of teachers and principals.

2. LEGISLATIVE OBJECTIVES:

The proposed amendments to the requirements for Annual Professional Performance Review plans are consistent with the above statutory authority and are necessary to conform the Commissioner’s Regulations to Part 3012 of Education Law. The purpose of the proposed amendment is to improve the quality of teaching and learning by ensuring that teachers and school leaders receive annual evaluations consistent with the State’s Teaching and Leadership Standards leading to opportunities for professional growth and to meet the learning needs of their students.

3. NEEDS AND BENEFITS:

The 2019-2020 Enacted Budget makes several changes to Education Law § 3012-d, which governs annual teacher and principal evaluations. The key changes include:

- Required Student Performance Measures
  - Eliminates the requirement to use the State Growth Model for teachers of grades 4-8, building principals covering those grade levels, and high school principals (all of grades 9-12).
  - All educators would instead have a Student Learning Objective (SLO).
  - Eliminates the requirement that State-created or administered assessments be used as the evidence for SLOs where they exist.
  - The selection and use of the assessment(s) for an educator’s SLO is now subject to collective bargaining, rather than district determined.
  - Optional Student Performance Measures
    - Eliminates the requirement that optional student performance measures be based either on a second State-provided growth score or a growth score based on a supplemental assessment that uses a State-provided or approved statistical growth model.
    - Instead, the Department will define optional measures of student performance based on State-created, administered, or approved assessments that districts may then collectively bargain to use.
    - Where a school district collectively bargains to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an educator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.

Although the Enacted Budget makes significant changes to the Student Performance Category of the evaluation system, it does not substantively change any other aspects of the current system, including:

- Requirements for teacher observations and principal school visits, including the requirement that at least one be conducted by an independent evaluator.
- Requirements for calculating overall ratings using the statutory matrix.
- Requirements for teacher and principal improvement plans for educators who receive an overall rating of Developing or Ineffective in the prior school year.
- Requirements for summative evaluation ratings to be a “significant factor” in all employment-related decisions.

The proposed rule conforms the regulations to the provisions of the 2019 legislation by making the following substantive changes to Subparts 30-2 and 30-3 of the Rules of the Board of Regents.

The existing Subpart 30-2, relating to evaluations conducted pursuant to Education Law § 3012-c, is repealed.

The existing Subpart 30-3 is renumbered to Subpart 30-2. The title of this new Subpart 30-2 and sections 30-2.1, 30-2.3, and 30-2.17 are amended to clarify that Subpart 30-2 only applies to APPRs conducted prior to the 2019-20 school year or those conducted pursuant to a collective bargaining agreement (CBA) entered into on or before April 12, 2019 which remains in effect on or after April 12, 2019 until a subsequent agreement is reached; provided further, however, that any assessments used in determining transition scores and ratings shall be used in determining scores and ratings pursuant to Subpart 30-2 instead of the grades three through eight English language arts and mathematics state assessments and/or any state growth model until the entry into a successor collective bargaining agreement.

A new Subpart 30-3 is added to implement the amended evaluation law.

Where practicable, existing requirements for teacher and principal evaluations are carried over in their entirety. Below is a description of the areas where substantive changes from existing requirements have been made to implement the provisions of Chapter 59 of the Laws of 2019.

Section 30-3.1 clarifies that the new evaluation system only applies to CBAs entered into after April 12, 2019. It further clarifies that nothing in the new Subpart shall be construed to abrogate any conflicting provisions of any CBA in effect on and after April 12, 2019 during the term of such agreement and until entry into a successor CBA; provided further, however, that any assessments used in determining transition scores and ratings shall be used in determining scores and ratings pursuant to Subpart 30-2 instead of the grades three through eight English language arts and mathematics state assessments and/or any state growth model until the entry into a successor collective bargaining agreement as required by the Education Law, it further clarifies that APPRs shall be a significant factor for employment decisions and teacher and principal development, consistent with the requirements of the law. It also clarifies the unfettered right to terminate a probationary teacher or principal for any statutory and constitutionally permissible reason.

Section 30-3.4 describes the standards and criteria for conducting AP-PRs of classroom teachers under the amended law. The law requires teachers to be evaluated based on two categories: the student performance category and the teacher observation category.

Section 30-3.5 describes the standards and criteria for conducting AP-PRs of building principals under the amended law. The law requires the Commissioner to establish a principal evaluation system that is aligned to the teacher evaluation system set forth in Education Law § 3012-d. To implement the law, the proposed amendment requires building principals to be evaluated based on two categories: the student performance category and the school visit category.

Section 30-3.16 describes a process which permits a district or BOCES to apply for a variance from one or more of the provisions of this Subpart to meet specific needs and circumstances of the district or BOCES so long as such plan remains consistent with the requirements of Education Law § 3012-d.

Section 30-3.17 provides for the severability of each section of this Subpart.

4. COSTS:

- a. Costs to State government: The amendments do not impose any costs on State government, including the State Education Department.
- b. Costs to local government: The amendments do not impose any costs on local government.
- d. Costs to regulating agency for implementation and continued administration: The amendments do not impose any costs on the regulating agency for implementation and continued administration.

5. LOCAL GOVERNMENT MANDATES:

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

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

8. ALTERNATIVES:
Because the State believes that Annual Professional Performance Review plans are required across the State, no alternatives were considered.

9. FEDERAL STANDARDS:
There are no applicable Federal standards.

10. COMPLIANCE SCHEDULE:
A Notice of Emergency Adoption and Proposed Rule Making will be published in the State Register on October 30, 2019. The proposed amendment will become effective as an emergency rule on October 8, 2019. It is anticipated that the rule will be presented for permanent adoption at the February Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required pursuant to the State Administrative Procedure Act. It is also expected that a second emergency action will be necessary at the December 2019 Regents meeting to ensure that the emergency rule remains in effect until it can be adopted as a permanent rule.

Regulatory Flexibility Analysis
The purpose of the proposed amendment is to conform the Department’s regulations to statutory amendments to Education Law 3012-d pursuant to Part YYY of Chapter 59 of the Laws of 2019. The purpose of the regulations is to improve the quality of teaching and learning by ensuring that teachers and school leaders receive annual evaluations consistent with the State’s Teaching and Leadership Standards leading to opportunities for professional growth and to meet the learning needs of their students.

The 2019-2020 Enacted Budget makes several changes to Education Law § 3012-d, which governs annual teacher and principal evaluations. The key changes include:

- Required Student Performance Measures
  - Eliminates the requirement to use the State Growth Model for teachers of grades 4-8, building principals covering those grade levels, and high school principals (all of grades 9-12).
  - All educators would instead have a Student Learning Objective (SLO).
  - Eliminates the requirement that State-created or administered assessments be used as the evidence for SLOs where they exist.
  - The selection and use of the assessment(s) for an educator’s SLO is now subject to collective bargaining, rather than district determined.
- Optional Student Performance Measures
  - Eliminates the requirement that optional student performance measures be based either on a second State-provided growth score or a growth score based on a supplemental assessment that uses a State-provided or approved statistical growth model.
  - Instead, the Department will define optional measures of student performance based on State-created, administered, or approved assessments that districts may then collectively bargain to use.
- Where a school district collectively bargaining to use optional student performance measures, the statutory amendments also eliminate the existing requirement that an educator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.

Although the Enacted Budget makes significant changes to the Student Performance Category of the evaluation system, it does not substantively change any other aspects of the current system, including:
- Requirements for teacher observations and principal school visits, including the requirement that at least one be conducted by an independent evaluator.
- Requirements for calculating overall ratings using the statutory matrix.
- Requirements for teacher and principal improvement plans for educators who receive an overall rating of Developing or Ineffective in the prior school year.
- Requirements for summative evaluation ratings to be a “significant factor” in all employment-related decisions.

The proposed rule conforms to the regulations to the provisions of the 2019 legislature by making the following substantive changes to Subparts 30-2 and 30-3 of the Rules of the Board of Regents:

The existing Subpart 30-2, relating to evaluations conducted pursuant to Education Law § 3012-c, is repealed.

The existing Subpart 30-3 is renumbered to Subpart 30-2. The title of this new Subpart 30-2 and sections 30-2.1, 30-2.3, and 30-2.17 are amended to clarify that Subpart 30-2 only applies to APPRs conducted prior to the 2019-20 school year or those conducted pursuant to a collective bargaining agreement (CBA) entered into on or before April 12, 2019 which remains in effect on or after April 12, 2019 until a subsequent agreement is reached; provided further, however, that any assessment used in determining transition scores and ratings shall be used in determining scores and ratings pursuant to Subpart 30-2 instead of the grades three through eight language arts and mathematics state assessments and any state growth model until the entry into a successor collective bargaining agreement.

A new Subpart 30-3 is added to implement the amended evaluation law. Where practicable, existing requirements for teacher and principal evaluations are carried forward in their entirety. Below is a description of the areas where substantive changes from existing requirements have been made to implement the provisions of Chapter 59 of the Laws of 2019.

Section 30-3.1 clarifies that the new evaluation system only applies to CBAs entered into after April 12, 2019. It further clarifies that nothing in the new Subpart shall be construed to abrogate any conflicting provisions of any CBA in effect on and after April 12, 2019 during the term of such agreement and until entry into a successor CBA; provided further, however, that any assessments used in determining transition scores and ratings shall be used in determining scores and ratings pursuant to Subpart 30-2 instead of the grades three through eight English language arts and mathematics state assessments and/or any state growth model until the entry into a successor collective bargaining agreement. As required by the Education Law, it further clarifies that APPRs shall be a significant factor for personnel decisions, including the determination of eligibility for tenure.

Section 30-3.4 describes the standards and criteria for conducting APPRs of classroom teachers under the amended law. The law requires teachers to be evaluated based on two categories: the student performance category and the teacher observation category.

Section 30-3.5 describes the standards and criteria for conducting APPRs of building principals under the amended law. The law requires the Commissioner to establish a principal evaluation system that is aligned to the teacher evaluation system set forth in Education Law § 3012-d. To implement the law, the proposed amendment requires building principals to be evaluated based on two categories: the student performance category and the school visit category.

Section 30-3.16 describes a process which permits a district or BOCES to apply for a variance from one or more of the provisions of this Subpart to meet specific needs and circumstances of the district or BOCES so long as such plan remains consistent with the requirements of Education Law § 3012-d.

Section 30-3.17 provides for the severability of each section of this Subpart.

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

Rural Area Flexibility Analysis
1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:
This proposed amendments apply to all school districts and BOCES in New York State, including those located in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

2. REPORTING, RECORDKEEPING, AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:
The proposed amendments are necessary to conform the Department’s regulations to statutory amendments to Education Law 3012-d pursuant to Part YYY of Chapter 59 of the Laws of 2019. The purpose of the regulations is to improve the quality of teaching and learning by ensuring that teachers and school leaders receive annual evaluations consistent with the State’s Teaching and Leadership Standards leading to opportunities for professional growth and to meet the learning needs of their students.

The 2019-2020 Enacted Budget makes several changes to Education Law § 3012-d, which governs annual teacher and principal evaluations. The key changes include:

- Required Student Performance Measures
  - Eliminates the requirement to use the State Growth Model for teachers of grades 4-8, building principals covering those grade levels, and high school principals (all of grades 9-12).
  - All educators would instead have a Student Learning Objective (SLO).
  - Eliminates the requirement that State-created or administered assessments be used as the evidence for SLOs where they exist.
  - The selection and use of the assessment(s) for an educator’s SLO is now subject to collective bargaining, rather than district determined.
Optional Student Performance Measures
- Education Law 3012-d is repealed.
- Where a school district collectively bargains to use student performance measures, the statutory amendments also eliminate the existing requirement that an educator receive a rating of Ineffective on their overall evaluation if their Student Performance Category rating is Ineffective.

Although the Enacted Budget makes significant changes to the Student Performance Category of the evaluation system, it does not substantively change any other aspects of the current system, including:
- Requirements for teacher observations and principal school visits, including the requirement that at least one be conducted by an independent evaluator.
- Requirements for calculating overall ratings using the statutory matrix.
- Requirements for teacher and principal improvement plans for educators who receive an overall rating of Developing or Ineffective in the prior school year.
- Requirements for summative evaluation ratings to be a “significant factor” in all employment-related decisions.

The proposed rule conforms to the regulations of the provisions of the 2019 legislation by making the following substantive changes to Subparts 30-2 and 30-3 of the Rules of the Board of Regents.

A new Subpart 30-3 is added to implement the amended evaluation law. Where practicable, existing requirements for teacher and principal evaluations are carried over in their entirety. Below is a description of the areas where substantive changes from existing requirements have been made to implement the provisions of Chapter 59 of the Laws of 2019.

Section 30-3.1 clarifies that the new evaluation system only applies to CBAAs entered into on or before April 12, 2019. It further clarifies that nothing in the new Subpart shall be construed to abrogate any conflicting provisions of any CBA in effect on and after April 12, 2019, during the term of such agreement and until entry into a successor CBA; provided, further, that any assessments used in determining transition scores and ratings shall be used in determining scores and ratings pursuant to Subpart 30-2 instead of the grades three through eight English language arts and mathematics state assessments and/or any state growth model until the entry into a successor collective bargaining agreement.

Section 30-3.2 describes the standards and criteria for conducting APPRs of classroom teachers under the amended law. The law requires teachers to be evaluated based on the following categories: student performance category and the teaching quality category.

Section 30-3.5 describes the standards and criteria for conducting APPRs of building principals under the amended law. The law requires the Commissioner to establish a principal evaluation system that is aligned to the teacher evaluation system set forth in Education Law § 3012-d. To implement the law, the proposed amendment requires building principals to be evaluated based on two categories: the student performance category and the school visit category.

Section 30-3.16 describes a process which permits a district or BOCES to apply for a variance from one or more of the provisions of this Subpart to meet specific needs and circumstances of the district or BOCES so long as such plan remains consistent with the requirements of Education Law § 3012-d.

Section 30-3.17 provides for the severability of each section of this Subpart.
NOTICE OF ADOPTION

Statement of Continued Eligibility for Certain Teachers of Students with Disabilities

I.D. No. EDU-25-19-00015-A
Filing No. 912
Filing Date: 2019-10-08
Effective Date: 2019-10-23

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

Action taken: Amendment of sections 80-3.15 and 80-4.3 of Title 8 NYCRR.

Statutory authority: Education Law, sections 101, 207, 210, 215, 305, 3001, 3003, 3004 and 3009

Subject: Statement of continued eligibility for certain teachers of students with disabilities.

Purpose: Extends the deadline to apply for a statement of continued eligibility for certain teachers of students with disabilities.

Text or summary was published in the June 19, 2019 issue of the Register, I.D. No. EDU-25-19-00015-EP.

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

NOTICE OF ADOPTION

Reports of Child Abuse in an Educational Setting

I.D. No. EDU-26-19-00001-A
Filing No. 918
Filing Date: 2019-10-08
Effective Date: 2019-10-23

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

Action taken: Amendment of sections 100.2(hh), 200.7, 200.20 and Subpart 57-1 of Title 8 NYCRR.


Subject: Reports of child abuse in an educational setting.

Purpose: To implement the provisions of chapter 363 of the Laws of 2018 relating to reports of child abuse in an educational setting.

Text or summary was published in the June 26, 2019 issue of the Register, I.D. No. EDU-26-19-00001-P.

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

NOTICE OF ADOPTION

School and District Safety Plans

I.D. No. EDU-31-19-00010-A
Filing No. 914
Filing Date: 2019-10-08
Effective Date: 2019-10-23

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

Action taken: Amendment of section 155.17 of Title 8 NYCRR.

Statutory authority: Education Law, sections 101(not subdivided), 207(not subdivided), 305(1), 305(2), 2801-a, as amended by L. 2019, ch. 59.

Subject: School and district safety plans.

Purpose: To implement certain provisions of section 32 of part YYYY of chapter 59 of the Laws of 2019.

Text or summary was published in the July 31, 2019 issue of the Register, I.D. No. EDU-31-19-00010-EP.

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

NOTICE OF ADOPTION

PROPOSED RULE MAKING

NO HEARING(S) SCHEDULED

Addition of Subject Ares to the Limited Extension and SOCE for Certain Teachers of Students with Disabilities

I.D. No. EDU-43-19-00011-P

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

Proposed Action: Amendment of sections 80-3.15 and 80-4.3 of Title 8 NYCRR.


Subject: Addition of Subject Ares to the Limited Extension and SOCE for Certain Teachers of Students with Disabilities.

Purpose: To enable more qualified teachers of students with disabilities to seek the limited extension and SOCE.

Text of proposed rule: 1. Section 80-3.15 of the Regulations of the Commissioner of Education shall be amended to read as follows:

§ 80-3.15 Statement of continued eligibility for teachers of students with disabilities to teach a special class in grades 7-12.

(a) Upon application, a person who meets the requirements of this section and is employed in a public school or other school for which teacher certification is required to teach a special class, as defined in section 200.1(uu) of this Title, may be issued a statement of continued eligibility pursuant to which such person may teach one or more of the following subject areas in a special class without a teaching certificate in these areas as is required under this Part: biology, chemistry, earth science, English Language Arts, general science, language other than English (specified in either (grades 5-9) or (grades 7-12), mathematics, physics, and social studies; provided that such person holds a valid initial or professional certificate in the classroom teaching service in students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content...
specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 7-12) content specialist; or the special education generalist permanent certificate and meets the requirements of this section for each subject area for which the person is seeking a statement of continued eligibility.

(b) The statement of continued eligibility shall be valid for service in any district and shall be continuously valid provided that the person holds a valid initial or professional certificate in students with disabilities (grades 5-9) generalist, students with disabilities (grades 7-12) content specialist; or the special education generalist permanent certificate and is teaching in a special class, as defined in section 200.1(u) of this Title.

2. Subdivision (n) of section 80-4.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(n) Requirements for the extension to teach certain subjects in grades 7-12.

(1) Purpose. The purpose of an extension issued under this section is to authorize a teacher who [is certified] holds a valid initial or professional certificate in the classroom teaching service in students with disabilities (grades K-12) to teach one of the core subject areas to the limited extension and statement of continued eligibility (SOCE) when the core subject area is science or English in either grades 5-9 or (grades 7 through 12).

(2) Subjects for which extension may be obtained. A teacher who [is certified] holds a valid initial or professional certificate in the classroom teaching service in students with disabilities (grades K-12) generalist, students with disabilities (grades 7-12) content specialist, or the special education generalist permanent certificate [is certified] to authorize the person to teach in students with disabilities in certain subjects.

(3) Requirements for the extension. The candidate shall meet the requirements in each of the following paragraphs:

(i) the candidate shall hold a valid initial or professional certificate in students with disabilities (grades 7-12 generalist) or students with disabilities (grades 5-9 [generalist]) or a valid provisional or permanent certificate for teaching students with disabilities in grades pre-K through 12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, or the special education generalist permanent certificate; and meets the requirements in one of the following subparagraphs:

(1) Requirements for the issuance of a limited extension to teach a specific subject in a special class in grades 7-12.

(1) Purpose. The purpose of limited extensions issued under this subdivision is to authorize a teacher who holds a valid initial or professional certificate in the classroom teaching service in students with disabilities (grades K-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 7-12) content specialist, or the special education generalist permanent certificate to teach one of the following subject areas in a special class as defined in section 200.1(u) of this Title: biology, chemistry, earth science, English Language Arts, general science, language other than English (specified) in either (grades 5-9) or (grades 7-12), mathematics, physics, and social studies.

(2) Requirements for a limited extension. A limited extension may be issued to a candidate in a specific subject area provided that the candidate holds a valid initial or professional certificate in the classroom teaching service in students with disabilities [generalist (grades 7-12)] (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 7-12) content specialist, or the special education generalist permanent certificate and meets the requirements in one of the following subparagraphs:

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

Data, views or arguments may be submitted to: Petra Maxwell, Education Department, Office of Higher Education, 89 Washington Avenue, Room 975 EBA, Albany, NY 12234, (518) 474-2238, email: regcomments@nysed.gov

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

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

Education Law 207 (not subdivided) grants general rule-making authority to the Regents to carry into effect State educational laws and policies.

Education Law 210 (not subdivided) authorizes the Regents to register domestic and foreign institutions in terms of New York standards.

Education Law 215 authorizes the Regents and/or the Commissioner to visit, examine and inspect any institution in the university and any school or institution under the educational supervision of the state.

Education Law 305(1) authorizes the Commissioner to enforce laws relating to the State educational system and execute Regents educational policies. Section 305(2) provides the Commissioner with general supervisory powers over schools and BOCES and over school district officers in their duties and the general management of their schools.

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

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

Education Law 3009 prohibits school district money from being used to pay the salary of an unqualified teacher.

2. LEGISLATIVE OBJECTIVES:

Consistent with the above statutory authority, proposed amendments to Section 80-3.15 and 80-4.3 of the Regulations of the Commissioner of Education includes additional subject areas to the limited extension and statement of continued eligibility (SOCE) for certain teachers of students with disabilities and makes technical amendments to the limited extension and SOCE, and subject area extensions in grades 7-12 for certain teachers of students with disabilities.

Teachers of students with disabilities who teach a special class in grades 7-12 and earn an SOCE are deemed certified in the subject area. The limited extension is available for teachers who are not eligible for the SOCE and is valid for five years while they pursue the requirements for the subject area certificate or subject area extension in grades 7-12. The limited extension is renewable one time for an additional five years under certain conditions. The limited extension and SOCE are only valid in a special class as defined in § 200.1(u) of the Regulations of the Commissioner of Education.

The Board of Regents added the following certificate titles eligible for the limited extension and SOCE at their February 2019 meeting: Students with Disabilities (Grades 5-9) Generalist and Content Specialist, Students with Disabilities (Grades 7-12) Content Specialist, and the Permanent Special Education Generalist. Expanding the list of eligible certificate titles enable more qualified teachers of students with disabilities who teach a special class in grades 7-12 to seek the limited extension and SOCE.

When the limited extension and SOCE regulations were amended to include the new certificate titles, the titles were not added to all subdivisions of the regulations. The new certificate titles also need to be added to the list of eligible certificates for the subject area extension in grades 7-12 so that teachers who hold a certificate in one of the titles and a limited extension in a subject area could be eligible for the subject area extension in grades 7-12.

Finally, school districts and BOCES have shared with the Department that teachers of students with disabilities who teach a special class have been teaching general science and languages other than English as well as the core subject areas. They have expressed a need to add general science and languages other than English as subject areas for the limited extension and SOCE.

The Department is proposing to add general science and languages other than English in either grades 5-9 or grades 7-12 to the list of subject areas

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for the limited extension and SOCE in response to school district and
BOCES needs. Further, teachers who earn the limited extension in general sci-
ence and progress towards the General Science Extension, they would
need to hold a valid Initial or Professional Biology, Chemistry, Earth Sci-
ence, or Physics certificate to fulfill the requirements for the General Sci-
ence Extension.

The following certificate titles would be added to the limited extension,
SOCE, and subject area extension in grades 7-12 in appropriate places in
the regulations: Students with Disabilities (Grades 5-9) Generalist and
Content Specialist, Students with Disabilities (Grades 7-12) Content Specialist,
and the Permanent Special Education Generalist.

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

5. LOCAL GOVERNMENT MANDATES:
The proposed amendment does not impose any program, service, duty,
or responsibility on local governments.

6. PAPERWORK:

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

8. ALTERNATIVES:
Because the State believes that uniform certification standards are
required across the State, no alternatives were considered.

9. FEDERAL STANDARDS:
There are no applicable Federal standards.

10. COMPLIANCE SCHEDULE:
A Notice of Proposed Rule Making will be published in the State Regis-
ter on October 23, 2019. Following the 60-day public comment period
required under the State Administrative Procedure Act, it is anticipated that
the proposed amendment will be presented to the Board of Regents for
adoption at its January 2019 meeting. If adopted at the January 2019
meeting, the proposed amendment will become effective on January 27,
2019.

Regulatory Flexibility Analysis

The purpose of the proposed amendment is to include additional subject
areas to the limited extension and statement of continued eligibility
(SOCE) for certain teachers of students with disabilities and to make
technical amendments to the limited extension, SOCE, and subject area
extensions in grades 7-12 for certain teachers of students with disabilities.

The Department added the following certificate titles eligible for the
limited extension and SOCE at their February 2019 meeting: Students with
Disabilities (Grades 5-9) Generalist and Content Specialist, Students with
Disabilities (Grades 7-12) Content Specialist, and the Permanent
Special Education Generalist. Expanding the list of eligible certificate
titles will enable more qualified teachers of students with disabilities who
teach a special class in grades 7-12 to seek the limited extension and
SOCE.

When the limited extension and SOCE regulations were amended to
include the new certificate titles, the titles were not added to all subdivi-
sions of the regulations. The new certificate titles also need to be added to
the list of eligible certificate titles for the subject area extension in grades 7-12
so that teachers who hold a certificate in one of the titles and a limited
extension in a subject area could be eligible for the subject area extension
in grades 7-12.

Finally, school districts and BOCES have shared with the Department
that teachers of students with disabilities who teach a special class have
been teaching general science and languages other than English as well as
the core subject areas. They have expressed a need to add general science
and languages other than English as subject areas for the limited extension
and SOCE.

The Department is proposing to add general science and languages other
than English in either grades 5-9 or grades 7-12 to the list of subject areas
for the limited extension and SOCE in response to school district and
BOCES needs. For teachers who earn the limited extension in general sci-
ence and progress towards the General Science Extension, they would
need to hold a valid Initial or Professional Biology, Chemistry, Earth Sci-
ence, or Physics certificate to fulfill the requirements for the General Sci-
ence Extension.

In addition, the following certificate titles would be added to the limited
extension, SOCE, and subject area extension in grades 7-12 in appropriate
places in the regulations: Students with Disabilities (Grades 5-9) General-

ist and Content Specialist, Students with Disabilities (Grades 7-12)
Content Specialist, and the Permanent Special Education Generalist.

The additions make the list of eligible certificate titles for the three credentials
consistent throughout the regulations and enable teachers who hold a cer-

tificate in one of the titles and a limited extension in a subject area to be eligible
for the subject area extension in grades 7-12.

The amendments do not impose any new recordkeeping or other
compliance requirements and will not have an adverse economic impact
on small businesses or local governments. Because it is evident from the
nature of the proposed amendments that they will not affect small busi-

nesses or local governments, no further steps were needed to ascertain that
fact and none were taken. Accordingly, a regulatory flexibility analysis for
small businesses is not required and one has not been prepared.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:
The proposed amendments apply to all teachers of students with dis-
abilities who hold a Students with Disabilities Generalist certificate in
grades 7-12 and teach one or more core subject areas in special classes,
including those located in the 44 rural counties with fewer than 200,000
inhabitants and the 71 towns and urban counties with a population density
of 150 square miles or less.

2. REPORTING, RECORDKEEPING, AND OTHER COMPLIANCE
   REQUIREMENTS; AND PROFESSIONAL SERVICES:
The purpose of the proposed amendments to §§ 80-3.15 and 80-4.3 of
the Regulations of the Commissioner of Education is to include additional
subject areas to the limited extension and statement of continued eligibil-
ity (SOCE) for certain teachers of students with disabilities and to make
technical amendments to the limited extension, SOCE, and subject area
extensions in grades 7-12 for certain teachers of students with disabilities.
The Board of Regents added the following certificate titles eligible for the
limited extension and SOCE at their February 2019 meeting: Students with
Disabilities (Grades 5-9) Generalist and Content Specialist, Students with
Disabilities (Grades 7-12) Content Specialist, and the Permanent
Special Education Generalist. Expanding the list of eligible certificate
titles enable more qualified teachers of students with disabilities who teach
a special class in grades 7-12 to seek the limited extension and SOCE.

When the limited extension and SOCE regulations were amended to
include the new certificate titles, the titles were not added to all subdivi-
sions of the regulations. The new certificate titles also need to be added to
the list of eligible certificate titles for the subject area extension in grades 7-12
so that teachers who hold a certificate in one of the titles and a limited
extension in a subject area could be eligible for the subject area extension
in grades 7-12.

Finally, school districts and BOCES have shared with the Department
that teachers of students with disabilities who teach a special class have
been teaching general science and languages other than English as well as
the core subject areas. They have expressed a need to add general science
and languages other than English as subject areas for the limited extension
and SOCE.

The Department is proposing to add general science and languages other
than English in either grades 5-9 or grades 7-12 to the list of subject areas
for the limited extension and SOCE in response to school district and
BOCES needs. For teachers who earn the limited extension in general sci-
ence and progress towards the General Science Extension, they would
need to hold a valid Initial or Professional Biology, Chemistry, Earth Sci-
ence, or Physics certificate to fulfill the requirements for the General Sci-
ence Extension.

In addition, the following certificate titles would be added to the limited
extension, SOCE, and subject area extension in grades 7-12 in appropriate
places in the regulations: Students with Disabilities (Grades 5-9) General-

ist and Content Specialist, Students with Disabilities (Grades 7-12)
Content Specialist, and the Permanent Special Education Generalist.

The amendments make the list of eligible certificate titles for the three credentials
consistent throughout the regulations and enable teachers who hold a cer-

tificate in one of the titles and a limited extension in a subject area to be eligible
for the subject area extension in grades 7-12. Therefore, no alternatives were considered for those located
in rural areas of the State.

3. COSTS:
The proposed amendments do not impose any costs on teacher certifi-
cation candidates and/or the New York State school districts/BOCES who
wish to hire them.

4. MINIMIZING ADVERSE IMPACT:
The Department believes that the additions make the list of eligible cer-

tificate titles for the three credentials consistent throughout the regulations
and enable teachers who hold a certificate in one of the titles and a limited
extension in a subject area to be eligible for the subject area extension in
grades 7-12. Therefore, no alternatives were considered for those located
in rural areas of the State.

5. RURAL AREA PARTICIPATION:
Copies of the proposed amendments have been provided to Rural Advi-
sory Committee for review and comment.
Admission requirements to a college of chiropractic shall include the following preprofessional postsecondary education: 90 semester hours of college study, [including courses in general chemistry, organic chemistry, biology or zoology and physics.] with a minimum of 24 semester hours in life and physical science, which may include, but not be limited to, courses in general biology, human anatomy, physiology, general chemistry, biochemistry, physics, biomechanics and kinesiology, and, of these 24 semester hours, at least half of such hours shall include a laboratory component.

2. Subdivision (a) of section 73.1 of the Regulations of the Commissioner of Education authorizes the Board of Regents to promulgate regulations in administering the admission to and the practice of the professions.

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 EB, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Data, views or arguments may be submitted to: Petra Maxwell, NYS Education Department, Office of Higher Education, 89 Washington Ave., Room 975 EBA, Albany, NY 12234, (518) 474-2238, email: regcomments@nysed.gov

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

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

Section 6504 of the Education Law authorizes the Board of Regents to supervise the admission to and regulation of the practice of the professions. Paragraph (a) of subdivision (2) of section 6507 of the Education Law authorizes the Commissioner of Education to promulgate regulations in administering the admission to and the practice of the professions.

Section 6551 of the Education Law defines the practice of chiropractic.

Section 6554 of the Education Law establishes the requirements for licensure as a chiropractor and authorizes standards for such licensure to be included in regulations promulgated by the Commissioner of Education.

2. LEGISLATIVE OBJECTIVES:

Education Law section 6554 authorizes the Department to establish educational requirements, including the preprofessional educational requirements, for the profession of chiropractic. The Council on Chiropractic Education (CCE) is the only agency approved by the United States Department of Education to accredit Doctor of Chiropractic Programs (DCP). Effective January 2014, the (CCE) changed its requirements for student admissions to a DCP. These changes included raising the number of hours of undergraduate study to at least 90 hours (3 years) with a G.P.A. of not less than 3.0 on a 4.0 scale. Currently, New York State requires 60 hours (2 years) of undergraduate study. The 90 hours adopted by the CCE include a minimum of 24 semester hours in life and physical science courses, at least half of which are required to have a laboratory component. The CCE’s preprofessional preparation requirements also includes a well-rounded general education program in the humanities and social sciences deemed relevant by the CCE for successful completion of the DCP curriculum. The CCE’s revised requirements also provide some flexibility in the prerequisite coursework, which enables DCPs to add students, who may have an applicable foundation for a Doctor of Chiropractic degree but may be lacking in New York State’s prescribed science courses. With the exception of New York State, all other states follow the CCE preprofessional education requirements.

Section 6554 authorizes the Department to establish educational requirements, including the preprofessional educational requirements, for the profession of chiropractic. The Council on Chiropractic Education (CCE) is the only agency approved by the United States Department of Education to accredit Doctor of Chiropractic Programs (DCP). Effective January 2014, the (CCE) changed its requirements for student admissions to a DCP. These changes included raising the number of hours of undergraduate study to at least 90 hours (3 years) with a G.P.A. of not less than 3.0 on a 4.0 scale. Currently, New York State requires 60 hours (2 years) of undergraduate study. The 90 hours adopted by the CCE include a minimum of 24 semester hours in life and physical science courses, at least half of which are required to have a laboratory component. The CCE’s preprofessional preparation requirements also includes a well-rounded general education program in the humanities and social sciences deemed relevant by the CCE for successful completion of the DCP curriculum. The CCE’s revised requirements also provide some flexibility in the prerequisite coursework, which enables DCPs to add students, who may have an applicable foundation for a Doctor of Chiropractic degree but may be lacking in New York State’s prescribed science courses. With the exception of New York State, all other states follow the CCE preprofessional education requirements.

Proposed Action: Amendment of sections 52.14 and 73.1 of Title 8 NYCRR.

Proposed rule making

Rule Making Activities

Job Impact Statement

The purpose of the proposed amendments to 8 NYCRR § 3-1.15 and § 80-4.3 of the Regulations of the Commissioner of Education is to create additional subject areas to the limited extension and statement of continued eligibility (SOCE) for certain teachers of students with disabilities and technical amendments to the limited extension, SOCE, and subject area extensions in grades 7-12 for certain teachers of students with disabilities.

Teachers of students with disabilities who teach a special class in grades 7-12 and earn an SOCE are deemed certified in the subject area. The limited extension is available for teachers who are not eligible for the SOCE and is valid for five years while they pursue the requirements for the subject area certificate or subject area extension in grades 7-12. The limited extension is renewal one time for an additional five years under certain conditions. The limited extension and SOCE are only valid in a special class.

The Board of Regents added the following certificate titles eligible for the limited extension and SOCE at their February 2019 meeting: Students with Disabilities (Grades 5-9) Generalist and Content Specialist, Students with Disabilities (Grades 7-12) Content Specialist, and the Permanent Special Education Generalist. Expanding the list of eligible certificate titles enable more qualified teachers of students with disabilities who teach a special class in grades 7-12 to seek the limited extension and SOCE.

When the limited extension and SOCE regulations were amended to include the new certificate titles, the titles were not added to all subdivisions of the regulations. The new certificate titles also need to be added to the list of eligible certificates for the subject area extension in grades 7-12 so that teachers who hold a certificate in one of the titles and a limited extension in a subject area could be eligible for the subject area extension in grades 7-12.

Finally, school districts and BOCES have shared with the Department that teachers of students with disabilities who teach a special class have been teaching general science and languages other than English as well as the core subject areas. They have expressed a need to add general science and languages other than English as subject areas for the limited extension and SOCE.

The Department is proposing to add general science and languages other than English in either grades 5-9 or grades 7-12 to the list of subject areas for the limited extension and SOCE in response to school district and BOCES needs. For teachers who earn the limited extension in general science and progress towards the General Science Extension, they would need to hold a valid Initial or Professional Biology, Chemistry, Earth Science, or Physics certificate to fulfill the requirements for the General Science Extension.

In addition, the following certificate titles would be added to the limited extension, SOCE, and subject area extension in grades 7-12 in appropriate places in the regulations: Students with Disabilities (Grades 5-9) Generalist and Content Specialist, Students with Disabilities (Grades 7-12) Content Specialist, and the Permanent Special Education Generalist. The additions make the list of eligible certificate titles for the three credentials consistent throughout the regulations and enable teachers who hold a certificate in one of the titles and a limited extension in a subject area to be eligible for the subject area extension in grades 7-12.

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

Proposed Rule Making

No hearing(s) scheduled

Requirements for Chiropractic Education Programs and Education Requirements for Licensure as a Chiropractor

L.D. No. EDU-43-19-00013-P

Pursuant to the provisions of the State Administrative Procedure Act, notice is hereby given of the following proposed rule:

Proposed action: Amendment of sections 52.14 and 73.1 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207, 6504, 6507, 6551 and 6554

Subject: Requirements for Chiropractic Education Programs and Education Requirements for Licensure as a Chiropractor.

Purpose: To conform educational requirements for the profession of chiropractic to the national preprofessional education standards.

Text of proposed rule: 1. Section 52.14 of the Regulations of the Commissioner of Education is amended, as follows:

Section 52.14. Chiropractic.
they may be unable to meet these requirements. In recent years, New York State has seen a decline in the number of chiropractic license applications, which may be due to, at least, in part, candidates applying for licensure in states with education requirements that better match their preprofessional studies. Thus, there is concern that continuing to mandate these unique preprofessional requirements may further contribute to this decline in licensure applications, which could decrease New Yorkers’ access to chiropractic services.

Additionally, pursuant to Education Law section 65513(3) and section 73.4 of the Regulations of the Commissioner of Education, Doctors of Chiropractic licensed in New York State may order for diagnostic purposes those clinical laboratory services which are contained within the required coursework of all registered doctoral programs in chiropractic in this State and the study of which the licensee has successfully completed in a course of study at a chiropractic school. However, the clinical laboratory tests that Doctors of Chiropractic are permitted to order, include blood tests; urine tests; microbiology tests; and stool analysis.

The proposed amendment to sections 52.14 and 73.1(a) of the Regulations of the Commissioner of Education is designed to address the above- referred to concerns by conforming them to the national preprofessional education standards by requiring the completion of not less than 60 semester hours of preprofessional postsecondary education, with a minimum of 24 semester hours in life and physical science, which may include but not be limited to, courses in general biology, human anatomy, physiology, general chemistry, biochemistry, physics, biomechanics and kinesiology, and of these 24 semester hours, half shall include a laboratory component.

3. NEEDS AND BENEFITS:

With the exception of New York State, all other states follow the CCE preprofessional education requirements. There are concerns that New York State’s nationally unique preprofessional education requirements may be creating a barrier to licensure for otherwise well qualified chiropractic licensure candidates, who received their education outside of this State, because they may be unable to meet these requirements. In recent years, New York State has seen a decrease in the number of chiropractic licensure applications, which may be due to, at least, in part, candidates applying for licensure in states with education requirements that better match their preprofessional studies. Thus, there is concern that continuing to mandate these unique preprofessional requirements may further contribute to this decline in licensure applications, which could decrease New Yorkers’ access to chiropractic services.

The proposed amendment to sections 52.14 and 73.1(a) of the Regulations of the Commissioner of Education is designed to address this situation by conforming New York State’s preprofessional education requirements for students seeking admission to New York State Doctor of Chiropractic Programs to national standards.

4. COSTS:

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

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

(c) Cost to private regulated parties: The proposed amendment does not impose any additional costs on higher education institutions, any of the education programs referenced above or the students enrolled in them, or any other private regulated parties.

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

5. LOCAL GOVERNMENT MANDATES:

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

PAPERWORK:

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

7. DUPLICATION:

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

8. ALTERNATIVES:

The proposed amendment to sections 52.14 and 73.1(a) of the Regulations of the Commissioner of Education conforms New York State’s preprofessional education requirements for students seeking admission to New York State Doctor of Chiropractic Programs to national standards in order to remove a potential barrier to licensure for otherwise well qualified chiropractic licensure candidates. It is anticipated that the proposed amendment will increase the number of licensed chiropractors in this State and improve the public’s access to chiropractic services, while ensuring public protection.

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

9. FEDERAL STANDARDS:

No Federal standards apply to the subject matter of this rule making. The Federal government does not regulate the licensure requirements for applicants for licensure as a chiropractor in New York State. Since there are no applicable federal standards, the proposed amendment does not exceed any minimum federal standards for the same or similar subject areas.

10. COMPLIANCE SCHEDULE:

If adopted at the January 2019 Regents meeting, the proposed amendment will become effective January 29, 2020. It is anticipated that regulated parties will be able to comply with the proposed amendment by the effective date.

Regulatory Flexibility Analysis

The purpose of the proposed amendment to sections 52.14 and 73.1(a) of the Regulations of the Commissioner of Education is to conform New York State’s preprofessional education requirements for students seeking admission to New York State Doctor of Chiropractic Programs to national standards in order to remove a potential barrier to licensure for otherwise well qualified chiropractic licensure candidates. It is anticipated that the proposed amendment will increase the number of licensed chiropractors in this State and improve the public’s access to chiropractic services, while ensuring public protection.

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

Rural Area Flexibility Analysis

The purpose of the proposed amendment to sections 52.14 and 73.1(a) of the Regulations of the Commissioner of Education is to conform New York State’s preprofessional education requirements for students seeking admission to New York State Doctor of Chiropractic Programs to national standards in order to remove a potential barrier to licensure for otherwise well qualified chiropractic licensure candidates. It is anticipated that the proposed amendment will increase the number of licensed chiropractors in this State and improve the public’s access to chiropractic services, while ensuring public protection.

The proposed amendment to the preprofessional education requirements is applicable to individuals seeking admission to New York State Doctor of Chiropractic Programs. One of the purposes of the proposed amendment is to increase access to chiropractic services in New York State, including rural areas of this State. Thus, the proposed amendment does not adversely impact entities in rural areas of New York State. Accordingly, no further steps were needed to ascertain the impact of the proposed amendment on entities in rural areas and none were taken. Thus, a rural flexibility analysis is not required and one has not been prepared.

Job Impact Statement

It is not anticipated that the proposed amendment will impact jobs or employment opportunities. This is because the proposed amendment to sections 52.14 and 73.1(a) of the Regulations of the Commissioner of Education conforms New York State’s preprofessional education requirements for students seeking admission to New York State Doctor of Chiropractic Programs to national standards in order to remove a potential barrier to licensure for otherwise well qualified chiropractic licensure candidates. It is anticipated that the proposed amendment will increase the number of licensed chiropractors in this State and improve the public’s access to chiropractic services, while ensuring public protection.

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

REVISED RULE MAKING

NO HEARING(S) SCHEDULED

Strengthening Data Privacy and Security in NY State Educational Agencies to Protect Personally Identifiable Information

L.D. No. EDU-05-19-00008-RP

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

Proposed Action: Addition of Part 121 to Title 8 NYCRR.

Statutory authority: Education Law, sections 2-d, 101, 207 and 305

Subject: Strengthening Data Privacy and Security in NY State Educational Agencies to Protect Personally Identifiable Information.
Purpose: To protect personally identifiable information.

Substance of revised rule (Full text is posted at the following State website: http://www.counsel.nysed.gov/rules/full-text-indices): Strengthening Data Security and Privacy in NY State Educational Agencies to Protect Personally Identifiable Information

§ 121.1 Definitions.

This section provides definitions for specific terms for this Part.

§ 121.2 Educational Agency Data Collection Transparency and Restrictions.

Prohibits educational agencies from selling personally identifiable information (PII) or using/disclosing it or allowing any other entity to use or disclose it for any marketing or commercial purpose. Educational agencies must incorporate provisions in its contracts with third party contractors that require the confidentiality of PII. Prohibits the reporting of certain data elements unless prescribed by law.

§ 121.3 Parents Bill of Rights for Data Privacy and Security.

Requires each educational agency to: publish on its website a parent’s bill of rights for data privacy and security; include it with every contract where a third-party contractor will receive PII; include supplemental information for each contract such as the exclusive purposes for which the data will be used and how the third-party contractor will comply with all applicable data protection and security requirements. The supplemental information must also be published on the educational agency’s website.

§ 121.4 Parent Complaints of Breach or Unauthorized Release of Personally Identifiable Information.

Educational agencies must establish procedures for parents, eligible students, teachers, principals and staff of the educational agency to file complaints about breaches or unauthorized releases of student data. The procedure will require educational agencies to promptly acknowledge receipt of complaints, commence an investigation, and take the necessary precautions to protect any personally identifiable information.

§ 121.5 Data Security and Privacy Standard.

Adopts the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1 (NIST Cybersecurity Framework or NIST CSF) as the standard for data security and privacy for educational agencies. Each educational agency must adopt and publish a data security and privacy policy that complies with the proposed regulations, aligns with the NIST CSF, and includes provisions that require every educational agency with the PII of teacher and principal data benefit students and the educational agency and prohibits the inclusion of personally identifiable information in public reports or other documents. Each educational agency is required to publish its data security and privacy policy on its website and provide notice of the policy to all its officers and employees.

§ 121.6 Data Security and Privacy Plan.

Educational agencies must ensure that their contracts with third-parties that will receive PII include a data security and privacy plan that complies with Education Law § 2-d and provides minimum requirements for the plan.

§ 121.7 Training for Educational Agency Employees.

Educational agencies must provide annual data privacy and security awareness training to their officers and employees with access to personally identifiable information. Such training may be delivered using online training tools and may be included as part of training the educational agency already offers to its workforce.

§ 121.8 Educational Agency Data Protection Officer.

Each educational agency must designate a data protection officer to be responsible for the implementation of the policies and procedures required in Education Law § 2-d and this Part, and to serve as the point of contact for data security and privacy for the educational agency.

§ 121.9 Third Party Contractors.

Third-party contractors that will receive PII must adopt technologies, safeguards and practices that align with the NIST Cybersecurity Framework, comply with the data security and privacy policy of the educational agency with whom it contracts; comply with Education Law § 2-d; and the proposed regulations. Contractors are prohibited from selling PII or using it for any marketing or commercial purpose and may not disclose any PII to any other party without the written consent of the parent or eligible student. Additionally, where a third-party contractor engages a subcontractor to perform its contractual obligations, the data protection obligations imposed on the third-party contractor are applicable to the subcontractor.

§ 121.10 Reports and Notifications of Breach and Unauthorized Release.

Third-party contractors must notify each educational agency with which it has a contract of any breach or unauthorized release of PII in accordance with requirements set forth in the proposed regulations. Educational agencies must report any breach or unauthorized release of PII to the Chief Privacy Officer and notify affected parents, eligible students, teachers and/or principals in the most expedient way possible in accordance with requirements set forth in the proposed regulations. The Chief Privacy Officer is required to report law enforcement any breach or unauthorized release that constitutes criminal conduct.

§ 121.11 Third Party Contractor Civil Penalties.

The Chief Privacy Officer has the authority to investigate reports of breaches or unauthorized releases and impose penalties on third party contractors for unauthorized releases or breaches of PII in accordance with requirements set forth in the proposed regulations.

§ 121.12 Right of Parents and Eligible Students to Inspect and Review Students Education Records.

Consistent with FERPA, parents and eligible students shall have the right to inspect and review a student’s education record by making a request directly to the educational agency in a manner prescribed by the educational agency. Educational agencies must verify the identity of the requestor before releasing the records. Educational agencies are required to notify parents annually of their right to request to inspect and review their child’s education record including any student data stored or maintained by an educational agency.

§ 121.13 Chief Privacy Officer’s Powers.

The Chief Privacy Officer shall have the power to access all records, reports, audits, reviews, documents, papers, recommendations, and other materials maintained by an educational agency that relate to student data or teacher or principal data, which shall include but not be limited to records related to any technology product or service that will be utilized to store and/or process personally identifiable information as further described in the proposed regulations. Additionally, the Chief Privacy Officer has the right to exercise any other powers that the Commissioner deems appropriate.

§ 121.14 Severability.

If any provision of this part or its application to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of the article or their application to other persons and circumstances, and those remaining provisions shall not be affected but shall remain in full force and effect.

Revised rule making(s) were previously published in the State Register on July 31, 2019.

Revised rule compared with proposed rule: Substantial revisions were made to the proposed rule:

Text of revised proposed rule and any required statements and analyses may be obtained from Kirti Goswami, Education Department, 89 Washington Avenue, Room 148, Albany, NY 12234, (518) 474-6400, email: kirti.goswami@nysed.gov

Data, views or arguments may be submitted to: Sara Paupini, Education Department, 89 Washington Avenue, Room 152EB, Albany, New York 12234, (518) 402-9051, email: regcomments@nysed.gov

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

Revised Regulatory Impact Statement

Since publication of a Notice of Adoption and Proposed Rule Making in the State Register on July 31, 2019, the following substantial revisions were made to the proposed rule:

- The provisions of section 121.9(c) were removed. Such provision provided which that where a parent or eligible student requests a service or product from a third-party contractor and provides express consent to the use or disclosure of personally identifiable information by the third-party contractor for purposes of providing the requested product or service, such use by the third-party contractor shall not be deemed a marketing or commercial purpose.
- In accordance with Education Law 2-d(7)(a) provides the commissioner, in consultation with the chief privacy officer, shall promulgate regulations establishing procedures to implement the provisions of this section, including but not limited to procedures for the submission of complaints from parents and/or persons in parental relation to students, classroom teachers or building principals, or other staff of an educational agency, making allegations of improper disclosure of student data and/or teacher or principal data by a third party contractor or its employees, assigns. The current regulation only provides a complaint process for parents and eligible students. The regulation has been amended to include a complaint process for teachers, principals and staff of the educational agency for improper disclosure of student data and/or teacher or principal data.
- Ed. Law 2-d(6)(e)(5) it states that “if it is determined that the unauthorized release of student data or teacher or principal data on the part of the third party contractor or assignee was inadvertent and done without intent, knowledge, recklessness or gross negligence, the commissioner may determine that there is no penalty imposed on the contractor.” Currently, Section 121.11(f) of the Commissioner’s regulations provides that “If the Chief Privacy Officer determines that the breach or unau-
rized release of student data or teacher or principal data on the part of the third-party contractor. The agency was inadventent and done without intent, knowledge, recklessness or gross negligence, the Commissioner may determine that no penalty be issued upon the third-party contractor.” There is no reference, however, in either the law or the regulations regarding the process for how the matter gets from the Chief Privacy Officer to the Commissioner. The regulation has been amended to clarify that the Chief Privacy Officer will make a recommendation to the Commissioner for his/her final determination.

1. STATUTORY AUTHORITY:

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

Education Law section 305(1) authorizes the Commissioner to enforce laws relating to the State educational system and execute Regents educational policies. Section 305(2) provides the Commissioner with general supervision over schools and authority to advise and guide school district officers in their duties and the general management of their schools.

Education Law § 121.4 requires educational agencies to establish procedures for parents, eligible students, teachers, principals and staff of the educational agency to file complaints about breaches or unauthorized releases of student data.

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

Education Law section 305(1) authorizes the Commissioner to enforce laws relating to the State educational system and execute Regents educational policies. Section 305(2) provides the Commissioner with general supervision over schools and authority to advise and guide school district officers in their duties and the general management of their schools.

Education Law § 121.4 requires educational agencies to establish procedures for parents, eligible students, teachers, principals and staff of the educational agency to file complaints about breaches or unauthorized releases of student data.

§ 121.5 requires each educational agency to adopt and publish a data security and privacy policy that complies with the regulations and aligns with the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1 no later than July 1, 2020.

§ 121.6 requires each educational agency to ensure that its contracts with third-party contractors include a data security and privacy plan.

§ 121.7 requires educational agencies to provide annual information privacy and security awareness training to their officers and employees with access to personally identifiable information, and how employees can comply with such laws.

§ 121.8 requires each educational agency to designate one or more employees to serve as the educational agency’s data protection officer(s) to be responsible for the implementation of the policies and procedures required in Education Law § 2-d and this Part, and to serve as the point of contact for data security and privacy for the educational agency. This requirement may be fulfilled by a current employee(s) of the educational agency who may perform this function in addition to other job responsibilities.

§ 121.9 requires third-party contractors to notify each educational agency with which it has a contract of any breach or unauthorized release of personally identifiable information. Educational agencies must report breaches or unauthorized releases of PI to the Chief Privacy Officer and notify parents, eligible students, teachers and/or principals in accordance with the regulations.

§ 121.10 provides that consistent with FERPA, parents and eligible students shall have the right to inspect and review a student’s education record by making a request directly to the educational agency in a manner prescribed by the educational agency. Educational agencies are required to notify parents annually of their right to request to inspect and review their child’s education record including any student data stored or maintained by an educational agency.

§ 121.13 addresses the Chief Privacy Officer’s powers, including the power to access records and other materials maintained by an educational agency that relate to PII.

6. PAPERWORK:

§ 121.2 prohibits educational agencies from selling personally identifiable information or using/disclosing it or allowing any other entity to use or disclose it for any marketing or commercial purpose. Educational agencies must incorporate provisions in its contracts with third-party contractors that require the confidentiality of PII.

§ 121.4 requires educational agencies to establish procedures for parents and eligible students to file complaints about breaches or unauthorized releases of student data.

§ 121.10 requires third-party contractors to notify each educational agency with which it has a contract of any breach or unauthorized release
of personally identifiable information. Educational agencies must report breaches or unauthorized releases of PII to the Chief Privacy Officer and notify affected parents, eligible students, teachers and/or principals in accordance with the regulations. §121.12 provides that consistent with FERPA, parents and eligible students shall have the right to inspect and review their child’s education record by making a request directly to the educational agency in a manner prescribed by the educational agency. Educational agencies are required to notify parents annually of their right to request to inspect and review their child’s education record including any student data stored or maintained by an educational agency.

7. DUPLICATION:
The rule is necessary to implement Education Law section 2-d and does not duplicate existing State or Federal requirements.

8. ALTERNATIVES:
The rule is necessary to implement Education Law section 2-d. No significant alternatives were considered.

9. FEDERAL STANDARDS:
The rule is necessary to implement Education Law section 2-d. There are no applicable Federal standards.

10. COMPLIANCE SCHEDULE:
The proposed amendment will become effective upon adoption. As stated above, section 121.5 of the proposed regulation requires each educational agency to adopt and publish a data security and privacy policy that complies with the regulations and aligns with the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1 no later than July 1, 2020.

**Revised Regulatory Flexibility Analysis**

(a) Small businesses:
The purpose of the proposed rule is to implement Education Law section 2-d, as added by Chapter 56 of the Laws of 2014 which outlines certain requirements for educational agencies and their third-party contractors to ensure the privacy and security of the personally identifiable information of students, and certain annual professional performance review data of teachers and principals (PII).

1. EFFECT OF RULE:
The proposed rule, consistent with Education Law section 2-d, establishes certain requirements for educational agencies and their third-party contractors to ensure the security and privacy of PII.

2. COMPLIANCE REQUIREMENTS:
Certain requirements in the proposed rule apply to small businesses that receive PII and do not impose any program, service, duty or responsibility on small businesses beyond those imposed by the statute. Compliance requirements are summarized as follows:

§121.2 prohibits educational agencies from selling personally identifiable information or using/disclosing it or allowing any other entity to use or disclose it for any marketing or commercial purpose. Educational agencies must incorporate provisions in its contracts with third-party contractors that require the confidentiality of PII.

§121.3 requires each educational agency to adopt a parent’s bill of rights for data privacy and security that is included with every contract an educational agency enters with a third-party contractor that receives personally identifiable information and is published on its website.

§121.4 requires educational agencies to establish procedures for parents, eligible students, teachers, principals and staff of the educational agency to file complaints about breaches or unauthorized releases of student data.

§121.5 requires each educational agency to adopt and publish a data security and privacy policy that complies with the regulations and aligns with the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1 no later than July 1, 2020.

§121.6 requires each educational agency to ensure that its contracts with third-party contractors include a data security and privacy plan.

§121.7 requires educational agencies to provide annual information privacy and security awareness training to their officers and employees with access to personally identifiable information. Such training may be delivered using online training tools and may be included as part of training the educational agency already offers to its workforce.

§121.8 requires each educational agency to designate one or more employees to serve as the educational agency’s data protection officer(s) to be responsible for the implementation of the policies and procedures required in Education Law § 2-d and this Part, and to serve as the point of contact for data security and privacy for the educational agency. This requirement may be fulfilled by a current employee(s) of the educational agency who may perform this function in addition to other job responsibilities.

§121.9 requires third-party contractors that will receive PII to adopt technologies, safeguards and practices that align with the NIST Cybersecurity Framework; comply with the data security and privacy policy of the educational agency with which it contracts; Education Law § 2-d; and the regulations.

§121.10 requires third-party contractors to notify each educational agency with which it has a contract of any breach or unauthorized release of personally identifiable information. Educational agencies must report breaches or unauthorized releases of PII to the Chief Privacy Officer and notify affected parents, eligible students, teachers and/or principals in accordance with the regulations.

§121.11 provides that the Chief Privacy Officer has the authority to investigate reports of breaches or unauthorized releases and may impose civil penalties on third party contractors for breaches or unauthorized releases of PII.

§121.12 provides that consistent with FERPA, parents and eligible students shall have the right to request a student’s education record directly to the educational agency in a manner prescribed by the educational agency. Educational agencies are required to notify parents annually of their right to request to inspect and review their child’s education record including any student data stored or maintained by an educational agency.

§121.13 addresses the Chief Privacy Officer’s powers, including the power to access records and other materials maintained by an educational agency that relate to PII.

3. PROFESSIONAL SERVICES:
The proposed amendment does not impose any additional professional services requirements on small businesses.

4. COMPLIANCE COSTS:
See the Costs Section of the Regulatory Impact Statement that is published in the State Register on this publication date for an analysis of the costs of the proposed rule.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:
The proposed rule may impose additional technological requirements on small businesses that receive PII. Economic feasibility is addressed above under Compliance Costs.

6. MINIMIZING ADVERSE IMPACT:
The rule is necessary to implement Education Law section 2-d, as added by Chapter 56 of the Laws of 2014. The rule has been carefully drafted to meet statutory requirements.

7. SMALL BUSINESS PARTICIPATION:
(a) State government:
The proposed rule applies to educational agencies and does not impose any program, service, duty or responsibility on small businesses beyond those imposed by the statute. Compliance requirements are summarized as follows:

§121.2 prohibits educational agencies from selling personally identifiable information or using/disclosing it or allowing any other entity to use or disclose it for any marketing or commercial purpose. Educational agencies must incorporate provisions in its contracts with third-party contractors that require the confidentiality of PII.

§121.3 requires each educational agency to adopt a parent’s bill of rights for data privacy and security that is included with every contract an educational agency enters with a third-party contractor that receives personally identifiable information and is published on its website.

§121.4 requires educational agencies to establish procedures for parents, eligible students, teachers, principals and staff of the educational agency to file complaints about breaches or unauthorized releases of student data.

§121.5 requires each educational agency to adopt and publish a data security and privacy policy that complies with the regulations and aligns with the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1 no later than July 1, 2020.

§121.6 requires each educational agency to ensure that its contracts with third-party contractors include a data security and privacy plan.

§121.7 requires educational agencies to provide annual information privacy and security awareness training to their officers and employees with access to personally identifiable information. Such training may be delivered using online training tools and may be included as part of training the educational agency already offers to its workforce.

§121.8 requires each educational agency to designate one or more employees to serve as the educational agency’s data protection officer(s) to be responsible for the implementation of the policies and procedures required in Education Law § 2-d and this Part, and to serve as the point of contact for data security and privacy for the educational agency. This requirement may be fulfilled by a current employee(s) of the educational agency who may perform this function in addition to other job responsibilities.

§121.9 requires third-party contractors that will receive PII to adopt technologies, safeguards and practices that align with the NIST Cybersecurity Framework; comply with the data security and privacy policy of the educational agency with which it contracts; Education Law § 2-d; and the regulations.

§121.10 requires third-party contractors to notify each educational agency with which it has a contract of any breach or unauthorized release of personally identifiable information. Educational agencies must report breaches or unauthorized releases of PII to the Chief Privacy Officer and notify affected parents, eligible students, teachers and/or principals in accordance with the regulations.

§121.11 provides that the Chief Privacy Officer has the authority to investigate reports of breaches or unauthorized releases and may impose civil penalties on third party contractors for breaches or unauthorized releases of PII.

§121.12 provides that consistent with FERPA, parents and eligible students shall have the right to request a student’s education record directly to the educational agency in a manner prescribed by the educational agency. Educational agencies are required to notify parents annually of their right to request to inspect and review their child’s education record including any student data stored or maintained by an educational agency.

§121.13 addresses the Chief Privacy Officer’s powers, including the power to access records and other materials maintained by an educational agency that relate to PII.
employees to serve as the educational agency’s data protection officer(s) to be responsible for the implementation of the policies and procedures required in Education Law § 2-d and this Part, and to serve as the point of contact for data security and privacy for the educational agency. This requirement may be fulfilled by a current employee(s) of the educational agency who may perform this function in addition to other job responsibilities. § 121.9 requires third-party contractors that will receive PII to adopt technologies, safeguards and practices that align with the NIST Cybersecurity Framework; comply with the data security and privacy policy of the educational agency with which it contracts; Education Law § 2-d; and the regulations. Prohibits third-party contractors from disclosing PII to any other party without the prior written consent of the parent or eligible student.

§ 121.10 requires third-party contractors to notify each educational agency with which it has a contract of any breach or unauthorized release of personally identifiable information. Educational agencies must report breaches or unauthorized releases of PII to the Chief Privacy Officer and notify affected parents, eligible students, teachers and/or principals in accordance with the regulations.

§ 121.11 provides that the Chief Privacy Officer has the authority to investigate reports of breaches or unauthorized releases and may impose civil penalties on third party contractors for breaches or unauthorized releases of PII and for each violation of Education Law § 2-d.

§ 121.12 requires educational agencies to establish procedures for data security and privacy for the educational agency. This agency who may perform this function in addition to other job responsibilities.

§ 121.13 requires each educational agency to adopt a parent’s bill of rights for data privacy and security that is included with every contract an educational agency enters with a third-party contractor that receives personally identifiable information and is published on its website.

§ 121.14 requires educational agencies to establish procedures for parents, eligible students, teachers, principals and staff of the educational agency to file complaints about breaches or unauthorized releases of student data.

§ 121.15 requires each educational agency to adopt and publish a data security and privacy policy that complies with the regulations and aligns with the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1 no later than July 1, 2020.

§ 121.16 requires each educational agency to ensure that its contracts with third-party contractors include a data security and privacy policy. § 121.17 requires educational agencies to publish an annual data security and privacy awareness training to their officers and employees with access to personally identifiable information. Such training may be delivered using online training tools and may be included as part of training the educational agency already offers to its workforce.

§ 121.18 requires each educational agency to designate one or more employees to serve as the educational agency’s data protection officer(s) to be responsible for the implementation of the policies and procedures required in Education Law § 2-d and this Part, and to serve as the point of contact for data security and privacy for the educational agency. This requirement may be fulfilled by a current employee(s) of the educational agency who may perform this function in addition to other job responsibilities.

3. PROFESSIONAL SERVICES:

§ 121.17 requires educational agencies to provide annual information privacy and security awareness training to their officers and employees with access to personally identifiable information. Such training may be delivered using online training tools and may be included as part of training the educational agency already offers to its workforce and should include training on the federal law that protect personally identifiable information, and how employees can comply with such laws.

§ 121.18 requires each educational agency to designate one or more employees to serve as the educational agency’s data protection officer(s) to be responsible for the implementation of the policies and procedures required in Education Law § 2-d and this Part, and to serve as the point of contact for data security and privacy for the educational agency. This requirement may be fulfilled by a current employee(s) of the educational agency who may perform this function in addition to other job responsibilities.

4. COMPLIANCE COSTS:

See the Costs Section of the Regulatory Impact Statement that is published in the State Register on this publication date for an analysis of the costs of the proposed rule.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed regulation requires each educational agency to ensure it has a policy on data security and privacy. As required by Education Law § 2-d(5), the proposed regulation adopts the National Institute for Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version 1.1 (NIST Cybersecurity Framework or NIST CSF) as the standard for data security and privacy for educational agencies. No later than July 1, 2020, each educational agency shall adopt and publish a data security and privacy policy that implements the requirements of this Part and aligns with the NIST CSF.

Economic feasibility is addressed above under Compliance Costs.

6. MINIMIZING ADVERSE IMPACT:

The rule is necessary to implement Education Law section 2-d, as added by Chapter 56 of the Laws of 2014. The rule has been carefully drafted to meet statutory requirements while providing flexibility to educational agencies.

7. LOCAL GOVERNMENT PARTICIPATION:

The proposed regulation was developed in consultation with stakeholders and the public. In the Spring of 2018, fourteen public forums were held across the state to receive public comment on the law. Electronic comments were also accepted by the Department during this two-month period. These comments were critical to developing the implementing regulations. The Department has also coordinated with a Data Privacy Advisory Council (DPAC) and subset Regulatory Drafting Workgroup, to review drafts of the proposed regulation and provide an opportunity for stakeholder comment. The DPAC is comprised of stakeholders from a wide range of industry including parent advocates, administrative and teacher organizations as well as technical experts and district level staff. Finally, the Department is working with an Implementation Workgroup, comprised of RIC Directors, BOCES staff and district technical directors to receive feedback and ensure successful implementation of these regulations.

Revised Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:

The proposed amendment applies to all educational agencies in the State, including those located in rural areas.

6. MINIMIZING ADVERSE IMPACT:

The rule is necessary to implement Education Law section 2-d, as added by Chapter 56 of the Laws of 2014. The rule has been carefully drafted to meet statutory requirements while providing flexibility to educational agencies.

7. LOCAL GOVERNMENT PARTICIPATION:

The proposed regulation was developed in consultation with stakeholders and the public. In the Spring of 2018, fourteen public forums were held across the state to receive public comment on the law. Electronic comments were also accepted by the Department during this two-month period. These comments were critical to developing the implementing regulations. The Department has also coordinated with a Data Privacy Advisory Council (DPAC) and subset Regulatory Drafting Workgroup, to review drafts of the proposed regulation and provide an opportunity for stakeholder comment. The DPAC is comprised of stakeholders from a wide range of industry including parent advocates, administrative and teacher organizations as well as technical experts and district level staff. Finally, the Department is working with an Implementation Workgroup, comprised of RIC Directors, BOCES staff and district technical directors to receive feedback and ensure successful implementation of these regulations.
The rule is necessary to implement Education Law section 2-d. The rule has been carefully drafted to meet statutory requirements while providing flexibility educational agencies. Since the statute applies to all educational agencies throughout the State, it was not possible to establish different compliance and reporting requirements based on the complexity of the regulations in rural areas, or to exempt them from the rule’s provisions.

5. RURAL AREA PARTICIPATION:

The proposed regulations were developed in consultation with stakeholders including parent advocates, administrative and teacher organizations as well as technical experts and district level staff including those located in rural areas. Electronic comments were also accepted by the Department during this two-month period. These comments were critical to developing the implementing regulations. The Department has also coordinated with a Data Privacy Advisory Council (DPAC) and subset Regulatory Drafting Workgroup, to review drafts of the proposed regulation and provide an opportunity for stakeholder comment. The DPAC is comprised of stakeholders from a wide range of industry including parent advocates, administrative and teacher organizations as well as technical experts and district level staff including those located in rural areas. Finally, the Department is working with an Implementation Workgroup, comprised of RIC Directors, BOCES staff and district technical directors to receive feedback and ensure successful implementation of these regulations.

Revised Job Impact Statement

The purpose of the revised proposed rule is to implement Education Law section 2-d, as added by Chapter 56 of the Laws of 2014, which protects the privacy and security of personally identifiable information of students, and teacher and principal annual professional performance review (APPFR) data. The law outlines certain requirements for educational agencies and the third-party contractors they utilize to ensure the security and privacy of protected information. Because it is evident from the nature of the proposed rule that it will have no impact on the number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

Assessment of Public Comment

This Assessment of Public Comment summarizes the comments received on the revised proposed Parts 121 of the Regulations of the Commissioner of the Department of Education, published July 31, 2019. Please refer to the full Assessment of Public Comment for the Department’s complete assessment of public comment.

A commenter wrote to urge the Department not to weaken the provisions of Education Law § 2-d by permitting college testing companies to sell or commercialize student data. No change.

A commenter asked the Department to focus on strengthening the Parent Bill of Rights and rigorously enforcing the law. No change.

A commenter requested that industry participation should be sought in the future. No change.

An additional commenter requested that the proposed rule be amended to clearly state that “not all of the NIST CSP standards will be applicable to districts as they do not apply to K-12 education and would be problematic.” The commenter requested a staggered adoption timeline; and asked in situations where a BOCES is the sole party to a contract with a third-party contractor, the proposed regulation allow for an exception to the requirement for direct notification from the educational agency.

No change.

The same commenter stated that the regulatory impact statement (RIS) filed by the Department is insufficient. Revisions made.

A commenter wrote that the Department should focus on safety in schools, counseling, and proper education. No change.

A commenter asked the Department to “Please protect student privacy!” No change.

A commenter stated that the proposed changes “should have been flagged and memoed to all schools and been the subject of discussions at PTA meetings.” Additionally, they believed the number of public forums held in 2018 to be inadequate. No change.

Commenters stated that we should be protecting student data, not trying to profit off of it. No change.

A commenter stated that Education Law Section 2-d is designed to deal with 4-year universities, post-secondary educational institutions and third-party contractors and opined that college admissions testing companies are not third-party contractors. No change.

A commenter asked that an exception be made to permit third-party contractors to use PII to provide services contracted by a district if it is for a limited purpose and is in compliance with all applicable laws and regulations. No change.

A commenter expressed concern that the provision of the proposed rule that states that “the Chief Privacy Officer may visit, examine and/or inspect a third party contractor’s facilities and records in the event of a breach or unauthorized release of student or teacher data” may be in conflict with the third party contractor’s similar privacy obligations to others. No change.

Commenters stated that the definition of “Commercial or Marketing Purpose” expands the scope of Education Law § 2-d and may be interpreted in a manner that may restrict beneficial programs or create technical compliance concerns. No change.

A commenter stated that the proposed regulation does not distinguish between the use of “directory information” and more sensitive educational records, which may result in the regulation requiring parent consent for programs that only use a small amount of less-sensitive directory data. Revisions made in part.

A commenter stated that educational agencies should retain flexibility to approve contracts that include communications with students about beneficial educational programs without requiring parent consent. Revisions made in part.

A commenter expressed concern that the requirement to post supplemental information on the educational agency’s website may expose information to hackers that could put student data at risk and stated that redaction should be permitted at the request of the contractor or based on a joint determination between the contractor and the agency. No change.

A commenter stated that the clause in the proposed rule that refers to data being deleted, destroyed or transferred back to the educational agency at the end of the contract should also permit the transfer of student-generated content or similar data to a personal account at the request of the student or parent. No change.

A commenter wrote that the provision prohibiting disclosure of PII to any third party without the written consent of the parent or eligible student should also permit the educational agency to consent to disclosures which are part of a school approved state or district program. Revisions made.

A commenter suggested more time for educational agencies and third-party contractors to comply. No change.

A commenter stated that the Department should push away from the focus on testing as the end all/be all of tracking student progress/ achievement. The commenter also stated that “we need to move towards need based school funding” and provide training in soft skills to students.

No change.

A commenter stated that they were pleased that the revised regulation “includes an exception for permission from colleges, scholarships, tutoring services, educational materials and related resources with prior consent of a parent or legal guardian.” No change.

A commenter wrote to share their discontent with the Department’s consideration of sharing student data for marketing purposes. No change.

A comment stated that the phrase the “use or disclosure for purposes of receiving remuneration, whether directly or indirectly” could prohibit schools from contracting for services with any outside organization. No change.

A commenter agreed that subcontractors should be required to protect data in accordance with the contract signed by the third party provider. No change.

A comment stated that the inclusion of third party providers in the regulatory development process would have “provided other stakeholders and regulators with crucial field information on current use and practice as well as greatly reduce the chance of unintended consequences with the result being robust, balanced protections for students.” The commenter requested that industry participation should be sought in the future. No change.

A commenter questioned whether posting a vendor signed copy of the Bill of Rights from a contract that includes multiple districts would fulfill the supplemental requirement for each individual district. No change.

A commenter questioned whether other vendors/agencies should be
They suggest that the word "license" should be added so that third-party contractors should be required to have written contracts with the education agencies. Biometric information, except as required by law or required for enrollment (2) criminal records; (3) medical and health records; and (4) student reporting to the state any data regarding (1) juvenile delinquency records; (2) educational purpose is for allowing vendors access to this data; data breach collection student data; education agencies should have to explain what the privacy policies on their websites and provide notice of the policies to parents; they should be required to post all contracts with vendors who contractors are barred from selling and/or licensing student data for a fee. The specific provision in Education Law § 2-d that bars districts from revised to include entities that also "have access to" student, teacher, and parent data. The commenter also suggested structure contractual arrangements to avoid compliance with Education Law § 2-d. No change. A commenter raised the issue of educational agency compliance when utilizing systems pursuant to a click-wrap agreement and also stated that the cost statement in the regulatory impact statement relating to local governments is untrue. Revision made. A commenter states that they disagree with the department’s response to their comments on the ASVAB from the initial comment period are beyond the scope of the proposed regulation. No change. A commenter writes that it is imperative for the Department to more carefully address the issues of biometric surveillance technology. No change. A commenter writes that they support the clarification of the required elements of the data security and privacy plan. They believe such plans should be made publicly available. They also support that the proposed regulation adopted their recommendation to include explicit prohibitions on certain types of data being shared. No change. A commenter writes that the bill of rights should specifically include certain Federal Acts and should also include the section in Education Law § 2-d which provides the Chief Privacy Officer with the authority to expand the Parent Bill of Rights in the future. The commenter also suggest that personally identifiable information of former students and teachers as well as current students and teachers should be covered under the proposed regulation. The commenter writes that the regulation should also include the specific provision in Education Law § 2-d that bars districts from reporting to the state any data regarding (1) juvenile delinquency records; (2) criminal records; (3) medical and health records; and (4) student biometric information, except as required by law or required enrollment data. The commenter writes that in order to collect personal data, vendors should be required to have written contracts with the education agencies. They suggest that the word "license" should be added so that third-party contractors are barred from selling and/or licensing student data for a fee. The commenter suggests that vendors and third-party contractors should be barred from selling data in the case of a bankruptcy. They also state that education agencies should be required to publish their data and security privacy notices on their websites and provide notice of these policies to parents; they should be required to post all contracts with vendors who collect student data; education agencies should have to explain what the educational purpose is for allowing vendors access to this data; data breach notification to parents and affected parties should be carried out by regular mail as well as email; and the regulations should incorporate all the powers and responsibilities of the Chief Privacy Officer as stated in Education Law § 2-d. No change. A commenter writes that to expect school districts to individually protect their data is not realistic. No change. A commenter question if and how the Board of Regents plan on incorporating the new NIST privacy framework. No change. A commenter writes that the consent required in Section 121.9(a)(5) of the proposed regulation should also include a requirement for prior written consent that affected teachers and/or principals and suggests that Section 121.9(a)(8) should permit the educational agency to consent to disclosures that may technically fall within such provision, but which are part of a school-approved service or program. No change. A commenter writes that they are concerned that if parental consent requirements are imposed without more evaluation, study, realistic protocols and timelines, this would be problematic. No change. A commenter writes that in the previous comment period they submitted comments that remain unaddressed. Specifically their comment stating that the proposed regulation has a incomplete list of duties of the Chief Privacy Officer, and their comment stating that the NIST CSF data security and privacy standard is not designed to ensure that confidential information is protected and remains confidential. No change.

State Board of Elections

EMERGENCY
RULE MAKING

Process for Early Voting

L.D. No. SBE-22-19-00003-E
Filing No. 906
Filing Date: 2019-10-04
Effective Date: 2019-10-04

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Addition of Part 6211 to Title 9 NYCRR.
Statutory authority: Election Law, sections 8-602 and 3-102(17)

Finding of necessity for emergency rule: Preservation of general welfare.
Specific reasons underlying the finding of necessity: The Commissioners determined that it is necessary for the preservation of the general welfare that this amendment be adopted on an emergency basis as authorized by section 202(6) of the State Administrative Procedure Act, effective immediately upon filing with the Department of State. This amendment be adopted as an emergency measure because time is of the essence and to adopt the regulation in the normal course of business would be contrary to the general welfare. Chapter 6 of the Laws of 2019 requires that Early Voting be implemented by the November 5, 2019 general election. Local boards of elections will not have adequate time to budget and plan for early voting by the general election if this amendment were to be adopted in the normal course of business.
Subject: Process for Early Voting.
Purpose: Establishes additional ballot accountability procedures.

Text of emergency rule: A new Part 6211 is added to read as follows:

PART 6211 - Early Voting Regulations

6211.1 Early Voting Site Designations
(a) Deadline for Early Voting Site Designations. By May first of each year, the board of elections shall designate early voting sites for the general election held in such year. Early voting sites for primaries and special elections shall be designated no later than forty-five days before such an election.
(b) Minimum Number of Early Voting Sites
(1) For a general election, the board of elections shall designate at least the number of early voting sites required by this Part, based on the number of registered voters in each county, including voters in active and inactive status as of February 1, as follows:
(i) If the number of voters in the county is less than 99,999, the county must have at least one early voting site.
(ii) If the number of voters in the county is equal to or more than 100,000 and less than or equal to 149,999, the county must have at least two early voting sites.
(iii) If the number of voters in the county is equal to or more than 150,000 and less than or equal to 199,999, the county must have at least three early voting sites.
(iv) If the number of voters in the county is equal to or more than 200,000 and less than or equal to 249,999, the county must have at least four early voting sites.
(v) If the number of voters in the county is equal to or more than 250,000 and less than or equal to 299,999, the county must have at least five early voting sites.
(vi) If the number of voters in the county is equal to or more than 300,000 and less than or equal to 349,999, the county must have at least six early voting sites.
(vii) If the number of voters in the county is equal to or more than 350,000, the county must have at least seven early voting sites.
(2) For a primary election or special election, the minimum number of early voting sites shall be based on the number of voters eligible to participate in the election pursuant to subparagraph 1 of this subdivision, unless the board of elections adopts a resolution determining that a lesser number of early voting sites is sufficient to meet the needs of early voters. Such resolution shall state the basis of such determination and shall specify how the board of elections will monitor voter wait times at early voting sites and ensure compliance with 6210.19(d) throughout the period of early voting.
(3) The board of elections may designate more early voting sites than the minimum number required for the convenience of voters.
(4) All sites must be open for voting for the sixty-hours required by Election Law § 4-600, but the board of elections may expand the hours the early voting sites are open beyond the statutory minimums. 

(c) Standards For Early Voting Site Designation

(1) Adequate and Accessible Equivalency. Early voting sites shall be located such that voters in each county have adequate and accessible access to early voting, and such sites shall comply with the provisions of the Election Law related to poll sites and accessibility for voters with physical disabilities. A polling place accessibility survey shall be completed, filed and updated for each early voting site as required by Part 6206.

(2) The board of elections shall consider, in totality, the following factors when designating early voting sites:

(i) population density;
(ii) travel time to the early voting location from the voter’s place of residence;
(iii) proximity of an early voting site to other early voting sites;
(iv) whether the early voting site is on or near public transportation routes;
(v) commuter traffic patterns;
(vi) any other factors the board of elections deems appropriate.

6211.2 Canvass of Ballots Cast During Early Voting

(a) All ballots cast during early voting period, by any method allowed under law, shall be canvassed and counted as if cast on Election Day. At the end of each day of early voting, all voted and unvoted ballots shall be reconciled and, along with any portable memory devices containing voting information and registration poll records, returned to the board of elections or otherwise secured pursuant to a plan approved by the state board at least sixty days before the first election at which such plan shall be applicable. Such plan submitted by the commissioners of a board of elections shall be approved by the executive directors of the state board no later than two weeks after receipt.

(b) The manner of canvassing the voting machines used at early voting and announcing the results shall be consistent with section 8-600 of the election law and the procedures of the state board of elections, except that the canvass of ballots cast during the early voting period may begin no earlier than at eight o’clock p.m. on Election Day, provided the board of elections adopts procedures to prevent the public release of any election results prior to the close of polls on election day. Such procedures must be consistent with the regulations of the state board of elections and must be filed with the state board of elections at least thirty days before any early voting period for an election to which they will apply. To prevent the premature release of voting results prior to the close of all polls on Election Day, all persons lawfully present at the canvass of ballots cast during the early voting period shall remain incommunicado with all persons outside of the place of canvass and shall remain at the room or area of the canvass once the canvass has begun, absent exigency or a board of elections purpose that requires leaving the canvass room or area, until at least the close of polls on the day of election.

6211.3 Ballots Cast When Scanner Unavailable During the Early Voting Period

At the end of each day of early voting, those ballots which were not scanned because a scanner was not available or because the ballot was abandoned at the ballot scanner, shall, if a scanner is then available, be scanned by the election inspectors as provided for by Election Law § 9-110. Any ballots that are unscannable because it is rejected by the scanner or because of an overvote or wholly blank vote warning provided by the ballot scanner, shall be secured in the manner applicable to voted ballots on election day and shall remain unexamined until the time of canvass of all ballots on election day, at which time they shall be examined as provided for in Election Law § 9-110 and duly canvassed. Such ballots shall be reconciled as required by the procedures of the state board and must be held in abeyance until the time of canvass on election day under tamper evident seal and lock and key.

6211.4 Affidavit Ballots Cast During Early Voting

Affidavit ballots cast during early voting shall be accounted for in the manner of affidavit ballots cast on election day. Boards of elections shall comply with the bi-partisan review of the affidavit ballots submitted on election day. At the time of canvass, affidavit ballot envelopes shall be secured, when not in bipartisan custody for processing and research, under tamper evident seal and lock and key as required by the procedures of the state board.

6211.5 Privacy of Voting

To ensure an efficient and fair early voting process that respects the privacy of the voter, the manner of voting on days of the early voting period shall be the same as the manner of voting on the day of election.

6211.6 Voter History and Prevention of Duplicate Voting

(a) During the early voting period, the voting history record for each voter shall be continually updated to reflect that a voter has voted early. A record is created when a voter has voted during the early voting period shall be available to poll workers at every early voting site at which a voter is eligible to vote in near real time. In such instance where a voter is only eligible to vote at one early voting site, the single poll book at such site for such voter is used to determine the continually updated record of voter history throughout the early voting period.

(b) By Election Day, the voting history record of each voter who has cast a ballot during the early voting period shall be entered into the voter registry of the system of the board of elections. Such voter history record shall be included in the voter registration poll record that is used on Election Day to determine the eligibility of voters. Such Election Day record must differentiate voters who voted early from those who appeared to vote on the day of election.

(c) Any voter who the board of elections has identified as having voted during the early voting period shall not be eligible to vote on Election Day, except such voter shall be entitled to complete an affidavit ballot if such voter claims not to have voted early. Such affidavit shall be marked as such.

(d) No later than the seventh day after a primary or special election or the tenth day after the general election, the voting history record of each voter who has signed a poll record and thus cast a ballot on such election day shall be entered into the voter registration system of the board of elections, and the voter history for such election day voters and early voters shall be uploaded to the statewide voter registration list.

6211.7 Early Voting Communications Plan

(a) Early Voting Information. The board of elections shall provide at least the following information to media outlets within the county:

(i) The location of early voting sites and their dates and hours of operation;
(ii) A statement that all early voting sites are accessible to voters with physical disabilities;
(iii) A clear statement that if a voter casts a ballot during early voting the voter will not be allowed to vote on election day or on a subsequent day of early voting;
(iv) If early voting sites are specific to particular cities, towns or other local jurisdictions, a statement describing the area served by each early voting site;

(b) Communications Outreach. County board of elections may also provide early voting information by using local media venues and any other communication mechanisms, including but not limited to broadcast advertisements, direct mail or newspaper advertisements. The board of elections communications plan shall identify the community based groups that were involved in the development of the plan or were provided early voting information.

(c) Filing Communications Plan With State Board of Elections. The board of elections shall annually file a copy of the communications plan on or before June 1, except in the first year of early voting, on or before the first day of July.
6211.8 Applicability
This part shall apply in relation to any election at which early voting is held pursuant to title VI of article 8 of the election law as enacted by chapter 6 of the laws of 2019.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. SBE-22-19-00003-EP, Issue of May 29, 2019. The emergency rule will expire December 2, 2019.

Text of rule and any required statements and analyses may be obtained from: Nicholas R. Cartagena, Board of Elections, 40 N Pearl Street, Ste 5, Albany, NY 12207, (518) 474-2063, email: nicholas.cartagena@elections.ny.gov

Regulatory Impact Statement
A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of emergency rule making, I.D. No. SBE-22-19-00003-EP, Issue of May 29, 2019.

Regulatory Flexibility Analysis
A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of emergency rule making, I.D. No. SBE-22-19-00003-EP, Issue of May 29, 2019.

Rural Area Flexibility Analysis
A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of emergency rule making, I.D. No. SBE-22-19-00003-EP, Issue of May 29, 2019.

Job Impact Statement
A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of emergency rule making, I.D. No. SBE-22-19-00003-EP, Issue of May 29, 2019.

Assessment of Public Comment
The State Board received four public comments in response to its publication of Emergency Adoption and Revised Rulemaking I.D No. SBE-22-19-00003-EP that amends section 6211. The Board received comments from the following entities:

A Disability Rights Advocacy Organizations
Summaries of the comments on the proposal and the Department’s responses thereto are as follows:

Comment: “The NYS BOE proposed early voting communication plan … fails to include a deadline indicating when a county board of elections office must notify eligible voters of the designated early polling places and hours of operations. Voters with disabilities have increased barriers ar-ranging transportation to the polls on Election Day. It is necessary to provide a deadline whereby a county board of elections must notify their eligible voters of the designated polling places and hours of operations. (e.g. No less than 30 days prior to the commencement of any early voting period.)”

Response: The proposed regulations provide that a local “board of elections shall annually file a copy of the communications plan on or before June 1, except in the first year of early voting, on or before the first day of July.” Any communication plan that does not timely inform voters of early voting sites and their dates and hours of operation will be rejected by the State Board.

NOTICE OF ADOPTION
Audit Status for Early Voting
I.D. No. SBE-22-19-00001-A
Filing No. 908
Filing Date: 2019-10-04
Effective Date: 2019-10-23

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

Action taken: Addition of section 6210.19 to Title 9 NYCRR.

Statutory authority: Election Law, sections 7-203(2) and 3-102(17)

Subject: Audit Status for Early Voting.

Purpose: Establishes process for Auditing Early Voting Machines and Systems.

Text or summary was published in the May 29, 2019 issue of the Register, I.D. No. SBE-22-19-00001-EP.

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

Text of rule and any required statements and analyses may be obtained from: Nicholas Cartagena, State Board of Elections, 40 North Pearl Street, Ste 5, Albany, NY 12207, (518) 474-2063, email: nicholas.cartagena@elections.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.

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 agency received no public comment.

NOTICE OF ADOPTION
Related to the Minimum Required Voting Machines and Privacy Booths Needed for Early Voting Polling Sites
I.D. No. SBE-22-19-00002-A
Filing No. 907
Filing Date: 2019-10-04
Effective Date: 2019-10-23

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

Action taken: Addition of section 6210.19 to Title 9 NYCRR.

Statutory authority: Election Law, sections 7-203(2) and 3-102(17)

Subject: Related to the Minimum Required Voting Machines and Privacy Booths needed for Early Voting Polling Sites.

Purpose: Establishes the Minimum Required Voting Machines and Privacy Booths needed for Early Voting Polling Sites.

Text or summary was published in the May 29, 2019 issue of the Register, I.D. No. SBE-22-19-00002-EP.

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

Text of rule and any required statements and analyses may be obtained from: Nicholas Cartagena, State Board of Elections, 40 North Pearl Street, Ste 5, Albany, NY 12207, (518) 474-2063, email: nicholas.cartagena@elections.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.

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 agency received no public comment.

NOTICE OF ADOPTION
Air Emissions Regulation of Cleaning Solutions Containing Volatile Organic Compounds
I.D. No. ENV-12-19-00002-A
Filing No. 900
Filing Date: 2019-10-02
Effective Date: 30 days after filing

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
NYS Register/October 23, 2019

Rule Making Activities

Action taken: Amendment of Parts 201 and 226 of Title 6 N.Y.C.R.R.


Subject: Air emissions regulation of cleaning solutions containing volatile organic compounds.

Purpose: Update existing regulation with latest emission control requirements and add requirements recently issued by EPA.

Substantive changes/final rule: The New York State Department of Environmental Conservation (Department) proposes to: amend the current Part 226 entitled “Solvent Metal Cleaning Processes” by redesignating it Subpart 226-1 and renaming it “Solvent Cleaning Processes”; and make a new Subpart 226-2, entitled “Industrial Cleaning Solvents”; and make attendant amendments and add requirements recently issued by EPA. The Department is undertaking this rulemaking to satisfy New York’s obligations under the CAA and in a manner consistent with State law.

Text of rule and any required statements and analyses may be obtained pursuant to art. 8 of the State Administrative Procedure Act.

Nonsubstantive changes: Pursuant to art. 8 of the State Environmental Quality Review Act, a Short Environmental Assessment Form, a Negative Declaration and a Coastal Assessment Form have been prepared and are on file.

Summery of Revised Regulatory Impact Statement

STATUTORY AUTHORITY

The New York State (NYS) statutory authority for these regulations is found in the Environmental Conservation Law (ECL) Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 71-2103, and 71-2105. Descriptions of these referenced ECL sections are contained in the Regulatory Impact Statement.

LEGISLATIVE OBJECTIVES

In enacting the Title I ozone control requirements of the 1990 Clean Air Act (CAA) amendments, Congress recognized the hazards of ground-level ozone pollution and mandated that States implement stringent regulatory programs in order to meet the National Ambient Air Quality Standard (NAAQS) for ozone. The Department is undertaking this rulemaking to satisfy New York’s obligations under the CAA and in a manner consistent with ECL Article 19.

Articles 1 and 3 of the CAA established the overall State policy goal of reducing air pollution and providing clean air for the citizens of New York and provide general authority to adopt and enforce measures to do so. In addition to the general powers and duties of the Department and the Commissioner to prevent and control air pollution found in Articles 1 and 3, Article 19 of the CAA was specifically designed to regulate the quality of New York’s air pollution. Under Article 19, the Department is authorized to formulate, adopt, promulgate, amend and repeal regulations for preventing, controlling and prohibiting air pollution. This Department is also authorized to promulgate, amend and repeal regulations for preventing, controlling or prohibiting air pollution in such areas of the State as shall or may be affected by air pollution. In addition, this authority also includes the preparation of a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of any new air pollution recognizing various requirements for different areas of the State.

In 1970, Congress amended the CAA “to provide for a more effective program to improve the quality of the Nation’s air.” The statute directed EPA to adopt National Ambient Air Quality Standards (NAAQS) and required states to develop implementation plans known as State Implementation Plans (SIPs) which prescribed the measures needed to attain the NAAQS. In 1977 the Act was amended to require states to identify areas that did not meet the NAAQS; these areas would then be designated as “nonattainment” areas. States with these “nonattainment” areas were then required to include in their SIPs standards, requirements and regulations relating to new source review, reasonably available control technology, emission inventories and projections, and contingency measures.

Congress again amended the Act in 1990 with the goal of setting more realistic deadlines while requiring reasonable progress towards attainment. The 1990 CAA amendments therefore required states to develop implementation plans (SIPs) to include reasonable control measures and regulations that would be implemented in phases to bring nonattainment areas into attainment.

The New York State Department of Environmental Conservation (DEC) is required by the Federal Clean Air Act (CAA) to adopt and implement regulations to meet the requirements of Title I of the Act. Section 110 of the CAA requires states to develop implementation plans known as State Implementation Plans (SIPs) which prescribe the measures needed to attain the National Ambient Air Quality Standards (NAAQS) for each of the source categories identified in the federal CTGs, including RACT.

NEEDS AND BENEFITS

Adoption of the proposed revisions to Part 226 will help fulfill state and federal legislative objectives by imposing RACT controls on solvent cleaning processes and industrial cleaning solvents in the source categories identified in the latest federal Control Techniques Guidelines (CTGs). The Department is adopting these RACT regulations to reduce New York’s VOCs emissions from solvent cleaning processes and industrial cleaning solvents, reducing harmful ground-level ozone pollution, and allowing the State to attain the NAAQS for ozone.

There are two types of ozone, stratospheric and ground level ozone. Ozone in the stratosphere is naturally occurring and desirable because it shields the earth from carcinogenic ultraviolet radiation. In contrast, ground level ozone, or smog, results from the mixing of VOCs and NOx on hot, sunny, summer days, and can harm humans and plants. As a result, EPA has established the primary ozone NAAQS to protect public health.

more susceptible than an adult’s. Additionally, ozone is a summertime phenomenon. Children and elderly people are outside playing and exercising more often during the summer which results in greater exposure to ozone than many adults. Outdoor workers are also more susceptible to lung damage because of their increased exposure to ozone during the summer months.

In 2006, EPA recognized a number of epidemiological and controlled human exposure studies that suggest that asthmatic individuals are at greater risk for a variety of ozone-related effects including increased respiratory symptoms, increased medication usage, increased doctor and emergency room visits and hospital admissions; provide highly suggestive evidence that short-term ambient ozone exposure contributes to mortality; and report health effects at ozone concentrations lower than the level of the current standards, as low as 0.04 parts per million (ppm) for some highly sensitive individuals. See ‘Fact Sheet: Review of National Ambient Air Quality Standards for Ozone’ Draft Staff Paper, Human Exposure and Risk Assessments and First Draft Environmental Report’, U.S. Environmental Protection Agency, July 2006.

Ground level ozone also interferes with the ability of plants to produce and store food, which compromises growth, reproduction and overall plant health. By weakening sensitive vegetable, ozone makes them more susceptible to disease, pests and environmental stressors. Ozone has been shown to reduce yields for many economically important crops (e.g., corn, kidney beans, soybeans). Also, ozone damage to long-lived species such as trees (by killing or damaging leaves) can significantly decrease the natural beauty of an area, such as the Adirondacks.

As discussed above, the proposed revisions to Part 226 will also allow the state to satisfy state and federal legislative objectives by imposing RACT to control VOC emissions from solvent cleaning processes and industrial cleaning solvents in New York. Pursuant to furthering the goal of attaining the National Ambient Air Quality Standards (NAAQS). A discussion of ozone and regulatory needs and benefits are further detailed in the “Regulatory Impact Statement” (RIS) and other rulemaking documents.

**COSTS**

**Costs to Regulated Parties and Consumers**
The Ozone Transport Commission (OTC) estimates the costs associated with changes to solvent cleaning processes (proposed Part 226-1) to be on the order of $1,400 per ton of VOC reduced. The Department asserts that these costs are well within the framework of RACT programs.

The EPA, in its Industrial Cleaning Solvent CTG (proposed Part 226-2), concluded that facilities may incur minimal additional cost or realize a savings on a case by case basis. It estimated that replacing high VOC content cleaning materials with low VOC cleaning materials for large manufactured surfaces, tank cleaning and gun cleaning would result in a coast savings of $1,330 per ton of VOC used. For the calculation, only cleaning material and waste disposal costs were considered. Here too, the Department has determined that these costs align with RACT protocol.

**Costs to State and Local Governments**
As discussed above, this rulemaking flows from the State’s obligations under the Clean Air Act. This is not a mandate on local governments. There are no specific requirements in the regulation which apply exclusively to small businesses or local governments. Local governments are not directly affected by the proposed revisions.

**ECONOMIC AND TECHNOLOGICAL FEASIBILITY:**

The industrial cleaning solvent CTG (proposed Part 226-2) concluded that facilities may incur minimal additional cost or realize a savings on a case by case basis. It estimated that replacing high VOC content cleaning materials with low VOC water-based cleaning materials for large manufactured surfaces, tank cleaning and gun cleaning would result in a coast savings of $1,330 per ton of VOC used. For this calculation, only cleaning material and waste disposal costs were considered. The Department considers these costs to be well within RACT guidelines.

**EFFECTS ON SMALL BUSINESS AND LOCAL GOVERNMENTS:**
The proposed revisions to Part 226 apply statewide. As detailed in the RIS, this is a requirement flowing from the State’s obligations under the Clean Air Act. This is not a mandate on local governments. The proposed revisions apply to any entity that owns or operates a subject source. Facilities that engage in solvent cleaning processes (Subpart 226-1) will have new VOC content limits. Facilities that use 3 tons or more of industrial cleaning solvents per year will be subject to new requirements in Subpart 226-2.

**COMPLIANCE REQUIREMENTS:**
There are no specific requirements in the regulation which apply exclusively to small businesses or local governments. Local governments are not directly affected by the proposed revisions.

**COMPLIANCE COSTS:**
The Industrial Cleaning Solvent CTG (addition of Part 226-2) concluded that facilities may incur minimal additional cost or realize a savings on a case by case basis. It estimated that replacing high VOC content cleaning materials with low VOC water-based cleaning materials for large manufactured surfaces, tank cleaning and gun cleaning, would result in a cost savings of $1,330 per ton of VOC used. For this calculation, only cleaning material and waste disposal costs were considered. The Department considers these costs to be well within RACT guidelines.

**ECONOMIC AND TECHNOLOGICAL FEASIBILITY:**

As noted earlier, this rulemaking flows from the State’s obligations under the CAA. This is not a mandate on local governments. It applies equally to any entity that owns or operates a subject source. Compliant products are available for all solvent cleaning processes and industrial cleaning solvents and are affordable.

**MINIMIZING ADVERSE IMPACT:**
No adverse impacts to the environment or regulated industry are expected. The proposed revisions are intended to reduce VOC emissions to the environment. Local governments are not expected to be directly affected by the proposed revisions.
SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION:

Since local governments are not expected to be directly affected by the proposed revisions, the Department did not contact local governments directly. The Department did provide advance notice of these rule revisions to the regulated community so that they would have sufficient time to take the necessary steps to come into compliance with the rule. Additionally, the Department plans on holding public hearings at various locations throughout New York State after the revisions are proposed. Small businesses will have the opportunity to attend these public hearings; and there will be a public comment period in which interested parties can submit written comments. Public participation and comment will also be available during EPA’s SIP approval process.

CURE PERIOD:

In accordance with NYS State Administrative Procedures Act (SAPA) Section 202-b, this rulemaking does not include a cure period because the Department is undertaking this rulemaking to comply with federal Clean Air Act requirements, requiring the incorporation of federal CTGs to establish RACT for industrial cleaning solvents for inclusion into the state implementation plan.

Revised Rural Area Flexibility Analysis

The New York State Department of Environmental Conservation (Department) proposes to revise 6 NYCRR Parts 226 and 201. The proposed changes to Part 226, and attendant revisions to Part 201, will incorporate the Control Techniques Guidelines (CTG) Industrial Cleaning Solvents issued by the Environmental Protection Agency (EPA) in September 2006 and the Ozone Transport Committee’s (OTC) Model Rule for Solvent Degreasers issued in 2012. Federal CTGs establish Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by solvent cleaning processes. Pursuant to the Clean Air Act (CAA), the Department is required to submit the Part 226 revisions to EPA for state implementation plan (SIP) review and approval. The OTC provides guidance to member states on methods of reducing VOC emissions; and has suggested changes to applicability and VOC content for solvent degreasers.

TYPES AND ESTIMATED NUMBERS OF RURAL AREAS AFFECTED:

The proposed revisions to Part 226 and attendant revisions to Part 201 apply statewide. All rural areas of New York State will be affected.

MINIMIZING ADVERSE IMPACT:

The Department is providing advance notice of these rule revisions to the regulated community so that companies have sufficient time to take the necessary steps to come into compliance with Part 226. The proposed revision also includes time for subject sources to come into compliance. The Department considered the options stated in 13 facilities to use 3 tons or more of industrial cleaning solvents per year, which will become newly subject to Part 226. This may require some minimal utilization of professional services for guidance in changing their cleaning solvents to comply with the new requirements.

CATEGORIES AND NUMBERS AFFECTED:

Since rural areas are not particularly affected by the revisions, the Department did not directly contact rural area facilities. However, the Department plans on holding public hearings in rural areas, through the reduction of ozone forming pollutants.

RURAL AREA PARTICIPATION:

Since rural areas are not particularly affected by the revisions, the Department did not directly contact rural area facilities. However, the Department is undertaking this rulemaking to comply with federal Clean Air Act requirements, requiring the incorporation of federal CTGs to establish RACT for industrial cleaning solvents for inclusion into the state implementation plan. Public participation and comment will also be available during EPA’s SIP approval process.

Revised Job Impact Statement

The New York State Department of Environmental Conservation (Department) proposes to revise 6 NYCRR Parts 226 and 201. The proposed changes to Part 226, and attendant revisions to Part 201, will incorporate the Control Techniques Guidelines (CTG) Industrial Cleaning Solvents issued by the Environmental Protection Agency (EPA) in September 2006 and the Ozone Transport Commissions (OTC) Model Rule for Solvent Degreasers issued in 2012. Federal CTGs establish Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by solvent cleaning processes. Pursuant to the Clean Air Act (CAA), the Department is required to submit the Part 226 revisions to EPA for state implementation plan (SIP) review and approval. The OTC provides guidance to member states on methods of reducing VOC emissions; and has suggested changes to applicability and VOC content for solvent degreasers.

Categories and Numbers Affected:

The proposed revisions to Part 226 affect owners/operators of solvent cleaning processes, and those who use industrial cleaning solvents statewide. The revisions are not expected to adversely impact jobs and employment opportunities in New York State. The proposed revisions to Part 226 will affect existing facilities by requiring them to lower the VOC content and/or vapor pressure of the solvents used in their processes. This may require minimal consultation utilization to evaluate the necessity of process modifications. In such cases, jobs and employment opportunities may increase as a result.

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 Environmental Conservation (Department) is revising 6 NYCRR Part 226, Solvent Metal Cleaning Processes and re-designating it Subpart 226-1, Solvent Cleaning Processes; adding a new Subpart 226-2, Industrial Cleaning Solvents; and making related changes to Part 201, Permits and Registrations. These changes are necessary to align with the 2012 Ozone Transport Commission’s (OTC) Model Rule and comply with the 2006 U.S. Environmental Protection Agency’s (EPA) Industrial Cleaning Solvents Control Technique Guidelines (CTGs). Public hearings were held on May 22, 2019 in Avon, NY and May 24, 2019 in Albany, NY. The Department received written comments from seven (7) commenters during the comment period of March 20, 2019 through 5:00 pm May 29, 2019. Most comments received were either editorial (correcting references) or requests for clarification on applicability. Incorrect references, some the product of re-numerication of Part 226 into Subpart 226-1, have been corrected.

Requests for clarification on applicability were primarily limited to proposed Subpart 226-2 or how to distinguish applicability between Subparts 226-1 and 226-2. These were addressed by clarifying language in the exceptions section of Subpart 226-2. Applicability under Subpart 226-2 for solvent cleaning processes only changed with the addition of cleaning of non-metal items. Subpart 226-2 is intended to establish Reasonably Available Control Technology (RACT) for industrial cleaning solvents
containing Volatile Organic Compounds (VOC’s). Many such cleaning solvents are already regulated by existing New York State VOC RACT regulations. EPA’s CTG recommends exempting 15 categories regulated under CAA Section 183(e) from additional regulation or CTG requirement since they have already been subjected to RACT analysis and controls. These categories are excluded from proposed Subpart 226-2 under paragraphs 226-2.1(c)(2), (3) and (4). These categories are already subject to Subpart 228-1 ‘Surface Coating Processes’, Subpart 228-2 ‘Commercial and Industrial Adhesives, Sealants and Primers’, or Part 234 ‘Graphic Arts’. These are New York State’s VOC RACT regulations which include industrial cleaning solvents in their RACT analysis.

The federal CTG suggests excluding a number of other categories which may or may not be appropriate depending on existing New York State air regulations and needs. Some, but not all these, are subject to existing New York State air regulations that already include industrial cleaning solvent use in a RACT analysis. Such categories are excluded from Subpart 226-2 exclusions. In response to several comments requesting exclusion from the rule, the Department is adding a miscellaneous section to the Subpart 226-2 exclusions. These were considered by the Department to be either insignificant emission sources or cleaning activities inappropriate for regulation under Subpart 226-2 or identified in the CTG as not applicable.

The coating industry, including coatings, inks, adhesives and resin manufacturing, believes that it should be exempt from Subpart 226-2 or at least have alternative compliance options. In New York State, these and many other potentially subject industries are regulated under Part 212 ‘Process Operations’. Part 212 regulated facilities that are major for VOC emissions are already subject to RACT or Toxic- Best Available Control Technology (T-BACT) analysis and controls. Therefore, such facilities are excluded from the Subpart 226-2 requirements. Facilities with less than major VOC emissions may be subject to the requirements of Subpart 226-2 if their VOC emissions from industrial cleaning solvents ranges 3 tons per year or more, which is the applicability threshold of Subpart 226-2.

There was considerable opposition to the ‘once in always in’ provision in the proposed applicability of Subpart 226-2. After further consideration, the Department has determined that this provision is not necessary, and any related matters can be otherwise handled by the permit process delineated in 6 NYCCR Part 201 ‘Permits and Registrations’. The ‘once in, always in’ provision in subdivision 226-2.1(a) will be removed.

Several commenters expressed concern over the effectiveness of a cleaning solvent vapor pressure limit. VOC’s as grams of VOC per liter, which is the proposed limit for cold cleaning in Subpart 226-1. The VOC limit of 25gm/L was selected because there are commercially available cleaning solutions meeting this limit which are appropriate for use in existing cold cleaning degreasers and are proven to be a reasonable and effective alternative to cleaning solutions meeting the current VOC vapor pressure criteria, with significantly less VOC emissions. Such cleaning solutions have been in use in other areas of the country for years.

One commenter requested an alternative VOC limit for the cleaning of post-solid waste printed circuit boards (PCB’s) as well as critical electronic processes. Consistent with the OTC model rule, an alternative VOC limit of 150 gm/L will be added to proposed Subpart 226-1 for such cleaning activities.

There were several requests to expand the exemptions from Subpart 226-1 regulation, particularly with respect to cleaning alcohol (IPA) for cleaning certain military specified equipment. Expanding such exemptions would reduce emission control requirements currently in place, resulting in more VOC emissions from some Subpart 226-1 regulated sources. The proposed changes to Subpart 226-1 are no more restrictive of the use of IPA than the existing regulation (i.e., existing Part 226).

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

**Class I and Class SD Waters**

I.D. No. ENV-43-19-00006-P

**Pursuant to the provisions of the State Administrative Procedure Act. Notice is hereby given of the following proposed rule:**

**Proposed Action:** Amendment of sections 701.13 and 701.14 of Title 6 NYCRR.

**Statutory authority:** Environmental Conservation Law, section 3-0301(2)(a).

**Subject:** Class I and Class SD waters.

**Purpose:** To clarify best usages of Class I and SD waters were are ‘secondary contact recreation and fishing’ and ‘fishing,’ respectively.

**Public hearing(s) will be held at:** 2:00 p.m., January 8, 2020 at Department of Environmental Conservation Region 2, 47-40 21st St., Long Island City, 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.

**Text of proposed rule:** Section 701.13 is amended to read as follows:

> 701.13 Class I saline surface waters.
>
> The best usages of Class I waters are secondary contact recreation and fishing. These waters shall be suitable for fish, shellfish, and wildlife propagation and survival. [In addition, the water quality shall be suitable for primary contact recreation, although other factors may limit the use for this purpose.]

Section 701.14 is amended to read as follows:

> 701.14 Class SD saline surface waters.
>
> The best usage of Class SD waters is fishing. These waters shall be suitable for fish, shellfish and wildlife survival. [In addition, the water quality shall be suitable for primary and secondary contact recreation, although other factors may limit the use for these purposes.] This classification may be given to those waters that, because of natural or man-made conditions, cannot meet the requirements for fish propagation.

**Text of proposed rule and any required statements and analyses may be obtained from:** Michelle Tompkins, Department of Environmental Conservation, 625 Broadway, 4th Floor, Albany, NY 12233-3500, (518) 402-8221, email: WQSrulemakings@dec.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.

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

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

**Regulatory Impact Statement**

The waters of New York State (both freshwater and saline) are grouped into classes and, within those classes, water quality standards (WQS) are assigned to protect their best uses. There are five classes of saline waters defined in Title 6 of the New York Codes, Rules, and Regulations (NYCRR) Part 701: SA, SB, SC, I, and SD.

The New York State Department of Environmental Conservation (NYSDEC) is proposing amendments to 6 NYCRR 701.13 and 701.14 to clarify the intent of 2015 amendments to 6 NYCRR Parts 701 and 703.

The 2015 amendments to 6 NYCRR Parts 701 and 703 adopted more protective total and fecal coliform WQS for Class I and Class SD saline surface waters (2015 ISD Rule Making). Through this proposed rule making, NYSDEC is clarifying that the best usages of Class I and Class SD waters (ISD waters) were classified as “primary contact recreation and fishing” and “fishing,” respectively.

The proposed clarifications would impact limited waters in the State; the majority of I/SD waters are located in and around New York City (NYC), with a few waters located in and around Suffolk County.

**1. Statutory authority:**

The general authority to promulgate regulations is found in New York State Environmental Conservation Law (ECL) § 3-0301(2)(a). ECL § 3-0301(2)(a) provides that the Commissioner of NYSDEC may adopt regulations to carry out the purposes of the ECL in general.

Relying on ECL § 17-0301 for statutory authority, in 2015, NYSDEC promulgated amendments to 6 NYCRR Parts 701 and 703 to adopt more protective total and fecal coliform WQS for ISD waters. However, this proposed rule making is different than the 2015 ISD Rule Making in that it is clarification of an existing regulation and does not establish WQS.

This proposed rule making does not rely upon ECL § 17-0301 for statutory authority. This proposed rule making does not assign new classifications to waters or change the considerations of their best usage. This proposed rule making also does not adopt, alter or modify the standards of quality and purity.

**2. Legislative objectives:**

ECL § 3-0301(2)(a) was enacted with the purpose of providing NYSDEC the authority to “adopt, amend, or repeal environmental standards, criteria, and those rules and regulations having the force and effect of standards and criteria. Utilizing the authority granted in ECL § 3-0301(2)(a), NYSDEC is proposing amendments to 6 NYCRR 701.13 and 701.14 to clarify the

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**Rule Making Activities**

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3. Needs and benefits: The 2015 I/SD Rule Making amended 6 NYCRR Parts 701 and 703, adopting more protective total and fecal coliform WQS for I/SD waters. In promulgating such regulations, NYSDEC did not revise the “best usages” of the I/SD waters. Although many comment letters¹ on those regulatory amendments recognized that NYSDEC did not change the best usages of the subject waters, the United States Environmental Protection Agency (USEPA) stated in its review of the 2015 I/SD Rule Making that the record is not clear on that fact. On March 7, 2018, USEPA issued a formal disapproval of the total and fecal coliform WQS for I/SD waters. On June 13, 2018, NYSDEC sent a letter to USEPA to clarify that the 2015 I/SD Rule Making did not change the best usages of the subject waters and requested that USEPA reconsider its disapproval. On January 29, 2019, USEPA responded to NYSDEC’s letter stating that the best usages of I/SD waters were, and remain, “secondary contact recreation and fishing” and “fishing,” respectively. This proposed rule making implements the clarification sought by USEPA in its January 29, 2019 letter and cures USEPA’s disapproval.

4. Costs: The proposed rule making does not impose costs upon NYSDEC, the State, or local governments.

B) New York City

In NYC, there are numerous municipal wastewater treatment plants and several other regulated parties that discharge into I/SD waters. NYC is already obligated to make certain infrastructure upgrade investments, and therefore, the proposed rule making does not impose costs on regulated persons or local governments in NYC above and beyond costs that are currently required.

5. Local government mandates: The proposed rule making does not impose mandates on local governments. As discussed in Section 4 of this statement, the proposed rule making also does not impose any mandates that are not already required.

6. Paperwork: No paperwork - record keeping or reporting - will be imposed.

7. Duplication: The clarification of 6 NYCRR 701.13 and 701.14 that the best usages of I/SD waters were, and remain, “secondary contact recreation and fishing” and “fishing,” respectively, causes no duplication, overlap or conflict with any other state or federal government programs or rules.

8. Alternatives: Alternatives to this proposal include: (1) No action, or not clarifying 6 NYCRR 701.13 and 701.14.

No Action - Not clarifying 6 NYCRR 701.13 and 701.14 is not an available alternative because doing so fails to clarify that the 2015 I/SD Rule Making did not change the best usage of the I/SD waters to primary contact recreation as recognized in communications with USEPA and public comments.

9. Federal standards: The proposed rule making does not result in the imposition of requirements that exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: The proposed rule making does not require a compliance schedule.

¹ including those from the Citizens Advisory Committee of the New York – New Jersey Harbor and Estuary Program, Empire Dragon Boat Team NYC, Friends and Residents of Greater Gowanus, Jamaica Bay Ecowatchers, NYC Friends of Clearwater, NY/NJ Baykeeper and Hackensack Riverkeeper, NYCDEP, Riverkeeper, Inc and NRDC

Regulatory Flexibility Analysis

1. Effect of Rule: The proposed rule making applies to any local governments and/or small businesses that have permitted discharges of treated sanitary sewage into coastal or Class SD waters (I/SD waters). All of New York’s I/SD waters are located in and around New York City (NYC) and Suffolk County.

There are no wastewater treatment plants or other regulated parties that discharge in Suffolk County into I/SD waters. Therefore, the proposed rule making does not apply to any small businesses or local government within Suffolk County.

The proposed rule making applies to the municipality of NYC and several other regulated parties that discharge into Suffolk County into I/SD waters. Therefore, the proposed rule making does not impose any costs on regulated entities or local governments beyond those costs that are currently required.

2. Compliance Requirements:

The proposed rule making does not require a compliance schedule.

3. Professional Services:

NYC is already obligated to make certain infrastructure upgrade investments, and therefore, the proposed rule making does not require professional services that are currently required. As part of the previously obligated work, professional services of consulting engineers would likely be needed for the design and construction management of pollution abatement facilities. Consulting engineers provide the sampling and analysis, modeling, engineering, facilities planning, project development and management expertise to assist NYC in implementation of future projects.

4. Compliance Costs:

The Regulatory Impact Statement (RIS) discusses the costs of complying with the proposed rule making. However, as discussed above and in the RIS, there are no new costs to regulated small businesses, or local and state governments associated with the proposed rule making because regulated parties are currently required to comply with the water quality standards (WQS) clarified in the rule making.

5. Economic and Technological Feasibility:

The 2015 I/SD Rule Making amended 6 NYCRR Parts 701 and 703, adopting more protective total and fecal coliform WQS for I/SD waters. In promulgating such regulations, NYSDEC did not revise the “best usages” of the I/SD waters. Although many comment letters¹ on those regulatory amendments recognized that NYSDEC did not change the best usages of the subject waters, the United States Environmental Protection Agency (USEPA) stated in its review of the 2015 I/SD Rule Making that the record is not clear on that fact. On March 7, 2018, USEPA issued a formal disapproval of the total and fecal coliform WQS for I/SD waters. On June 13, 2018, NYSDEC sent a letter to USEPA to clarify that the 2015 I/SD Rule Making did not change the best usages of the subject waters and requested that USEPA reconsider its disapproval. On January 29, 2019, USEPA responded to NYSDEC’s letter stating that the best usages of I/SD waters were, and remain, “secondary contact recreation and fishing” and “fishing,” respectively. This proposed rule making implements the clarification sought by USEPA in its January 29, 2019 letter and cures USEPA’s disapproval.

Various technologies exist that can be used for pollution abatement to comply with the current WQS for I/SD waters. However, NYC is already obligated to make certain infrastructure upgrade investments, and therefore, the proposed rule making does not require technologies beyond those already required.

6. Minimizing Adverse Impact:

As discussed above and in the RIS, there are no new costs to regulated parties, small businesses, or local and state governments associated with the proposed rule making because the regulated parties are currently required to comply with the current WQS, which are not being amended through the rule making. The intent of the rule making is to clarify the best usages of the I/SD waters.

7. Small Business and Local Government Participation:

The proposed rule making is different than the 2015 I/SD Rule Making in that it does not rely upon ECL § 17-0301 for statutory authority. The proposed rule making does not assign new classifications to waters or change the considerations of their best usage. The proposed rule making also does not adopt, alter or modify the standards of quality and purity. Instead the proposed rule making relies on ECL § 3-0301(2)(a) which requires NYSDEC to hold a public hearing to receive comments from stakeholders on the proposed rule making.

5. Cure Period or Other Opportunity for Ameliorative Action:

The proposed rule making does not modify or establish violations or penalties, therefore no cure period is required.
The proposed rule making does not impact any rural areas as defined in New York State Administrative Procedure Act Section 102(10). The proposed rule making only applies to Class I and Class SD waters located in Suffolk County and New York City. There are no designated rural areas in Suffolk County or in New York City. Therefore, NYSDEC has determined that a Rural Area Flexibility Analysis is not required.

**Job Impact Statement**

A job impact statement is not required for the proposed rule making because it does not have a substantial adverse impact on jobs and employment opportunities. The New York State Department of Environmental Conservation (NYSDEC) is proposing amendments to 6 NYCRR 701.13 and 701.14 to clarify the intent of NYSDEC’s 2015 amendments to 6 NYCRR Parts 701 and 703 (2015 I/SD Rule Making) that the best usages of Class I and Class SD waters (I/SD waters) were, and remain, “secondary contact recreation and fishing” and “fishing,” respectively.

The proposed clarifications impact limited waters in the State; the majority of I/SD waters are located in and around New York City (NYC), with a few waters located in and around Suffolk County.

The 2015 I/SD Rule Making amended 6 NYCRR Parts 701 and 703, adopting more protective total and fecal coliform WQS for I/SD waters. In promulgating such regulations, NYSDEC did not revise the “best usages” of the I/SD waters. Although many comment letters on those regulatory amendments recognized that NYSDEC did not change the best usages of the subject waters, the United States Environmental Protection Agency (USEPA) stated in its review of the 2015 I/SD Rule Making that the record is not clear on that fact.

On March 7, 2018, USEPA issued a formal disapproval of the total and fecal coliform WQS for I/SD waters. On June 13, 2018, NYSDEC sent a letter to USEPA to clarify that the 2015 I/SD Rule Making did not change the best usages of the subject waters and requested that USEPA reconsider its disapproval. On January 29, 2019, USEPA responded to NYSDEC’s letter stating that the best usages of the I/SD waters are being misinterpreted, NYSDEC must clarify the intent of the 2015 I/SD Rule Making through “relevant administrative procedures under State law.” Therefore, NYSDEC is proposing amendments to 6 NYCRR 701.13 and 701.14 to clarify the intent of the 2015 I/SD Rule Making and that the best usages of I/SD waters were, and remain, “secondary contact recreation and fishing” and “fishing,” respectively. This proposed rule making implements the clarification sought by USEPA in its January 29, 2019 letter and cures USEPA’s disapproval.

The proposed rule making does not result in the loss of any jobs in New York State. Therefore, NYSDEC has determined that a Job Impact Statement is not required.

**PROPOSED RULE MAKING**

**HEARING(S) SCHEDULED**

Repeal and Replace 6 NYCRR Part 622 and Amend 6 NYCRR Part 624, Part 621 and Part 620

I.D. No. ENV-43-19-00010-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 622; addition of new Part 622; amendment of Parts 620, 621 and 624 of Title 6 NYCRR.

**Statutory Authority:** Environmental Conservation Law, sections 3-0301, 15-0901, 17-0303, 19-0301, 23-0305, 33-0303, 70-0107, 71-0301, 71-1709, 71-1719; State Administrative Procedure Act, art. 3

**Subject:** Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Parts 620, 621 and 624

**Purpose:** To incorporate procedural and legal developments, develop consistency and reflect current practice in DEC hearings.

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1 including those from the Citizens Advisory Committee of the New York – New Jersey Harbor and Estuary Program, Empire Dragon Boat Team NYC, Friends and Residents of Greater Gowanus, Jamaica Bay Ecowatchers, NYC Friends of Clearwater, NY/NJ Baykeeper and Hackensack Riverkeeper, NYCDEP, Riverkeeper, Inc. and NRDC)
out the purposes and provisions of the ECL. This includes the authority to conduct informal evidentiary hearings, and compel the attendance of witnesses and the production of accounts, books, documents, and evidence by the issuance of a subpoena.

2. Legislative objectives:
   - There are several purposes of the rulemaking: to incorporate developments in department regulations and decisional precedents; to develop consistency, where necessary, with the Civil Practice Law and Rules; and to update the hearing procedure regulations to reflect current practice.

3. Needs and benefits:
   - Part 622 is the procedural basis for all enforcement hearings that come under the Commissioner's jurisdiction. The department last revised Part 622 in December 1993. Since 1993, the administrative enforcement process evolved due to the introduction of mediation as an alternative to adjudicatory process; the development and use of expedited proceedings; and the development of a substantial body of administrative precedent that clarifies the hearing process and strengthens due process. The proposed repeal of existing Part 622 and adoption of a new Part 622 will codify current practices and clarify due process requirements throughout a proceeding. Furthermore, the amendment of the definitions in Parts 624 and 625 will make the Parts consistent with Part 622. The amendment of Part 621 will assure that the chief administrative law judge receives written requests for a hearing.

4. Costs:
   - There will be no costs to State or local governments. No direct costs will be incurred by parties to the department’s enforcement proceedings. There is no cost to the department except for the nominal postage costs as will be incurred by parties to the department’s enforcement proceedings.

5. Local government mandates:
   - The proposed rule does not impose any mandates on local government.

6. Paperwork:
   - No new paperwork is required except for the additional notice requirements for the department.

7. Duplication:
   - The proposed amendment does not duplicate any federal requirement except constitutional due process considerations. The proposed rule incorporates by reference or by express terms some provisions of the Civil Practice Law and Rules. This, however, does not impact regulated parties or the department or create conflicts with the rule.

8. Alternatives:
   - There are no significant alternative proposals. The Office of Hearings and Mediation Services could continue to conduct enforcement hearings without adopting the proposed new Part 622. As the current regulations do not fully reflect current practices and administrative precedent, the no action alternative would leave attorneys and the regulated community to piece together what have become procedural requirements without regulatory clarification from the department. The Office of Hearings and Mediation Services could adopt some but not all of the proposed amendments through the rulemaking process; however, the Office of Hearings and Mediation Services believes this would not provide the clarification that the proposed new Part 622 is intended to achieve.

9. Federal standards:
   - There are no federal standards regarding the department’s administrative enforcement proceedings.

10. Compliance schedule:
    - The proposed regulation would be effective upon Notice of Adoption in the State Register. There is no time period required for regulated persons to achieve compliance with this regulation.

Regulatory Flexibility Analysis
A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with these regulations because the proposal will not impose reporting, record-keeping or other compliance requirements on small businesses or local governments. Since there are no identified cost impacts for compliance with the proposed regulations on the part of small businesses and local governments, they will bear no economic impact as a result of this proposal. The purpose of the proposed regulation is to incorporate developments in department regulations and decisional precedents; to develop consistency, where necessary, with the Civil Practice Law and Rules; and to update the regulations to reflect current practice in the department’s hearing procedures.

Rural Area Flexibility Analysis
The repeal of Part 622 and adoption of the new Part 622 and amendments to Parts 624, 621 and 620 will not impose an adverse impact on rural areas. Only the department’s enforcement hearing process will be directly affected by the regulatory initiatives to incorporate developments in Department regulations and decisional precedents; to develop consistency, where necessary, with the Civil Procedure Law and Rules; and to update the regulations to reflect current practice. The proposed regulations will not impose reporting, record keeping, or other compliance requirements on public or private entities in rural areas. Since no rural areas will be affected by amendments of Part 622 “Uniform Enforcement Hearing Procedures” of Title 6 NYCRR or by the amendments of Part 624 “Permit Hearing Procedures” definitions, amendments of Part 621 “Uniform Procedures” to require written hearing requests to be submitted to the chief administrative law judge and amendments of Part 620 “Procedure for Issuance of Summary Abatement Orders” definitions, the Department of Environmental Conservation has determined that a Rural Area Flexibility Analysis is not required.

Job Impact Statement
A Job Impact Statement is not submitted with this notice since the proposed regulation is not expected to create an adverse impact on jobs and employment opportunities in New York State. The purpose of the proposed regulation is to incorporate developments in department regulations and decisional precedents; to develop consistency, where necessary, with the Civil Practice Law and Rules; and to update the regulations to reflect current practice in the department’s hearing procedures.

Department of Financial Services

Rule Making Activities

EMERGENCY RULE MAKING

Business Conduct of Mortgage Loan Servicers
L.D. No. DFS-43-19-00007-E
Filing No. 911
Filing Date: 2019-10-07
Effective Date: 2019-10-07

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

Action taken: Addition of Part 419 to Title 3 NYCRR.

Statutory authority: Banking Law, art. 12-D

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

Specific reasons underlying the finding of necessity: The legislature required the registration of mortgage loan servicers as part of the Mortgage Lending Reform Law of 2008 (Ch. 472, Laws of 2008, hereinafter, the “Mortgage Lending Reform Law”) to help address the existing foreclosure crisis in the state. By registering servicers and requiring that servicers engage in the business of mortgage loan servicing in compliance with rules and regulations adopted by the Superintendent, the legislature intended to help ensure that servicers conduct their business in a manner that protects homeowners. Part 419 is intended to provide clear guidance to mortgage loan servicers as to the procedures and standards they should follow with respect to loan delinquencies. The rules impose a duty of fair dealing on loan servicers in their communications, transactions and other dealings with borrowers. In addition, the rule sets standards with respect to the handling of loan delinquencies and loss mitigation. The rule further requires specific reporting on the status of delinquent loans with the Department so that it has the information necessary to assess loan servicers’ performance.

In addition to addressing mortgage loan delinquencies and loss mitigation, the rule addresses other areas of significant concern to homeowners, including the handling of borrower complaints and inquiries, the payment of damages, interest, and late fees and other charges, and the handling of late payments, payoff balances and servicing fees.

Fair and effective account management and loss mitigation practices are necessary to protect borrowers in the home mortgage lending market. Accordingly, it is imperative that Part 419 of the Superintendent’s Regulations be promulgated on an emergency basis for the public’s general welfare.

Subject: Business conduct of mortgage loan servicers.

Purpose: To implement the purpose and provisions of the Mortgage Lending Reform Law of 2008 with respect to mortgage loan servicers.

Substance of emergency rule (Full text is posted at the following State website: https://www.dfs.ny.gov/industry_guidance/regulations/ emergency_banking/). Section 419.1 contains definitions of terms that are used in Part 419 and are otherwise defined in Part 418, including “Servicer”, “Qualified Written Request” and “Loan Modification”.

Section 419.2 establishes a duty of fair dealing for Servicers in connec-
tion with their transactions with borrowers, which includes a duty to pursue loss mitigation with the borrower as set forth in Section 419.11.

Section 419.3 requires compliance with other State and Federal laws relating to mortgage loan servicing, including Banking Law Article 12-D, RESPA, and the Truth-in-Lending Act.

Section 419.4 describes the requirements and procedures for handling to consumers complaints and inquiries.

Section 419.5 describes the requirements for a servicing making payments of taxes or insurance premiums for borrowers.

Section 419.6 describes requirements for crediting payments from borrowers and handling late payments.

Section 419.7 describes the requirements of an annual account statement which must be provided to borrowers in plain language showing the unpaid principal balance at the end of the preceding 12-month period, the interest paid during that period and the amounts deposited into and disbursed from escrows since the end of the preceding 12-month period.

Section 419.8 requires a late payment notice be sent to a borrower no later than 17 days after the payment remains unpaid.

Section 419.9 requires a required provision of a payoff statement that contains a clear, understandable and accurate statement of the total amount that is required to pay off the mortgage loan as of a specified date.

Section 419.10 sets forth the requirements relating to fees permitted to be collected by Servicers and also requires Servicers to maintain and update at least semi-annually a schedule of standard or common fees on their website.

Section 419.11 sets forth the Servicer’s obligations with respect to handling of loan delinquencies and loss mitigation, including an obligation to make reasonable and good faith efforts to pursue appropriate loss mitigation options, including loan modifications. This Section also describes the Servicer’s obligations with respect to providing a payment history when requested by the borrower or borrower’s representative.

Section 419.12 describes the quarterly reports that the Superintendent may require Servicers to submit to the Superintendent, including information relating to the aggregate number of mortgages serviced by the Servicer, the number of mortgages in default, information relating to loss mitigation options, including loan modifications. This Section also requires Servicers to file annual reports relating to procedures and protocols for handling loss mitigation, providing borrowers with information regarding the Servicer’s loss mitigation process, decision-making and available counseling programs and resources.

Section 419.12 describes the quarterly reports that the Superintendent may require Servicers to submit to the Superintendent, including information relating to the aggregate number of mortgages serviced by the Servicer, the number of mortgages in default, information relating to loss mitigation options, including loan modifications. This Section also describes the Servicer’s obligations with respect to handling of loan delinquencies and loss mitigation, including an obligation to make reasonable and good faith efforts to pursue appropriate loss mitigation options, including loan modifications. This Section also describes the Servicer’s obligations with respect to providing a payment history when requested by the borrower or borrower’s representative.

Section 419.13 describes the books and records that Servicers are required to maintain as well as other reports the Superintendent may require Servicers to file in order to determine whether the Servicer is complying with applicable laws and regulations. These include books and records relating to loan payments received, communications with borrowers, financial reports and audited financial statements.

Section 419.14 sets forth the activities prohibited by the regulation, including engaging in misrepresentations or material omissions and placing insurance on a mortgage property without written notice when the Servicer has reason to know the homeowner has an effective policy in place.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the State Register at some future date. The emergency rule will expire January 4, 2020.

Text of rule and any required statements and analyses may be obtained from: George Bogdan, Department of Financial Services, One State Street, New York, NY 10004-1417, (212) 480-4758, email: george.bogdan@dfs.ny.gov

Regulatory Impact Statement

1. Statutory Authority.

Article 12-D of the Banking Law, as amended by the Legislature in the Mortgage Lending Reform Law of 2008 (Ch. 472, Laws of 2008, hereinafter, the “Mortgage Lending Reform Law”), creates a framework for the regulation of mortgage loan servicers. Mortgage loan servicers are individuals or entities which engage in the business of servicing mortgage loans for residential real property located in New York. That legislation also authorizes the adoption of regulations implementing its provisions. (See, e.g., Banking Law Sections 590(2)(b-1) and 595-b.)

Subsection (1) of Section 590 of the Banking Law was amended by the Mortgage Lending Reform Law to add the definitions of “mortgage loan servicing” and “servicing mortgage loans” (Section 590(1)(h) and Section 590(1)(i).)

A new paragraph (b-1) was added to Subdivision (2) of Section 590 of the Banking Law. This new paragraph prohibits a person or entity from engaging in the business of servicing mortgage loans without first being registered with the Superintendent. The registration requirements do not apply to an “exempt organization,” licensed mortgage banker or registered mortgage broker.

This new paragraph also authorizes the Superintendent to refuse to register a mortgage loan servicer under Banking Law Section 592-a(2).

Subsection (3) of Section 590 was amended by the Subprime Law to clarify the power of the banking board to promulgate rules and regulations and to extend the rulemaking authority regarding regulations for the protection of consumers and regulations to define improper or fraudulent business practices to cover mortgage loan servicers, as well as mortgage bankers, mortgage brokers and exempt organizations. The functions and powers of the banking board have since been transferred to the Superintendent of Financial Services, pursuant to Part A of Chapter 62 of the Laws of 2011, Section 89.

New Paragraph (d) was added to Subsection (5) of Section 590 by the Mortgage Lending Reform Law and requires mortgage loan servicers to establish and maintain in a reasonable manner a system of books and records pursuant to Part A of Chapter 62 of the Laws of 2011, Section 89.

New Subsection (1) of Section 595-b was added by the Mortgage Lending Reform Law and requires the Superintendent to promulgate regulations and policies governing the grounds to impose a fine or penalty with respect to the activities of a mortgage loan servicer. Also, the Mortgage Lending Reform Law amends the penalty provision of Subdivision (1) of Section 598 to apply to mortgage loan servicers as well as to other entities.

Section 419.11 describes the requirements for providing a payoff statement that contains a clear, understandable and accurate statement of the total amount that is required to pay off the mortgage loan as of a specified date. This Section also describes the Servicer’s obligations with respect to providing a payment history when requested by the borrower or borrower’s representative.

Section 419.12 describes the quarterly reports that the Superintendent may require Servicers to submit to the Superintendent, including information relating to the aggregate number of mortgages serviced by the Servicer, the number of mortgages in default, information relating to loss mitigation options, including loan modifications. This Section also describes the Servicer’s obligations with respect to handling of loan delinquencies and loss mitigation, including an obligation to make reasonable and good faith efforts to pursue appropriate loss mitigation options, including loan modifications. This Section also describes the Servicer’s obligations with respect to providing a payment history when requested by the borrower or borrower’s representative.

Section 419.13 describes the books and records that Servicers are required to maintain as well as other reports the Superintendent may require Servicers to file in order to determine whether the Servicer is complying with applicable laws and regulations. These include books and records relating to loan payments received, communications with borrowers, financial reports and audited financial statements.

Section 419.14 sets forth the activities prohibited by the regulation, including engaging in misrepresentations or material omissions and placing insurance on a mortgage property without written notice when the Servicer has reason to know the homeowner has an effective policy in place.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the State Register at some future date. The emergency rule will expire January 4, 2020.

Text of rule and any required statements and analyses may be obtained from: George Bogdan, Department of Financial Services, One State Street, New York, NY 10004-1417, (212) 480-4758, email: george.bogdan@dfs.ny.gov

The mortgage servicing statute has two main components: (i) the first component addresses the registration requirements for persons engaged in the business of servicing mortgage loans; and (ii) the second authorizes the Superintendent to promulgate appropriate rules and regulations for the regulation of servicers in this state.

Part 418 of the Superintendent’s Regulations, initially adopted on an emergency basis on July 1, 2009, addresses the first component of the mortgage servicing statute by setting standards and procedures for applications for registration as a mortgage loan servicer, for approving and denying applications to be registered as a mortgage loan servicer, for approving changes of control, for suspending, terminating or revoking the registration of a mortgage loan servicer, as well as the requirements for maintaining books and records and audited financial statements and the provision of a schedule of standard or common fees.

Part 419 addresses the business practices of mortgage loan servicers in NYS Register/October 23, 2019
connection with their servicing of residential mortgage loans. This part addresses the obligations of mortgage loan servicers in the mortgage loan industry, including: i. loan originations; ii. loan foreclosures; and iii. the conduct of business by residential mortgage loan servicers.

Until July 1, 2009, when the mortgage loan servicer registration provisions first became effective, the Department regulated the brokering and making of mortgage loans, but not the servicing of these mortgage loans. Servicing is vital part of the residential mortgage loan industry; it involves the collection of mortgage payments from borrowers and remittance of the same to owners of mortgage loans; to governmental agencies for taxes; and to insurance companies for insurance premiums. Mortgage servicers also act as creditors of homeowners and compensators of delinquency and loss mitigation when a mortgage becomes delinquent. As “middlemen,” moreover, servicers also play an important role when a property is foreclosed upon. For example, the servicer may typically act on behalf of the owner of the loan for the foreclosure proceeding.

Further, unlike in the case of a mortgage broker or a mortgage lender, borrowers cannot “shop around” for loan servicers, and generally have no input in deciding what company services their loans. The absence of the ability to select a servicer obviously raises concerns over the character and soundness of servicers vis-à-vis their loan servicers and ensure that mortgage loan servicers engage in fair and appropriate servicing practices. These regulations will improve accountability and the quality of service in the mortgage loan industry and will help promote alternatives to foreclosure in the state.


The Mortgage Lending Reform Law adopted a multifaceted approach to the banking supervision of the mortgage loan industry, particularly with respect to servicing and foreclosure. It addressed a variety of areas in the residential mortgage loan industry, including: i. loan originations; ii. loan foreclosures; and iii. the conduct of business by residential mortgage loan servicers.

Reporting on loan delinquencies and loss mitigation has likewise become increasingly common. The OCC publishes quarterly reports on credit performance, loss mitigation efforts and foreclosures based on data provided by national mortgage originators and lenders. And, states such as Maryland and North Carolina have adopted similar reporting requirements to those contained in section 419.12. Many of the other requirements of Part 419 such as those related to handling of taxes, insurance and escrow payments, collection of late fees and charges, crediting of payments derive from federal or state laws and reflect best industry practices. The periodic reporting and bookkeeping and record keeping requirements are also standard among financial services businesses, including mortgage bankers and brokers (see, for example, section 410 of the Superintendent’s Regulations).

The ability of the Department to regulate mortgage loan servicers is expected to reduce costs associated with responding to consumers’ complaints, decrease unnecessary expenses borne by mortgagees, and assist in decreasing the number of foreclosures in this state. The regulations will not result in any fiscal implications to the state. The Department is funded by the regulated financial services industry. Fees charged to the industry will be adjusted periodically to cover Department expenses incurred in carrying out this regulatory responsibility.


The requirements of Part 419 do not impose any direct costs on mortgage loan servicers. Although mortgage loan servicers may incur some additional costs as a result of complying with Part 419, the overwhelming majority of mortgage loan servicers are banks, operating subsidiaries or affiliates of banks, large independent servicers or other financial services entities that service mortgages, and even billions, of dollars in loans and have the experience, resources and systems to comply with these requirements. Moreover, any additional costs are likely to be mitigated by the fact that many of the requirements of Part 419, including those relating to the handling of residential mortgage delinquencies and loss mitigation (419.11 and 419.12), are consistent with or substantially similar to standards found in other federal or state laws, federal mortgage modification programs or servicers own protocols.

For example, Fannie Mae and Freddie Mac, which own or insure approximately 90% of the nation’s securitized mortgage loans, have similar guidelines governing various aspects of mortgage servicing, including handling of loan delinquencies. In addition, over 100 mortgage loan servicers participate in the federal Making Home Affordable (MHA) program which requires adherence to standards for handling of loan delinquencies and loss mitigation similar to those contained in these regulations.


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5. Local Government Mandates.

None.

6. Paperwork.

Part 419 requires mortgage loan servicers to keep books and records related to its servicing for a period of three years and to produce quarterly reports and financial statements as well as annual and other reports required by the Superintendent. The reporting relating to mortgage loan servicing will be done electronically and would therefore be virtually paperless. The other recordkeeping and reporting requirements are consistent with standards generally required of mortgage bankers and brokers and other regulated financial services entities.

7. Duplication.

The regulation does not duplicate, overlap or conflict with any other regulations. The various federal laws that touch upon aspects of mortgage loan servicing are noted in Section 9 “Federal Standards” below.

8. Alternatives.

The Mortgage Lending Reform Law required the registration of mortgage loan servicers and empowered the Superintendent to prescribe rules and regulations to guide the business of mortgage servicing. The purposes of the regulation is to put into writing this statutory mandate to regulate mortgage loan servicers and regulate the manner in which they conduct business. The Department circulated a proposed draft of Part 419 and received comments from and met with industry and consumer groups. The current Part 419 reflects the input received. The alternative to these regulations is to do nothing and put the current regulatory framework. None of those alternatives would effectuate the intent of the legislature to address the current foreclosure crisis, help at-risk homeowners vis-à-vis their loan servicers and ensure that mortgage loan servicers engage in fair and appropriate servicing practices.
Currently, mortgage loan servicers are not required to be registered by any federal agencies. This has been the comprehensive federal law governing mortgage loan servicing. Federal laws such as the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. § 2601 et seq., and regulations adopted thereunder, 24 C.F.R. Part 3500, and the Truth-in-Lending Act, 15 U.S.C. section 1600 et seq., and Regulation Z adopted thereunder, 12 C.F.R. section 226 et seq., govern some aspects of mortgage loan servicing, and there have been some recent amendments to those laws and regulations regarding mortgage loan servicing. For example, Regulation Z, 12 C.F.R. section 226(f), was recently amended to address the credit of payments, imposition of late charges and the provision of payoff statements. In addition, the recently enacted Dodd-Frank Wall Street Reform and Protection Act of 2010 (Dodd-Frank Act) establishes requirements for handling of escrow accounts, for the handling of complaints, payments of taxes and insurance, crediting of borrowers, and responding to borrower requests and providing information related to the owner of the loan.

Additionally, the newly created Bureau of Consumer Financial Protection established by the Dodd-Frank Act may soon propose additional regulations for mortgage loan servicers.

10. Compliance Schedule.

Similar emergency regulations first became effective on October 1, 2010.

Regulatory Flexibility Analysis

1. Effect of the Rule:

The rule will not have any impact on local governments. The Mortgage Lending Reform Law of 2008 (Ch. 472, Laws of 2008, hereinafter, the “Mortgage Lending Reform Law”) requires all mortgage loan servicers, whether registered or exempt from registration under the law, to service mortgage loans in accordance with the rules and regulations promulgated by the Banking Board or Superintendent. The functions and powers of the Banking Board have since been transferred to the Superintendent of Financial Services, pursuant to Part A of Chapter 62 of the Laws of 2011, Section 89. Of the 67 entities which have been approved for registration or have pending applications, and the nearly 400 entities which have indicated that they are exempt from the registration requirements, it is estimated that very few are small businesses.

2. Compliance Requirements:

The provisions of the Mortgage Lending Reform Law relating to mortgage loan servicers has two main components: it requires the registration by the Department of servicers who are not a bank, mortgage banker, mortgage broker or other exempt organizations (the “MLS Registration Regulations”), and it authorizes the Department to promulgate rules and regulations that are necessary and appropriate for the protection of consumers, to define improper or fraudulent business practices, or otherwise appropriate for the effective administration of the provisions of the Mortgage Lending Reform Law relating to mortgage loan servicers (the “Mortgage Loan Servicer Business Conduct Regulations”).

The provisions of the Mortgage Lending Reform Law requiring registration of mortgage loan servicers which are not mortgage bankers, mortgage brokers or exempt organizations became effective on July 1, 2009. Part 418 of the Superintendent’s Regulations, initially adopted on an emergency basis on July 1, 2009, sets for the standards and procedures for applications for registration as a mortgage loan servicer, for approving and denying applications for registration and the registration of a mortgage loan servicer as a mortgage loan servicer, including the powers of the Banking Board to order changes of control, for suspending, terminating or revoking the registration of a mortgage loan servicer as well as the financial responsibility standards for mortgage loan servicers.

Part 419 implements the provisions of the Mortgage Lending Reform Law by setting the standards by which mortgage loan servicers conduct the business of mortgage loan servicing. The rule sets the standards for handling complaints, payments of taxes and insurance, crediting of borrower payments, late payments, account statements, delinquencies and loss mitigation, fees and recordkeeping.

3. Professional Services:

None.

4. Compliance Costs:

The requirements of Part 419 do not impose any direct costs on mortgage loan servicers. All mortgage loan servicers may incur some additional costs as a result of complying with Part 419, the overwhelming majority of mortgage loan servicers are banks, operating subsidiaries or affiliates of banks, large independent servicers or other financial services entities that service millions, and even billions, of dollars in loans and have the experience, resources and systems to comply with these requirements. Moreover, any additional costs are likely to be mitigated by the fact that many of the requirements of Part 419, including those relating to the handling of residential mortgage delinquencies and loss mitigation, are similar to standards found in other federal or state laws, federal mortgage modification programs or servicers own protocols.

For example, Fannie Mae and Freddie Mac, which own or insure approximately 90% of the nation’s securitized mortgage loans, have similar guidelines governing their own handling of loan delinquencies. In addition, over 100 mortgage loan servicers participate in the federal Making Home Affordable (MHA) program which requires adherence to standards for handling of loan delinquencies and loss mitigation similar to those contained in these regulations. Those servicers not participating in MHA have, for the most part, adopted programs which parallel many components of MHA.

Reporting on loan delinquencies and loss mitigation has likewise become increasingly common. The OCC publishes reports on credit performance, loss mitigation efforts and foreclosures based on data provided by national banks and thrifts. And, states such as Maryland and North Carolina have adopted similar reporting requirements to those contained in Part 419.

Many of the other requirements of Part 419 such as those related to handling of taxes, insurance and escrow payments, collection of late fees and charges, crediting of payments derive from federal or state laws and reflect best industry practices. The periodic reporting and bookkeeping and record keeping requirements are typical among financial services businesses, including mortgage bankers and brokers (see, for example section 410 of the Superintendent’s Regulations).

Compliance with the rule should improve the servicing of residential mortgage loans in New York, including the handling of mortgage delinquencies, help prevent unnecessary foreclosures and reduce consumer complaints regarding the servicing of residential mortgage loans.

5. Economic and Technological Feasibility:

For the reasons noted in Section 4 above, the rule should impose no adverse economic or technological burden on mortgage loan servicers that are small businesses.

6. Minimizing Adverse Impacts:

As noted in Section 1 above, most servicers are not small businesses. Many of the requirements contained in the rule derive from federal or state laws, existing servicer guidelines utilized by Fannie Mae and Freddie Mac and best industry practice.

Moreover, the ability by the Department to regulate mortgage loan servicers is expected to reduce costs associated with responding to consumers’ complaints, decrease unnecessary expenses borne by mortgagors, help borrowers at risk of foreclosure and decrease the number of foreclosures in this state.

7. Small Business and Local Government Participation:

The Department distributed a draft of proposed Part 419 to industry representatives, received industry comments on the proposed rule and met with industry representatives in person. The Department likewise distributed a draft of proposed Part 419 to consumer groups, received their comments on the proposed rule and met with consumer representatives to discuss the proposed rule in person. The rule reflects the input received from both industry and consumer groups.

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

Since the adoption of the Mortgage Lending Reform Law of 2008 (Ch. 472, Laws of 2008, hereinafter, the “Mortgage Lending Reform Law”), which required mortgage loan servicers to be registered with the Department unless exempt under the law, 67 entities have pending applications or have been approved for registration and nearly 400 entities have indicated that they are a mortgage banker, mortgage broker or other exempt organization exempt from the registration requirements. Only one of the non-exempt entities applying for registration is located in New York and operating in a rural area. Of the exempt organizations, all of which are required to comply with the conduct of business contained in Part 419, approximately 400 are located in New York, including several in rural areas. However, the overwhelming majority of exempt organizations, regardless of where located, are banks or credit unions that are already regulated and are thus familiar with complying with the types of requirements contained in this regulation.

Compliance Requirements:

The provisions of the Mortgage Lending Reform Law relating to mortgage loan servicers has two main components: it requires the registration by the Department of servicers that are not a bank, mortgage banker, mortgage broker or other exempt organization (the “MLS Registration Regulations”), and it authorizes the Department to promulgate rules and regulations that are necessary and appropriate for the protection of consumers, to define improper or fraudulent business practices, or otherwise appropriate for the effective administration of the provisions of the Mortgage Lending Reform Law relating to mortgage loan servicers (the “MLS Business Conduct Regulations”).

The provisions of the Mortgage Lending Reform Law of 2008 requiring registration of mortgage loan servicers which are not mortgage bankers, mortgage brokers or exempt organizations became effective on July 1, 2009. Part 418 of the Superintendent’s Regulations, initially adopted on an emergency basis on July 1, 2010, sets forth the standards and procedures
Rule Making Activities

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Independent Dispute Resolution For Emergency Services and Surprise Bills

L.D. No. DFS-43-19-00017-P

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

Proposed Action: Amendment of Part 400 of Title 23 NYCRR.

Statutory authority: Financial Services Law, sections 202, 301, 302, art. 6; Insurance Law, section 301

Subject: Independent dispute resolution for emergency services and surprise bills.

Purpose: To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided.

Text of proposed rule: Section 400.5(c) is amended to read as follows:

(1) Upon receipt of a claim for the services of a non-participating physician or a non-participating referred health care provider that could be a surprise bill that is not submitted with an assignment of benefits form, the health care plan shall provide the insured with notice, included on or in conjunction with the explanation of benefits, that shall:
   (a) Advise the insured that the claim could be a surprise bill and that the insured should contact the health care plan or visit the health care plan’s website for additional information; and
   (b) Provide the information in paragraphs (1)–(5) of subdivision (f) of this section.

New subdivisions 400.5(l) and (m) are added to read as follows:

(1) If a health care plan determines that the services of a non-participating physician or a non-participating referred health care provider at a participating hospital are not emergency services and makes an adverse determination pursuant to Insurance Law section 4802 or Public Health Law Article 49, the health care plan shall include in the initial adverse determination the final adverse determination:
   (a) A notice that the services may be a surprise bill and could be eligible for the dispute resolution process;
   (b) The information in paragraphs (1)–(5) of subdivision (f) of this section; and
   (c) A statement that the insured should not delay filing an internal appeal or external appeal even if the insured believes the services denied by the health care plan involve a surprise bill.

(2) If a health care plan receives an assignment of benefits form for a surprise bill and determines that the services are not a surprise bill, the health care plan shall provide written notice of such determination. The notice shall include the procedures for filing a grievance under Insurance Law section 4802 or Public Health Law section 4408-a and information on how to file a complaint with the superintendent.

(3) If a health care plan makes a determination on a grievance disputing that a bill is a surprise bill, the health care plan shall provide written notice of such determination. The notice shall include the procedures for filing an appeal under Insurance Law section 4802 or Public Health Law section 4408-a, and information on how to file a complaint with the superintendent.

Section 400.6(a) is amended to read as follows:

(1) A non-participating physician bills a patient for emergency services or a surprise bill, the health care plan shall provide a claim form to the patient, and an assignment of benefits form in a form prescribed by the superintendent, and consumer disclosure information in a form prescribed by the superintendent.

Text of proposed rule and any required statements and analyses may be obtained from:
Emily Donovan, Department of Financial Services, One Commerce Plaza, Albany, NY 12257, (518) 473-4177, email: Emily.Donovan@dfs.ny.gov

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

Public comment will be received until: 60 days after publication of this notice.
This rule was not under consideration at the time this agency submitted its Regulatory Agency Registration in the Register.

Regulatory Impact Statement

1. Statutory authority: The authority of the Superintendent of Financial Services ("Superintendent") to promulgate the First Amendment to 23 NYCRR 400 derives from Financial Services Law sections 202, 301, 302 and Article 6 and Insurance Law sections.

2. Financial Services Law section 202 establishes the office of the Superintendent of Financial Services ("Superintendent").

3. Financial Services Law Section 301 authorizes the Superintendent to take such action as the Superintendent deems necessary to protect and educate users of financial products and services.

4. Financial Services Law Section 202, 301, 302 and Article 6 and Insurance Law sections.

NYCRR 400 derives from Financial Services Law sections 202, 301, 302 and Insurance Law sections 202, 301, 302, and Article 6 and Insurance Law section 301.

5. This rule was not under consideration at the time this agency submitted additional information. If the health care plan needs additional information. If the health care plan needs additional notifications regarding surprise bills in the initial and final adverse determinations and additional notifications upon receipt of an assignment of benefits form if the health care plan determines that a bill is not a surprise bill. However, the additional costs should be minimal because the current law already requires physicians to provide a claim form and an assignment of benefits form to an insured who receives a surprise bill. The additional costs for a health care plan may include costs to provide insureds with additional notifications regarding surprise bills and protect several thousands of consumers from bills for emergency services or surprise bills.

6. This rule will ensure that a health care plan provides these additional notices when a health care plan determines that a bill is a surprise bill. The additional costs for a health care plan may be added to existing notifications.

7. The Department of Financial Services will not incur any costs to implement this rule.

8. The rule will not impose additional costs on any local governments.

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

10. Paperwork: Health care plans and physicians will incur additional paperwork to comply with this rule because they will need to provide insureds with additional notices.

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

12. Alternatives: The Department considered not modifying the rule to provide these additional notices when a health care plan determines that services were not emergency services and therefore denies the claim because the health care plan determines that the services did not need to be performed on an emergency basis. Additionally, without the modification to the process for a health care plan determination that a bill is not a surprise bill, insureds may not be aware that they may seek protection under the law. Additionally, without the modification to the process for a health care plan determination that a bill is not a surprise bill, insureds may not be receiving written determinations that include information regarding the claimant’s appeal rights related to the assignment of benefits for a surprise bill.

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

14. Compliance schedule: The rule will take effect 30 days after publication of the Notice of Adoption in the State Register.

Regulatory Flexibility Analysis

1. Effect of rule: This rule affects all health maintenance organizations and insurers authorized to do business in New York State (collectively, "health care plans"). Based upon information that health care plans have provided in their annual statements and filed with the Department of Financial Services ("Department"); they are not "small businesses" as defined in State Administrative Procedure Act ("SAPA") Section 102(8) because they are not independently owned and operated and do not employ 100 or fewer employees.

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

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

4. Compliance costs: No local government will incur any costs to
health care plans and physicians in rural areas, will have an opportunity to participate in the rule-making process when the proposed amendment is published in the State Register and on the Department of Financial Services’ website.

Job Impact Statement
The Department of Financial Services (“Department”) finds that this amendment should have no substantial adverse impact on jobs or employment opportunities in New York because the amendment merely requires health maintenance organizations, insurers authorized to do business in New York State, and physicians to provide certain notices and consumer disclosure information related to surprise bills and bills for emergency services to insureds.

Department of Health

EMERGENCY
RULE MAKING

Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness

L.D. No. HLT-43-19-00004-E
Filing No. 909
Filing Date: 2019-10-04
Effective Date: 2019-10-04

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

Action taken: Amendment of Part 487 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 461 and 461-e

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

Specific reasons underlying the finding of necessity: The Department of Health (Department) has promulgated regulations governing Transitional Adult Homes at section 487.13 of Title 18 of the New York Codes, Rules and Regulations (NYCRR). Section 487.13(b)(1) defines a Transitional Adult Home as an adult home with a certified bed capacity of 80 beds or more in which 25 percent or more of the resident population are persons with serious mental illness, as defined in 18 NYCRR section 487.2(c). Section 487.13(c) required each Transitional Adult Home operator to submit to the Department “a compliance plan that is designed to bring the facility’s census of persons with serious mental illness to a level that is under 25 percent of the resident population over a reasonable period of time, through the lawful discharge of residents with appropriate community services to alternative community settings.” Under 18 NYCRR section 487.4(d), Transitional Adult Home operators may not admit any person whose admission will increase the mental health census of the facility.

Although the number of admissions of persons with serious mental illness to Transitional Adult Homes appear to have decreased as a result of the existing regulations, ongoing enforcement activities indicate that admissions to Transitional Adult Homes are still occurring in violation of those provisions. Accordingly, the Department finds it necessary to adopt these amendments to 18 NYCRR Part 487 on an emergency basis in order to provide greater clarity to Transitional Adult Home operators in avoiding admissions that would increase the census of persons with serious mental illness in their facilities, thereby protecting resident health and safety.

The proposed amendments delineate a clear process for determining whether a prospective resident is a person with serious mental illness and thus not eligible for admission without a waiver. As amended, section 487.4(e) would prohibit Transitional Adult Home operators from admitting a prospective resident without first requesting pre-admission screening from the Department. The Department shall conduct the pre-admission screening in consultation with the Office of Mental Health. The Department will notify the Transitional Adult Home of the screening results within three business days of receipt of the required information.

If the screening results in an indication that the individual may be a person with serious mental illness, the prospective resident will not be eligible for admission unless a mental health evaluation, conducted within the 30-day period preceding admission, indicates that the individual is not a person with serious mental illness and the individual is appropriate for care and services provided by the Transitional Adult Home. The mental health evaluation must be conducted by a qualified practitioner, as defined by existing regulations.
The two-pronged pre-admissions approach will provide greater clarity to Transitional Adult Home operators and help them avoid avoidable admissions. This proposal thus will strengthen compliance with the existing regulations, which were based on a clinical determination by the Office of Mental Health that large adult homes with a significant number of individuals with serious mental illness are not settings that are conducive to the continuity or rehabilitation of the residents. Accordingly, this proposal will protect resident health and safety, consistent with the legislative objectives of SSL section 461(2) and with the State’s overall efforts to ensure that care is provided in the most integrated settings as required by Olmstead v. L.C., 527 U.S. 581 (1999) and as emphasized in Governor Cuomo’s Executive Order No. 84. Given the significance of these objectives, it is necessary to adopt the proposed changes on an emergency basis.

**Subject:** Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness.

**Purpose:** Delineate a clear pre-admissions process for determining whether a prospective resident is a person with serious mental illness.

**Text of emergency rule:** Pursuant to the authority vested in the Commissioner of Health by sections 461 and 461-e of the Official Services Laws, sections 487.4 and 487.10 of Title 18 (Social Services) of the Official Compilation of Code, Rules and Regulations of the State of New York (NYCRR) is hereby amended, to be effective upon filing with the Secretary of State, to read as follows:

Subdivisions (e)-(r) of section 487.4 are relettered (f)-(s), and a new subdivision (e) of section 487.4 is added to read as follows:

Reference to subdivision (j) is re-lettered to subdivision (k) in new subdivision (n).

Reference to subdivision (g) is re-lettered to subdivision (h) in new subdivision (o).

Reference to subdivision (h) is re-lettered to subdivision (i) in new subdivision (o).

**Prior to any prospective resident’s admission to a transitional adult home, as defined in subdivision (b) of section 487.13 of this Part, the operator shall contact the Department, in a manner prescribed by the Department, to obtain a pre-admission screening as to whether the prospective resident may be a person with serious mental illness, as defined in subdivision (c) of section 487.2 of this Part.

1. To obtain such pre-admission screening, the operator shall, in a manner prescribed by the Department, provide the Department with the prospective resident’s full name, date of birth, guardianship information if applicable, and Medicaid identification number if applicable. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed. For individuals who are not currently enrolled in Medicaid, the operator shall state whether an interview and/or medical evaluation are needed.

2. The Department shall conduct its pre-admission screening in consultation with the Office of Mental Health by reviewing the prospective resident’s Medicaid claims data for relevant Health and Recovery Plan eligibility criteria, which may indicate that the prospective resident is a person with serious mental illness.

3. Possible pre-admission screening results:

   (i) Where the Department’s pre-admission screening of the prospective resident does not indicate that the prospective resident may be a person with serious mental illness or, in the case of a prospective resident for whom recent Medicaid claims data is not available, the operator has advised that an interview and/or medical evaluation do not indicate the need for a mental health evaluation pursuant to paragraph (3) of subdivision (f) of this section, the Department shall advise the operator that it may admit the prospective resident within 30 days of receipt of the results, provided that all other relevant admission criteria are met. In the event an operator does not admit the prospective resident within 30 days of receipt of the results of the Department’s pre-admission screening, the operator must obtain a new pre-admission screening pursuant to this subdivision.

   (ii) Where the Department’s pre-admission screening indicates that the prospective resident may be a person with serious mental illness or, in the case of a prospective resident for whom recent Medicaid claims data is not available, the operator has advised that an interview and/or medical evaluation do not indicate the need for a mental health evaluation pursuant to paragraph (3) of subdivision (f) of this section, the operator shall not admit the prospective resident without conducting or obtaining a mental health evaluation, documented on a form prescribed by the Department and developed in consultation with the Office of Mental Health, within 30 days prior to the date of admission, pursuant to paragraph (1) of subdivision (k) of this section. The operator may admit the prospective resident only when the mental health evaluation concludes the individual:

   (A) is not a person with serious mental illness; or
   (B) is a person with serious mental illness, but the individual is a former resident of a transitional adult home and the operator obtains a waiver approved by the Department pursuant to subdivision (g) of section 487.3 of this Part.

**Subparagraph (xix) of paragraph (6) of subdivision (d) of section 487.5 is amended to read as follows:***

(A) state that the resident agrees to provide the operator, prior to admission, and at least every 12 months thereafter, a dated and signed medical evaluation which conforms to the requirements of section 487.4(f)(1)(h) of this Part;

A new paragraph (4) is added to subdivision (e) of section 487.10 to read as follows:

(4) For facilities with a certified capacity of 80 beds or more in which twenty percent or more of the resident population are persons with serious mental illness as defined in section 487.2(c) of this Part, a monthly admissions report identifying all persons admitted to the facility during the prior calendar month.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the State Register at some future date. The emergency rule will expire January 1, 2020.

**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 P.O. Box, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

**Regulatory Impact Statement**

**Statutory Authority:**

Social Services Law (SSL) section 461(1) requires the Department of Health (Department) to promulgate regulations establishing general standards applicable to adult care facilities. SSL section 461-e authorizes the Department to promulgate regulations to require an adult care facility to maintain certain written records with respect to the facility’s residents and the operation of the facility.

**Legislative Objectives:**

The legislative objective of SSL section 461 is to promote the health and well-being of adults residing in adult care facilities. SSL section 461-e is intended to ensure that adult care facilities maintain sufficient records to enable the Department to monitor facilities serving residents.

**Needs and Benefits:**

The proposed regulatory changes will strengthen compliance with current regulations at Title 18 of the New York Codes, Rules and Regulations (NYCRR), Part 487, pertaining to Transitional Adult Homes. A Transitional Adult Home is defined by 18 NYCRR § 487.13(b)(1) as an adult home with a certified capacity of 80 or more beds in which 25 percent or more of the resident population are persons with serious mental illness. Persons with serious mental illness, as defined in 18 NYCRR section 487.2(c), are “individuals who meet criteria established by the commissioner of mental health, which shall be persons who have a designated diagnosis of mental illness whose severity and duration of mental illness results in substantial functional disability.”

Section 487.13(c) requires each Transitional Adult Home operator to submit to the Department a “compliance plan that is designed to bring the facility’s census of persons with serious mental illness to a level that is under 25 percent of the total resident population cohort in a period of time, through the lawful discharge of residents with appropriate community services to alternative community settings.” Pursuant to 18 NYCRR section 487.4(d), a Transitional Adult Home operator may not admit any person whose admission will increase the census of persons with serious mental illness in the facility.

Although the number of admissions of persons with serious mental illness to Transitional Adult Homes appears to have decreased as a result of these existing regulations, ongoing enforcement activities indicate that admissions of such persons to Transitional Adult Homes are still occurring in violation of those provisions. Accordingly, this proposal delineates a clear pre-admissions process for determining whether a prospective resident is a person with serious mental illness and thus not eligible for admission without a waiver. The admissions process set forth in section 487.4(e) will also assist Transitional Adult Home owners in determining whether a prospective resident is a person with serious mental illness and thus will improve compliance with the existing provisions limiting admissions that would increase the facility’s census of persons with serious mental illness.

The Department shall conduct the pre-admission screening in consultation with the Office of Mental Health by reviewing the prospective resident’s Medicaid claims data using Health and Recovery Plan (HARP) eligibility criteria. The HARP is a managed care product that manages physical health, mental health, and substance use services in an integrated way for adults with significant behavioral health needs. The New York State Office of Mental Health recognizes the HARP criteria as a method of identifying individuals with the most serious needs. In the case of an individual for whom there is no recent Medicaid claims data, the Transitional
Adult Home shall be required to identify whether an interview and/or medical evaluation of the prospective resident indicate that a mental health evaluation is required, consistent with existing regulations at 18 NYCRR section 487.4(f)(3).

The Department will notify a Transitional Adult Home of the screening results within three business days of receipt of the required information. If the screening results in an indication that the individual may be a person with serious mental illness, the prospective resident will not be eligible for admission unless a mental health evaluation, conducted within the 30-day period preceding admission, concludes that the individual is not a person with serious mental illness; or (2) the individual is a person with serious mental illness, but the individual is a former resident of a Transitional Adult Home and the operator of the admitting facility obtains a waiver from the Department permitting such admission pursuant to 18 NYCRR section 487.36. The mental health evaluation must be conducted by a qualified practitioner, as defined by existing regulations.

The two-pronged pre-admissions approach outlined above will provide greater clarity to Transitional Adult Home operators and help them avoid impermissible admissions. This proposal thus will strengthen compliance with the existing regulations, which were based on a clinical determination by the Office of Mental Health that large adult homes with a significant number of individuals with serious mental illness are not settings that are conducive to the recovery or rehabilitation of the residents. Accordingly, this proposal will protect resident health and safety, consistent with the legal standards of objective of SSL section 461(2) and with the State’s overall efforts to ensure that care is provided in the most integrated settings as required by Olmstead v. L.C., 527 U.S. 581 (1999) and as emphasized in Governor Cuomo’s Executive Order No. 84.

Costs:

Costs to Private Regulated Parties:

Transitional Adult Homes may incur costs to provide information to the Department for purposes of conducting the pre-admission screening. However, these costs should be minimal. The only information that must be submitted to the Department is the prospective resident’s full name, date of birth, applicable guardianship information, and Medicaid identification number – information that the facility would be required to obtain as part of its usual admission screening.

Transitional Adult Homes may also incur costs for conducting or obtaining a higher volume of mental health evaluations under this proposal. Pursuant to 18 NYCRR section 487.4, applicable to all adult homes, a prospective resident cannot be admitted until the resident is interviewed and a medical evaluation takes place. If the individual “has a known history of chronic mental disability, or the medical evaluation or resident interview suggests such disability,” then a mental health evaluation is required. Thus, Transitional Adult Homes are already required to conduct or obtain mental health evaluations when warranted by an interview or the medical evaluation.

Under the proposal, Transitional Adult Homes will be required to conduct or obtain mental health evaluations in each case where they are interested in admitting an individual who, pursuant to the Department’s pre-admission screening, may be a person with serious mental illness. However, incurrence of these costs will assist Transitiona l Adult Home operators (i.e., HARP criteria in Medicaid claims data). This will allow Transitional Adult Homes to more effectively comply with the existing requirement, which will minimize the risk of regulatory enforcement.

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

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

Regulatory Flexibility Analysis

No regulatory flexibility analysis is required pursuant to section 202- (b)(3)(a) of the State Administrative Procedure Act. The proposed amendments do not impose an adverse economic impact on small businesses or local governments and do not impose any significant reporting, record keeping or other compliance requirements on small businesses or local governments.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for these amendments is not being submitted because the amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed amendments.

Job Impact Statement

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness

LD. No. HLT-43-19-00005-P

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

Proposed Action: Amendment of Parts 487 and 488 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 461 and 461-e
Paragraph (3) of subdivision (e) of section 488.4 is amended to read as follows:

(i) Where the Department’s pre-admission screening indicates that the prospective resident may be a person with serious mental illness or, in the case of a prospective resident for whom recent Medicaid claims data is not available, the operator has advised that an interview and/or medical evaluation indicate the need for a mental health evaluation pursuant to paragraph (3) of subdivision (f) of this section, the operator shall not admit the prospective resident without conducting or obtaining a mental health evaluation, documented on a form prescribed by the Department and developed in consultation with the Office of Mental Health, which shall be provided to the operator within 30 days of receipt of the results. In the event an operator does not admit the prospective resident within 30 days of receipt of the results of the Department’s pre-admission screening, the operator must obtain a new pre-admission screening pursuant to this subdivision.

(ii) Where the Department’s pre-admission screening indicates that the prospective resident may be a person with serious mental illness or, in the case of a prospective resident for whom recent Medicaid claims data is not available, the operator has advised that an interview and/or medical evaluation indicate the need for a mental health evaluation pursuant to paragraph (3) of subdivision (f) of this section, the operator shall not admit the prospective resident without conducting or obtaining a mental health evaluation, documented on a form prescribed by the Department and developed in consultation with the Office of Mental Health, which shall be provided to the operator within 30 days of receipt of the results of the Department’s pre-admission screening, the operator must obtain a new pre-admission screening pursuant to this subdivision.

Subdivision (h) of section 487.4, relettered as subdivision (i), is amended to read as follows:

[(h) (i) Each mental health evaluation shall be a written and signed report, from a psychiatrist, physician, registered nurse, certified psychologist or certified social worker who has experience in the assessment and treatment of mental illness, which includes, certified health professional, physician, psychologist, psychiatrist, licensed social worker, and other mental health professionals.

Such report shall be documented on a form prescribed by the Department and developed in consultation with the Office of Mental Health and shall include:

(1) the date of examination;
(2) significant mental health history and current conditions, including whether the resident or prospective resident has a history with a serious mental illness as defined in section 487.2(c) of this Part;
(3) a statement that the resident’s or prospective resident’s mental health needs can be adequately met in the facility and a statement that the resident’s or prospective resident does not evidence need for placement in a residential treatment facility licensed or operated pursuant to article 19, 23, 29 or 31 of the Mental Hygiene Law; and
(4) a statement that the resident signing the report has conducted a face-to-face examination of the resident or prospective resident within 30 days of the date of admission or, required annual evaluations were conducted due to change in condition, within 30 days of the report.

Subparagraph (xix) of paragraph (6) of subdivision (d) of section 487.5 is amended to read as follows:

(xix) state that the resident agrees to provide the operator, prior to admission and at least every 12 months thereafter, a dated and signed medical evaluation which conforms to the requirements of section 487.4(f)(i)(h) of this Part.

A new paragraph (4) is added to subdivision (e) of section 487.10 to read as follows:

(4) For facilities with a certified capacity of 80 beds or more in which twenty percent or more of the resident population are persons with serious mental illness as defined in section 487.2(c) of this Part, a monthly admissions report identifying all persons admitted to the facility during the prior calendar month.

Paragraph (3) of subdivision (e) of section 488.4 is amended to read as follows:

(3) A mental health evaluation if a proposed resident has a known history of chronic mental disability, or the medical evaluation or resident interview suggests the existence of such a disability. Such evaluation must be a written and signed report from a psychiatrist, physician, registered nurse, certified psychologist or certified social worker who has experience in the assessment and treatment of mental illness, which includes, such report shall be documented on a form prescribed by the Department and developed in consultation with the Office of Mental Health and shall include:

(i) a significant mental health history and current conditions;
(ii) a statement that the resident or prospective resident is mentally suited for care in the enriched housing program; and
(iv) a dated statement indicating that the resident or prospective resident does not evidence need for placement in a hospital or residential treatment facility; and

Subparagraph (xix) of paragraph (6) of subdivision (d) of section 487.5 is amended to read as follows:

(xix) the resident agrees to provide the operator, prior to admission and at least every 12 months thereafter, a dated and signed medical evaluation which conforms to the requirements of section 487.4(f)(i)(h) of this Part.
more of the resident population are persons with serious mental illness. Persons with serious mental illness as defined in 18 NYCRR section 487.2(c), are “individuals who meet criteria established by the commissioner of mental health, which shall be persons who have a designated diagnosis of mental illness” and “whose severity and duration of mental illness results in such functional disability.”

Section 487.2(c) requires each Transitional Adult Home operator to submit to the Department “a compliance plan that is designed to bring the facility’s census of persons with serious mental illness to a level that is under 25 percent of the resident population over a reasonable period of time, through the lawful discharge of residents with appropriate community services to alternative community settings.” Pursuant to 18 NYCRR section 487.4(d), a Transitional Adult Home operator may not admit any person whose admission would increase the census of persons with serious mental illness in the facility.

Although the number of admissions of persons with serious mental illness to Transitional Adult Homes appears to have decreased as a result of these existing regulations, ongoing enforcement activities indicate that admissions of such persons to Transitional Adult Homes are still occurring in violation of those provisions. Accordingly, this proposal delineates a clear pre-admissions process for determining whether a prospective resident is a person with serious mental illness and thus not eligible for admission without a waiver. The admissions process set forth in section 487.4(e) will assist Transitional Adult Home operators in determining whether a prospective resident is a person with serious mental illness and thus will improve compliance with the existing provisions limiting admissions that would increase the facility’s census of persons with serious mental illness.

The Department shall conduct the pre-admission screening in consultation with the Office of Mental Health by reviewing the prospective resident’s Medicaid claims data using Health and Recovery Plan (HARP) eligibility criteria. The HARP is a managed care program that manages physical health, mental health, and substance use services in an integrated way for adults with significant behavioral health needs. The New York State Office of Mental Health recognizes the HARP criteria as a method of identifying individuals with the most serious needs. In the case of an individual for whom there is no recent Medicaid claims data, the Transitional Adult Home shall be required to identify whether an interview and/or medical evaluation of the prospective resident indicate that a mental health evaluation is required, consistent with existing regulations at 18 NYCRR section 487.4(f)(3).

The Department will notify a Transitional Adult Home of the screening results within three business days of receipt of the required information. If the screening results in an indication that the individual may be a person with serious mental illness, the prospective resident will not be eligible for admission unless a mental health evaluation, conducted within the 30-day period preceding admission, concludes that the individual: (1) is not a person with serious mental illness; or (2) the individual is a person with serious mental illness, but the individual is a former resident of a Transitional Adult Home and the operator of the admitting facility obtains a waiver from the Department permitting such admission pursuant to 18 NYCRR section 487.3(g).

The mental health evaluation must be conducted by a qualified practitioner, as defined by existing regulations.

The two-pronged pre-admissions approach outlined above will provide greater clarity to Transitional Adult Home operators in avoiding admissions that would increase the census of persons with serious mental illness in their facilities. This is warranted to assist Transitional Adult Homes in avoiding admissions that would increase the census of individuals with serious mental illness in their facilities in violation of the existing regulations.

Adapted homes that do not meet the definition of a Transitional Adult Home as well as enriched housing programs would also be required to use the mental health evaluation form prescribed by the Department. Since mental health evaluations already must be documented under existing regulations, the use of a standardized form is not expected to increase costs for these facilities.

This proposal also includes a requirement that Transitional Adult Homes submit monthly admissions lists to the Department for purpose of monitoring compliance. The Department previously requested that these lists be provided by some of the Transitional Adult Homes and so no new costs are associated with the inclusion of the requirement in regulation for these facilities. For the remaining Transitional Adult Homes, while this is a new requirement, the provision of such information should not be burdensome since facilities are expected to track admissions.

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

Costs to Other State Agencies:

The proposed regulatory changes will not result in any additional costs to other state agencies. The Office of Mental Health will consult with the Department for the purposes of the pre-admission screening and development of the mental health evaluation form, which will be managed within existing resources.

Local Government Mandates:

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

Paperwork:

The regulations will impose minimal paperwork requirements on Transitional Adult Home operators. Transitional Adult Home operators will be required to submit information about a prospective resident to the Department so it can conduct the pre-admission screening. The only information that must be submitted to the Department is the prospective resident’s full name, date of birth, domiciliary guardian information, and Medicaid identification number – information that the facility would be required to obtain as part of its usual admission screening.

As noted above, Transitional Adult Homes are already required to conduct or obtain mental health evaluations when warranted by an individual’s need for the medical evaluation form prescribed by the Department. Since mental health evaluations already must be documented under existing regulations, the use of a standardized form is not expected to significantly increase paperwork for these facilities.

This proposal also includes a requirement that Transitional Adult Homes submit monthly admissions lists to the Department for purpose of monitoring compliance. The Department previously requested that these lists be provided by some of the Transitional Adult Homes and so no new paperwork is associated with the inclusion of the requirement in a regulation for these facilities. For the remaining Transitional Adult Homes, while this is a new requirement, the provision of such information should not be burdensome since facilities are expected to track admissions.

Duplication:

These regulatory amendments do not duplicate existing State or federal requirements.
Alternatives:
There are no viable alternatives to the proposed regulation. The proposed changes are necessary to avoid what appears to have been continued admissions of persons with serious mental illness to Transitional Adult Homes in violation of 18 NYCRR section 487.13. Further, the new pre-admissions process offers Transitional Adult Homes more certainty in determining which prospective residents may not be admitted under the existing regulations, particularly since the initial screening will be conducted by the Department using resources that are not generally available to Transitional Adult Home operators (i.e., HARP criteria in Medicaid claims data). This will allow Transitional Adult Homes to more effectively comply with the existing requirement, which will minimize the risk of regulatory enforcement.

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

Compliance Schedule:
The regulations will be effective upon publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis
No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendments do not impose an adverse economic impact on small businesses or local governments and do not impose any significant reporting, record keeping or other compliance requirements on small businesses or local governments.

Rural Area Flexibility Analysis
A Rural Area Flexibility Analysis for these amendments is not being submitted because the amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed amendments.

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

Office of Mental Health

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Personalized Recovery Oriented Services (PROS)

I.D. No. OMH-43-19-00008-P

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

Proposed Action: This is a consensus rule making to amend Part 512.11 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09(b), 31.04(a) and 43.02(b)

Subject: Personalized Recovery Oriented Services (PROS).

Purpose: To allow PROS participants to receive Clinic Treatment from an article 31 Clinic operated by the same agency.

Text of proposed rule: Text is deleted and added to subdivision (ii) of section 512.11 of Title 14 NYCRR to read as follows:

(ii) Medicaid may reimburse for services provided to a PROS participant in a given month in a clinic [only if the clinic provider and the PROS provider are not operated by the same sponsor, and] as long as the individual is not registered in the PROS clinical treatment component.

Text of proposed 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

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

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

Consensus Rule Making Determination
This proposal is being filed as a Consensus rule on the grounds that it is non-controversial.
Final rule as compared with last published rule: Nonsubstantive changes were made in section 633.14(b)(8) and (9).

Text of rule and any required statements and analyses may be obtained from: Mary Beth Babcock, Office of Counsel, Office for People With Developmental Disabilities, 44 Holland Ave., 3rd Floor, Albany, NY 12229, (518) 474-7700, email: rau.unit@opwdd.ny.gov

Additional matter required by statute: Pursuant to the requirements of the State Environmental Quality Review Act, OPWDD, as lead agency, has determined that the action described herein will have no effect on the State Environmental Quality Review Act, OPWDD. as lead agency, has determined that the action described herein will have no effect on the

Revised Regulatory Impact Statement
1. Statutory Authority:
   a. OPWDD has the statutory responsibility to provide and encourage the provision of appropriate programs, supports, and services in the areas of care, treatment, habilitation, rehabilitation, and other education and training of persons with developmental disabilities, as stated in the New York State (NYS) Mental Hygiene Law Section 13.07.
   b. OPWDD has the authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the NYS Mental Hygiene Law Section 13.09(b).
   c. OPWDD has the authority to plan, promote, establish, develop, coordinate, evaluate, and conduct programs and services for prevention, diagnosis, examination, care treatment, rehabilitation, training, and research for the care and treatment of individuals with developmental disabilities, and has the authority to take all actions necessary, desirable, or proper to implement the purposes of the Mental Hygiene Law and to carry out the purposes and objectives of OPWDD within available funding, as stated in the NYS Mental Hygiene Law Section 13.15(a).
   d. OPWDD has the statutory authority to adopt regulations concerned with the operation of programs and the provision of services, as stated in the NYS Mental Hygiene Law Section 16.00.

2. Legislative Objectives: The regulations further legislative objectives embodied in sections 13.07, 13.09(b), 13.15(a) and 16.00 of the Mental Hygiene Law. The regulations authorize certain exemptions from the tuberculosis testing requirements for service recipients that are only receiving clinical services within an Article 16 clinic. This will prevent delays in care provided to service recipients within Article 16 clinics. Furthermore, facilities encompassed under New York State Public Health Law Article 28, Mental Hygiene Law Article 31, and Mental Hygiene Law Article 32 have similar exemptions from tuberculosis testing requirements.

3. Needs and Benefits: These regulations amend Title 14 NYCRR Section 633.14 to allow service recipients that only receive clinical services in Article 16 clinics to be exempted from the tuberculosis testing requirements. Without this exemption service recipients experience delays in receiving supports and services.

4. Costs:
   a. Costs to the agency and to the State and its local governments:
      There are no anticipated costs to OPWDD in its role as a provider of services to comply with the new requirements. The regulations may result in costs savings because less individuals are required to be tested for tuberculosis.
   b. Costs to private regulated parties:
      There are no anticipated costs to regulated providers to comply with the regulations. The amendments merely exempt service recipients only receiving services within Article 16 clinics from the tuberculosis testing requirements.
   c. OPWDD expects that providers will be in compliance with the requirements at the time of their effective date.

5. Local Government Mandates: There are no new requirements imposed by the rule on any county, city, town, village; or school, fire, or other special district.

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

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

8. Alternatives: OPWDD did not consider any other alternatives to the regulations. The regulations are necessary to allow service recipients faster access to Article 16 clinical services.

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

10. Compliance Schedule: OPWDD is planning to adopt the amendments as soon as possible within the timeframes mandated by the State Administrative Procedure Act. The regulations were discussed with and reviewed by representatives of providers, in advance of this proposal. OPWDD expects that providers will be in compliance with the requirements at the time of their effective date.

Revised Regulatory Flexibility Analysis
A regulatory flexibility analysis for small businesses and local governments is not submitted because the proposed rule will not impose any adverse economic impact or reporting, record keeping or other compliance requirements on providers in rural areas. There are no professional services, capital, or other compliance costs imposed on small businesses as a result of these amendments.

The proposed rule exempts service recipients receiving services within Article 16 clinics from the tuberculosis testing requirements. The proposed rule will not result in costs or new compliance requirements for regulated parties due to the fact that these exemptions remove a prior legal requirement. Thus, the regulation will not have any adverse effects on providers of small business and local governments.

Revised Rural Area Flexibility Analysis
A Rural Area Flexibility Analysis for this amendment is not being submitted because the regulation will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed regulation.

The proposed regulation amends Title 14 NYCRR Section 633.14 and is intended to exempt service recipients who receive only clinical services within an Article 16 clinic from the requirement they be tested for tuberculosis prior to receiving services. The regulation will not result in an adverse impact on rural communities because all Article 16 clinics are treated similarly under the proposed text. Additionally, the scope of the regulation is limited to only Article 16 clinics. Thus, the regulation will not have a substantial impact on jobs or employment opportunities in New York State. The proposed regulation will not result in costs for regulated parties. These amendments eliminate a compliance requirement, thus, no new compliance is required by providers. Therefore, the amendments will not have any adverse effects on providers in rural areas and local governments.

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

The proposed amendment of Title 14 NYCRR Section 633.14 is intended to exempt service recipients that only receive clinical services within Article 16 clinics from the tuberculosis testing requirement. No new compliance measures would be required for providers since this regulation eliminates a compliance measure. Additionally, the scope of the regulation is limited to only Article 16 clinics. Thus, the regulation will not have a substantial impact on jobs or employment opportunities in New York State.

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.

Public Service Commission

PROPOSED RULE MAKING

NO HEARING(S) SCHEDULED

Petition for the Use of Electric Metering Equipment

I.D. No. PSC-43-19-00014-P

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

Proposed Action: The Public Service Commission is considering a petition filed by Consolidated Edison Company of New York, Inc. for the use of the ConnectDER device in residential photovoltaic applications up to 15 kilowatts.

Statutory authority: Public Service Law, section 67(1)
Subject: Petition for the use of electric metering equipment.

Purpose: To ensure that consumer bills are based on accurate measurements of electrical usage.

Substance of proposed rule: The Public Service Commission is considering a petition filed by Consolidated Edison Company of New York, Inc. (Con Edison) on September 18, 2019, seeking approval to use the Smart ConnectDER electric meter collar device in residential photovoltaic installations up to 15 kilowatts. The Commission requires testing of new types of electric meters and accessories, and they must be approved by the Commission prior to being deployed for customer billing. The ConnectDER will be installed between the electric meter and electric meter socket, therefore the ConnectDER device must be tested to ensure the ConnectDER does not negatively impact the performance of the electric meter.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may approve, modify, or reject, 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-0597SP1)

PROPOSED RULE MAKING

NO HEARING(S) SCHEDULED

Modifications to the Gas Cost Factor and Daily Delivery Service Programs

I.D. No. PSC-43-19-00015-P

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

Proposed Action: The Commission is considering a petition for rehearing, filed by Consolidated Edison of New York, Inc. and Orange and Rockland Utilities, Inc., (together, the Companies). The Companies request that the Commission re-state the legal standard for recovery of costs of abandoned projects and rescind the August 12 Order’s directive to revise the Companies’ tariffs to prohibit cost recovery for investment in abandoned projects.

Statutory authority: Public Service Law, sections 22, 65 and 66

Subject: Modifications to the Gas Cost Factor and Daily Delivery Service Programs.

Purpose: To consider a rehearing petition filed by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.

Substance of proposed rule: The Commission is considering a petition for rehearing jointly filed by Consolidated Edison Company of New York, Inc. (Con Edison) and Orange and Rockland Utilities, Inc., (O&R) on October 28, 2019, seeking to modify the Companies’ tariffs to prohibit cost recovery for abandoned projects. The Companies request that the Commission re-state the legal standard for cost recovery of abandoned projects and rescind the August 12 Order’s directive to revise the Companies’ tariffs to prohibit cost recovery for investment in abandoned projects.

The Companies had sought to recover, through amendments to tariffs Con Edison P.S.C. No. 9 – Gas and O&R P.S.C. No. 4 – Gas, certain costs associated with procurement of compressed natural gas (CNG) and liquefied natural gas (LNG) and the development of facilities to inject trucked and stored CNG and LNG into their gas distribution systems. In its August 12 order, the Commission required the Companies to modify their tariff amendments so as to, among other things, exclude cost recovery for abandoned CNG and LNG projects.

The petition for rehearing asserts that the Commission erred as a matter of law by determining that, in order to be eligible for cost recovery, the projects must be “used and useful” pursuant to Public Service Law § 66(6). They argue that the proper legal standard for recovery of costs of abandoned projects is the prudent investment test.

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

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

Data, views or arguments may be submitted to: 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-W-0584SP1)
NOTICE OF ADOPTION

Enforcement of Support Obligations and Issuance of Income Withholding Orders (IWOs)

I.D. No. TDA-14-19-00002-A
Filing No. 919
Filing Date: 2019-10-08
Effective Date: 2019-10-23

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

Action taken: Amendment of section 347.9(a)(2)(iv)(h)(12) of Title 18 NYCRR.

Statutory authority: 42 United States Code, sections 651, 654b, 666(a)(3)(B), (b)(6); Civil Practice Law and Rules 5241 and 5242; Social Services Law, sections 17(a)-(b), (k), 20(3)(d), 34(3)(f), 111-a and 111-b(14)

Subject: Enforcement of support obligations and issuance of income withholding orders (IWOs).

Purpose: 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.

Text or summary was published in the April 3, 2019 issue of the Register.

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

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

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 Office of Temporary and Disability Assistance (OTDA) has reviewed comments following publication of the proposed regulatory amendments in the April 3, 2019 issue of the New York State Register. These comments have been reviewed and duly considered below in this Assessment of Public Comments.

Response 1: OTDA does not identify any basis in the Civil Practice Law and Rules (CPLR) or any other statute empowering OTDA to limit the ability of courts to enter CPLR-compliant income withholding orders (IWOs) and to determine the levels of income withholding on debtors’ earnings that are permissible under various circumstances.

Response 2: Federal law requires all child support creditors seeking an IWO to use the form promulgated by the federal Office of Child Support Enforcement (42 United States Code [USC] §§ 666[a][8], [b][6][A][ii]). In New York State, the form is promulgated by OTDA (Civil Practice Law and Rules [CPLR] 5241[c]). The form requires the issuer to supply both the amount of child support due and the maximum percentage of the employee’s disposable income that can be withheld. The instructions for the official form state: Withholding Limits: You may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (CCPA) [15 USC § 1673[b]]; or 2) the amounts allowed by the law of the state of the employee/obligor’s principal place of employment, if the place of employment is in a state; or the tribal law of the employee/obligor’s principal place of employment if the place of employment is under tribal jurisdiction. Disposable income is the net income after mandatory deduc-

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**HEARINGS SCHEDULED FOR PROPOSED RULE MAKINGS**

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<tbody>
<tr>
<td>ENV-36-19-00001-P</td>
<td>Waste fuels</td>
<td>Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—November 8, 2019, 11:00 a.m.</td>
</tr>
<tr>
<td>ENV-36-19-00002-P</td>
<td>New aftermarket catalytic converter (AMCC) standards</td>
<td>Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—November 8, 2019, 11:00 a.m.</td>
</tr>
<tr>
<td>ENV-36-19-00003-P</td>
<td>Stationary combustion installations</td>
<td>Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—November 8, 2019, 11:00 a.m.</td>
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<tr>
<td>ENV-36-19-00014-P</td>
<td>Distributed generation sources located in New York City, Long Island, Westchester and Rockland Counties</td>
<td>Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—November 12, 2019, 11:00 a.m. and Department of Transportation, One Hunters Point Plaza, 47-40 21st St., Rm. 834, Long Island City, NY—November 20, 2019, 2:00 p.m.</td>
</tr>
<tr>
<td>ENV-39-19-00003-P</td>
<td>Part 219 applies to various types of incinerators and crematories operated in New York State</td>
<td>Suffolk County Water Authority, 260 Motor Pkwy., Hauppauge, NY—December 3, 2019, 11:00 a.m. 6274 Avon-Lima Rd. (Rtes. 5 and 20), Conference Rm., Avon, NY—December 4, 2019, 11:00 a.m.</td>
</tr>
<tr>
<td>ENV-43-19-00006-P</td>
<td>Class I and Class SD waters</td>
<td>Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—December 6, 2019, 11:00 a.m.</td>
</tr>
<tr>
<td>ENV-43-19-00010-P</td>
<td>Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Parts 620, 621 and 624</td>
<td>Department of Environmental Conservation, 625 Broadway, Albany, NY—January 7, 2020, 1:00 p.m.</td>
</tr>
<tr>
<td><strong>Long Island Power Authority</strong></td>
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<tr>
<td>LPA-37-19-00005-P</td>
<td>Authority’s annual budget, as reflected in the rates and charges in the Tariff for Electric Service</td>
<td>H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 12, 2019, 2:00 p.m. Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 13, 2019, 12:00 p.m.</td>
</tr>
<tr>
<td>LPA-37-19-00006-P</td>
<td>Modification of the SGIP to clarify and reflect updates to the State’s Standardized Interconnection Requirements (SIR)</td>
<td>H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 12, 2019, 2:00 p.m. Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 13, 2019, 12:00 p.m.</td>
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<tr>
<td>LPA-37-19-00007-P</td>
<td>Standard rates for pole attachments of the Authority’s Tariff for Electric Service</td>
<td>H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 12, 2019, 2:00 p.m. Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 13, 2019, 12:00 p.m.</td>
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<tr>
<td><strong>Power Authority of the State of New York</strong></td>
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<tr>
<td>PAS-42-19-00008-P</td>
<td>Rates for the sale of power and energy</td>
<td>Power Authority of the State of New York, 123 Main St., White Plains, NY—November 21, 2019, 11:00 a.m.</td>
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Public Service Commission

PSC-34-19-00015-P ........................ Major electric rate filing

Department of Public Service, Three Empire State Plaza, 19th Fl. Board Rm., Albany, NY—October 28, 2019 and continuing daily as needed, 10:30 a.m. (Evidentiary Hearing)*

*On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 19-E-0380.

PSC-34-19-00016-P ........................ Major gas rate filing

Department of Public Service, Three Empire State Plaza, 19th Fl. Board Rm., Albany, NY—October 28, 2019 and continuing daily as needed, 10:30 a.m. (Evidentiary Hearing)*

*On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 19-E-0381.

PSC-34-19-00018-P ........................ Major electric rate filing

Department of Public Service, Three Empire State Plaza, 19th Fl. Board Rm., Albany, NY—October 28, 2019 and continuing daily as needed, 10:30 a.m. (Evidentiary Hearing)*

*On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 19-E-0378.

PSC-34-19-00020-P ........................ Major gas rate filing

Department of Public Service, Three Empire State Plaza, 19th Fl. Board Rm., Albany, NY—October 28, 2019 and continuing daily as needed, 10:30 a.m. (Evidentiary Hearing)*

*On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 19-E-0379.
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.

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<th>Serial number</th>
<th>Action Code</th>
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<td>AAM</td>
<td>01</td>
<td>12</td>
<td>00001</td>
<td>P</td>
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</table>

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

### AGING, OFFICE FOR THE

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<th>Purpose of Action</th>
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<tr>
<td>AGE-34-19-00014-P</td>
<td>08/20/20</td>
<td>Limits on Administrative Expenses and Executive Compensation</td>
<td>To bring this rule into compliance with current law in New York State</td>
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### AGRICULTURE AND MARKETS, DEPARTMENT OF

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<tr>
<td>AAM-21-19-00002-ERP</td>
<td>05/21/20</td>
<td>Control of the European Cherry Fruit Fly</td>
<td>To help control the spread of the European Cherry Fruit Fly (ECFF), which renders cherries unmarketable if they are infested.</td>
</tr>
<tr>
<td>AAM-30-19-00004-P</td>
<td>07/23/20</td>
<td>Fuels for use in automobiles and motor-driven devices and equipment.</td>
<td>To conform regulations with federal requirements; to provide standards for, and relieve confusion in the sale of new fuels.</td>
</tr>
<tr>
<td>AAM-33-19-00003-P</td>
<td>08/13/20</td>
<td>State aid to districts</td>
<td>To conform Part 363 to S&amp;WCL Sec. 11-a statutory amendments and to make technical amendments.</td>
</tr>
<tr>
<td>AAM-34-19-00001-EP</td>
<td>08/20/20</td>
<td>Spotted Lanternfly (“SL”)</td>
<td>To prevent SL-infested articles originating in Dauphin County, in PA, or Cecil County, in MD, from entering NYS</td>
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<tr>
<td>AAM-43-19-00009-P</td>
<td>10/22/20</td>
<td>Control of the Asian Long Horned Beetle (ALB)</td>
<td>To lift approximately 58 square miles of Asian long horned beetle quarantine in Brooklyn and western Queens</td>
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</table>

### ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF

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<td>ASA-32-19-00005-P</td>
<td>08/06/20</td>
<td>Appeals, Hearings and Rulings</td>
<td>Protect patient confidentiality, update due process provisions, technical amendments</td>
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<tr>
<td>ASA-39-19-00004-P</td>
<td>09/24/20</td>
<td>Designated services (acupuncture and telepractice)</td>
<td>To identify standards for designation to provide acupuncture or telepractice services</td>
</tr>
<tr>
<td>ASA-39-19-00006-P</td>
<td>09/24/20</td>
<td>Children’s behavioral health services</td>
<td>To identify addiction treatment services for children and families</td>
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<tr>
<td>AAC-29-19-00021-P</td>
<td>07/16/20</td>
<td>Limitations on Public Safety Overtime</td>
<td>To clarify that public safety overtime is subject to the limitations contained in the RSSL</td>
</tr>
<tr>
<td>CFS-51-18-00010-P</td>
<td>12/19/19</td>
<td>Residential and non-residential services to victims of domestic violence</td>
<td>To conform the existing regulations to comply with state and federal laws regarding services to victims of domestic violence</td>
</tr>
<tr>
<td>CFS-19-19-00006-ERP</td>
<td>05/07/20</td>
<td>Procedures for addressing children absent without consent from foster care, conditional releases and searches</td>
<td>To put into place procedures for children absent without consent from foster care, conditional releases and searches</td>
</tr>
<tr>
<td>CFS-36-19-00004-EP</td>
<td>09/03/20</td>
<td>Removal of non-medical exemption from vaccination regulations for child day care programs</td>
<td>To remove the non-medical exemption from vaccination regulations for child day care programs</td>
</tr>
<tr>
<td>CFS-39-19-00005-EP</td>
<td>09/24/20</td>
<td>Implement federal statutory requirements to include enhanced background checks, annual inspections, annual training and safety.</td>
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</tr>
<tr>
<td>CFS-39-19-00007-EP</td>
<td>09/24/20</td>
<td>Implement statutory requirements to include enhanced background checks, annual inspections, annual training and safety.</td>
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</tr>
<tr>
<td>CFS-42-19-00002-P</td>
<td>10/15/20</td>
<td>Permissible disclosure of records maintained by OCFS.</td>
<td>To amend existing regulations regarding the permissible disclosure of records by OCFS.</td>
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</tr>
<tr>
<td>CVS-42-19-00019-P</td>
<td>10/15/20</td>
<td>Jurisdictional Classification</td>
<td>To classify positions in the non-competitive class</td>
</tr>
<tr>
<td>CVS-42-19-00020-P</td>
<td>10/15/20</td>
<td>Jurisdictional Classification</td>
<td>To classify positions in the non-competitive class</td>
</tr>
<tr>
<td>CVS-42-19-00021-P</td>
<td>10/15/20</td>
<td>Jurisdictional Classification</td>
<td>To classify positions in the non-competitive class</td>
</tr>
<tr>
<td>CVS-42-19-00022-P</td>
<td>10/15/20</td>
<td>Jurisdictional Classification</td>
<td>To classify positions in the non-competitive class</td>
</tr>
<tr>
<td>CVS-42-19-00023-P</td>
<td>10/15/20</td>
<td>Jurisdictional Classification</td>
<td>To classify positions in the non-competitive class</td>
</tr>
<tr>
<td>Agency I.D. No.</td>
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<td>Purpose of Action</td>
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<tr>
<td>CVS-42-19-00024-P</td>
<td>10/15/20</td>
<td>Jurisdictional Classification</td>
<td>To delete positions from and classify positions in the non-competitive class</td>
</tr>
<tr>
<td>CVS-42-19-00025-P</td>
<td>10/15/20</td>
<td>Jurisdictional Classification</td>
<td>To delete positions from and classify positions in the exempt and non-competitive classes</td>
</tr>
<tr>
<td>CVS-42-19-00026-P</td>
<td>10/15/20</td>
<td>Jurisdictional Classification</td>
<td>To classify positions in the exempt class and to delete a position from and classify positions in the non-competitive class</td>
</tr>
<tr>
<td>CVS-42-19-00027-P</td>
<td>10/15/20</td>
<td>Jurisdictional Classification</td>
<td>To classify positions in the exempt and non-competitive classes</td>
</tr>
<tr>
<td>CMC-35-19-00002-P</td>
<td>08/27/20</td>
<td>Disciplinary and administrative segregation of inmates in special housing.</td>
<td>Prohibit the segregation of vulnerable inmates, and to standardize allowable uses and duration of special housing segregation.</td>
</tr>
<tr>
<td>CMC-41-19-00002-EP</td>
<td>10/08/20</td>
<td>Necessary age for admission to an adult lockup</td>
<td>To ensure that individuals under 18 years old are not admitted to an adult lockup</td>
</tr>
<tr>
<td>CCS-05-19-00006-RP</td>
<td>01/30/20</td>
<td>Standard Conditions of Release Parole Revocation Dispositions</td>
<td>Establish standard conditions of release and provide a workable structure for applying appropriate parole revocation penalties</td>
</tr>
<tr>
<td>CCS-21-19-00014-P</td>
<td>05/21/20</td>
<td>Adolescent Offender Facilities</td>
<td>To reclassify two existing correctional facilities to adolescent offender facilities.</td>
</tr>
<tr>
<td>CCS-32-19-00007-P</td>
<td>08/06/20</td>
<td>Transfer of Foreign Nationals</td>
<td>Correct spelling and update employee responsibility</td>
</tr>
<tr>
<td>CCS-35-19-00001-P</td>
<td>08/27/20</td>
<td>Special Housing Units</td>
<td>Revisions have been made in order to be in compliance with new laws regarding special housing units and solitary confinement use</td>
</tr>
<tr>
<td>CJS-20-19-00003-P</td>
<td>05/14/20</td>
<td>Certified Instructors and Course Directors</td>
<td>Establish/maintain effective procedures governing certified instructors and course directors who deliver MPTC-approved courses</td>
</tr>
<tr>
<td>EDV-30-19-00003-EP</td>
<td>07/23/20</td>
<td>START-UP NY Program</td>
<td>Establish procedures for the implementation and execution of START-UP NY program</td>
</tr>
<tr>
<td>EDV-43-19-00001-P</td>
<td>10/22/20</td>
<td>Empire State Commercial Production Credit Program</td>
<td>Create administrative procedures for all components of the Empire State Commercial Production Credit Program</td>
</tr>
</tbody>
</table>
EDUCATION DEPARTMENT

*EDU-40-18-00010-RP . . . . . . . . . . . 01/01/20 Professional development plans and other related requirements for school districts and BOCES
To improve the quality of teaching and learning for teachers and leaders for professional growth

EDU-52-18-00005-P . . . . . . . . . . . 12/26/19 Annual professional performance reviews.
To extend the transition period for an additional year (until 2019-2020).

EDU-05-19-00008-RP . . . . . . . . . . . 01/30/20 Protecting Personally Identifiable Information
To implement the provisions of Education Law section 2-d

EDU-17-19-00008-P . . . . . . . . . . . 04/23/20 To require study in language acquisition and literacy development of English language learners in certain teacher preparation
To ensure that newly certified teachers enter the workforce fully prepared to serve our ELL population

EDU-27-19-00010-P . . . . . . . . . . . 07/02/20 Substantially Equivalent Instruction for Nonpublic School Students
Provide guidance to local school authorities to assist them in fulfilling their responsibilities under the Compulsory Ed Law

EDU-31-19-00009-EP . . . . . . . . . . . 07/30/20 Instructional Time for State Aid purposes
To provide school districts with additional flexibility when establishing their school calendars

EDU-39-19-00008-P . . . . . . . . . . . 09/24/20 The Education, Experience, Examination and Endorsement Requirements for Licensure as an Architect
To more closely align New York’s requirements for architects with national standards and to streamline the endorsement process.

EDU-39-19-00009-P . . . . . . . . . . . 09/24/20 Requirements for Licensure as an Architect
To more closely align the Commissioner’s Regulations with national standards for licensure as an architect.

To align the Commissioner’s Regulations with amendments made to Education Law sections 409-9d, 409-e, and 3641.

EDU-43-19-00011-P . . . . . . . . . . . 10/22/20 Addition of Subject Areas to the Limited Extension and SOCE for Certain Teachers of Students with Disabilities.
To enable more qualified teachers of students with disabilities to seek the limited extension and SOCE.

EDU-43-19-00012-EP . . . . . . . . . . . 10/22/20 Annual Professional Performance Reviews of Classroom Teachers and Building Principals
Necessary to implement Part YYY of Chapter 59 of the laws of 2019.

EDU-43-19-00013-P . . . . . . . . . . . 10/22/20 Requirements for Chiropractic Education Programs and Education Requirements for Licensure as a Chiropractor.
To conform educational requirements for the profession of chiropractic to the national preprofessional education standards.

ELECTIONS, STATE BOARD OF

SBE-22-19-00003-EP . . . . . . . . . . . 05/28/20 Process for Early Voting
Establishing Process for Early Voting

SBE-35-19-00003-EP . . . . . . . . . . . 08/27/20 Ballot Accountability Practices
Establishes additional ballot accountability procedures

ENVIRONMENTAL CONSERVATION, DEPARTMENT OF

ENV-09-19-00015-RP . . . . . . . . . . . 05/13/20 Set nitrogen oxide (NOx) emission rate limits for simple cycle and regenerative combustion turbines
Reduction of nitrogen oxide (NOx) emissions from simple cycle and regenerative combustion turbines

ENV-10-19-00003-P . . . . . . . . . . . 05/13/20 Regulate volatile organic compounds (VOCs) in architectural and industrial maintenance (AIM) coatings
To set new and lower VOC limits for certain coating categories. Update categories and methods
<table>
<thead>
<tr>
<th>Agency I.D. No.</th>
<th>Expires</th>
<th>Subject Matter</th>
<th>Purpose of Action</th>
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</thead>
<tbody>
<tr>
<td>ENV-18-19-00006-EP</td>
<td>04/30/20</td>
<td>Regulations governing commercial fishing and harvest of scup.</td>
<td>To revise regulations concerning the commercial harvest of scup in New York State waters.</td>
</tr>
<tr>
<td>ENV-24-19-00002-P</td>
<td>08/18/20</td>
<td>Hazardous Waste Management Regulations (FedReg5)</td>
<td>To amend regulations pertaining to hazardous waste management</td>
</tr>
<tr>
<td>ENV-27-19-00001-P</td>
<td>07/02/20</td>
<td>Feeding of wild deer and moose, use of 4-PosterTM devices.</td>
<td>To prohibit feeding of wild deer and moose, to define conditions for use of 4-PosterTM devices.</td>
</tr>
<tr>
<td>ENV-28-19-00001-P</td>
<td>07/09/20</td>
<td>Omnibus changes to 6 NYCRR</td>
<td>Bring regulations current with statutory changes and to improve application efficiency as part of the Governor’s Lean initiative</td>
</tr>
<tr>
<td>ENV-28-19-00002-EP</td>
<td>07/09/20</td>
<td>Regulations governing recreational fishing of scup</td>
<td>To revise regulations concerning the recreational harvest of scup in New York State</td>
</tr>
<tr>
<td>ENV-29-19-00016-P</td>
<td>09/15/20</td>
<td>Reasonably Available Control Technology (RACT) for Major Facilities of Oxides of Nitrogen (NOx)</td>
<td>Regulation of NOx emissions from major facilities of NOx. The regulation sets NOx limits for boilers, turbines, and engines</td>
</tr>
<tr>
<td>ENV-29-19-00017-P</td>
<td>09/15/20</td>
<td>Federal and State standards for acceptable air quality</td>
<td>To revise outdated State and Federal air quality standards</td>
</tr>
<tr>
<td>ENV-31-19-00008-EP</td>
<td>07/30/20</td>
<td>Sanitary Condition of Shellfish Lands</td>
<td>To reclassify underwater shellfish lands to protect public health</td>
</tr>
<tr>
<td>ENV-32-19-00006-P</td>
<td>08/06/20</td>
<td>Chronic wasting disease</td>
<td>Amend regulations to reduce risk of introduction of infectious material into New York</td>
</tr>
<tr>
<td>ENV-36-19-00001-P</td>
<td>11/07/20</td>
<td>Waste Fuels</td>
<td>Update permit references, rule citations, monitoring, record keeping, reporting requirements, and incorporate federal standards.</td>
</tr>
<tr>
<td>ENV-36-19-00002-P</td>
<td>11/07/20</td>
<td>New Aftermarket Catalytic Converter (AMCC) standards</td>
<td>Prohibit sale of federal AMCCs and update existing AMCC record keeping and reporting requirements</td>
</tr>
<tr>
<td>ENV-36-19-00003-P</td>
<td>11/07/20</td>
<td>Stationary Combustion Installations</td>
<td>Update permit references, rule citations, monitoring, record keeping, reporting requirements, and lower emission standards.</td>
</tr>
<tr>
<td>ENV-36-19-00014-P</td>
<td>11/19/20</td>
<td>Distributed generation sources located in New York City, Long Island and Westchester and Rockland counties</td>
<td>Establish emission control requirements for sources used in demand response programs or as price-responsive generation sources</td>
</tr>
<tr>
<td>ENV-37-19-00003-P</td>
<td>09/10/20</td>
<td>Clarifying determination of jurisdiction under the Endangered and Threatened Fish and Wildlife regulations</td>
<td>To improve the review of projects by removing some project types that are known not to cause harm from the review stream</td>
</tr>
<tr>
<td>ENV-38-19-00001-P</td>
<td>09/17/20</td>
<td>Animals dangerous to health or welfare</td>
<td>To expand the list of animals which pose a risk to health or welfare of the people of the state or indigenous fish and wildlife</td>
</tr>
<tr>
<td>Agency I.D. No.</td>
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<tr>
<td>ENV-39-19-0003-P</td>
<td>12/05/20</td>
<td>Part 219 applies to various types of incinerators and crematories operated in New York State.</td>
<td>This rule establishes emission limits and operating requirements for various types of incinerators.</td>
</tr>
<tr>
<td>ENV-42-19-0003-P</td>
<td>10/15/20</td>
<td>Amendments to Great Lakes sportfishery regulations in 6NYCRR Part 10</td>
<td>Proposed amendments are intended to improve high quality sportfisheries and associated economic benefits</td>
</tr>
<tr>
<td>ENV-43-19-0006-P</td>
<td>01/07/21</td>
<td>Class I and Class SD waters</td>
<td>To clarify best usages of Class I and SD waters were/are “secondary contact recreation and fishing” and “fishing,” respectively</td>
</tr>
<tr>
<td>ENV-43-19-00010-P</td>
<td>01/06/21</td>
<td>Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Part 624, Part 621 and Part 620</td>
<td>To incorporate procedural and legal developments, develop consistency &amp; reflect current practice in DEC hearings</td>
</tr>
<tr>
<td>*DFS-17-16-00003-P</td>
<td>exempt</td>
<td>Plan of Conversion by Commercial Travelers Mutual Insurance Company</td>
<td>To convert a mutual accident and health insurance company to a stock accident and health insurance company</td>
</tr>
<tr>
<td>*DFS-25-18-00006-P</td>
<td>exempt</td>
<td>Plan of Conversion by Medical Liability Mutual Insurance Company</td>
<td>To convert a mutual property and casualty insurance company to a stock property and casualty insurance company</td>
</tr>
<tr>
<td>*DFS-30-18-00007-RP</td>
<td>10/23/19</td>
<td>Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure</td>
<td>To clarify requirements regarding coverage and disclosure of information for contraceptives</td>
</tr>
<tr>
<td>*DFS-36-18-00003-RP</td>
<td>12/04/19</td>
<td>Professional Bail Agents; Managing General Agents; et al</td>
<td>To provide greater protection to consumers, and raise the standards of integrity in the bail business.</td>
</tr>
<tr>
<td>DFS-46-18-00014-P</td>
<td>11/14/19</td>
<td>Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act-Claims for Personal Injury Protection Benefit</td>
<td>To give insurer option to void assignment of benefits when insurer issues denial for EIP’s failure to attend IME or EUO</td>
</tr>
<tr>
<td>DFS-20-19-00002-P</td>
<td>05/14/20</td>
<td>Electronic Filings and Submissions</td>
<td>To require certain filings or submissions to be made electronically</td>
</tr>
<tr>
<td>DFS-20-19-00004-P</td>
<td>05/14/20</td>
<td>Valuation of Individual and Group Accident and Health Insurance Reserves</td>
<td>To adopt the 2016 Cancer Claim Cost Valuation Tables</td>
</tr>
<tr>
<td>DFS-21-19-00005-P</td>
<td>05/21/20</td>
<td>Continuing Care Retirement Communities</td>
<td>Amend rules related to permitted investments, financial transactions, reporting requirements and add new optional contract type.</td>
</tr>
<tr>
<td>DFS-32-19-00003-P</td>
<td>08/06/20</td>
<td>Minimum Standards for Form, Content and Sale of Medicare Supplement and Medicare Select Insurance, et al.</td>
<td>To conform with the NAIC model regulation for Medicare supplement insurance, as required by 42 U.S.C. Section 1395ss.</td>
</tr>
<tr>
<td>DFS-33-19-00004-P</td>
<td>08/13/20</td>
<td>Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure</td>
<td>To set forth minimum standards for the content of health insurance identification cards.</td>
</tr>
<tr>
<td>Agency I.D. No.</td>
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<tr>
<td>DFS-39-19-00002-P</td>
<td>09/24/20</td>
<td>LICENSED CASHERS OF CHECKS; FEES</td>
<td>To increase the maximum fee that may be charged by licensed check cashers</td>
</tr>
<tr>
<td>DFS-43-19-00017-P</td>
<td>10/22/20</td>
<td>INDEPENDENT DISPUTE RESOLUTION FOR EMERGENCY SERVICES AND SURPRISE BILLS</td>
<td>To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided</td>
</tr>
<tr>
<td>SGC-40-19-00010-P</td>
<td>10/01/20</td>
<td>Add racetrack operator to terms defined in Thoroughbred rules</td>
<td>To promote the integrity of racing and derive a reasonable return for government</td>
</tr>
<tr>
<td>SGC-40-19-00011-P</td>
<td>10/01/20</td>
<td>Remove obsolete reference to safety vest weight</td>
<td>To promote the integrity of racing and derive a reasonable return for government</td>
</tr>
<tr>
<td>SGC-40-19-00012-P</td>
<td>10/01/20</td>
<td>Add racetrack operator to terms defined in Thoroughbred rules</td>
<td>To promote the integrity of racing and derive a reasonable return for government</td>
</tr>
<tr>
<td>SGC-42-19-00004-P</td>
<td>10/01/20</td>
<td>Add racetrack operator to terms defined in harness racing rules</td>
<td>To promote the integrity of racing and derive a reasonable return for government</td>
</tr>
<tr>
<td>GNS-40-19-00005-P</td>
<td>10/01/20</td>
<td>Facility Use</td>
<td>To add “plastic knuckles” and remove “gravity knife” from the definition of “deadly weapon”</td>
</tr>
<tr>
<td>HLT-14-94-00006-P</td>
<td>exempt</td>
<td>Payment methodology for HIV/AIDS outpatient services</td>
<td>To expand the current payment to incorporate pricing for services</td>
</tr>
<tr>
<td>HLT-42-18-00008-P</td>
<td>10/17/19</td>
<td>Office-Based Surgery Practice Reports</td>
<td>Requires accredited Office-Based Surgery practices to submit adverse event &amp; practice information which includes procedural data</td>
</tr>
<tr>
<td>HLT-51-18-00018-P</td>
<td>12/19/19</td>
<td>New requirements for Annual Registration of Licensed Home Care Services Agencies</td>
<td>To amend the regulations for licensed home care services agencies for the annual registration requirements of the agency</td>
</tr>
<tr>
<td>HLT-05-19-00005-P</td>
<td>01/30/20</td>
<td>Midwifery Birth Center Services</td>
<td>To set the standards for all birth centers to follow the structure of Article 28 requirements</td>
</tr>
<tr>
<td>HLT-25-19-00013-P</td>
<td>06/18/20</td>
<td>Registered Nurses in the Emergency Department</td>
<td>To remove a barrier to new graduate nurse recruitment in the emergency department</td>
</tr>
<tr>
<td>HLT-29-19-00020-P</td>
<td>07/16/20</td>
<td>Patients’ Bill of Rights</td>
<td>To protect D&amp;TC patients against unknowingly receiving care from out-of-network providers, resulting in surprise medical bills</td>
</tr>
<tr>
<td>HLT-30-19-00006-P</td>
<td>07/23/20</td>
<td>Maximum Contaminant Levels (MCLs)</td>
<td>Incorporating MCLs for perfluorooctanoic acid (PFOA), perfluoroctanesulfonic acid (PFOS) and 1,4-dioxane.</td>
</tr>
<tr>
<td>HLT-36-19-00005-EP</td>
<td>09/03/20</td>
<td>School Immunization Requirements</td>
<td>To be consistent with national immunization regulations and guidelines and to define “may be detrimental to the child’s health”.</td>
</tr>
<tr>
<td>HLT-36-19-00006-P</td>
<td>09/03/20</td>
<td>Limits on Executive Compensation</td>
<td>Removes “Soft Cap” prohibition on covered executive salaries.</td>
</tr>
<tr>
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</tr>
<tr>
<td>HLT-40-19-00002-EP</td>
<td>10/01/20</td>
<td>Required Signage Warning Against the Dangers of Illegal Products</td>
<td>To require sellers of legal e-liquids and e-cigarette products to post warning signs regarding illegal products</td>
</tr>
<tr>
<td>HLT-40-19-00004-P</td>
<td>10/01/20</td>
<td>Drug Take Back</td>
<td>To implement the State’s drug take back program to provide for the safe disposal of drugs</td>
</tr>
<tr>
<td>HLT-43-19-00005-P</td>
<td>10/22/20</td>
<td>Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness</td>
<td>Delineate a clear pre-admissions process for determining whether a prospective resident is a person with serious mental illness</td>
</tr>
<tr>
<td>HCR-21-19-00019-P</td>
<td>07/21/20</td>
<td>Low-Income Housing Qualified Allocation Plan</td>
<td>To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits</td>
</tr>
<tr>
<td>HFA-21-19-00020-P</td>
<td>07/21/20</td>
<td>Low-Income Housing Qualified Allocation Plan</td>
<td>To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits</td>
</tr>
<tr>
<td>HRT-27-19-00002-P</td>
<td>07/02/20</td>
<td>Gender Identity or Expression Discrimination</td>
<td>To conform the Division’s regulations with Executive Law as amended by Chapter 8 of the Laws of New York 2019</td>
</tr>
<tr>
<td>LP A-08-01-00003-P</td>
<td>exempt</td>
<td>Pole attachments and related matters</td>
<td>To approve revisions to the authority’s tariff</td>
</tr>
<tr>
<td>LP A-41-02-00005-P</td>
<td>exempt</td>
<td>Tariff for electric service</td>
<td>To revise the tariff for electric service</td>
</tr>
<tr>
<td>LP A-04-06-00007-P</td>
<td>exempt</td>
<td>Tariff for electric service</td>
<td>To adopt provisions of a ratepayer protection plan</td>
</tr>
<tr>
<td>LP A-03-10-00004-P</td>
<td>exempt</td>
<td>Residential late payment charges</td>
<td>To extend the application of late payment charges to residential customers</td>
</tr>
<tr>
<td>LP A-15-18-00013-P</td>
<td>exempt</td>
<td>Outdoor area lighting</td>
<td>To add an option and pricing for efficient LED lamps to the Authority’s outdoor area lighting</td>
</tr>
<tr>
<td>LP A-37-18-00013-P</td>
<td>exempt</td>
<td>The net energy metering provisions of the Authority’s Tariff for Electric Service</td>
<td>To implement PSC guidance increasing eligibility for value stack compensation to larger projects</td>
</tr>
<tr>
<td>LP A-37-18-00017-P</td>
<td>exempt</td>
<td>The treatment of electric vehicle charging in the Authority’s Tariff for Electric Service.</td>
<td>To effectuate the outcome of the Public Service Commission’s proceeding on electric vehicle supply equipment.</td>
</tr>
<tr>
<td>LP A-37-18-00018-P</td>
<td>exempt</td>
<td>The treatment of energy storage in the Authority’s Tariff for Electric Service.</td>
<td>To effectuate the outcome of the Public Service Commission’s proceeding on the NY Energy Storage Roadmap.</td>
</tr>
<tr>
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<tr>
<td><strong>LONG ISLAND POWER AUTHORITY</strong></td>
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</tr>
<tr>
<td>LPA-37-19-00005-P</td>
<td>. . . . . . exempt</td>
<td>The Authority’s annual budget, as reflected in the rates and charges in the Tariff for Electric Service</td>
<td>To update the Tariff to implement the Authority’s annual budget and corresponding rate adjustments</td>
</tr>
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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 seeking a formal investigation and hearings. 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-38-14-00005-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-38-14-00010-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.
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<td>To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.</td>
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<tr>
<td>PSC-51-15-00010-P</td>
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<td>Modification of the EDP</td>
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<td>PSC-01-16-00005-P</td>
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<td>Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices</td>
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<td>PSC-04-16-00007-P</td>
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<td>Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.</td>
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<tr>
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<td>Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.</td>
<td>Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.</td>
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<tr>
<td>PSC-04-16-00013-P</td>
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<td>Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.</td>
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<td>PSC-06-16-00013-P</td>
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<td>Continued deferral of approximately $16,000,000 in site investigation and remediation costs.</td>
<td>To consider the continued deferral of approximately $16,000,000 in site investigation and remediation costs.</td>
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<tr>
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<tr>
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<td>Resetting retail markets for ESCO mass market customers.</td>
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<td>To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY.</td>
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<td>PSC-25-16-00025-P</td>
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<td>To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.</td>
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<td>PSC-25-16-00026-P</td>
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<td>To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.</td>
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<td>To determine appropriate rules for and calculation of the distributed generation reliability credit.</td>
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<tr>
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<td>PSC-47-16-00010-P</td>
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<td>PSC-47-16-00013-P</td>
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<td>To consider the report filed and the recommendations therein</td>
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<td>PSC-47-16-00014-P</td>
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<td>PSC-47-16-00016-P</td>
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<tr>
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<tr>
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<td>NYAW's request to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2016.</td>
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<tr>
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<td>To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel.</td>
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<tr>
<td>*PSC-20-17-00010-P</td>
<td>............ exempt</td>
<td>Compressed natural gas as a motor fuel for diesel fueled vehicles.</td>
<td>To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel.</td>
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<td>*PSC-21-17-00013-P</td>
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<tr>
<td>*PSC-21-17-00018-P</td>
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<td>Proposed agreement for the provision of water service by Saratoga Water Services, Inc.</td>
<td>To consider a waiver and approval of terms of a service agreement.</td>
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<tr>
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<tr>
<td>*PSC-23-17-00022-P</td>
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<tr>
<td>*PSC-24-17-00006-P</td>
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<tr>
<td>*PSC-26-17-00005-P</td>
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<td>To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York.</td>
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<tr>
<td>*PSC-34-17-00011-P</td>
<td>............ exempt</td>
<td>Waiver to permit Energy Cooperative of America to serve low-income customers</td>
<td>To consider the petition for a waiver</td>
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<tr>
<td>*PSC-37-17-00005-P</td>
<td>............ exempt</td>
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<td>To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms.</td>
</tr>
<tr>
<td>*PSC-37-17-00006-P</td>
<td>............ exempt</td>
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<td>To consider the petition of ACC OP (Park Point SU) LLC to submeter electricity at 417 Comstock Avenue, Syracuse, New York.</td>
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<tr>
<td>*PSC-39-17-00011-P</td>
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<td>Whether to direct New York State Electric &amp; Gas to complete electric facility upgrades at no charge to Hanehan.</td>
<td>To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan.</td>
</tr>
<tr>
<td>*PSC-40-17-00006-P</td>
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<td>To consider a waiver of National Grid’s tariff provision requiring all electric delivery points to be on the same premises</td>
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<td>*PSC-42-17-00010-P</td>
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<td>To consider NFGD’s petition for rehearing.</td>
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<td>*PSC-50-17-00018-P</td>
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<td>*PSC-50-17-00019-P</td>
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<td>Transfer of utility property.</td>
<td>To consider the transfer of utility property.</td>
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<td>*PSC-50-17-00021-P</td>
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<tr>
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<td>To consider Con Edison's petition for the recovery of costs for implementing the JFK Project.</td>
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<td>To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity.</td>
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<td>Eligibility of an ESCO to market to and enroll residential customers.</td>
<td>To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.</td>
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<tr>
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<tr>
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<td>To consider whether a proposed transfer of ownership interests in St. Lawrence Gas Company, Inc. is in the public interest.</td>
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<tr>
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<td>To continue NYSEG and RG&amp;E’s transition to modern utilities acting as Distributed System Platform Providers.</td>
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<td>To continue Central Hudson’s transition to a modern utility serving as a Distributed System Platform Provider.</td>
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<td>To address the increased demand for natural gas in the Con Edison’s service territory and the limited pipeline capacity.</td>
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<td>To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County.</td>
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<td>To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.</td>
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<tr>
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<td>To ensure that consumer bills are based on accurate measurements of electric usage.</td>
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<td>Petition to submeter electricity</td>
<td>To ensure adequate submetering equipment and consumer protections are in place</td>
</tr>
<tr>
<td>PSC-39-19-00013-P</td>
<td>exempt</td>
<td>Proposed revisions to Consolidated Edison’s Commercial Demand Response Programs.</td>
<td>To consider appropriate rules regarding Commercial Demand Response Programs.</td>
</tr>
<tr>
<td>PSC-39-19-00015-P</td>
<td>exempt</td>
<td>Amendments to the New York State Standardized Interconnection Requirements (SIR).</td>
<td>To more effectively interconnect distributed generation and energy storage Systems 5 MW or less to the distribution system.</td>
</tr>
<tr>
<td>PSC-39-19-00016-P</td>
<td>exempt</td>
<td>PSC regulation 16 NYCRR § 86.3(a)(1), (2), (2)(iv), (b)(2), 86.4(b) and 88.4(a)(4).</td>
<td>To consider a waiver of certain regulations relating to the content of an application for transmission line siting.</td>
</tr>
<tr>
<td>PSC-39-19-00017-P</td>
<td>exempt</td>
<td>Notice of intent to submeter electricity.</td>
<td>To ensure adequate submetering equipment and consumer protections are in place.</td>
</tr>
<tr>
<td>PSC-39-19-00018-P</td>
<td>exempt</td>
<td>Petition to submeter electricity.</td>
<td>To ensure adequate submetering equipment and consumer protections are in place.</td>
</tr>
<tr>
<td>PSC-39-19-00019-P</td>
<td>exempt</td>
<td>Petition for the use of gas metering equipment.</td>
<td>To ensure that consumer bills are based on accurate measurements of gas usage.</td>
</tr>
<tr>
<td>PSC-40-19-00006-P</td>
<td>exempt</td>
<td>Net energy metering and VDER crediting for eligible New York Power Authority customers.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.</td>
</tr>
<tr>
<td>PSC-40-19-00007-P</td>
<td>exempt</td>
<td>The sharing of ratepayer consumption data.</td>
<td>To allow for consumption based sewer billing and protect ratepayers’ consumption data.</td>
</tr>
<tr>
<td>PSC-40-19-00008-P</td>
<td>exempt</td>
<td>Implementation of consolidated billing for distributed energy resources.</td>
<td>To facilitate development of and participation in Community Distributed Generation projects.</td>
</tr>
<tr>
<td>Agency I.D. No.</td>
<td>Expires</td>
<td>Subject Matter</td>
<td>Purpose of Action</td>
</tr>
<tr>
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</tr>
<tr>
<td><strong>PUBLIC SERVICE COMMISSION</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PSC-41-19-00003-P</td>
<td>. . . . . . exempt</td>
<td>A voluntary residential three-part rate that would include fixed, usage and demand charges.</td>
<td>To provide qualifying residential customers with an optional three-part rate.</td>
</tr>
<tr>
<td>PSC-41-19-00004-P</td>
<td>. . . . . . exempt</td>
<td>To consider acquiring cable television facilities and franchises of 27 municipalities from CCE I to Spectrum NE.</td>
<td>To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest.</td>
</tr>
<tr>
<td>PSC-41-19-00005-P</td>
<td>. . . . . . exempt</td>
<td>Tariff modifications to correct the calculation for the VDER Value Stack DRV.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.</td>
</tr>
<tr>
<td>PSC-42-19-00006-P</td>
<td>. . . . . . exempt</td>
<td>Waiver of the prohibition on service to low-income customers by ESCOs.</td>
<td>To consider the petition for an extension of the waiver of the prohibition on service to low-income customers by ESCOs.</td>
</tr>
<tr>
<td>PSC-42-19-00007-P</td>
<td>. . . . . . exempt</td>
<td>Waiver of the prohibition on service to low-income customers by ESCOs.</td>
<td>To consider the petition for an extension of the waiver of the prohibition on service to low-income customers by ESCOs.</td>
</tr>
<tr>
<td>PSC-43-19-00014-P</td>
<td>. . . . . . exempt</td>
<td>Petition for the use of electric metering equipment.</td>
<td>To ensure that consumer bills are based on accurate measurements of electric usage.</td>
</tr>
<tr>
<td>PSC-43-19-00015-P</td>
<td>. . . . . . exempt</td>
<td>Modifications to the Gas Cost Factor and Daily Delivery Service Programs.</td>
<td>To consider a rehearing petition filed by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.</td>
</tr>
<tr>
<td>PSC-43-19-00016-P</td>
<td>. . . . . . exempt</td>
<td>Proposed rate filing to increase its semi-annual flat rate.</td>
<td>To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.</td>
</tr>
<tr>
<td><strong>STATE, DEPARTMENT OF</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DOS-27-19-00014-P</td>
<td>. . . . . . 09/04/20</td>
<td>New York State Uniform Fire Prevention and Building Code (the Uniform Code)</td>
<td>To repeal the existing Uniform Code and adopt a new Uniform Code and to make conforming changes to 19 NYCRR Parts 1264 and 1265.</td>
</tr>
<tr>
<td>DOS-40-19-00001-P</td>
<td>. . . . . . 10/01/20</td>
<td>Appraisal Standards</td>
<td>To adopt the 2020-2021 edition of the Uniform Standards of Professional Appraisal Practice</td>
</tr>
<tr>
<td>DOS-42-19-00001-P</td>
<td>. . . . . . 10/15/20</td>
<td>Real estate advertisements</td>
<td>To update current regulations concerning real estate advertisements</td>
</tr>
<tr>
<td><strong>STATE UNIVERSITY OF NEW YORK</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SUN-36-19-00013-P</td>
<td>. . . . . . 09/03/20</td>
<td>College Fees</td>
<td>To increase the college fee charged at State-operated campuses, excluding the four University Centers.</td>
</tr>
<tr>
<td><strong>TAXATION AND FINANCE, DEPARTMENT OF</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TAF-34-19-00013-P</td>
<td>. . . . . . exempt</td>
<td>To set the sales tax component and the composite rate per gallon for the period October 1, 2019 through September 31, 2019</td>
<td>To set the sales tax component and the composite rate per gallon for the period October 1, 2019 through September 31, 2019</td>
</tr>
<tr>
<td>TAF-40-19-00009-P</td>
<td>. . . . . . 10/01/20</td>
<td>New York State and City of Yonkers withholding tables and other methods</td>
<td>To provide current New York State and City of Yonkers withholding tables and other methods</td>
</tr>
</tbody>
</table>
### TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF

<table>
<thead>
<tr>
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<th>Purpose of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>TDA-14-19-00007-P</td>
<td>04/02/20</td>
<td>Abandonment of requests for fair hearings</td>
<td>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</td>
</tr>
<tr>
<td>TDA-19-19-00007-P</td>
<td>05/07/20</td>
<td>Adult-Care Facilities and Shelters for Adults</td>
<td>To update State regulations pertaining to general provisions, inspections and enforcement, and shelters for adults</td>
</tr>
<tr>
<td>TDA-19-19-00008-P</td>
<td>05/07/20</td>
<td>Shelters for Families</td>
<td>To update State regulations pertaining to shelters for families</td>
</tr>
<tr>
<td>TDA-19-19-00010-P</td>
<td>05/07/20</td>
<td>Elimination of finger imaging requirement for public assistance applicants and recipients</td>
<td>To update State regulations to align public assistance programs with other State benefit programs regarding identification verification requirements</td>
</tr>
</tbody>
</table>

### URBAN DEVELOPMENT CORPORATION

<table>
<thead>
<tr>
<th>Agency I.D. No.</th>
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<th>Purpose of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>UDC-33-19-00006-EP</td>
<td>08/13/20</td>
<td>Life Sciences initiative Program</td>
<td>Create administrative procedures for all components of the Life Sciences Initiatives program</td>
</tr>
</tbody>
</table>

### VICTIM SERVICES, OFFICE OF

<table>
<thead>
<tr>
<th>Agency I.D. No.</th>
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<th>Purpose of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>OVS-24-19-00001-EP</td>
<td>06/11/20</td>
<td>Conduct contributing related to burial awards</td>
<td>Adopt rules necessary as the result of chapter 494 of the Laws of 2018, when considering the victim's own conduct</td>
</tr>
</tbody>
</table>

### WORKERS’ COMPENSATION BOARD

<table>
<thead>
<tr>
<th>Agency I.D. No.</th>
<th>Expires</th>
<th>Subject Matter</th>
<th>Purpose of Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>WCB-22-19-00009-P</td>
<td>05/28/20</td>
<td>Group self-insured trusts that are inactive but not insolvent</td>
<td>Provide assistance with inactive but not insolvent group self-insured trusts to purchase ALPs to wind down liabilities</td>
</tr>
<tr>
<td>WCB-27-19-00005-P</td>
<td>07/02/20</td>
<td>Medical Fee Schedules</td>
<td>Add new providers to the fee schedule</td>
</tr>
<tr>
<td>WCB-31-19-00018-P</td>
<td>07/30/20</td>
<td>Medical Treatment Guidelines</td>
<td>Add guidelines for treatment of hip and groin, foot and ankle, elbow and occupational interstitial lung disease</td>
</tr>
<tr>
<td>WCB-32-19-00001-P</td>
<td>08/06/20</td>
<td>Updating the prescription drug formulary</td>
<td>To add drugs to the prescription drug formulary in response to continuous feedback</td>
</tr>
<tr>
<td>WCB-37-19-00002-P</td>
<td>09/10/20</td>
<td>Applications for Reopenings</td>
<td>Clarify the process for reopening a case that has been previously closed</td>
</tr>
</tbody>
</table>
STATE NOTICES

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

DEALERS; BROKERS

10 Federal Self Storage Acquisition Company 2, LLC
4101 Lake Boone Trail, Suite 100, Raleigh, NC 27607
State or country in which incorporated — North Carolina

AJR Physician Holdings, LLC
4225 Genesee St., Cheektowaga, NY 14225
State or country in which incorporated — North Carolina

Alliant Strategic Preservation Feeder Fund II, Ltd.
21600 Oxnard St., Suite 1200, Woodland Hills, CA 91367
Partnership — Alliant Strategic Fund II GP, LLC

Amundi
90 Boulevard Pasteur, 75015 Paris, France
State or country in which incorporated — France

Athena Behavioral Capital Fund, LP
5340 S. Quebec St., Suite 365-N, Greenwood Village, CO 80111
Partnership — Athena Behavioral Capital Fund GP, LLC

Charles River Institutional Fund IV, L.P.
2310 Washington St., Newton Lower Falls, MA 02462
Partnership — CRRF GP IV LLC

Charles River Realty Fund IV, L.P.
2310 Washington St., Newton Lower Falls, MA 02462
Partnership — CRRF GP IV LLC

Destra Investment Trust
444 W. Lake St., Suite 1700, Chicago, IL 60606
State or country in which incorporated — Illinois

GBank Financial Holdings Inc.
9115 W. Russel Rd., Suite 110, Las Vegas, NV 89148
State or country in which incorporated — Nevada

Green Growth Brands Inc.
4300 E. Fifth Ave., Columbus, OH 43219
State or country in which incorporated — Ohio

Hartford Funds Distributors, LLC
690 Lee Rd., Wayne, PA 19087
State or country in which incorporated — Pennsylvania

Heart Health Intelligence Inc.
125 Tech Park Dr., Rochester, NY 14623
State or country in which incorporated — Delaware

Inherent Esg Opportunity Offshore Feeder, Ltd.
c/o Maples Corps. Services, Ltd., Ugland House, Grand Cayman, Cayman Islands KY1-1104
State or country in which incorporated — Cayman Islands

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

Insignia Ventures Partners Fund II Feeder, L.P.
c/o Walkers Corporate Limited, Cayman Corporate Centre, 27 Hospital Rd., George Town, Grand Cayman KY1-9008, Cayman Islands
Partnership — Insignia Ventures Partners Fund II, GP Limited

Lyfe Capital Fund III (Dragon), L.P.
Sertus Incorporations (Cayman) Limited, Suite #5-204, 23 Lime Tree Bay Ave., Grand Cayman, Cayman Islands, KY1-1104
Partnership — Lyfe Capital Management Limited

Lyfe Capital Fund III (Phoenix), L.P.
Corporation Trust Company, The, 1209 Orange St., Wilmington, DE 19801
Partnership — Lyfe Capital Management (Phoenix) LLC

March Altus Fund LP
One Fawcett Pl., 2nd Fl., Greenwich, CT 06830
Partnership — March Altus Capital GP LLC

Ondas Holdings Inc.
165 Gibraltar Court, Sunnyvale, CA 94089
State or country in which incorporated — California

RM Charter Partners Enhanced Fund LP
810 Seventh Ave., 27th Fl., New York, NY 10019
Partnership — RM Charter Associates LLC

RM Charter Partners Fund LP
810 Seventh Ave., 27th Fl., New York, NY 10019
Partnership — RM Charter Associates LLC

RM Charter Master Fund LP
810 Seventh Ave., 27th Fl., New York, NY 10019
Partnership — RM Charter Associates LLC

SL Global PCC - Cell B - 1
c/o JTC Fiduciary Services (Mauritius) Limited, Suite 2004, Level 2, Alexander House, 35 Cybercity, Ebene, Republic of Mauritius 72201

SL Global PCC - Cell B - 2
c/o JTC Fiduciary Services (Mauritius) Limited, Suite 2004, Level 2, Alexander House, 35 Cybercity, Ebene, Republic of Mauritius 72201
State or country in which incorporated — Republic of Mauritius
VCG Compliance Investors, LLC
444 Madison Ave., 35th Fl., New York, NY 10022
State or country in which incorporated — Delaware

VCG Compliance Manager, LLC
444 Madison Ave., 35th Fl., New York, NY 10022
State or country in which incorporated — Delaware

Vista Co-Invest Fund 2018-2, L.P.
c/o Vista Equity Partners, Four Embarcadero Center, 20th Fl., San Francisco, CA 94111
Partnership — Vista Co-Invest Fund 2018-2 GP, L.P.

VP Compliance Holdings, LLC
444 Madison Ave., 35th Fl., New York, NY 10022
State or country in which incorporated — Delaware

VP Compliance Management, LLC
444 Madison Ave., 35th Fl., New York, NY 10022
State or country in which incorporated — Delaware

Yugen Partners CoInvest, LLC- Series Lucidity
90 E. Halsey Rd., Suite 2028, Parsippany, NJ 07054
State or country in which incorporated — Delaware

Yukon Co-Investment Partners, LP
3811 Turtle Creek Blvd., Suite 800, Dallas, TX 75219
Partnership — Yukon CIP GP, LP
ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

SEALED BIDS

REPAVE

ASPHALT PARKING LOTS

Pilgrim Psychiatric Center
West Brentwood, Suffolk County

Sealed bids for Project No. Q1785-C for Construction Work to Repave Asphalt Parking Lots at Buildings 81, & 82, Reconstruct Fish Path Road, Pilgrim Psychiatric Center, 998 Crooked Hill Rd, West Brentwood (Suffolk County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of Mental Health, until 2:00 p.m. on Wednesday, October 23rd, 2019 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a certified check, bank check, or bid bond in the amount of $77,700 for C.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between $2,000,000 and $3,000,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller (“Restricted Period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Hoffman, Carl Ruppert and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form.

For questions about purchase of bid documents, please send an e-mail to DCPplans@ogs.ny.gov, or call (518) 474-0203. For additional information on this project, please use the link below and then click on the project number: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPplansAvailableIndex.asp

By John D. Lewyckyj, Deputy Director
OGS - Design & Construction Group

REPLACE

DEARATOR PACKAGE

David Axelrod Institute
Albany, Albany County

Sealed bids for Project No. Q1789-H, comprising a contract for HVAC Work, Replace Dearator Package, David Axelrod Institute, 120 New Scotland Ave, Albany (Albany County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Health, until 2:00 p.m. on Wednesday, October 23, 2019, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a certified check, bank check, or bid bond in the amount of $43,000 for H.

The substantial completion date for this project is 344 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 10:00 a.m. on October 10th, 2019 at the Pilgrim Psychiatric Center, 998 Crooked Hill Road, West Brentwood, NY. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

Phone the office of Maria Cappai (631-952-4973) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

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

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an $8.00 deposit per set, plus a $2.00 per set shipping and handling fee. Contractors and other interested parties can order CD’s on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPplansAvailableIndex.asp
All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between $1,000,000 and $2,000,000 for H.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller (“Restricted Period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a).

Designated staff are Jessica Hoffman, Carl Ruppert and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts.

Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html

The substantial completion date for this project is 231 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 10:00 a.m. on October 10, 2019, David Axelrod Institute, 120 New Scotland Avenue, in Albany, NY. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

Phone the office of Ramona Pierce, (518) 473-0027 a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

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

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an $8.00 deposit per set, plus a $2.00 per set shipping and handling fee. Contractors and other interested parties may order CD’s on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: https://online.ogs.ny.gov/dnc/contractorConsultant/ESB/ESBPlansAvailableIndex.asp

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: https://online.ogs.ny.gov/dnc/contractorConsultant/ESB/ESBPlansAvailableIndex.asp

By John D. Lewyckyj, Deputy Director
OGS - Design & Construction Group

REHABILITATE
AUDITORIUM
Dulles State Office Building
Watertown, Jefferson County

Sealed bids for Project Nos. 45636-C, 45636-H, 45636-E, 45636-P, comprising separate contracts for Construction Work, Electrical Work, HVAC Work, and Plumbing Work, Rehabilitate Auditorium, Dulles State Office Building, 317 Washington St, Watertown ( Jefferson County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of General Services, until 2:00 p.m. on Wednesday, October 30, 2019 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a certified check, bank check, or bid bond in the amount of $78,900 for H, $34,200 for E and $22,000 for P.

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between $2,000,000 and $3,000,000 for C, between $50,000 and $100,000 for H, between $500,000 and $1,000,000 for E, and between $500,000 and $1,000,000 for P.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller (“Restricted Period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a).

Designated staff are Jessica Hoffman, Carl Ruppert and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts.

Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html

The substantial completion date for this project is 379 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 10:00 a.m. on October 15th, 2019 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a certified check, bank check, or bid bond in the amount of $78,900 for H, $34,200 for E and $22,000 for P.

Phone the office of John D. Lewyckyj, (518) 473-0027 and John D. Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts.

Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html

The substantial completion date for this project is 379 days after the Agreement is approved by the Comptroller.

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The substantial completion date for this project is 379 days after the Agreement is approved by the Comptroller.

Phone the office of John D. Lewyckyj, (518) 473-0027 and John D. Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0203, fax (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts.

Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html

The substantial completion date for this project is 379 days after the Agreement is approved by the Comptroller.
hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 6% for MWBE participation, 3% for Minority-Owned Business Enterprises ("MBE") participation and 3% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBES and WBEs) for Construction Work, Electrical Work and Plumbing Work. The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an $8.00 deposit per set, plus a $2.00 per set shipping and handling fee. Contractors and other interested parties can order CD’s on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp

By John D. Lewyckyj, Deputy Director
OGS - Design & Construction Group

REPLACE
STANDBY GENERATOR
Department of Transportation Region 1
Schenectady, Schenectady County

Sealed bids for Project No. 46033-E, comprising a contract for Electrical Work Replace Standby Generator & Electrical Upgrades, DOT Region 1, Schenectady County, 3008 Christer Avenue, Schenectady (Schenectady County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Transportation, until 2:00 p.m. on Wednesday, October 23, 2019, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a certified check, bank check, or bid bond in the amount of $16,000 for E.

Further, Wicks Exempt Projects require a completed form BDC 59 (Wicks Exempt List of Contractors) be filled out and submitted (included in a separate, sealed envelope) in accordance with Document 002220, Supplemental Instructions to Bidders – Wicks Exempt. Failure to submit this form correctly will result in a disqualification of the bid.

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

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller (“Restricted Period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Hoffman, Carl Ruppert, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html

The substantial completion date for this project is 262 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 2:00 p.m. on October 11, 2019, DOT Region 1, 3008 Christer Avenue, in Schenectady, NY. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

Phone the office of Hatim El-Tilib, (518-457-8203) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 6% for MWBE participation, 3% for Minority-Owned Business Enterprises ("MBE") participation and 3% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBES and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an $8.00 deposit per set, plus a $2.00 per set shipping and handling fee. Contractors and other interested parties can order CD’s on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp

By John D. Lewyckyj, Deputy Director
OGS - Design & Construction Group
NOTICE OF AVAILABILITY OF STATE AND FEDERAL FUNDS

New York Homes and Community Renewal
Housing Trust Fund Corporation
Office Of Community Renewal
38-40 State St., 4th Fl. S
Albany, NY 12207

NON-ENTITLEMENT VILLAGES, TOWN, CITIES OR COUNTRIES; UNITS OF LOCAL GOVERNMENT, NON-PROFIT CORPORATIONS INCORPORATED UNDER STATE NON-PROFIT CORPORATION LAW, COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS (CHDO), PUBLIC HOUSING AUTHORITIES

NYS Community Development Block Grant Program; NYS Home Local Program

The Housing Trust Fund Corporation (HTFC) announces the availability of approximately $16 million Federal funds for the following programs:

- $10 million - NYS Community Development Block Grant funding for Housing Activities
- $ 6 million – NYS HOME Program

NYS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

PROGRAM DESCRIPTION

The New York State Community Development Block Grant Program (NYS CDBG) is a federally funded program administered by the Housing Trust Fund Corporation’s (HTFC) Office of Community Renewal (OCR). The program provides resources to non-entitlement communities to enable the development of decent, affordable housing, create suitable living environments, and enhance economic opportunities across the state.

CDBG ELIGIBLE APPLICANTS

Eligible applicants include non-entitlement villages, towns, cities or counties throughout New York State, excluding metropolitan cities, urban counties, and Indian Tribes that are HUD designated Entitlement communities. Non-entitlement areas are generally defined as cities, towns, and villages with populations of less than 50,000 except those designated principal cities of Metropolitan Statistical Areas, and counties with populations of less than 200,000.

CDBG HOUSING ACTIVITIES

CDBG funds are available for housing activities including housing rehabilitation, homeownership, manufactured housing replacement, well and septic replacement, and lateral connection assistance that primarily benefit low- and moderate-income persons.

2019 MAXIMUM FUNDING LIMITS

CDBG Housing Activities

<table>
<thead>
<tr>
<th>Towns, Cities and Villages:</th>
<th>$ 500,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Counties:</td>
<td>$ 1,000,000</td>
</tr>
</tbody>
</table>

APPLICATION FOR FUNDING

The 2019 Application for CDBG Housing Activities will be available on the NYS Homes and Community Renewal web site, https://hcr.ny.gov/community-development-block-grant, under Funding Opportunities on Wednesday, October 23, 2019. Applications are due no later than 4:00 pm Friday, December 18, 2019. Applications must be submitted using the Community Development Online Application System (CDOL).

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, applications received after the specified date and time will be deemed ineligible and will not be considered for funding. Applicants should make early submission of applications to avoid risk ofineligibility resulting from unanticipated delays or problems.

Applicants may make a request, based on demonstrated need, to submit a paper application in lieu of using the CDOL application system. Requests for approval to submit a paper application must be sent to: Crystal Loffler, Deputy Commissioner, NYS Homes and Community Renewal, Office of Community Renewal, Hampton Plaza, 38-40 State Street, 4th Floor South, Albany, NY 12207.

NYS HOME LOCAL PROGRAM

PROGRAM DESCRIPTION

The NYS Home Local Program (HOME Local) is a federally funded program administered by the Housing Trust Fund Corporation’s (HTFC) Office of Community Renewal (OCR). The program is designed to fund residential housing activities to expand the supply of decent, safe, and affordable housing throughout the State of New York. The funds made available in this NOFA represent 2019 fiscal year HOME funds designated for use by Local Program Administrators (LPAs).

HOME ELIGIBLE APPLICANTS

Eligible LPAs are defined as:

1) Units of local government, to include: Counties, Cities, Towns and Villages
2) Non-profit corporations incorporated under State Non-Profit Corporation Law
3) Community Housing Development Organizations (CHDO)
4) Public Housing Authorities

NOTE: Applications will be permitted from not-for-profit organizations within HOME Participating Jurisdictions. Please refer to the Request for Proposals for more details.

To be eligible to apply for an award, LPAs must have been in existence and providing recent and relevant residential housing services to the community for at least one year prior to application. Applicants must be able to demonstrate a local market need for the program proposed and the capacity to utilize the amount of funding requested within the two-year contract term.

HOME ELIGIBLE ACTIVITIES

1. Owner Occupied Rehabilitation

Funds may be requested for the repair or rehabilitation of an owner-occupied single-family dwelling. Funds may also be used for the rehabilitation of a 2-4-unit property including the homeowner unit and additionally rehabilitating HOME eligible rental units. All HOME assisted units must meet NYS and/or Local Code upon completion of construction activities.

2. Manufactured Housing Replacement

Funds may be requested to assist an owner to demolish and dispose of a sub-standard manufactured or mobile home and replace it with a new manufactured home. Manufactured home replacement is considered reconstruction for the purposes of the HOME Local program. The unit must be installed on the same lot and can replace a unit that was demolished within the last 12 months prior to the date of commitment.
Availability of Funds

New York Homes and Community Renewal
Housing Trust Fund Corporation
Office Of Community Renewal
38-40 State St., 4th Fl. S
Albany, NY 12207

PERSONS/FIRMS SPONSORING THE CONSTRUCTION AND/OR REHABILITATION OF AFFORDABLE HOUSING FOR LOW, MODERATE AND MIDDLE-INCOME PERSONS/HOUSEHOLDS
Low-Income Housing Trust Fund Program (HTF), Community Investment Fund Program (CIF), Supportive Housing Opportunity Program (SHOP), Public Housing Preservation Program (PHP), Middle Income Housing Program (MIHP), Housing Development Fund Program (HDF), Housing Choice Project Based Voucher Program, Federal Housing Trust Fund (FHTF), Federal Low-Income Housing Credit Program (LIHTC) and New York State Low-Income Housing Tax Credit Program (SLIHC)

APPLICA TION FOR FUNDING
The NYS Home Local Program application for funds available through this NOFA and corresponding RFP will be available on the NYS Homes and Community Renewal website, https://hcr.ny.gov/search/funding-opportunities or https://hcr.ny.gov/nys-home-program on Monday, October 14, 2019. Applications are due no later than 4:00 pm on Friday, December 20, 2019. Applications must be submitted using the Community Development Online Application System (CDOL).

APPLICA TION DEADLINES:
Applications are due no later than 4:00 pm on Friday, December 20, 2019. Effective August 1, 2013, not-for-profit organizations must be prequalified in order to do business with New York State. To prequalify, not-for-profit organizations must submit an online Prequalification Application through the Grants Gateway. The Prequalification Application is comprised of five components to gauge your organizational structure and the types of services you provide. The required forms and document uploads are all part of the Grants Gateway Document Vault. Resources to complete the application and associated document vault can be found in the Quick Links Section of the Grants Gateway page at https://grantsmanagement.ny.gov/.

CONTACT INFORMATION
For inquiries or technical assistance regarding the NYS CDBG and HOME LPA programs, please contact: NY Homes and Community Renewal, Office of Community Renewal, at the above address or call (518) 474-2057.

NYS Register/October 23, 2019

3. Homebuyer Down Payment Assistance
Funds may be requested to assist a homebuyer to provide down payment and/or closing cost assistance to purchase a single family (1-4 unit), non-HOME assisted existing home or newly constructed home.

Funds may also be requested to assist a homebuyer to provide down payment and/or closing cost assistance as detailed above and funds for housing rehabilitation for the home that is purchased.

Applicants must submit a maximum of two applications in response to this NOFA. Each application may be for one eligible activity. In other words, two activities cannot be combined into one application.

HOME MAXIMUM AWARD AMOUNTS, MAXIMUM PER UNIT AMOUNTS
1. Owner Occupied Rehabilitation
Maximum Award up to $450,000 – Maximum Per-unit up to $50,000
2. Manufactured Housing Replacement
Maximum Award up to $600,000 – Maximum Per-unit up to $100,000
3. Homebuyer Down Payment Assistance
Without Rehabilitation- Maximum Award up to $400,000 – Maximum Per-unit up to $80,000
With Rehabilitation- Maximum Award up to $600,000 – Maximum Per-unit up to $80,000

APPLICATION FOR FUNDING
The NYS Home Local Program application for funds available through this NOFA and corresponding RFP will be available on the NYS Homes and Community Renewal website, https://hcr.ny.gov/search/funding-opportunities or https://hcr.ny.gov/nys-home-program on Wednesday, October 23, 2019. Applications are due no later than 4:00 pm Friday, December 18, 2019. Applications must be submitted using the Community Development Online Application System (CDOL).

The above-stated HOME application deadlines are firm as to date and hour. In the interest of fairness to all competing applicants, applications received after the specified date and time will be deemed ineligible and will not be considered for funding. Applicants should make early submission of their applications to avoid risks of ineligibility resulting from unanticipated delays or other delivery-related problems.

Applications may be requested to assist a homebuyer to provide down payment and/or closing cost assistance as detailed above and funds for housing rehabilitation for the home that is purchased.

Applicants may make a request, based on demonstrated need, to submit a paper application in lieu of using the CDOL application system. Requests for approval to submit a paper application must be sent to: Crystal Loffler, Deputy Commissioner, NYS Homes and Community Renewal, Office of Community Renewal, Hampton Plaza, 38-40 State Street, 4th Floor South, Albany, NY 12207.

NEW YORK STATE GRANTS GATEWAY PREQUALIFICATION
New York State Grants Gateway is a statewide effort that will improve the way New York State administers grants by simplifying and streamlining the grants management process.

Effective August 1, 2013, not-for-profit organizations must be prequalified in order to do business with New York State. To prequalify, not-for-profit organizations must submit an online Prequalification Application through the Grants Gateway. The Prequalification Application is comprised of five components to gauge your organizational structure and the types of services you provide. The required forms and document uploads are all part of the Grants Gateway Document Vault. Resources to complete the application and associated document vault can be found in the Quick Links Section of the Grants Gateway page at https://grantsmanagement.ny.gov/.

CONTACT INFORMATION
For inquiries or technical assistance regarding the NYS CDBG and HOME LPA programs, please contact: NY Homes and Community Renewal, Office of Community Renewal, at the above address or call (518) 474-2057.
tion of project application requirements and process. Details for the application webinar will be provided on the HCR website at https://hcr.ny.gov/multifamily.
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.

NOTICE OF ANNULMENT
OF DISSOLUTION OF CERTAIN BUSINESS CORPORATIONS

Under the Provisions of Section 203-a of the Tax Law, As Amended
The Secretary of State hereby provides notice that the following corporations, which were duly dissolved in the manner prescribed by Section 203-a of the Tax Law, have complied with the provisions of subdivision (7) of Section 203-a of the Tax Law, annulling all of the proceedings theretofore taken for the dissolution of each such corporation. The appropriate entries have been made on the records of the Department of State.

COUNTY: BRONX

ENTITY NAME: A & A RESTAURANT INC.
REINSTATE: 07/08/19
DIS BY PROC: 01/27/10

ENTITY NAME: ALEXANDER CLUSTER INC.
REINSTATE: 08/08/19
DIS BY PROC: 06/29/16

ENTITY NAME: ATLANTIC AUTO IMPORT CORP.
REINSTATE: 09/04/19
DIS BY PROC: 04/25/12

ENTITY NAME: BRIONNE DISCOUNT CORP.
REINSTATE: 08/09/19
DIS BY PROC: 01/25/12

ENTITY NAME: EJJ SANCHEZ INC.
REINSTATE: 07/01/19
DIS BY PROC: 06/29/16

ENTITY NAME: EL BUEN AMBIENTE INC.
REINSTATE: 07/12/19
DIS BY PROC: 01/26/11

ENTITY NAME: FASHION HUNTERS, INC
REINSTATE: 09/24/19
DIS BY PROC: 07/27/11

ENTITY NAME: FRANK SIVIGLIA TRUCK BODY, INC.
REINSTATE: 09/06/19
DIS BY PROC: 10/26/16

ENTITY NAME: FURCO FOOD CORP.
REINSTATE: 09/12/19
DIS BY PROC: 03/26/03

ENTITY NAME: HUNTS POINT TRUCK COLLISION, INC.
REINSTATE: 07/11/19
DIS BY PROC: 08/31/16

ENTITY NAME: KANESHIE KENKEY HUT INC.
REINSTATE: 09/23/19
DIS BY PROC: 10/26/16

ENTITY NAME: LANDY DISTRIBUTOR CORP.
REINSTATE: 09/12/19
DIS BY PROC: 10/26/16

ENTITY NAME: MIKE’S PIPE YARD AND BUILDING SUPPLY CORP.
REINSTATE: 07/17/19
DIS BY PROC: 10/26/16

ENTITY NAME: RAMOS’ TWIN AUTO SALES, INC.
REINSTATE: 07/18/19
DIS BY PROC: 06/29/16

ENTITY NAME: TEJEDA’S DRIVING INC.
REINSTATE: 07/23/19
DIS BY PROC: 06/29/16

ENTITY NAME: 10 EAST SHOES INC.
REINSTATE: 07/23/19
DIS BY PROC: 10/26/11

ENTITY NAME: 2594 REALTY CORP.
REINSTATE: 08/20/19
DIS BY PROC: 06/29/16

ENTITY NAME: 3500 PARK AVE FACILITIES INC.
REINSTATE: 09/12/19
DIS BY PROC: 10/26/16

ENTITY NAME: 4 J’S BEVERAGE INC.
REINSTATE: 09/30/19
DIS BY PROC: 08/31/16
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<th>Entity Name</th>
<th>Reinstatement Date</th>
<th>Dissolution By Procedure Date</th>
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<td>750 INC.</td>
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<td>870 East 233rd Street, Inc.</td>
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<td>06/24/81</td>
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<td><strong>County: Columbia</strong></td>
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<td>Hudson River Industrial Corporation</td>
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<td>12/15/72</td>
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<td>A &amp; L Pawling Equity Corp.</td>
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<td>06/29/16</td>
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<td>Lali Corp.</td>
<td>08/29/19</td>
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<td><strong>County: Dutchess</strong></td>
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<td>D. M. N. Auto Collision Inc.</td>
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<td>DMGG Inc.</td>
<td>08/01/19</td>
<td>08/31/16</td>
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<td>Empire Equipment, Inc.</td>
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<td>Eugene Khaytsin DDS, P.C.</td>
<td>08/06/19</td>
<td>04/25/12</td>
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<td>Family Auto Repair Shop Corp.</td>
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<td>Flaco &amp; Andy Barbershop Inc.</td>
<td>08/14/19</td>
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<td>G.B.S. Foods Inc.</td>
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<td>Hatzlocha 123 Inc.</td>
<td>09/04/19</td>
<td>08/31/16</td>
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<td>Luxurious Standpoint Inc.</td>
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<td>08/31/16</td>
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<td>M Gates Corp.</td>
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<td>10/26/16</td>
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<tr>
<td>Open Stream Inc</td>
<td>09/30/19</td>
<td>08/31/16</td>
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<tr>
<td>Pitkin Homes, Inc</td>
<td>09/20/19</td>
<td>10/26/16</td>
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<td>Q Jewelry Creation Ltd.</td>
<td>07/01/19</td>
<td>06/29/16</td>
</tr>
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<td>Rockaway Ave. Pharmacy, Inc.</td>
<td>09/27/19</td>
<td>08/31/16</td>
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<tr>
<td>Rodi Service Corp</td>
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<td>750 INC.</td>
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<td>870 East 233rd Street, Inc.</td>
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<td>Woodlawn Deli Inc</td>
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<td>Homestead Quality Mobile Homes, Inc.</td>
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<td>All Star Tax &amp; Accounting Inc.</td>
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<td>Caring Touch Homecare Inc</td>
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<td>Rs Design Associates Inc</td>
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<td>Sdi Furniture1 Intl. Inc</td>
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<td>Sharpplots Inc.</td>
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<td>The Film Community, Inc</td>
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<td>Tian Yun 99 II Cents &amp; UP Inc</td>
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<td>Vital Solutions Rx Inc</td>
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<td>Wonder Auto Inc</td>
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<td>Yf Design Inc</td>
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<td>167 Park Place Owners Corp</td>
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<td>236 Utica Ave. Realty Corp</td>
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<td>2544-50 West 13th Street, Inc</td>
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<td>808 Dean Street Corp</td>
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<td>Limolink Corp.</td>
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<td>Adny Group, Inc</td>
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<td>Anthony Shumeyko Insurance Agency, Inc</td>
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<td>Arco International, Ltd.</td>
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ENTITY NAME: AURIC PROPER TIES INC.
REINSTATE: 07/11/19
DIS BY PROC: 01/25/12

ENTITY NAME: BIGBUTTON INCORPORATED
REINSTATE: 09/17/19
DIS BY PROC: 08/31/16

ENTITY NAME: BN RECORDS, INC.
REINSTATE: 09/10/19
DIS BY PROC: 08/31/16

ENTITY NAME: BOBBY ROBINSON SWEET SOUL MUSIC, INC.
REINSTATE: 08/19/19
DIS BY PROC: 12/28/94

ENTITY NAME: EFFY 2009 REALTY CORP.
REINSTATE: 09/17/19
DIS BY PROC: 06/29/16

ENTITY NAME: GENERATION MODEL MANAGEMENT, INC.
REINSTATE: 07/01/19
DIS BY PROC: 06/29/16

ENTITY NAME: GOTHIC CONSTRUCTION CO. CORPORATION
REINSTATE: 09/24/19
DIS BY PROC: 10/26/11

ENTITY NAME: HEXANITE CORPORATION
REINSTATE: 07/12/19
DIS BY PROC: 10/26/16

ENTITY NAME: HOSPITALITY OF AMERICA INC.
REINSTATE: 09/17/19
DIS BY PROC: 10/26/16

ENTITY NAME: INTERIOR DESIGN FLOORING CORPORATION
REINSTATE: 07/30/19
DIS BY PROC: 10/26/16

ENTITY NAME: KIVINI SPORTSWEAR LTD.
REINSTATE: 08/22/19
DIS BY PROC: 10/26/16

ENTITY NAME: MEGARIS FURS, INC.
REINSTATE: 07/12/19
DIS BY PROC: 04/27/11

ENTITY NAME: MENEZ REALTY, INC.
REINSTATE: 08/20/19
DIS BY PROC: 08/31/16

ENTITY NAME: MEVSA HOLDING INC.
REINSTATE: 08/21/19
DIS BY PROC: 08/31/16

ENTITY NAME: OMICRON SYSTEMS GROUP INC.
REINSTATE: 09/30/19
DIS BY PROC: 10/26/11

ENTITY NAME: PINECREST BAY PROPERTIES, INC.
REINSTATE: 09/30/19
DIS BY PROC: 01/25/12

ENTITY NAME: QUANTUCK FARMS INC.
REINSTATE: 08/05/19
DIS BY PROC: 01/26/11

ENTITY NAME: RON TRADING CORP.
REINSTATE: 09/13/19
DIS BY PROC: 10/26/16

ENTITY NAME: SHAYA B. DEVELOPERS, INC.
REINSTATE: 08/05/19
DIS BY PROC: 07/29/09

ENTITY NAME: SILVER BLUE PRODUCTIONS LTD.
REINSTATE: 07/16/19
DIS BY PROC: 01/25/12

ENTITY NAME: SOLEIL II INC.
REINSTATE: 09/24/19
DIS BY PROC: 01/25/12

ENTITY NAME: SWADOS ENTERPRISES, INC.
REINSTATE: 07/15/19
DIS BY PROC: 12/29/99

ENTITY NAME: TUTBA INCORPORATED
REINSTATE: 07/29/19
DIS BY PROC: 10/26/16

ENTITY NAME: V & T EXPRESS CAB CORP.
REINSTATE: 09/13/19
DIS BY PROC: 09/29/93

ENTITY NAME: VERECOM INTERNATIONAL CORP.
REINSTATE: 09/13/19
DIS BY PROC: 10/27/10

ENTITY NAME: 10 GOODWIN PLACE, CORP.
REINSTATE: 09/23/19
DIS BY PROC: 01/26/11

ENTITY NAME: 8TH AVE. WINES & LIQUORS, INC.
REINSTATE: 07/30/19
DIS BY PROC: 07/27/11

ENTITY NAME: 88 BROAD REALTY CORP.
REINSTATE: 09/23/19
DIS BY PROC: 06/27/01

COUNTY: ONONDAGA

ENTITY NAME: P.T. FIBISON, INC.
REINSTATE: 09/18/19
DIS BY PROC: 03/31/82

COUNTY: ORANGE

ENTITY NAME: ALL IN ONE TRADING, CORP.
REINSTATE: 07/12/19
DIS BY PROC: 04/27/11

ENTITY NAME: MULCH MART, INC.
REINSTATE: 07/03/19
DIS BY PROC: 07/27/11

COUNTY: OTSEGO

ENTITY NAME: LEATHERSTOCKING DISTRICT, INC.
REINSTATE: 07/02/19
DIS BY PROC: 10/26/16
COUNTY: PUTNAM

ENTITY NAME: M.A.G. AUTO CORP.
REINSTATE: 08/07/19
DIS BY PROC: 10/26/16

COUNTY: QUEENS

ENTITY NAME: AFRI-VISION, INC.
REINSTATE: 07/01/19
DIS BY PROC: 10/27/10

ENTITY NAME: AMRIT LIMO INC.
REINSTATE: 07/25/19
DIS BY PROC: 06/29/16

ENTITY NAME: BATHROOM RENOVATIONS INC.
REINSTATE: 09/18/19
DIS BY PROC: 06/29/16

ENTITY NAME: CARIBBEAN STYLE CUISINE INC.
REINSTATE: 08/02/19
DIS BY PROC: 04/27/11

ENTITY NAME: CITY JUNK REMOVAL INC.
REINSTATE: 09/04/19
DIS BY PROC: 10/26/16

ENTITY NAME: COMMUNITY PRESERVATION NEIGHBORHOOD INC.
REINSTATE: 08/20/19
DIS BY PROC: 10/26/16

ENTITY NAME: CORONA ENTERPRISES INC.
REINSTATE: 08/07/19
DIS BY PROC: 01/26/11

ENTITY NAME: F.C.F. MEDIA, INC.
REINSTATE: 07/29/19
DIS BY PROC: 10/26/16

ENTITY NAME: GREEN DELTA CORPORATION
REINSTATE: 09/16/19
DIS BY PROC: 08/31/16

ENTITY NAME: J.M.D.ALL-STAR IMPORT EXPORT INC.
REINSTATE: 09/23/19
DIS BY PROC: 07/29/09

ENTITY NAME: JRA GENERAL CONSTRUCTION CORP.
REINSTATE: 08/19/19
DIS BY PROC: 08/31/16

ENTITY NAME: LA NUEVA PLAYITAS, INC.
REINSTATE: 08/14/19
DIS BY PROC: 06/27/01

ENTITY NAME: LORMIC TRANSPORTATION INC.
REINSTATE: 07/05/19
DIS BY PROC: 04/25/12

ENTITY NAME: MADISON STREET REALTY CORP.
REINSTATE: 07/24/19
DIS BY PROC: 01/26/11

ENTITY NAME: MEHAK CORP.
REINSTATE: 08/05/19
DIS BY PROC: 01/26/11

COUNTY: RENSSELAER

ENTITY NAME: PANTS PANTRY, INC.
REINSTATE: 08/08/19
DIS BY PROC: 12/26/01

ENTITY NAME: PAUL CORNER AUTO, INC.
REINSTATE: 08/09/19
DIS BY PROC: 04/25/12

ENTITY NAME: QUEEN SHARON INC.
REINSTATE: 08/12/19
DIS BY PROC: 01/26/11

ENTITY NAME: RED D. CAR MANAGEMENT CORP.
REINSTATE: 07/29/19
DIS BY PROC: 06/29/16

ENTITY NAME: ROBINSON MANOR CONDOMINIUM INC.
REINSTATE: 09/12/19
DIS BY PROC: 06/29/16

ENTITY NAME: RUSLINK, LTD.
REINSTATE: 07/11/19
DIS BY PROC: 04/27/11

ENTITY NAME: SCORPIO CONSTRUCTION, CORP.
REINSTATE: 09/13/19
DIS BY PROC: 08/31/16

ENTITY NAME: SN TRUCKING SERVICE INC.
REINSTATE: 07/16/19
DIS BY PROC: 10/26/16

ENTITY NAME: STATE ONE CONSTRUCTION INC.
REINSTATE: 07/09/19
DIS BY PROC: 10/26/11

ENTITY NAME: TANIS MANAGEMENT AND CO., INC.
REINSTATE: 07/18/19
DIS BY PROC: 06/29/16

ENTITY NAME: 123 TECH PRO, INC.
REINSTATE: 09/10/19
DIS BY PROC: 08/31/16

ENTITY NAME: 127-18 LIBERTY AVENUE CORP.
REINSTATE: 07/29/19
DIS BY PROC: 06/29/16

ENTITY NAME: 43-22 GREENPOINT REALTY, INC.
REINSTATE: 08/22/19
DIS BY PROC: 01/26/11

COUNTY: RICHMOND

ENTITY NAME: ANGELO LEOTTA AUTO REPAIRS, INC.
REINSTATE: 09/25/19
DIS BY PROC: 12/24/91

ENTITY NAME: BRS PAINTERS INC.
REINSTATE: 07/31/19
DIS BY PROC: 10/26/16
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<td>Ampm Environmental Inc.</td>
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<td>Banbury Square Apartments Corp.</td>
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<td>Pet Nutrition Center Inc.</td>
<td>09/13/19</td>
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<td>Digital Control Concepts, Inc.</td>
<td>07/03/19</td>
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<td>Ho-Ho Enterprises, Inc.</td>
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<td>K &amp; R Trading Corp.</td>
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<td>L.I. Decks and Remodeling Ltd.</td>
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<td>Maximus Realty, Inc.</td>
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<td>Ripe Art Gallery Inc.</td>
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<td>S &amp; S Auto Repairs Inc.</td>
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<td>Sino Lion (USA), Ltd.</td>
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<td>Tenampa Inc.</td>
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<td>Water Management of Long Island, Inc.</td>
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<td>Yaphank Main St. Realty Corp.</td>
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<td>Eden Island, Inc.</td>
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<td>Par Cottages Inc.</td>
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<td>The Dance Center of Queensbury, Inc.</td>
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<td>Ateks Appliance Repair Inc.</td>
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<td>Doça’s Inc.</td>
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<td>Fifth Avenue Appliance Service, Inc.</td>
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<td>Keltic Construction &amp; Woodwork Inc.</td>
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NOTICE OF ERRONEOUS INCLUSION
IN DISSOLUTION BY PROCLAMATION OF
CERTAIN BUSINESS CORPORATIONS

Under the Provisions of Section 203-a of the Tax Law, As Amended
The Secretary of State hereby provides notice that the following
corporations were erroneously included in proclamations declaring
certain business corporations dissolved. The State Tax Commission
has duly certified to the Secretary of State that the names of these
corporations were erroneously included in such proclamations. The
appropriate entries have been made on the records of the Department
of State.

COUNTY: BRONX

ENTITY NAME: FISHER’S CARIBBEAN BAKERY AND RESTAURANT, INC.
REINSTATE: 08/22/19
DIS BY PROC: 08/31/16

COUNTY: KINGS

ENTITY NAME: ADALEX, INC.
REINSTATE: 09/19/19
DIS BY PROC: 08/31/16

ENTITY NAME: SUPERIOR SUPPORT, INC.
REINSTATE: 07/02/19
DIS BY PROC: 08/31/16

COUNTY: NEW YORK

ENTITY NAME: ACP 111 ST REST CORP.
REINSTATE: 09/10/19
DIS BY PROC: 10/26/16

ENTITY NAME: EURO AUTO SALES, INC.
REINSTATE: 07/09/19
DIS BY PROC: 10/26/16

ENTITY NAME: HERITAGE PRODUCTIONS LIMITED
REINSTATE: 07/31/19
DIS BY PROC: 07/27/11

ENTITY NAME: M & N COMPUTER SOLUTIONS, INC.
REINSTATE: 07/09/19
DIS BY PROC: 10/26/16

ENTITY NAME: MOULIN & ASSOCIATES, INC.
REINSTATE: 09/09/19
DIS BY PROC: 08/31/16

ENTITY NAME: REDROCK MICRO COMPUTERS, INC.
REINSTATE: 07/09/19
DIS BY PROC: 10/26/16

NOTICE OF ERRONEOUS INCLUSION
IN ANNUALIZATION OF AUTHORITY OF
CERTAIN FOREIGN CORPORATIONS

Under the Provisions of Section 203-b of the Tax Law, As Amended
The Secretary of State hereby provides notice that the following
foreign corporations were erroneously included in proclamations
declaring their authority to do business in this state annulled. The
State Tax Commission has duly certified to the Secretary of State that
the names of the following foreign corporations were erroneously
included in such proclamations. The appropriate entries have been
made on the records of the Department of State.

COUNTY: ALBANY

ENTITY NAME: BECKMAN COULTER GENOMICS INC.
JURIS: DELAWARE
REINSTATE: 08/22/19
ANNUL OF AUTH: 06/29/16
NOTICE OF CANCELLATION OF ANNULMENT OF AUTHORITY OF CERTAIN FOREIGN CORPORATIONS

Under the Provisions of Section 203-b of the Tax Law, As Amended

The Secretary of State hereby provides notice that the following foreign corporations, which had their authority to do business in this state annulled in the manner prescribed by Section 203-b of the Tax Law, have complied with the provisions of subdivision (7) of Section 203-b of the Tax Law, annulling all of the proceedings theretofore taken for the annulment of authority of each such corporation. The appropriate entries have been made on the records of the Department of State.

COUNTY: ALBANY

ENTITY NAME: BLUEFOCUS COMMUNICATION GROUP OF AMERICA, INC.
JURIS: DELAWARE
REINSTATE: 07/12/19
ANNUL OF AUTH: 10/26/16

ENTITY NAME: WESTERN BINGO SUPPLIES, INC.
JURIS: CALIFORNIA
REINSTATE: 08/13/19
ANNUL OF AUTH: 04/25/12

COUNTY: ALLEGANY

ENTITY NAME: EDUCATIONAL COMPUTER SYSTEM, INC.
JURIS: PENNSYLVANIA
REINSTATE: 07/31/19
ANNUL OF AUTH: 10/28/09

COUNTY: BROME

ENTITY NAME: TRI-COUNTY GENERAL INSURANCE AGENCY INC.
JURIS: PENNSYLVANIA
REINSTATE: 08/08/19
ANNUL OF AUTH: 08/31/16

COUNTY: ERIE

ENTITY NAME: CSX INTERMODAL TERMINALS, INC.
JURIS: DELAWARE
REINSTATE: 09/09/19
ANNUL OF AUTH: 09/24/03

ENTITY NAME: THE ASTOR COMPANY
FICT NAME: ASTOR OF ILLINOIS
JURIS: ILLINOIS
REINSTATE: 07/29/19
ANNUL OF AUTH: 08/31/16

ENTITY NAME: CLAVIS PUBLISHING, INC.
JURIS: DELAWARE
REINSTATE: 07/23/19
ANNUL OF AUTH: 04/25/12

ENTITY NAME: DIGIDOC INCORPORATED
JURIS: DISTRICT OF COLUMBIA
REINSTATE: 08/02/19
ANNUL OF AUTH: 08/31/16

ENTITY NAME: GATSO USA, INC.
JURIS: DELAWARE
REINSTATE: 09/11/19
ANNUL OF AUTH: 04/25/12

ENTITY NAME: GOMPERS, COUILLARD, & WOLFE, INC.
JURIS: MICHIGAN
REINSTATE: 08/19/19
ANNUL OF AUTH: 07/27/11

ENTITY NAME: HANOVER BENEFITS, INC.
JURIS: CALIFORNIA
REINSTATE: 09/26/19
ANNUL OF AUTH: 09/29/04

ENTITY NAME: KMS FINANCIAL SERVICES, INC.
JURIS: WASHINGTON
REINSTATE: 09/17/19
ANNUL OF AUTH: 07/27/11

ENTITY NAME: MNJ TECHNOLOGIES DIRECT, INC
JURIS: ILLINOIS
REINSTATE: 07/12/19
ANNUL OF AUTH: 10/26/16

ENTITY NAME: NEW JERSEY HEALTHCARE SPECIALISTS, P.C.
JURIS: NEW JERSEY
REINSTATE: 07/23/19
ANNUL OF AUTH: 10/26/16
PUBLIC NOTICE

Education Department

In accordance with provisions of the Rules of the Board of Regents, the State Education Department hereby gives notice that, during 2019 and 2020, the following institutions will be considered for accreditation actions pursuant to the authority of the Board of Regents and Commissioner of Education as a nationally recognized accrediting agency for purposes of Title IV and other federal funds: New York College of Health Professions, Phillips School of Nursing at Mount Sinai Beth Israel, The Elmezzi Graduate School of Molecular Medicine, Holy Trinity Orthodox Seminary.

The public is invited to submit written comment concerning the above listed institutions’ qualifications for accreditation. Written comments should be addressed to: Leslie E. Templeman, Director, Office of College and University Evaluation, Education Department, 89 Washington Ave., Rm. 960 EBA, Albany, NY 12234. Comments will be accepted through December 31, 2019.

PUBLIC NOTICE

Department of Health Certification

Section 1198 of the New York State Vehicle and Traffic Law authorizes me as Commissioner of Health to approve ignition interlock devices for installation in the vehicles of persons required or otherwise ordered by a court as a condition of probation to install and operate such devices in any vehicle that he or she owns or operates. Ignition interlock devices must meet and exceed minimum performance specifications established by the Department of Health, as set forth in Sections 59.10, 59.11 and 59.12 of title 10 of the New York Codes, Rules and Regulations (NYCRR).

This is to certify that the model SSI-20/35 ignition interlock device, manufactured by 1A Smart Start, LLC dba Smart Start and Smart Start, LLC, has met device performance specifications and is in compliance with all requirements of Title 10 NYCRR Part 59.

This certification is effective immediately, and notice thereof will be published in the New York State Register.

Howard A. Zucker, M.D., J.D.
Commissioner of Health

PUBLIC NOTICE

Department of State F-2019-0598

Date of Issuance – October 23, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2019-0598 or the “16 Oneck Pl Living Shoreline”, the applicants Francis and Donna O’Connor, are proposing to place a coir log as close to the bank as possible along 150 feet of shoreline and fill the space between the bank and coir long with clean fill from an upland source. The project is located at 16 Oneck Place, Village of Westhampton Beach, Suffolk County, O neck Drain.

The applicant’s consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0598_Oneck_Living_Shoreline_App.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, November 7, 2019.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State F-2019-0649

Date of Issuance – October 23, 2019

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2019-0649, Judy Eves is proposing to install a stack stone retaining wall along ~95 linear feet of St. Lawrence River shoreline and adjacent regulated wetland. The proposal is for the applicant’s property at 20430 St. Lawrence Park Road in the Town of Alexandria, Jefferson County.

The applicant’s consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0649ForPN.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, November 7, 2019.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov
This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE
Department of State
F-2019-0656
Date of Issuance – October 23, 2019
The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2019-0656 or the “Annicq Project”, the applicant Thomas Annicq, is proposing to install 169’ of 4’ wide timber catwalk with thru-flow decking as indicated. Construct thru-flow stairs down to the creek at end of catwalk and add kayak rack. The project is located at 305 Halls Creek Drive, Town of Southold, Suffolk County, Halls Creek.

The applicant’s consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0656_Annicq_App.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, November 22, 2019.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE
Department of State
F-2019-0827
Date of Issuance – October 23, 2019
The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2019-0827, Michael and Cynthia Mannes are proposing to install 65 linear feet of new steel breakwall along the shoreline of Sodus Bay. The proposal is for the applicant’s property at 6251 Bay Shore Drive in the Town of Huron, Wayne County.

The applicant’s consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0827_Mannes_App.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, November 22, 2019.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE
Department of State
F-2019-0857
Date of Issuance – October 23, 2019
The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2019-0857, North American Forestry Group, LLC is proposing to install a 12” diameter HDPE corrugated, smooth inside culvert that will be 140 feet long. The culvert will be installed to carry an ephemeral stream that connects two wetland areas on the property. The proposed culvert would be covered with 12 inches of structural fill. Additionally, three depressional areas, identified as regulated wetlands, would be filled with crushed stone. Total freshwater wetland disturbance associated with proposed activities would be up to 0.09 acres.

The proposal is for a site owned by the applicant at 263 Acco Drive, having a tax parcel numbers 58.002-2-1 & 2 at the former ACCO Plant Site in the Town of Oswegatchie, St. Lawrence County.

The applicant’s consistency certification and supporting information are available for review at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-0857ForPN.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, November 22, 2019.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development & Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.
PUBLIC NOTICE
Department of State
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.

2019-0527 Matter of Jaqueline Schoenwaelder, 105 Surf Road, Lindenhurst, NY 11757 for a variance concerning flood safety requirements. Involved is an existing one family dwelling located at 105 Surf Road, Town of Babylon, County of Suffolk, State of New York.

2019-0532 Matter of Scott Tirone, 75 Albertson Avenue, Albertson, NY 11507 for a variance concerning prescriptive requirements. Involved is the patio of an existing one family dwelling located at 11 Soundview Drive, Town of North Hempstead, County of Nassau, State of New York.

2019-0534 Matter of Scott Tirone, 75 Albertson Avenue, Albertson, NY 11507 for a variance concerning plumbing fixture installation requirements. Involved is an existing one family dwelling located at 95 Atlantic Avenue, Town of North Hempstead, County of Nassau, State of New York.

2019-0524 Matter of Fiore Architecture, 208 N. Wisconsin Avenue, Massapequa, NY 11768, for a variance concerning flood safety requirements. Involved is an existing one family dwelling located at 2693 Riverside Drive, Town of Hempstead, County of Nassau, State of New York.

2019-0514 Matter of J.L. Drafting Inc., 707 Route 110, Farmingdale, NY 11735 for a variance concerning fire safety requirements, including ceiling heights. Involved is an existing one family dwelling located at 3689 Mallard Road, Town of Hempstead County of Nassau, State of New York.

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

2019-0592 Matter of Shannan Brown, 54 Miller Place, Middle Island Road, Mt. Sinai, NY 11766, for a variance concerning safety requirements, including the required ceiling height and height under a girder/soffit. Involved is an existing one family dwelling located at 17 Florence Drive; Town of Brookhaven, NY 11949 County of Suffolk, State of New York.

2019-0595 Matter of TOC Architects, P.C., Todd O’Connell, 1200 Veterans Hwy., Ste 120, Hauppauge, NY 11788, for a variance concerning safety requirements, including the required ceiling height and height under a girder. Involved is an existing one family dwelling located at 24 Mclane Drive; Town of N. Hempstead, NY 11746 County of Nassau, State of New York.

2019-0601 Matter of ASB Engineering, P.C., Andrew S. Braum, 1924 Bellmore Avenue, Bellmore, NY 11710, for a variance concerning safety requirements, including the required height under a girder/soffit. Involved is an existing one family dwelling located at 31 Concord Drive; Town of Brookhaven, NY 11742 County of Suffolk, State of New York.

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

2019-0598 In the matter of Ashley Management Corp, Maria Maynard, 95 Brown Road, MS 1015, Ithaca, NY 14850 for Cornell Real Estate concerning safety requirements including a variance for reduction in required height of existing exterior porch guardrails.

Involved is the certificate of compliance inspection of an existing residential occupancy, three stories in height, located at 618 Stewart Avenue, City of Ithaca, County of Tompkins, New York.

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

2019-0605 Matter of Edlyne Napoleon, Six Bonnie Road, Centereach, NY 11720, for a variance concerning safety requirements, including the required height under a girder/soffit. Involved is an existing two family dwelling located at Six Bonnie Road; Town of Brookhaven, NY 11720 County of Suffolk, State of New York.

2019-0606 Matter of George Totah, 160 Mulberry Lane, West Hempstead, NY 11552, for a variance concerning safety requirements, including height under a girder. Involved is an existing one family dwelling located at 28 Crowell Street; Inc. Village of Hempstead, NY 11550 County of Nassau, State of New York.

2019-0612 Matter of Hugh W Schaefer, 174 W Merrick Road, Merrick, NY 11566, for a variance concerning safety requirements, including ceiling heights and heights under a girder. Involved is an existing one family dwelling located at 169 Booth Street; Inc. Village of Hempstead, NY 11550 County of Nassau, State of New York.
2019-0613 Matter of Hugh W. Schaefer, 174 W Merrick Road, Merrick, NY 11566, for a variance concerning safety requirements, including height under a girder. Involved is an existing one family dwelling located at Seven Searing Street; Inc. Village of Hempstead, NY 11550 County of Nassau, State of New York.

2019-0614 Matter of JMK Architectural Services, P.C., John J. Viscardi, R.A., Five Todd Court, East Williston, NY 11596, for a variance concerning safety requirements, including heights under a girder/soffit. Involved is an existing one family dwelling located at 86 Maple Drive West; Town of North Hempstead, NY 11040 County of Nassau, State of New York.

PUBLIC NOTICE
Village of Rockville Centre
Award of Municipal Solid Waste Contracts to
Covanta Sustainable Solutions LLC and
Omni Recycling of Babylon, Inc.

On October 7, 2019, pursuant to General Municipal Law section 120-w, the Board of Trustees of the Village of Rockville Centre awarded contracts to Covanta Sustainable Solutions, LLC, for municipal solid waste disposal, and to Omni Recycling of Babylon, Inc., for optional solid waste disposal services. The validity of these contracts or the procedures which led to such awards may be hereafter contested only by action, suit or proceeding commenced within sixty days after the date of this notice and only upon the ground or grounds that: (1) such award or procedure was not authorized pursuant to that section, or (2) any of the provisions of that section which should be complied with at the date of this publication have not been substantially complied with, or (3) a conflict of interest can be shown in the manner in which the contract was awarded; or by action, suit or proceeding commenced on the grounds that such contract was awarded in violation of the provisions of the Constitution.

By Order of the Board of Trustees
Kathleen M. Murray
Village Administrator
One College Place
PO Box 950
Rockville Centre, NY 11571-0950