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**NEW YORK STATE**  
**REGISTER**

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***INSIDE THIS ISSUE:***

- 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**

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

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

- the 60-day period expires on December 22, 2019
- the 45-day period expires on December 7, 2019
- the 30-day period expires on November 22, 2019

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**NEW YORK STATE DEPARTMENT OF STATE**

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# NEW YORK STATE REGISTER

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## Be a part of the rule making process!

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

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

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

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

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

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

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

**Rule Making Activities**

**Agriculture and Markets, Department of**

- 1 / Spotted Lanternfly (“SL”) (E)
- 3 / Control of the Asian Long Horned Beetle (ALB) (P)

**Criminal Justice Services, Division of**

- 4 / Use of Force (E)

**Economic Development, Department of**

- 6 / Empire Zones Reform (E)
- 9 / START-UP NY Program (E)
- 11 / Empire State Commercial Production Credit Program (P)

**Education Department**

- 12 / Instructional Time for State Aid Purposes (E)
- 15 / School and District Safety Plans (E)
- 18 / Annual Professional Performance Reviews of Classroom Teachers and Building Principals (EP)
- 21 / Eligibility Requirements for the Endorsement Pathway for Certification as an Educator in the Classroom Teaching Service (A)
- 22 / Statement of Continued Eligibility for Certain Teachers of Students with Disabilities (A)
- 22 / Reports of Child Abuse in an Educational Setting (A)
- 22 / School and District Safety Plans (A)
- 22 / Addition of Subject Areas to the Limited Extension and SOCE for Certain Teachers of Students with Disabilities (P)
- 25 / Requirements for Chiropractic Education Programs and Education Requirements for Licensure as a Chiropractor (P)
- 26 / Strengthening Data Privacy and Security in NY State Educational Agencies to Protect Personally Identifiable Information (RP)

**Elections, State Board of**

- 32 / Process for Early Voting (E)
- 34 / Audit Status for Early Voting (A)
- 34 / Related to the Minimum Required Voting Machines and Privacy Booths Needed for Early Voting Polling Sites (A)

**Environmental Conservation, Department of**

- 34 / Air Emissions Regulation of Cleaning Solutions Containing Volatile Organic Compounds (A)
- 38 / Class I and Class SD Waters (P)
- 40 / Repeal and Replace 6 NYCRR Part 622 and Amend 6 NYCRR Part 624, Part 621 and Part 620 (P)

**Financial Services, Department of**

- 41 / Business Conduct of Mortgage Loan Servicers (E)
- 45 / Independent Dispute Resolution For Emergency Services and Surprise Bills (P)

**Health, Department of**

- 47 / Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness (E)
- 49 / Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness (P)

**Mental Health, Office of**

52 / Personalized Recovery Oriented Services (PROS) (P)

**People with Developmental Disabilities, Office for**

52 / Procedures for the Control of Tuberculosis (A)

**Public Service Commission**

53 / Petition for the Use of Electric Metering Equipment (P)

54 / Modifications to the Gas Cost Factor and Daily Delivery Service Programs (P)

54 / Proposed Rate Filing to Increase Its Semi-Annual Flat Rate (P)

**Temporary and Disability Assistance, Office of**

55 / Enforcement of Support Obligations and Issuance of Income Withholding Orders (IWOs) (A)

**Hearings Scheduled for Proposed Rule Makings / 56**

**Action Pending Index / 59**

**Securities Offerings**

105 / State Notices

**Advertisements for Bidders/Contractors**

107 / Sealed Bids

**Notice of Availability of State and Federal Funds**

111 / New York Homes and Community Renewal

**Miscellaneous Notices/Hearings**

115 / Notice of Abandoned Property Received by the State Comptroller

115 / Notice of Annulment Of Dissolution of Certain Business Corporations

121 / Notice of Erroneous Inclusion In Dissolution by Proclamation of Certain Business Corporations

121 / Notice of Erroneous Inclusion In Annulment of Authority of Certain Foreign Corporations

122 / Notice of Cancellation Of Annulment of Authority of Certain Foreign Corporations

123 / Public Notice

# RULE MAKING ACTIVITIES

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

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

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

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## Department of Agriculture and Markets

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### 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 (“SLF”) 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.

## 3. Needs and benefits:

1 NYCRR Part 142 currently regulates the movement of articles capable of transporting SLF from certain counties in Pennsylvania, Virginia, and New Jersey, into the State. SLF is an injurious insect that attacks, infests, and destroys the value of hardwood trees of economic significance, including Walnut and Porcelain Berry, and hops plants and grape vines.

The proposed rule is needed to add the County of Dauphin, in Pennsylvania, and the County of Cecil, in Maryland, to the list of counties from which regulated articles may not be moved into the State, until determined to be free of SLF; these newly added counties have recently been found to harbor SLF and it is necessary that they be added to such list to better ensure that the SLF does not enter the State and cause the damage referred to above.

## 4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: A person who wants to import a "regulated article" into the State of New York that originates from Dauphin County, in Pennsylvania, or Cecil County, in Maryland, will be required to obtain a certificate of inspection from an appropriate State authority, attesting that the article is free of SLF; presently, no authority in either state imposes a fee for the issuance of such a certificate. The proposed rule provides that the Department of Agriculture and Markets will recognize a certificate if it indicates, inter alia, that a regulated article has been "treated, fumigated, or processed by an approved method" so as to be free of SLF; the cost of such treatment, fumigation, or processing is dependent upon the nature of the article being so treated, fumigated, or processed; the extent of infestation, if any; and the treatment, fumigation, or processing procedure actually used.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: Local governments, 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 cost analysis set forth above is based upon observations of the industry and state regulatory agencies.

## 5. Local government mandates:

This rule imposes no mandates upon any county, city, town, village, school district, fire district, or other special district.

## 6. Paperwork:

Regulated articles inspected and certified to be free of SLF moving from Dauphin County or from Cecil County would have to be accompanied by a certificate of inspection.

## 7. Duplication:

There are no relevant rules or other legal requirements of the Federal or State governments that duplicate, overlap, or conflict with this rule.

## 8. Alternatives:

The alternative of no action was considered. However, this option is not feasible, given the fact that SLF has recently been found in Dauphin County and in Cecil County and given the threat that SLF poses to the State's forests, agriculture, and tourism industries. As such there does not appear to be any viable alternative to the adoption of the proposed rule.

## 9. Federal standards:

There are no federal standards regulating the movement of articles infested, or capable of being infested, with SLF.

## 10. Compliance schedule:

It is anticipated that regulated parties would be able to comply with the proposed rule immediately.

**Regulatory Flexibility Analysis**

## 1. Effect of rule:

The proposed rule will amend 1 NYCRR section 142.2 to 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, and the number of, small businesses that will want to move "regulated articles" from a designated county into the State.

It is anticipated that no local government would be involved in moving a regulated article from a designated county into the State; as such, this analysis addresses the impact of the proposed rule only upon small businesses.

## 2. Compliance requirements:

Each small business that wants to move a regulated article from a designated county ("a regulated party") will be required to obtain a certificate of inspection to ship a regulated article into the State 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 is free of Spotted Lanternfly or has been treated, fumigated, or processed by an approved method to render it free of such pest; the cost of such treatment, fumigation, or processing would be dependent upon the nature of the article being so treated, fumigated, or processed; the extent of the infestation, if any; and the treatment, fumigation, or processing procedure actually used.

In order to move a regulated article into the State, a regulated party will need to obtain a certificate of inspection from an appropriate state agency; this service is available from Pennsylvania and Maryland, neither of which imposes a fee therefor.

## 5. 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.

## 6. Minimizing adverse impact:

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

Spotted Lanternfly has, recently, been found in Dauphin County and in Cecil County. 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 consist, in large part, of small businesses; the proposed rule could not have been designed any differently and still have adequately implemented its objective.

## 7. Small business and local government participation:

1 NYCRR Part 142 was originally made effective on September 19, 2018. Prior to that date, the Department informed a number of organizations, consisting in part of small businesses, of its intent to promulgate the proposed rule; 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 those 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 activities were free of Spotted Lanternfly.

**Rural Area Flexibility Analysis**

## 1. Types and estimated numbers of rural areas:

The proposed rule will amend 1 NYCRR section 142.2 to 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 be required 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. Costs:

The proposed rule will require that a regulated article may not be moved into the State from Dauphin County or Cecil County unless it has been inspected and a certificate of inspection has been issued that indicates the article is free of Spotted Lanternfly; this service is available from Pennsylvania and Maryland and neither state imposes a fee therefor.

The proposed rule will require that the Department of Agriculture and Markets ("Department") recognize a certificate of inspection only if the regulated article has been found to be free of Spotted Lanternfly. If a regulated article has come into contact with Spotted Lanternfly, this certification can be made only if the article has been properly treated, fumigated, or processed by an approved method – the cost of these procedures would depend upon the nature of the article being so treated, fumigated, or processed; the extent of infestation, if any; and the treatment, fumigation, or processing procedure actually used.

4. Minimizing adverse impact:

In conformance with State Administrative Procedure Act section 202-bb(2), the Department has designed the rule to minimize adverse economic impact on persons and businesses located in rural areas. If Spotted Lanternfly were to become endemic in the State, residents of, and businesses in, rural areas would suffer disproportionately, both economically and otherwise.

5. Rural area participation:

1 NYCRR Part 142 was originally made effective on September 19, 2018. Prior to that date, 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 can cause serious 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, 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 its intersection with the Roosevelt Avenue Bridge; then east on the Roosevelt Avenue Bridge 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 on the Jackie Robinson Parkway to Park Lane; then south on Park Lane to Park Lane South; then south and west on Park Lane South to 112th Street; then south on 112th Street to Atlantic Avenue; then west on Atlantic Avenue to 106th Street; then south on 106th Street to 101st Avenue then east on 101st Avenue to 106th Street and then south on 106th Street to 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 Lindenhurst, Melville, Massapequa, East Massapequa, North Massapequa, Wheatley Heights and 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 Carlls River; then west along West Main Street (Route 27A) to its intersection with Little East Neck Road (Route 109); then northwest along Little East Neck Road (Route 109) to the point where Little East Neck Road and Route 109 diverge; continuing northwest along Little East Neck Road to its junction with Belmont Avenue; then north along Belmont Avenue to its intersection with August Road; then southeast on August Road to its junction 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 following 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 north on Brown Boulevard to its intersection with Foothill Place; then west on Foothill 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 along 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 Broadway 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 Carlls River, then north along the west shoreline of Carlls 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

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

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

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

#### Consensus Rule Making Determination

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 pest was initially detected in Brooklyn in 1996 and at the height of its infestation was detected in four boroughs (except the Bronx) and parts of Nassau and Suffolk Counties. ALB has since been eradicated in Manhattan, Staten Island, and eastern Queens and the quarantine was lifted in those boroughs.

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.

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## Division of Criminal Justice Services

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### EMERGENCY RULE MAKING

#### Use of Force

**I.D. No.** CJS-30-19-00010-E

**Filing No.** 920

**Filing Date:** 2019-10-08

**Effective Date:** 2019-10-08

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

**Action taken:** Addition of Part 6058 to Title 9 NYCRR.

**Statutory authority:** Executive Law, sections 837-t and 837(13)

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

**Specific reasons underlying the finding of necessity:** 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 of Criminal Justice Services (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.

Repeated 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 impact weapon, including, but not limited to, a baton or billy; or*

(5) *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*

(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: dcjslegalrulemaking@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 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 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 of 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.

Repeated 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 most, 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.

10. 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 proposal 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

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 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 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, 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.

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;
- 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.

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## Department of Economic Development

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### EMERGENCY RULE MAKING

#### **Empire Zones Reform**

**I.D. No.** EDV-43-19-00002-E

**Filing No.** 903

**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 Parts 10 and 11; renumbering and amendment of Parts 12 through 14 to Parts 13, 15 and 16; and addition of new Parts 12 and 14 to Title 5 NYCRR.

**Statutory authority:** General Municipal Law, art. 18-B, section 959; L. 2000, ch. 63; L. 2005, ch. 63; L. 2009, ch. 57

**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:** Empire 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 entry into 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 contained 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 renaming of county-created zones 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. The emergency rule also clarifies regionally significant project eligibility. Additionally, the emergency rule makes reference to the following tax credits and exemptions: the Qualified Empire Zone Enterprise ("QEZE") Real Property Tax Credit, QEZE Tax Reduction Credit, and the QEZE Sales and Use Tax Exemption. The emergency rule also reflects the eligibility of agricultural cooperatives for Empire Zone tax credits and the QEZE Real Property Tax Credit.

5. The emergency rule requires additional statements to be included in an application for empire zone designation, including (i) a statement from the applicant and local economic development entities pertaining to the integration and cooperation of resources and services for the purpose of providing support for the zone administrator, and (ii) a statement from the applicant that there is no viable alternative area available that has existing public sewer or water infrastructure other than the proposed zone.

6. The emergency rule amends the existing rule in a manner that allows for the designation of nearby lands in investment zones to exceed 320 acres, upon the determination by the Department of Economic Development that certain conditions have been satisfied.

7. The emergency rule provides a description of the elements to be included in a zone development plan and requires that the plan be resubmitted by the local zone administrative board as economic conditions change within the zone. Changes to the zone development plan must be approved by the Commissioner of Economic Development ("the Commissioner"). Also, the rule adds additional situations under which a business enterprise may be granted a shift resolution.

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

9. The emergency rule tracks the amended statute's deletion of the category of contributions to a qualified Empire Zone Capital Corporation from those businesses eligible for the Zone Capital Credit.

10. The emergency rule reflects statutory changes to the process to revise a zone's boundaries. The primary effect of this is to limit the number of boundary revisions to one per year.

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 must 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 laws 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 which 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, and (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 economic returns to the State in the form of total remuneration to its employees (i.e. wages and benefits) and investments in its facility greater in value to the tax benefits the business enterprise used and had refunded to it; (b) the business 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; (c) change of ownership or moving 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 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 finding in (b) above, unless the Commissioner determines in his or her discretion, after consultation with the Director of the Budget, that other economic, 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) zones. The rule would require that 75% of the acreage used to define these investment zones be included within an eligible or contiguous census tract. Furthermore, the rule would not require a development zone to place investment zone acreage within a municipality in that county if that particular municipality already contained an investment zone, and the only eligible census tracts were contained within that municipality.

16. The emergency rule tracks 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-business or high tech or biotech 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 services or distribution center creating 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 empire 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 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 zone-certified 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 any such business 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 addition (for both investment and development zones) of an additional distinct and separate contiguous area. 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 (a) accommodate business development and there are other areas of the applicant municipality that can be characterized as economically distressed and/or (b) accommodate development of strategic businesses as defined in the local development plan, or (2) placing all acreage in the other 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 within the other distinct and separate contiguous areas.

The full text of the emergency rule is available at [www.empire.state.ny.us](http://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](mailto: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 on 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 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 amendments to the rule will facilitate the administration 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 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.

##### **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 making. 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.

##### **LOCAL GOVERNMENT MANDATES:**

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 that 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 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.

##### **DUPLICATION:**

The emergency 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, and 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, records, documents, accounts, 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 professional 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****I.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 NYCRR.

**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 industries.

**Subject:** START-UP NY Program.

**Purpose:** Establish procedures for the implementation and execution of START-UP NY.

**Substance of emergency rule (Full text is posted at the following State website: <https://startup.ny.gov/university-and-college-resources>):**

START-UP NY is a new program designed to stimulate economic development and promote employment of New Yorkers through the creation of tax-free areas that bring together educational institutions, innovative companies, and entrepreneurial investment.

1) The regulation defines key terms, including: "business in the formative stage," "campus," "competitor," "high tech business," "net new job," "new business," and "underutilized property."

2) The regulation establishes that the Commissioner shall review and

approve plans from State University of New York (SUNY) colleges, City University of New York (CUNY) colleges, and community colleges seeking designation of Tax-Free NY Areas, and report on important aspects of the START-UP NY program, including eligible space for use as Tax-Free Areas and the number of employees eligible for personal income tax benefits.

3) The regulation creates the START-UP NY Approval Board, composed of three members appointed by the Governor, Speaker of the Assembly and Temporary President of the Senate, respectively. The START-UP NY Approval Board reviews and approves plans for the creation of Tax-Free NY Areas submitted by private universities and colleges, as well as certain plans from SUNY colleges, CUNY colleges, and community colleges, and designates Strategic State Assets affiliated with eligible New York colleges or universities. START-UP NY Approval Board members may designate representatives to act on their behalf during their absence. START-UP NY Approval Board members must remain disinterested, and recuse themselves where appropriate.

4) The regulation establishes eligibility criteria for Tax-Free Areas. 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 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 restoring previously relocated jobs, and 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 not 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 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 precisely 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 and economic benefits; summarize the Sponsor's procedures for attracting businesses; include a copy of the institution's conflict of interest guidelines; attest 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 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); (2) allow 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 its business organization, 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 notice regarding 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, including 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, proprietary, 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 allows a business to amend a successful application at any time in accordance with the procedure of its original application. No amendment will be approved that would contain terms in conflict with a lease between a business and a SUNY college when the lease was included in the original application.

11) The regulation permits a business that has been rejected from the START-UP program to locate within a Tax-Free Area without being eligible for START-UP program benefits, or to reapply within sixty days via a written request identifying the reasons for rejection and offering verified factual information addressing the reasoning of the rejection. Failure to reapply within sixty days waives the applicant's right to resubmit. Upon receipt of a timely resubmission, the Commissioner may use any resources to assess the claim, and must notify the applicant of his or her determination within sixty days. Disapproval of a reapplication is final and non-appealable.

12) With respect to audits, the regulation requires businesses to provide access to 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 pursuant to Section 87 of the Public Officers Law where the business has timely informed the appropriate officials, the records in question have been properly identified, and the request is reasonable.

13) The regulation provides for the removal of a business from the program under a variety of circumstances, including violation of New York law, material misrepresentation of facts in its application to the START-UP program, or relocation from a Tax-Free Area. Upon removing a business from the START-UP program, the Commissioner is to notify 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 removal notice. The notice of appeal must 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.

15) With regard to disclosure authorization, businesses applying to participate in the START-UP program authorize the Commissioner to disclose any information contained in their application, including the projected new jobs to be created.

16) In order to assess business performance under the START-UP program, the Commissioner may require participating businesses 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.

17) 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 an 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.

19) 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 to Revitalize and Transform UPstate New York program (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 start-ups 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 start-ups and high-tech industries 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 allow 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.

**COSTS:**

I. Costs to private regulated parties (the business applicants): None. The proposed regulation will not impose any additional costs to eligible business applicants.

II. Costs to the regulating agency for the implementation and continued administration of the rule: None.

III. Costs to the State government: None.

IV. Costs to local governments: None.

**LOCAL GOVERNMENT MANDATES:**

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 requirements 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 locating in New York, while providing protections to existing businesses against the threat of tax-privileged start-up companies locating in the same community. Local governments may not be able to collect tax revenues from businesses locating 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](http://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](mailto: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 objectives the Legislature sought to advance by creating a tax credit program for the commercial industry. This program is an attempt to create an incentive 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 conforming 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 of the program 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 commercial 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 response 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. Furthermore, the Department was in close contact with representatives from the State Tax and Finance Department and the Mayor's Office of Film, Theatre 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 effected State agencies (the Department) and the business applicants 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 fact, the proposed regulation may 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 production companies, defined by statute to include corporations, partnerships, 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 definition. 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 employment 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 statement is not required and one has not been prepared.

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## Education Department

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### 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 Procedure 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, after 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 effective 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 contrary, 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 in 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 in each subsequent year of the waiver 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 (e.g. 33% of all schools in 2020-2021, 66% in 2021-2022, resulting in 100% compliance in 2022-2023);

- 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.

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

##### 5. LOCAL GOVERNMENT MANDATES:

The proposed amendment authorizes school districts who cannot meet the minimum instructional requirements due to safety and/or scheduling issues to apply to the Commissioner for a single waiver for up to four school years of such requirements.

##### 6. PAPERWORK:

See Section 5 above. Also, the proposed amendment requires all school districts who 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 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.

##### 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 by November 15, 2019. No significant alternatives to the proposed amendment and none were considered.

##### 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 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. 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.

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 in each subsequent year of the waiver 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 (e.g. 33% of all schools in 2020-2021, 66% in 2021-2022, resulting in 100% compliance in 2022-2023);
- 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. PROFESSIONAL SERVICES:

No professional services are needed to comply with the proposed amendment.

#### 5. COMPLIANCE COSTS:

In general, the proposed amendment does not impose any additional costs on local governments and small businesses.

#### 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 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. 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 for the preservation of the general welfare to provide school 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. 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 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.

##### 3. COMPLIANCE COSTS:

The proposed amendment does not impose any additional costs on the State, regulated parties, or the State Education Department.

##### 4. MINIMIZING ADVERSE IMPACT:

The proposed amendment is merely provides school 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. Because the statutory requirement upon which the proposed amendment is based applies to all schools in the State, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt schools in rural areas from coverage by the proposed amendment.

##### 5. RURAL AREA PARTICIPATION:

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

#### *Job Impact Statement*

The proposed rule is necessary 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.

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. Accordingly, a job impact statement is not required and one has not been prepared.

#### *Assessment of Public Comment*

The agency received no public comment.

**EMERGENCY  
RULE MAKING**

**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 2019-2020 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. 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) adoption, 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 in the City School District of the City of New York, such plans shall be adopted by the chancellor of the city school district. Such plans shall be developed by a district-wide school safety team and a building-level emergency response team, as such terms are defined in subdivision (b) of this section, and shall be in a form developed by the commissioner in consultation with the Division of Criminal Justice Services, the superintendent of the State Police and any other appropriate State agencies. Each district-wide school safety plan and building-level

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 New York City, 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 [where] 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) . . .

(c) District-wide school safety plans and building-level emergency response plans.

District-wide school safety plans and building-level emergency response plans shall be designed to prevent or minimize the effects of violent incidents and emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies.

(1) District-wide school safety plans. A district-wide school safety plan shall be developed by the district-wide school safety team and shall include, but not be limited to:

- (i) . . .
- (ii) . . .
- (iii) . . .
- (iv) . . .
- (v) . . .
- (vi) . . .
- (vii) . . .
- (viii) . . .
- (ix) . . .
- (x) . . .

(xi) policies and procedures relating to school building security, including, where appropriate:

a. the use of school safety or security officers and/or school resource officers. Beginning with the 2019-20 school year, and every school year thereafter, every school shall define the areas of responsibility of school personnel, security personnel and law enforcement in response to student misconduct that violates the code of conduct. A school district or charter school that employs, contracts with, or otherwise retains law enforcement or public or private security personnel, including school resource officers, shall establish a written contract or memorandum of understanding that is developed with stakeholder input, including, but not limited to, parents, students, school administrators, teachers, collective bargaining units, parent and student organizations and community members, as well as probation officers, prosecutors, defense counsels and courts that are familiar with school discipline. Such written contract or memorandum of understanding shall define the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. Such contract or memorandum of understanding shall be consistent with the code of conduct, define law enforcement or security personnel’s roles, responsibilities and involvement within a school and clearly delegate the role of school discipline to the school administration. Such written contract or memorandum of understanding shall be incorporated into and published as part of the district safety plan; and

b. security devices or procedures;

- (xii) . . .
- (xiii) . . .

- (xiv) . . .
- (xv) . . .
- (xvi) . . . .
- (xvii) . . .
- (xix) . . .
- (2) . . .
- (3)

(a) Each board of education, chancellor or other governing body shall make each district-wide safety plan available for public comment at least 30 days prior to its adoption. Such district-wide plans may be adopted by the school board only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Each district shall [file a copy of] *submit* its district-wide safety plan *and all amendments to such plan* [with] to the commissioner [and all amendments to such plan], [shall be filed with the commissioner] *in a manner prescribed by the commissioner*, within [no later than] 30 days after [their] *its* adoption [,]. *Commencing with the 2019-2020 school year, such district-wide plans must be submitted no later than October 1, 2019, and each subsequent October 1 thereafter.*

(b) Each board of education, chancellor or other governing body or officer shall ensure that [a copy of] each building-level emergency response plan and any amendments thereto, is [filed with] *submitted* to the appropriate local law enforcement agency and [with] the State Police within 30 days of its adoption, but no later than October 15 [, 2016 and each subsequent October 15th thereafter.] *for the 2016-2017, 2017-2018, 2018-2019 and 2019-2020 school years and for the 2020-2021 school year and thereafter, such building-level emergency response plans must be submitted no later than October 1, 2020, and each subsequent October 1 thereafter.* Building-level emergency response plans shall be confidential and shall not be subject to disclosure under article six of the Public Officers Law or any other provision of law.

- (d) . . .
- (e) . . .

(f) Reporting. Each superintendent shall notify the commissioner as soon as possible whenever the emergency plan or building-level school safety plan is activated and results in the closing of a school building in the district, and shall provide such information as the commissioner may require *in a manner prescribed by the commissioner*. School districts within a supervisory district shall provide such notification through the district superintendent, who shall be responsible for notifying the commissioner. Such information need not be provided for routine snow emergency days.

- (g) . . .
- (h) . . .
- (i) . . .
- (j) . . .
- (k) . . .

***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-31-19-00010-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 and management plan.

Section 32 of Part YYY of Chapter 59 of the laws of 2019 amended s 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 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.

##### **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 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. 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 define 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 therefore clarifies that both 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.

##### **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 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 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 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. 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 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 therefore clarifies that both 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.

#### 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 on the State, regulated parties, or the State Education Department, beyond those inherent in the statute.

#### 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.

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.

##### 3. COMPLIANCE COSTS:

The proposed amendment is necessary to conform to Section 32 of Part YYY of Chapter 59 of the Laws of 2019, and does not impose any additional costs on the State, regulated parties, or the State Education Department, beyond those inherent in the statute.

##### 4. MINIMIZING ADVERSE IMPACT:

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

##### 5. RURAL AREA PARTICIPATION:

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

#### *Job Impact Statement*

The proposed rule is necessary to 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.

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

**Annual Professional Performance Reviews of Classroom Teachers and Building Principals**

**I.D. No.** EDU-43-19-00012-EP

**Filing No.** 915

**Filing Date:** 2019-10-08

**Effective Date:** 2019-10-08

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

**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.

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

**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 teacher and principal evaluations. The key changes include:

- Required Student Performance Measures
  - o 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).

- o Eliminates the requirement that State-created or administered assessments be used as the evidence for SLOs where they exist.

- o 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
  - o 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.

- o 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.

The changes made to Education Law § 3012-d became effective on April 1, 2019 and the proposed amendment implements those requirements.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (non-emergency) adoption, 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 February 2020 Regents meeting. Furthermore, pursuant to SAPA Section 203(1), the earliest effective date of the proposed amendment, if adopted at the February Regents meeting, is February 26, 2020, the date a Notice of Adoption would be published in the State Register. However, because Section 52-m of Part YYY of Chapter 59 of the Laws of 2019 became effective on April 1, 2019, emergency action is necessary now for the preservation of the general welfare in order to conform Subpart 30 of the Rules of the Board of Regents with the amendments made to Education Law § 3012-d, as amended by Chapter 59 of the Laws of 2019.

**Subject:** Annual Professional Performance Reviews of Classroom Teachers and Building Principals.

**Purpose:** Necessary to implement part YYY of chapter 59 of the Laws of 2019.

**Substance of emergency/proposed rule (Full text is posted at the following State website: <http://www.counsel.nysed.gov/rules/full-text-indices>):** The purpose of the proposed regulation is to align the Commissioner's Regulation's with the amendments made to Education Law § 3012-d by Part YYY of Chapter 59 of the Laws of 2019 relating to annual professional performance reviews of classroom teachers and building principals.

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
  - o 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).

- o Eliminates the requirement that State-created or administered assessments be used as the evidence for SLOs where they exist.

- o 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
  - o 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.

- o 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 statutorily and constitutionally permissible reason.

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.

**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:** Kirti 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 YYY of Chapter 59 of the laws of 2019. 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

- o 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).

- o All educators would instead have a Student Learning Objective (SLO).

- o Eliminates the requirement that State-created or administered assessments be used as the evidence for SLOs where they exist.

- o 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

- o 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.

- o 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.

- o 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 statutorily and constitutionally permissible reason.

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.

##### 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.

- c. Costs to private regulated parties: The amendments do not impose any costs on private regulated parties.

- 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.

**6. PAPERWORK:**

The proposed amendment does not impose any additional paperwork requirements.

**7. DUPLICATION:**

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

**8. ALTERNATIVES:**

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 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 statutorily and constitutionally permissible reason.

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
  - o 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.

- o 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 statutorily and constitutionally permissible reason.

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.

3. COSTS:

The proposed amendment does not impose any additional costs on school districts and BOCES.

4. MINIMIZING ADVERSE IMPACT:

The Department is required by Education Law 3012-d to develop uniform standards for Annual Professional Performance Review plans across the State. 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 Advisory Committee for review and comment.

**Job Impact Statement**

The purpose of the proposed amendments to § § 30-2 and 30-3 of the Rules of the Board of Regents is to update Annual Professional Performance Review (APPR) requirements for school districts and BOCES. Under existing regulations, school districts and BOCES are required to develop Annual Professional Performance Review plans. The purpose of these plans 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 Department is proposing to revise the requirements for APPR plans to ensure that these regulations are consistent with statutory amendments to Education Law 3012-d pursuant to Chapter 59 of the Laws of 2019. The Department is also repealing and replacing certain regulations related to APPR plans for teachers and school leaders only relevant to Education Law 3012-c, which is only applicable to APPRs conducted prior to the 2016-17 school year.

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

**NOTICE OF ADOPTION**

**Eligibility Requirements for the Endorsement Pathway for Certification as an Educator in the Classroom Teaching Service**

**I.D. No.** EDU-25-19-00014-A

**Filing No.** 916

**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 80-5.8 and 805.20 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207, 305, 3001, 3004, 3006, 3007 and 3009

**Subject:** Eligibility Requirements for the Endorsement Pathway for Certification as an Educator in the Classroom Teaching Service.

**Purpose:** To provide candidates with more flexibility to be eligible for the endorsement pathway.

**Text or summary was published** in the June 19, 2019 issue of the Register, I.D. No. EDU-25-19-00014-EP.

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

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

**Initial Review of Rule**

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

**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.

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

**Initial Review of Rule**

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

**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:** Amendments of sections 100.2(hh), 200.7, 200.20 and Subpart 57-1 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101, 207, 305, 1125(1)-(10), 1126(1)-(4), 1128(1)-(4), 1132(1)-(4), 3028-b; L. 2018, ch. 363

**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.

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

**Initial Review of Rule**

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

**Assessment of Public Comment**

## 1. COMMENT:

A commenter states that the proposed regulation should be amended to include the definition of “educational setting” consistent with Chapter 363 of the Laws of 2018. The commenter explains that the inclusion of a definition of educational setting in regulations is critically important. School vehicles are a location, where reporting of instances of child abuse is mandated. The proposed regulations revised the definition of schools, but this is not a sufficient change to capture that vehicles operated by school

districts are also places, where unfortunately, abuses occur and as such must be reported.

## DEPARTMENT RESPONSE:

The definition of “educational setting” is provided in the Department’s guidance regarding child abuse in an educational setting. The Department’s guidance will continue to be updated in accordance with applicable law. Therefore, the Department has determined that no change is necessary based on this comment.

## 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), (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 YYY 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.

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

**Initial Review of Rule**

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

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.

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

**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 5-9) content specialist; or the special education [(grades K-12)] 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) ...

(c) 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 [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 5-9) content specialist, or the special education generalist permanent certificate* and is teaching in a special class, as defined in section 200.1(uu) 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 5-9[generalist] or (grades 7-12-generalist]) *generalist, students with disabilities (grades 5-9) content specialist, students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, or the special education generalist permanent certificate* to authorize the teacher to be employed as the teacher of record for students with disabilities in certain subjects.

(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 5-9 generalist) or (grades 7-12-generalist)] *generalist, students with disabilities (grades 5-9) content specialist, students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, or the special education generalist permanent certificate* may seek an extension under this subdivision in one of the following subjects: mathematics; English language arts; biology; chemistry; earth science; physics; social studies; language other than English (specified) in either (grades 5-9) or (grades 7 through 12).

(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 5-9) content specialist, students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, or the special education generalist permanent certificate*;

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

(t) 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 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist, or the special education [(grades K-12)] generalist permanent certificate to teach one of the following subject areas in a special class as defined in section 200.1(uu) 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) ...

(3) 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 5-9) content specialist, or the special education generalist permanent certificate* and meets the requirements in one of the following subparagraphs:

(i) ...

(ii) ...

(iii) ...

(iv) ...

(v) ...

**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 supervision over schools and authority to advise and guide 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, SOCE, and subject area extensions in grades 7-12 for certain teachers of students with disabilities to provide consistency throughout the regulations.

3. NEEDS AND BENEFITS:

The purpose of the proposed amendments to § 80-3.15 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 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(uu) 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

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.

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:

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:

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 Register 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 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 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 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) 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 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.

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 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:

The proposed amendments apply to all teachers of students with disabilities 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 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 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.

##### 3. COSTS:

The proposed amendments do not impose any costs on teacher certification 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 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. 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 Advisory Committee for review and comment.

**Job Impact Statement**

The purpose of the proposed amendments to § 80-3.15 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 renewed 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

**I.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.

Admission requirements to a college of chiropractic shall include the following preprofessional education: 60 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 is amended, as follows:

(a) To meet the professional education requirement, the applicant shall present evidence of the completion of not less than 60 semester hours of preprofessional postsecondary education, [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,* and a program of chiropractic education consisting of either:

- (1) . . .
- (2) . . .

**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 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:

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 the profession 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 admit 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.

Sections 52.14 and 73.1(a) of the Regulations of the Commissioner of Education, which date back to 1963, state that the preprofessional education requirements for a person seeking chiropractic licensure in New York State must specifically include courses in "general chemistry, organic chemistry, biology or zoology and physics". There are concerns that these 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.

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 satisfactory to the Department. 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-referenced situation 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.

### 6. 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, which will increase the number of licensed chiropractors in this State and improve the public's access to chiropractic services, while ensuring public protection.

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

### 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 on 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, which 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

I.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 required 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 use and disclosure of PII by the educational agency to 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 prior 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 in section 121.9(c).

**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 officers, employees or assignees. 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 no penalty be issued upon the third party contractor." Currently, Section 121.11(f) of the Commissioner's regulations provides that "If the Chief Privacy Officer determines that the breach or unautho-

alized 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 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.

- An additional edit was made to the proposed amendment to clarify that the penalty provisions set forth in section 121.11(b) do not apply to the penalties imposed in subdivision (a) of the same section because they are for different types of violations.

#### 1. STATUTORY AUTHORITY:

Education Law section 101 charges the Department with the general management and supervision of the educational work of the State and establishes the Regents as head of the Department.

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 section 2-d authorizes the Commissioner to enforce laws relating to the privacy and security of personally identifiable information (PII) of students, and certain annual professional performance review (APPR) data of teachers and principals.

#### 2. LEGISLATIVE OBJECTIVES:

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 (APPR) data of teachers and principals (PII).

#### 3. NEEDS AND BENEFITS:

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.

#### 4. COSTS:

a. Costs to State government: The proposed amendment implements Education Law § 2-d and does not impose any additional costs on State government, including the State Education Department, beyond those costs imposed by the statute.

b. Costs to local government: Education Law section 2-d, as added by Chapter 56 of the Laws of 2014, establishes certain requirements for educational agencies and their third-party contractors to ensure the security and privacy of PII. The proposed amendment does not impose any direct costs on local governments beyond those imposed by the statute.

§ 5 of Education Law § 2-d requires that the commissioner, in consultation with the Chief Privacy Officer, promulgate regulations that establish a standard for educational agency data security and privacy. The Chief Privacy Officer collaborated with representatives of the local agencies in finalizing the selection of the NIST Cybersecurity Framework v 1.1 as that standard. It would be difficult, if not close to impossible, to determine the costs of compliance with the NIST standards because of the flexibility built in for implementation of the standard and implementation of the standard in each district will not be a one-size-fits-all implementation and many districts are already implementing the NIST.

For example, § 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. However, 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; so the Department believes there will be minimal, if any costs, associated with the training.

§ 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. Therefore, there should be no additional costs associated with this requirement.

c. Costs to private regulated parties: The rule applies to third party vendors contracting with educational agencies and does not impose any costs on such parties beyond those costs imposed by the statute.

d. Costs to regulatory agency for implementing and continued administration of the rule: The Department anticipates that the regulatory agency

will need to dedicate staff hours to accomplish the duties and oversight required by the statute and/or the proposed rule.

#### 5. LOCAL GOVERNMENT MANDATES:

The majority of the requirements in the proposed amendment do not impose any program, service, duty or responsibility on educational agencies beyond those imposed by the statute. The proposed rule requires the following of educational agencies:

§ 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 and should include training on the state and federal laws that protect 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 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 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 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.

#### 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 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.

##### 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:

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.

##### (b) Local governments:

##### 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:

The proposed rule applies to educational agencies and does not impose any program, service, duty or responsibility on educational agencies 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 and eligible students 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 and should include training on the state and federal laws that protect personally identifiable information, and how employees can comply with such laws.

§ 121.8 requires each educational agency to designate one or more em-

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 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.

### 3. PROFESSIONAL SERVICES:

§ 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.

### 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 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 majority of the requirements in the proposed amendment do not impose any program, service, duty or responsibility on educational agencies beyond those imposed by the statute.

§ 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 and should include training on the state and federal laws that protect 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 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 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.

### 3. 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, which include costs for educational agencies across the State, including those located in rural areas.

#### 4. MINIMIZING ADVERSE IMPACT:

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 for regulated parties 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 and the public. In the Spring of 2018, fourteen public forums were held across the state to receive public comment on the law including comment from 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 (APPR) 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 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.

Commenters 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 stated that "not all of the NIST CSF 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.

Commenters were concerned that the regulation would impede the access of colleges and universities to student data that enables these organizations from sending targeted mailings to students. Some institutions stated that the regulation appeared to require parental consent for the College Board to release information to colleges and universities contrary to historical practice. Some of these organizations stated that requiring consent would have "a chilling impact on first-generation and under-represented college student enrollment as well as adversely impact all students on their journey towards making a college choice that is right for them individually and as a family." Another commenter asked the Department to clarify that students under 18 would be allowed to consent to the disclosure of their PII to colleges and universities. Revision made in part.

A commenter asked the Department not to "give in to yet another effort to turn education and information over to private corporations." No change.

A commenter stated that "it's only fair to have all teachers and other school personnel including the superintendent to have the same privacy as students." No change.

A commenter stated that it is ironic and frightening that legislation is

being considered that allows companies and vendors to invade student's digital privacy without first obtaining consent. No change.

A commenter stated that the proposed changes "should have been flagged and memored 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 relationships between 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 service or 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 promotion of 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 according to 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

able to distribute materials related to Education Law § 2-d without approval from the Department. No change.

A commenter suggested specification that the protections of Education Law § 2-d apply to any contractual relationship established prior to the proposed rule's effective date. Another commenter stated that the proposed rule would permit educational agencies to structure contractual arrangements to avoid compliance with Education Law § 2-d. No change.

A commenter requests that the definition of "third-party contractor" be revised to include entities that also "have access to" student, teacher, and parent data." The commenter also suggests including penalties that would apply to a school district for breach of PII. No change.

A commenter raised the issue of educational agency compliance when utilizing systems pursuant to a click-wrap agreement and also stated that complexity of the task of compliance with the supplemental information requirement depends on the final determination on the use of click-wrap agreements. No change.

A commenter stated that "instituting a DPO by December 2019 will present significant implementation challenges." The commenter highlighted the fact that the DPO may need to dedicate all or most of their time to the data privacy and security tasks and referred to some of the NIST Framework's provisions and stated that "... it appears to point to full-time work and there would most certainly be a cost to fill such a position." No change.

A commenter 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 use 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 policies 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.

Commenters 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 of 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 an 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

**I.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 is adopted as an emergency measure because time is of the essence and to adopt the regulation in the normal course of business would be contrary to the general welfare. Chapter 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 § 8-600, 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 Equitable Access. Early voting sites shall be located so that voters in each county have adequate and equitable 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 or rejected by the co-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 in the same manner as provided by title one of article 9 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 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 on the day of the election, 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 inviolate 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 complete the bi-partisan review of the affidavits to determine the eligibility of such voter prior to the canvass of affidavit ballots cast during the early voting period, in the same manner as for affidavit ballots submitted on election day. Until the time of canvassing, affidavit ballot envelopes shall be secured, when not in bipartisan custody for processing and researching, 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 indicating 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 may serve as 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 registration system of the board of elections. Such voting history 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.

(e) Not later than the seventh day after a primary or special election or the tenth day after a general election, by five o'clock p.m. on such day, the board of elections shall prepare a list, including data elements prescribed by the board of elections and in the format specified by the state board of elections, of all persons who submitted an affidavit ballot. Such list shall be provided to the state board of elections, and the state board of elections shall provide a combined list of all affidavit ballots submitted statewide to the boards of elections.

(f) No later than seven businesses days after the completion of the canvass, the voting history record of each voter who has cast an absentee, military, special or federal ballot on Election Day or who has cast an affidavit ballot during early voting or on Election Day shall be entered into the voter registration system of the board of elections and the statewide voter registration list.

(g) Boards of elections shall provide information regarding voter registration records or voting records in their custody to other boards of elections, upon request, as soon as reasonably practicable.

(h) The board of elections, as required by Election Law § 8-600 (1), shall establish procedures to ensure that persons who vote during early voting shall not be permitted to vote subsequently in the same election. Such procedures shall remain in effect until amended by the board of elections and shall be filed with the state board of elections on or before the sixtieth day preceding the first day of the early voting period. Such procedures shall be approved or rejected by the co-executive directors of the state board of elections within one week of filing. If such procedures are rejected, notice shall be provided to the board of elections of the reasons therefor. The board of elections shall then have three business days to amend their procedures and resubmit the same to the state board of elections for approval.

(i) Boards of elections shall provide to the state board, in the manner specified by the state board, the number of voters who vote early on each day of early voting by the next business day after such day of early voting.

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 political subdivisions, 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 social 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, Suite 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 arranging 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 6210.18 to Title 9 NYCRR.

**Statutory authority:** Election Law, sections 9-211 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.

**Department of Environmental Conservation****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:

**Action taken:** Amendment of Parts 201 and 226 of Title 6 NYCRR.

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

**Subject:** 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.

**Substance of final rule:** The New York State Department of Environmental Conservation (Department) proposes to: amend the current Part 226 entitled "Solvent Metal Cleaning Processes" by re-designating it Subpart 226-1 and renaming it "Solvent Cleaning Processes"; add a new Subpart 226-2, entitled "Industrial Cleaning Solvents"; and make attendant changes to Part 201, 'Permits and Registrations' of Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (6 NYCRR). The proposed changes to Part 226 are intended to reflect changes to the Ozone Transport Commission's (OTC's) model rule for solvent degreasing and incorporate federal Control Techniques Guidelines (CTGs) establishing Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by industrial cleaning solvents.

Consistent with the OTC's model rule, the proposed changes to Part 226 include expanding applicability to the cleaning of all materials, not just metal, and changing the current 'cold cleaning' requirement of using a solvent with a maximum vapor pressure of 1.0 mm Hg, or less, at 20 degrees Celsius, to using a cleaner with no more than twenty-five (25) grams of VOC per liter (25g/l) of cleaning solution. No changes are being proposed for the other Part 226 solvent cleaning processes (open top vapor or conveyORIZED degreasing).

Based on the US Environmental Protection Agency's 'Industrial Cleaning Solvents' CTG (2006), owners or operators subject to the proposed Subpart 226-2 'Industrial Cleaning Solvents' will have work practice, recordkeeping and storage requirements for their cleaning solvents that contain VOCs. Cleaning solutions will also have a maximum VOC content limit of fifty (50) grams of VOC per liter (0.42 pounds of VOC per gallon) of cleaning material or, as an alternative to this maximum VOC content, an industrial cleaning solvent with a maximum composite vapor pressure of eight (8) millimeters of mercury (mmHg) at 20 degrees Celsius may also be used. Using an emission control system with an overall control efficiency of at least 85 percent or equivalent control is also an acceptable form of compliance.

Where it can be demonstrated by the owner or operator of a facility that the requirements of proposed Subparts 226-1 or 226-2 cannot be met, for reasons of technological and economic infeasibility, the Department may accept a lesser degree of control upon submission of a satisfactory process specific RACT demonstration.

Proposed revisions to Part 201 include removing an exemption for cold cleaning degreasers that use a solvent with a VOC content of five percent or less by weight. This will remove potential confusion with the revised VOC limit of 25 grams VOC/liter for cold cleaners in the proposed rule. Also, a caveat will be added to a trivial exemption for solvent cleaning by hand, as hand wiping is specifically subject to the industrial cleaning solvent regulation being proposed (Subpart 226-2).

**Final rule as compared with last published rule:** Nonsubstantive changes were made in sections 201-3.3(c)(96), 226-1.2(b)(6), 226-1.3(g), 226-1.4, 226-1.5, 226-2.1(a), (c) and 226-2.4(a).

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

**Additional matter required by statute:** Pursuant to 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.

#### Summary 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 ECL establish 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 ECL was specifically adopted to safeguard the air quality of New York from 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 rules and regulations for preventing, controlling or prohibiting air pollution in such areas of the State as shall or may be affected by air pollution. 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 specific requirements in their SIPs, including requirements 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 required states to implement stringent regulatory programs associated with one of the chemical precursors of ozone: Volatile Organic Compounds (VOCs). In particular, CAA section 172(c)(1) provides that, for certain nonattainment areas, states must revise their SIPs to include reasonably available control measures as expeditiously as possible, including emissions reductions achievable by requiring "reasonably available control technology" (RACT) for sources of VOC emissions. Under EPA's current RACT scheme, pollution controls are required for VOC emission sources listed in designated source categories under EPA's Control Techniques Guidelines (CTGs), including CTGs establishing RACT for industrial cleaning solvents. CAA section 182(b)(2)(A) requires that, for certain nonattainment areas, states must revise their SIPs to include RACT for sources of VOC emissions covered by any CTGs issued between November 15, 1990 and the area's date of attainment. Additionally, CAA section 184(b)(1)(B) requires implementation of RACT statewide in states that are located within an Ozone Transport Region (OTR). New York is one of the several states located in the OTR required under the CAA to revise its SIP to include RACT requirements statewide for each of the source categories identified in the federal CTGs, including RACT for industrial cleaning solvents.

##### 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 CTGs thereby further reducing 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 established the primary ozone NAAQS to protect public health.

Ground-level ozone severely impacts human longevity and respiratory health. 'See generally' Senate Committee on Environment and Public Health, S. Rep. No. 101-228 (1990), 'reprinted in' 1990 U.S.C.C.A.N. 3385. Long term, chronic exposure to ozone may produce accelerated aging of the lung analogous to that produced by cigarette smoke exposure. 'Id.' In 1995, EPA recognized that "[m]uch of the ozone inhaled reacts with sensitive lung tissues, irritating and inflaming the lungs, and causing a host of short-term adverse health consequences including chest pains, shortness of breath, coughing, nausea, throat irritation, and increased susceptibility to respiratory infections." 60 Fed. Reg. 4712-13 (Jan. 24, 1995). Moreover, two recent studies have shown a definitive link between short-term exposure to ozone and human mortality. 'See' 292 'Journal of the American Medical Assn.' 2372-78 (Nov. 17, 2004); 170 'Am. J. Respir. Crit. Care Med.' 1080-87 (July 28, 2004) (observing significant ozone-related deaths in the NYCMA).

Children and outdoor workers are especially at risk for damaging effects caused by ozone exposure. A child's developing respiratory system is

more susceptible than an adult's. Additionally, ozone is a summertime phenomenon; Children 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 Second 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 vegetation, ozone makes plants more susceptible to disease, pests and environmental stresses. 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, thus furthering the goal of attaining the federally-mandated ozone NAAQS. A discussion of CAA 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 cost savings of \$1,330 per ton of VOC used. For this 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 CAA. This is not a mandate on local governments. It applies equally to any entity that owns or operates a subject source; applying statewide to all solvent cleaning processes and industrial cleaning solvents located in the State. State and local entities are not expected to be affected by the proposed revisions/additions. There are no expected direct costs to State and local governments associated with this proposed regulation. No record keeping, reporting, or other requirements will be imposed on local governments. The authority and responsibility for implementing and administering Subpart 226-1 and Subpart 226-2 in New York resides solely with the Department. Added requirements for record keeping, reporting, etc. are applicable only to the person(s) who become subject to the industrial cleaning solvent regulation and persons who become subject to solvent cleaning processes because they were cleaning objects other than metal.

##### Costs to the Regulating Agency

Administrative costs to the regulating agency will not increase.

#### PAPERWORK

No additional paperwork will be imposed on the solvent cleaning process industry and industries subject to the industrial cleaning solvent regulation will have minimal record keeping requirements.

#### LOCAL GOVERNMENT MANDATES

This is not a mandate on local governments. It applies equally to any entity that owns or operates a subject source. Local entities are not expected to be affected by the proposed revisions.

#### DUPLICATION

No other regulations address the specific requirements to reduce VOC emissions from the affected industries.

#### ALTERNATIVES

The following alternatives have been evaluated to address the goals set forth above. These are:

1. Take no action. The "no action" alternative does not comply with the CAA. Failure to comply with the CAA could result in an EPA imposed

Federal Implementation Plan (FIP) pursuant to CAA section 110(c), sanctions in the form of an increase in the new source review offsets ratio to 2 to 1, and the loss of Federal highway funding pursuant to CAA section 179.

2. The proposed revisions to Part 226 contain alternatives for compliance. Both solvent cleaning processes and industrial cleaning solvent regulations have compliant material requirements and a RACT variance provision; solvent cleaning processes also have the option of using add-on controls for compliance. These alternative compliance provisions are preferable because they are consistent with the federal CTGs and OTC model rule, will help New York State achieve necessary VOC emission reductions, and will satisfy the State's obligations under the CAA.

#### FEDERAL STANDARDS

The revisions are designed to comply with the requirements outlined in the CTG and OTC Model Rule.

#### COMPLIANCE SCHEDULE

In accordance with the CTGs and the CAA, States should submit SIP revisions within one year of the date of issuance of final CTGs. Based on the various dates of issuance of the CTGs, the Department should submit SIP revisions as soon as practicable.

#### Revised Regulatory 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 Commission's (OTC) Model Rule for Solvent Degreasing 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 degreasing.

#### 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 as applicable.

#### 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.

#### PROFESSIONAL SERVICES:

Small businesses and local governments are not expected to need professional services to comply with the revisions to Subpart 226-1. Local governments are not directly affected by the proposed revisions. Facilities which are currently permitted and that will become subject to Subpart 226-2 (estimated to be 13 facilities state wide) may need to seek minimal professional services in the form of guidance in altering their processes to come into compliance.

#### 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/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.

The OTC estimates the costs associated with changes to solvent cleaning processes (changes to Part 226-1) to be on the order of \$1,400 per ton of VOC reduced. The Department considers these costs to also 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 Commission's (OTC) Model Rule for Solvent Degreasing 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 degreasing.

**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.

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

There are no specific compliance requirements in this proposed rulemaking which apply exclusively to rural areas of the State. Studies have shown that solvent cleaning processes and use of industrial cleaning solvents is distributed proportionately with population. Rural areas are not particularly affected by the revisions. All facilities conducting solvent cleaning processes will be required to comply with applicable recordkeeping, VOC content and handling requirements. Under current law, these requirements have been required at all such facilities and are essentially unchanged since Part 226 was last amended in 2003. Facilities that use 3 tons or more of industrial cleaning solvents per year will have new VOC content or vapor pressure limits, and recordkeeping and handling requirements. Only minimal professional services might be necessary to comply with these changes. It is estimated that 13 facilities statewide 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.

**COSTS:**

There are no specific costs in this proposed rulemaking which apply exclusively to rural areas of the State. Facilities subject to the new industrial cleaning solvent requirements may incur minimal additional cost or realize a savings on a case by case basis. It is 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/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.

Changes to cleaning solvent processes are expected to be on the order of \$1,400 per ton of VOC reduced. The Department considers these costs to also be well within RACT guidelines.

**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. Changes to Part 226 are not anticipated to have an adverse effect on rural areas. To date, the Department is unaware of any particular adverse impacts experienced by rural areas as a result of the regulation. Rather, the

rule is intended to create air quality benefits for the entire state, including 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 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. Also, the Department plans on holding public hearings after the revisions are proposed. All facilities, including those located in rural areas of the state, 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.

**Revised Job Impact Statement****NATURE OF IMPACT:**

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 Commission's (OTC) Model Rule for Solvent Degreasing 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 degreasing.

**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 may 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.

**REGIONS OF ADVERSE IMPACT:**

There are no regions of the State where the proposed revisions to Part 226 would have a disproportionate adverse impact on jobs or employment opportunities.

**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.

**SELF-EMPLOYMENT OPPORTUNITIES:**

None that the Department is aware of.

**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 (CTG). 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-numeration of Part 226 into Subpart 226-1, have been corrected.

Requests for clarification of 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 226-1 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, as well. 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 reaches 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 NYCRR 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 with 25 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-solder printed circuit boards (PCB's) as well as critical adjunct 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 using iso-propyl 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 Depart-

ment 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 usages. 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 I/SD Rule Making). Through this proposed rule making, NYSDEC is clarifying 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 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 I/SD waters. However, this proposed rule making is different than the 2015 I/SD Rule Making in that it is a 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

intent of the 2015 I/SD Rule Making that the best usages of I/SD waters were, and remain, “secondary contact recreation and fishing” and “fishing,” respectively.

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 letters<sup>1</sup> 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 if 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.

4. Costs:

The proposed rule making does not impose costs upon NYSDEC, the State, or local governments.

The proposed rule making, which clarifies the best usage of I/SD waters, affects waterbodies in and around New York City and Suffolk County.

A) Suffolk County

The proposed rule making does not impose any costs on Suffolk County or any regulated persons or local governments within the County. There are no wastewater treatment plants or other regulated parties in Suffolk County that discharge into I/SD waters. Accordingly, the proposed rule making does not impose any costs on regulated persons or local governments in the County because no treatment modifications or facility upgrades are required.

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.

<sup>1</sup> 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 Class I 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 small businesses that have permitted discharges of treated sanitary sewage. NYC is already obligated to make certain infrastructure upgrade investments, and 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 beyond those costs 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 parties, 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 makings.

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 letters<sup>1</sup> 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 if 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.

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 usage 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.

8. 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.

<sup>1</sup> 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)

#### Rural Area Flexibility Analysis

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, the New York State Department of Environmental Conservation 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<sup>1</sup> 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 if 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.

<sup>1</sup> 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)

## 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.

**Public hearing(s) will be held at:** 1:00 p.m., January 7, 2020 at Department of Environmental Conservation, 625 Broadway, Albany, NY.

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

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

**Substance of proposed rule (Full text is posted at the following State website: <http://www.dec.ny.gov/regulations/proproregulations.html#public>):** Part 622 Summary

The Department of Environmental Conservation (Department) proposes to repeal 6 NYCRR Part 622 "Uniform Enforcement Hearing Procedures" and adopt a new 6 NYCRR Part 622 "Uniform Enforcement Hearing Procedures".

#### Applicability

Part 622 will apply to all administrative enforcement proceedings brought pursuant to the Environmental Conservation Law (ECL) or other laws administered by the commissioner, and various other matters enumerated in Part 622.

#### Definitions and General Provisions

Definitions specific to Part 622 are presented in 622.2. Several definitions have been revised to clarify or update the definition. Discovery is now defined as disclosure to be consistent with the CPLR. The definition of relevant has been changed to be consistent with the Uniform Court Rules. The definition of report has also been revised to more accurately reflect what is contained within a report. New definitions for "electronically stored information," "hearing," "mediation," "proceeding," and "proof of service," are proposed. The Office of Hearings was renamed Office of Hearings and Mediation Services in 1996. The change reflecting that name change has been made throughout the part.

The requirements for commencing a proceeding have been revised to clarify the requirements. Provisions have also been added for commencing a proceeding for those matters arising out of petroleum delivery prohibitions authorized by 6 NYCRR 613-5.4(a)(3).

Pre-hearing conference rules have been amended to codify the practice of granting a default if respondent fails to appear at the pre-hearing conference and the time to answer the complaint has expired.

Section 622.12 is amended to clarify the service requirements for a motion for order without hearing in lieu of complaint and for a motion for order without hearing served in addition to and after service of a notice of hearing and complaint. The section also describes when a motion for order without hearing may amend the pleadings.

The default procedures contained in section 622.15 have been revised to reflect current practice and administrative precedent. The section also requires the service of default motions on all respondents and compliance with CPLR 3215(g)(4).

A new section 622.19 is proposed to describe the mediation process after an enforcement proceeding has been commenced.

#### Changes to Parts 620 and 624

The definitions in Parts 620 and 624 have been amended to be consistent with the definitions in Part 622. In addition, the Office of Hearings was amended to Office of Hearings and Mediation Services throughout Part 624.

#### Changes to Part 621

Subdivisions 6 NYCRR 621.10(a), 621.11(g) and 621.13(d) have been amended to require that a copy of a written request for a hearing made pursuant to those subdivisions be provided to the Chief Administrative Law Judge.

**Text of proposed rule and any required statements and analyses may be obtained from:** Michael S. Caruso, Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550, (518) 402-9003, email: ohms@dec.ny.gov

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

**Public comment will be received until:** January 31, 2020.

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

#### Regulatory Impact Statement

##### 1. Statutory authority:

State Administrative Procedure Act section 301 requires state agencies to adopt rules governing the procedures on adjudicatory proceedings and appeals. Section 3-0301 of the ECL authorizes the department to adopt, amend or repeal environmental standards, criteria and those rules and regulations having the force and effect of standards and criteria to carry

out the purposes and provisions of the ECL. This includes the authority to conduct investigations, hold 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 620 will make the definition of terms in 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 associated with the notice requirements.

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 any 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 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 amendment 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.

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## Department of Financial Services

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### EMERGENCY RULE MAKING

#### Business Conduct of Mortgage Loan Servicers

**I.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 taxes and insurance, crediting of payments and handling of late payments, payoff balances and servicer 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](https://www.dfs.ny.gov/industry_guidance/regulations/emergency_banking)):** Section 419.1 contains definitions of terms that are used in Part 419 and not 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 consumer complaints and inquiries.

Section 419.5 describes the requirements for a servicer 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 escrow. The section also describes the Servicer's obligations with respect to providing a payment history when requested by the borrower or borrower's representative.

Section 419.8 requires a late payment notice be sent to a borrower no later than 17 days after the payment remains unpaid.

Section 419.9 describes the 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 includes requirements 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 activities, and information relating to mortgage modifications.

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 regarding 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 servicer" 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 an MLS on the same grounds as he or she may refuse to register a mortgage broker 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 engage in the servicing business in conformity with the Banking Law, such rules and regulations as may be promulgated by the Banking Board or prescribed by the Superintendent, and all applicable federal laws, rules and regulations.

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.

New Subdivision (2) of Section 595-b was added by the Mortgage Lending Reform Law and authorizes the Superintendent to prescribe regulations relating to disclosure to borrowers of interest rate resets, requirements for providing payoff statements, and governing the timing of crediting of payments made by the borrower.

Section 596 was amended by the Mortgage Lending Reform Law to extend the Superintendent's examination authority over licensees and registrants to cover mortgage loan servicers. The provisions of Banking Law Section 36(10) making examination reports confidential are also extended to cover mortgage loan servicers.

Similarly, the books and records requirements in Section 597 covering licensees, registrants and exempt organizations were amended by the Mortgage Lending Reform Law to cover servicers and a provision was added authorizing the Superintendent to require that servicers file annual reports or other regular or special reports.

The power of the Superintendent to require regulated entities to appear and explain apparent violations of law and regulations was extended by the Mortgage Lending Reform Law to cover mortgage loan servicers (Subdivision (1) of Section 39), as was the power to order the discontinuance of unauthorized or unsafe practices (Subdivision (2) of Section 39) and to order that accounts be kept in a prescribed manner (Subdivision (5) of Section 39).

Finally, mortgage loan servicers were added to the list of entities subject to the Superintendent's power to impose monetary penalties for violations of a law, regulation or order. (Paragraph (a) of Subdivision (1) of Section 44).

The fee amounts for mortgage loan servicer registration and branch applications are established in accordance with Banking Law Section 18-a.

##### **2. Legislative Objectives.**

The Mortgage Lending Reform Law was intended to address various problems related to residential mortgage loans in this State. The law reflects the view of the Legislature that consumers would be better protected by the supervision of mortgage loan servicing. Even though mortgage loan servicers perform a central function in the mortgage industry, there had previously been no general regulation of servicers by the state or the Federal government.

The Mortgage Lending Reform Law requires that entities be registered with the Superintendent in order to engage in the business of servicing mortgage loans in this state. The new law further requires mortgage loan servicers to engage in the business of servicing mortgage loans in conformity with the rules and regulations promulgated by the Banking Board and the Superintendent.

The mortgage servicing statute has two main components: (i) the first component addresses the registration requirement 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 setting financial responsibility standards for mortgage loan servicers.

Part 419 addresses the business practices of mortgage loan servicers in

connection with their servicing of residential mortgage loans. This part addresses the obligations of mortgage loan servicers in their communications, transactions and general dealings with borrowers, including the handling of consumer complaints and inquiries, handling of escrow payments, crediting of payments, charging of fees, loss mitigation procedures and provision of payment histories and payoff statements. This part also imposes certain recordkeeping and reporting requirements in order to enable the Superintendent to monitor servicers' conduct and prohibits certain practices such as engaging in deceptive business practices.

Collectively, the provisions of Part 418 and 419 implement the intent of the Legislature to register and supervise mortgage loan servicers.

### 3. Needs and Benefits.

The Mortgage Lending Reform Law adopted a multifaceted approach to the lack of 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 loans 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 agents for owners of mortgages in negotiations relating to 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 in 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 viability of these entities given the central part of they play in the mortgage industry. There also is evidence that some servicers may have provided poor customer service. Specific examples of these activities include: pyramiding late fees; misapplying escrow payments; imposing illegal prepayment penalties; not providing timely and clear information to borrowers; erroneously force-placing insurance when borrowers already have insurance; and failing to engage in prompt and appropriate loss mitigation efforts.

More than 2,000,000 loans on residential one-to-four family properties are being serviced in New York. Of these over 9% were seriously delinquent as of the first quarter of 2012. Despite various initiatives adopted at the state level and the creation of federal programs such as Making Home Affordable to encourage loan modifications and help at risk homeowners, the number of loans modified, have not kept pace with the number of foreclosures. Foreclosures impose costs not only on borrowers and lenders but also on neighboring homeowners, cities and towns. They drive down home prices, diminish tax revenues and have adverse social consequences and costs.

As noted above, Part 418, initially adopted on an emergency basis on July 1 2009, relates to the first component of the mortgage servicing statute – the registration of mortgage loan servicers. It was intended to ensure that only those persons and entities with adequate financial support and sound character and general fitness will be permitted to register as mortgage loan servicers. It also provided for the suspension, revocation and termination of licenses involved in wrongdoing and establishes minimum financial standards for mortgage loan servicers.

Part 419 addresses the business practices of mortgage loan servicers and establishes certain consumer protections for homeowners whose residential mortgage loans are being serviced. These regulations provide standards and procedures for servicers to follow in their course of dealings with borrowers, including the handling of borrower complaints and inquiries, payment of taxes and insurance premiums, crediting of borrower payments, provision of annual statements of the borrower's account, authorized fees, late charges and handling of loan delinquencies and loss mitigation. Part 419 also identifies practices that are prohibited and imposes certain reporting and record-keeping requirements to enable the Superintendent to determine the servicer's compliance with applicable laws, its financial condition and the status of its servicing portfolio.

Since the adoption of Part 418, 67 entities have been approved for registration or have pending applications and nearly 400 entities have indicated that they are a mortgage banker, broker, bank or other organization exempt from the registration requirements.

All Exempt Organizations, mortgage bankers and mortgage brokers that perform mortgage loan servicing with respect to New York mortgages must notify the Superintendent that they do so, and are required to comply with the conduct of business and consumer protection rules applicable to mortgage loan servicers.

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.

### 4. Costs.

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 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 (419.11) and quarterly reporting (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. 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 publish quarterly 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 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 by of the Department to regulate mortgage loan servicers is expected to reduce costs associated with responding to consumers' complaints, decrease unnecessary expenses borne by mortgagors, and should 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.

### 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 requested by the Superintendent. It is anticipated that the quarterly 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 purpose of the regulation is to carry out this statutory mandate to register 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 or to wait for the newly created federal bureau of consumer protection to promulgate national rules, which could take years, may not happen at all or may not address all the practices covered by the rule. Thus, neither 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.

### 9. Federal Standards.

Currently, mortgage loan servicers are not required to be registered by any federal agencies, and there are no comprehensive federal rules 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 226.36(c), was recently amended to address the crediting 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 the handling of escrow accounts, obtaining force-placed insurance, 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 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 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. 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 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 (419.11) and quarterly reporting (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 ap-

proximately 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. 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 quarterly 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 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).

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 practices.

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 exempted 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, broker, bank or other 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

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 financial responsibility standards for mortgage loan servicers.

Part 419 implements the provisions of the Mortgage Lending Reform Law of 2008 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 borrower payments, late payments, account statements, delinquencies and loss mitigation and fees. This part also imposes certain recordkeeping and reporting requirements in order to enable the Superintendent to monitor services' conduct and prohibits certain practices such as engaging in deceptive business practices.

#### Costs:

The requirements of Part 419 do not impose any direct costs on mortgage loan servicers. The periodic reporting requirements of Part 419 are consistent with those imposed on other regulated entities. In addition, many of the other requirements of Part 419, such as those related to the handling of loan delinquencies, taxes, insurance and escrow payments, collection of late fees and charges and crediting of payments, derive from federal or state laws, current federal loan modification programs, servicing guidelines utilized by Fannie Mae and Freddie Mac or servicers' own protocols. 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, credit unions, 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. Of the 67 entities that have been approved for registration or that have pending applications, only one is located in a rural area of New York State. Of the few exempt organizations located in rural areas of New York, virtually all are banks or credit unions. Moreover, 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.

#### Minimizing Adverse Impacts:

As noted in the "Costs" section above, while mortgage loan servicers may incur some higher costs as a result of complying with the rules, the Department does not believe that the rule will impose any meaningful adverse economic impact upon private or public entities in rural areas. In addition, it should be noted that Part 418, which establishes the application and financial requirements for mortgage loan servicers, authorizes the Superintendent to reduce or waive the otherwise applicable financial responsibility requirements in the case of mortgage loans servicers that service not more than 12 mortgage loans or more than \$5,000,000 in aggregate mortgage loans in New York and which do not collect tax or insurance payments. The Superintendent is also authorized to reduce or waive the financial responsibility requirements in other cases for good cause. The Department believes that this will ameliorate any burden on mortgage loan servicers operating in rural areas.

#### Rural Area Participation:

The Department issued a draft of Part 419 in December 2009 and held meetings with and received comments from industry and consumer groups following the release of the draft rule. The Department also maintains continuous contact with large segments of the servicing industry through its regulation of mortgage bankers and brokers and its work in the area of foreclosure prevention. The Department likewise maintains close contact with a variety of consumer groups through its community outreach programs and foreclosure mitigation programs. The Department has utilized this knowledge base in drafting the regulation.

#### Job Impact Statement

Article 12-D of the Banking Law, as amended by the Mortgage Lending Reform Law (Ch. 472, Laws of 2008), requires persons and entities which engage in the business of servicing mortgage loans after July 1, 2009 to be registered with the Superintendent. Part 418 of the Superintendent's Regulations, initially adopted on an emergency basis on July 1, 2009, sets forth the application, exemption and approval procedures for registration as a mortgage loan servicer, as well as financial responsibility requirements for applicants, registrants and exempted persons.

Part 419 addresses the business practices of mortgage loan servicers in connection with their servicing of residential mortgage loans. Thus, this part addresses the obligations of mortgage loan servicers in their communications, transactions and general dealings with borrowers, including the handling of consumer complaints and inquiries, handling of escrow payments, crediting of payments, charging of fees, loss mitigation procedures and provision of payment histories and payoff statements. This part also imposes certain recordkeeping and reporting requirements in order to enable the Superintendent to monitor services' conduct and prohibits certain practices such as engaging in deceptive business practices.

Compliance with Part 419 is not expected to have a significant adverse effect on jobs or employment activities within the mortgage loan servicing industry. The vast majority of mortgage loan servicers are sophisticated financial entities that service millions, if not billions, of dollars in loans and have the experience, resources and systems to comply with the requirements of the rule. Moreover, many of the requirements of the rule reflect derive from federal or state laws and reflect existing best industry practices.

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Independent Dispute Resolution For Emergency Services and Surprise Bills

I.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:

(c) 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 an explanation of benefits, which shall:

(1) 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

(2) 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:

(l) 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 or Public Health Law Article 49, the health care plan shall include in the initial adverse determination and the final adverse determination:

(1) a notice that the services may be a surprise bill and could be eligible for the dispute resolution process;

(2) the information in paragraphs (1) – (5) of subdivision (f) of this section; and

(3) 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.

(m)(1) 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.

(2) 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, if applicable, and information on how to file a complaint with the superintendent.

Section 400.6(a) is amended to read as follows:

(a) If a non-participating physician bills a patient for emergency services or a surprise bill, the physician 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 Agenda for publication 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 section 301.

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

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.

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

Financial Services Law Article 6 establishes an independent dispute resolution (“IDR”) process through which a dispute involving a bill for emergency services or a surprise bill may be resolved. This law grants the Superintendent the power to certify entities performing the IDR and authorizes the Superintendent to promulgate regulations establishing standards for the IDR process.

2. Legislative objectives: Chapter 60 of the Laws of 2014 added a new Article 6 to the Financial Services Law to address the issue of consumers receiving unexpected medical bills from out-of-network providers. Article 6 provides that consumers must be held harmless for out-of-network emergency bills and surprise bills and directs the provider and health maintenance organizations or insurers authorized to do business in New York State (collectively, “health care plans”) to work out payment for these bills. Article 6 establishes an IDR process by which a dispute involving a bill for emergency services or a surprise bill may be resolved.

3. Needs and benefits: Financial Services Law Article 6 established an IDR process by which a dispute for a bill for emergency services or a surprise bill may be resolved, and the Department promulgated 23 NYCRR 400 to provide additional rules on IDR. This IDR process has protected several thousands of consumers from bills for emergency services or surprise bills.

While Article 6 and Part 400 have protected many insureds, in certain circumstances, insureds may not be aware that they may seek protection from a surprise bill. Insureds, following the advice of their physicians, may believe that a service is an emergency service, but then end up stuck with a surprise bill when the health care plan later determines that the services were not emergency services and therefore denies the claim because the health care plan determined that the services did not need to be performed on an emergency basis. In fact, a recent case in the news highlighted the potential for such an occurrence.

This rule will ensure that a health care plan notifies an insured when it denies a claim for services that are believed by the insured to have been emergency services, but that the health care plan determined did not need to be performed on an emergency basis, so that the insured may seek protection from surprise bills under Financial Services Law Article 6. This rule also requires a health care plan to provide: (1) information about surprise bills; (2) a copy of the assignment of benefits form with the denial; (3) the health care plan’s designated electronic and mailing address where the assignment of benefits form can be submitted; and (4) a statement that the insured should not delay filing an internal appeal or external appeal even if the insured believes the medical necessity denial should be processed as a surprise bill.

If a health care plan receives an assignment of benefits form and determines that the bill is not a surprise bill, the health care plan must provide a written notification that includes 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. A health care plan must provide the notice of an initial denial within the time frames established in 29 C.F.R. § 2560.503-1. Those time frames require a health care plan to make an initial determination and provide written notice within 30 days of receipt of the claim, or in this case, receipt of the assignment of benefits form, if the health care plan does not need additional information. If the health care plan needs additional information, it must notify the insured or the insured’s designee within 30 days of receipt of the assignment of benefits form and provide 45 days for a response. The health care plan must make a determination and provide notice to the insured or the insured’s designee in writing within 15 days of the earlier of the receipt of the information or the end of the 45-day period if the health care plan determines that it is not a surprise bill.

The health care plan must provide the foregoing information in a grievance determination under Insurance Law section 4802 or Public Health Law section 4408-a related to the assignment of benefits form for a surprise bill.

Besides requiring additional notifications from health care plans, this rule also requires non-participating physicians who bill for emergency services or a surprise bill to provide the insured with information regarding the IDR process in a form prescribed by the Superintendent, along with the claim form and assignment of benefits form, which are currently only required to be provided with surprise bills.

4. Costs: Health care plans and physicians may incur additional costs to comply with the rule. The additional costs for physicians may include costs to provide consumer disclosure information with bills for out-of-network emergency services and surprise bills. However, any 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 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 health care plans are currently required by Insurance Law and Public Health Law sections 4903 and 4904 to provide initial and final adverse determinations to insureds and the additional information required to be distributed to insureds by this rule may be contained within the existing notifications to mitigate costs. Similarly, Insurance Law section 4802 and Public Health Law section 4408-a currently require health care plans to provide grievance and grievance appeal determinations to insureds, and additional information may be added to existing notifications.

The Department of Financial Services will not incur any costs to implement this rule.

The rule will not impose compliance costs on any local governments.

5. 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.

6. 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.

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

8. 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. However, without the notices, the insured may not be aware that, if the insured receives a bill for the denied services, the bill could be a surprise bill and the insured has additional protections 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 their rights to appeal the determination or submit a complaint to the Superintendent.

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

10. 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.

However, this rule affects physicians, some of whom may be small businesses under SAPA. The Department does not maintain records of the number of physicians licensed in this state who are small businesses.

This rule does not affect local governments.

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

A physician who is a small business will be subject to reporting, recordkeeping, or other compliance requirements as the physician will need to include consumer disclosure information in bills for out-of-network emergency services and surprise bills.

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

comply with this amendment because the amendment does not apply to any local government. Physicians who are small businesses may incur additional costs to comply with the rule. Those additional costs may include costs to provide consumer disclosure information with bills for out-of-network emergency services and surprise bills. However, any additional costs should be minimal because the current law already requires physicians who are small businesses to provide a claim form and an assignment of benefits form to an insured who receives a surprise bill.

5. Economic and technological feasibility: This rule does not apply to any local government; therefore, no local government should experience any economic or technological impact as a result of the rule.

Physicians who are small businesses should not incur any economic or technological impact as a result of the rule.

6. Minimizing adverse impact: There will not be an adverse impact on any local government because the rule does not apply to any local government. This rule should not have an adverse impact on a physician who is a small business because it only requires a non-participating physician to provide an insured with consumer disclosure information for surprise bills. For bills for emergency services, it requires a non-participating physician to send the same disclosures that are already required to be sent for surprise bills, plus the additional consumer disclosure information the rule adds for surprise bills. The Department will provide the form for the new consumer disclosure information to non-participating physicians who are small businesses.

7. Small business and local government participation: The Department will comply with SAPA Section 202-b(6) by publishing the proposed amendment in the State Register and posting the proposed amendment on its website.

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

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

2. Reporting, recordkeeping and other compliance requirements; and professional services: A health care plan, including a health care plan in a rural area, may be subject to additional reporting, recordkeeping, or other compliance requirements. Health care plans may need to amend notifications sent to insureds when they determine that services of a non-participating physician or a non-participating health care provider at a participating hospital are not emergency services and make an adverse determination pursuant to Insurance Law or Public Health Law Article 49 or when a health care plan receives an assignment of benefits form but determines that the bill is not a surprise bill. Non-participating physicians, including non-participating physicians in rural areas, will also need to provide consumer disclosure information regarding the independent dispute resolution ("IDR") process in a format prescribed by the Superintendent of Financial Services ("Superintendent"). With regard to surprise bills, this rule does not create new notice requirements, but rather requires additional disclosure information to be included in current notices health care plans and non-participating physicians are already obligated to provide to insureds.

Health care plans and physicians, including health care plans and physicians in a rural area, should not need to retain professional services, such as lawyers or auditors, to comply with this amendment.

3. Costs: Health care plans and physicians may incur additional costs to comply with the rule. The additional costs for physicians may include costs to provide consumer disclosure information with bills for out-of-network emergency services and surprise bills. However, any 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 in the initial and final adverse determinations and additional information 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 health care plans are currently required by Insurance Law and Public Health Law sections 4903 and 4904 to provide initial and final adverse determinations to insureds and the additional information required to be distributed to insureds by this rule may be contained within the existing notifications to mitigate costs. Similarly, Insurance Law section 4802 and Public Health Law section 4408-a currently require health care plans to provide grievance and grievance appeal determinations to insureds, and additional information may be added to existing notifications.

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

5. Rural area participation: Health care plans and physicians, including

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.

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## Department of Health

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### EMERGENCY RULE MAKING

#### **Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness**

**I.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 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 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 Social Services Law, sections 487.4 and 487.10 of Title 18 (Social Services) of the Official Compilation of Codes, 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).

(e) *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 indicate the need for a mental health evaluation pursuant to paragraph (3) of subdivision (f) of this section. The results of the Department's pre-admission screening shall be provided to the operator within three business days of receipt of a complete request. A complete request is one that contains all of the information required by this paragraph.*

(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 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 seri-*

*ous 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:

(ix) 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)](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 Tower Building, 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(5) 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" and "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 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 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 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 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: (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 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 legislative objectives of SSL section 461(2) and with the State's overall efforts to ensure that care is provided in the most integrated settings as required by *Olmstead v. L.C.*, 527 U.S. 581 (1999) and as emphasized in Governor Cuomo's Executive Order No. 84.

#### Costs:

##### Costs to Private Regulated Parties:

Transitional Adult Homes 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 Transitional Adult Home operators in avoiding admissions that would increase the census of persons with serious mental illness in their facilities in violation of the existing regulations.

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 a regulation for those 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.

##### Costs to Local Government:

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

##### Costs to the Department of Health:

The Department will utilize existing resources to conduct the pre-admission screening, in consultation with the Office of Mental Health, and monitor compliance with these regulations.

##### 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, 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, applicable guardianship 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 interview or the medical evaluation. Under the new proposal, they will be required to conduct or obtain mental health evaluations when they want to admit an individual who, pursuant to the Department's pre-admission screening, may be a person with serious mental illness.

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 regulation for those 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 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

I.D. 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

**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 proposed rule:** Subdivision (c) of section 487.2 is amended to read as follows:

(c) Persons with serious mental illness means individuals who meet criteria established by the commissioner of mental health, which shall be persons who have a designated diagnosis of mental illness under the Diagnostic and Statistical Manual of Mental Disorders ([DSM-IV-TR] DSM-5, American Psychiatric Association, [July 2000] May 2013), and whose severity and duration of mental illness results in substantial functional disability.

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).

(e) *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 indicate the need for a mental health evaluation pursuant to paragraph (3) of subdivision (f) of this section. The results of the Department's pre-admission screening shall be provided to the operator within three business days of receipt of a complete request. A complete request is one that contains all of the information required by this paragraph.*

(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 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.*

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 is approved by the Department [department] in consultation with the Office of Mental Health, and 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:*

(1) the date of examination;

(2) significant mental health history and current conditions, including whether the resident or prospective resident [has] is a person 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 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 person signing the report has conducted a face-to-face examination of the resident or prospective resident within 30 days [of] prior to the date of admission or, for required annual evaluations or evaluations conducted due a 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)](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;

(iii) a statement that the resident or prospective resident does not evidence need for placement in a hospital or residential treatment facility; and

(iv) a dated statement indicating that the person signing the report has conducted a face-to-face examination of the resident or prospective resident which, for prospective residents, shall be dated within 30 days prior to admission.

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

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

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

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

#### **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(5) 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” and “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 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 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 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 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: (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 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 legislative objectives of SSL section 461(2) and with the State’s overall efforts to ensure that care is provided in the most integrated settings as required by *Olmstead v. L.C.*, 527 U.S. 581 (1999) and as emphasized in Governor Cuomo’s Executive Order No. 84.

#### Costs:

##### Costs to Private Regulated Parties:

Transitional Adult Homes 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 Transitional Adult Home operators in avoiding admissions that would increase the census of persons with serious mental illness in their facilities in violation of the existing regulations.

All adult homes and enriched housing programs, including those that do not meet the definition of a Transitional Adult Home, would be required to use the Department-prescribed mental health evaluation form. 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 those 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.

##### Costs to Local Government:

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

##### Costs to the Department of Health:

The Department will utilize existing resources to conduct the pre-admission screening, in consultation with the Office of Mental Health, and monitor compliance with these regulations.

##### 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, applicable guardianship 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 interview or the medical evaluation. Under the new proposal, they will be required to conduct or obtain mental health evaluations when they want to admit an individual who, pursuant to the Department’s pre-admission screening, may be a person with serious mental illness. The Department, in consultation with the Office of Mental Health, will prescribe the form upon which the evaluation must be documented, promoting standardization. The paperwork associated with any additional evaluations 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.

Adult 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 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 those 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.

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## Office of Mental Health

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### 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 (f)(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.

14 NYCRR Part 512 establishes the standard for Personalized Recovery Oriented Services (PROS) Programs that are certified by the Office of Mental Health. The purpose of PROS programs is to assist individuals in recovering from the disabling effects of mental illness. The PROS regulations have been amended several times since they were originally promulgated in 2005.

Section 512.11 of the Office of Mental Health (OMH) regulations currently prohibit co-enrollment in a PROS with Clinic Treatment and an Article 31 Clinic operated by the same sponsor. This means that PROS participants can choose to receive Clinical Treatment from the PROS, if it is available, or from an Article 31 elsewhere in the community operated by a different sponsor. As a result, this requires the individual to seek Clinic Treatment services through another agency, which can lead to less integrated services and restricts personal choice.

Conversely, individuals receiving services at an Article 31 Clinic operated by the same sponsor agency cannot participate in PROS for rehabilitation (skill development) regardless of need and interest in goals that may related to employment, education, housing, etc. Therefore, Article 31 clients who are reluctant to give up their relationship with their therapist simply because the Article 31 Clinic is operated by the same sponsor may opt to forgo recommended rehabilitation services through the PROS.

This co-enrollment restriction was intended to prevent duplication of services and, therefore, duplicative payments. This regulation was written at least twelve years ago, and since that time, there are multiple ways to ensure there is not a duplication of services which includes Care Management, an internal EHR (Electronic Health Record) shared by all agency programs, along with the agency tracking a person's care. In addition, Managed Care Organizations have become key stakeholders as a payer of services and monitor a person's rehabilitation and treatment.

**Job Impact Statement**

A Job Impact Statement is not submitted with this notice because the purpose of the amendment is to provide integrated services and increase the participants ability to stay with a current treatment provider. It is evident from the rule making that there will be no adverse impact on jobs and employment opportunities.

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## Office for People with Developmental Disabilities

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**NOTICE OF ADOPTION****Procedures for the Control of Tuberculosis**

**I.D. No.** PDD-31-19-00006-A

**Filing No.** 901

**Filing Date:** 2019-10-02

**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 633.14 of Title 14 NYCRR.

**Statutory authority:** Mental Hygiene Law, sections 13.07, 13.09(b), 13.15(a) and 16.00

**Subject:** Procedures for the Control of Tuberculosis.

**Purpose:** To modify the tuberculosis testing requirements for service recipients only receiving clinical services within an art. 16 clinic.

**Text of final rule:** • Existing subdivision 633.14(a) is amended as follows:

(a) Applicability. This section applies to developmental centers and facilities certified by OPWDD, including family care. *It does not apply to service recipients of Clinic Treatment Facilities as defined in Part 679 of this title.*

• Existing paragraph 633.14(b)(8) is amended as follows:

(8) Service provider. A developmental center or operator of a facility certified by OPWDD, *other than Clinic Treatment Facilities described in Part 679 of this title.* In the case of a family care home, the sponsoring agency shall be responsible for complying with requirements applicable to the service provider.

• Existing paragraph 633.14(b)(9) is amended as follows:

(9) Service recipient. Any person receiving services from a developmental center or facility certified by OPWDD, *except for those receiving services through a Clinic Treatment Facility described in Part 679 of this title.*

**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 environment and an E.I.S. is not needed.

**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 benefit 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 is no anticipated impact on Medicaid expenditures as a result of the regulations. The regulations merely exempt service recipients only receiving services within Article 16 clinics from the tuberculosis testing requirements.

These regulations will not have any fiscal impact on local governments, as the contribution of local governments to Medicaid has been capped. Chapter 58 of the Laws of 2005 places a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

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 cost 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.

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 regulation will not impose any adverse economic impact or reporting, record keeping or other compliance requirements on small businesses. There are no professional services, capital, or other compliance costs imposed on small businesses as a result of these amendments.

The proposed regulation exempts service recipients receiving services within Article 16 clinics from the tuberculosis testing requirements. The regulation proposed 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 Job 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.

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## Public Service Commission

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**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 electric 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 installation applications 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](http://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](mailto: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](mailto:secretary@dps.ny.gov)

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

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

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(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., of an order issued August 12, 2019, to the extent that order denied cost recovery for abandoned facilities.

**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) (together, the Companies). The petition seeks rehearing of the Commission's August 12, 2019 Order Approving Tariff Amendments with Modifications in Cases 17-G-0606 and 19-G-0171. 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(16). 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](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

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

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

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

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

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(17-G-0606SP7)

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

**Proposed Rate Filing to Increase Its Semi-Annual Flat Rate**

**I.D. No.** PSC-43-19-00016-P

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

**Proposed Action:** The Commission is considering a proposal filed by River Road Water District to increase its semi-annual flat rate by 22% and to convert its tariff schedule to an electronic format.

**Statutory authority:** Public Service Law, sections 4(1), 5(1)(f), 89-c(1), (3), (10)(a), (b) and (f)

**Subject:** Proposed rate filing to increase its semi-annual flat rate.

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

**Substance of proposed rule:** The Commission is considering a proposal filed by River Road Water District (the Company), on September 11, 2019, to increase its semi-annual flat rate by 22% from \$75.00 to \$91.25 to reflect the current minimum cost of service.

The last approved rate increase took effect on July 1, 1996. The Company is also requesting to convert its current paper tariff, P.S.C. No. 1 – Water, to a new electronic tariff schedule, P.S.C. No. 2 – Water. The tariff defines when a bill will be considered delinquent and establishes a late payment charge of 1-½ percent per month, compounded monthly, and a returned check charge equal to the bank charge plus a handling fee of \$5.00. The Company is proposing restoration of service charges of \$50 during normal business hours Monday through Friday; \$75 outside of normal business hours Monday through Friday; and \$100 on weekends and public holidays. The proposed amendments have an effective date of February 1, 2020.

The full text of the minor rate filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

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

**Data, views or arguments may be submitted to:** Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

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

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

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(19-W-0584SP1)

## Office of Temporary and Disability Assistance

### 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)(8)(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, I.D. No. TDA-14-19-00002-P.

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

**Text of rule and any required statements and analyses may be obtained from:** 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) received 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.

##### Comment 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 1:

OTDA is authorized to promulgate regulations to supervise the work of the social services districts (districts) in administering the child support enforcement program as required by Title IV-D of the federal Social Security Act and article 6-A of the Social Services Law (SSL) (SSL §§ 20, 111-a). The regulatory amendments promulgated by OTDA govern the actions of the districts, not those of the courts or other child support creditors issuing IWOs.

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-

tions such as: state, federal, local taxes; Social Security taxes; statutory pension contributions; and Medicare taxes. The federal limit is 50% of the disposable income if the obligor is supporting another family and 60% of the disposable income if the obligor is not supporting another family. However, those limits increase 5% --to 55% and 65% --if the arrears are greater than 12 weeks. If permitted by the state or tribe, you may deduct a fee for administrative costs. The combined support amount and fee may not exceed the limit indicated in this section.

The limits established by the CCPA and CPLR 5241 are not intended to set the amount to be withheld from the child support obligor's income, but instead are "up-to" amounts limiting excessive deductions. As CPLR 5241 provides that the amount of the income deduction "shall not exceed sixty-five percent of disposable earnings" when a child support debtor is not currently supporting a spouse or dependent child, a court or other child support creditors may issue an IWO for the amount of support due up to the full 65 percent of disposable earnings (emphasis added). The regulatory amendments apply only to the action of the district's Support Collection Unit when issuing an IWO ("income execution"). While OTDA promulgates the form, it does not fill in the CCPA limit for courts or other creditors.

Please note that, prior to 2006, State regulations limited the districts to collecting 40 percent of disposable income, even though the CPLR, as it does now, permitted withholding of up to 65 percent of disposable income.

Based on the foregoing, OTDA asserts that revisions to the regulatory amendments are unnecessary.

##### Comment 2:

The proposed regulatory amendments do not acknowledge the potential impact they would have on the spouses and children who rely on the economic support provided by IWOs – specifically, limiting the abilities of creditor spouses and children to benefit from the higher percentages of income withholding that are currently authorized in State law.

##### Response 2:

The federally-mandated IWO form was updated to remove the words "up to" in front of the withholding limit percentage, thereby requiring the IWO sender to enter a specific withholding percentage, up to the limits set by the CCPA. The stated purpose of the regulatory amendments is "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" so as to avoid improperly over-withholding from a noncustodial parent. OTDA considered amending 18 NYCRR § 347.9(a)(2)(iv)(h)(12) to apply the higher percentages permitted by the CCPA, applicable when the noncustodial parent does not support another family (i.e., 60 percent for cases without qualifying arrears, and 65 percent for cases with qualifying arrears). However, information as to whether a debtor is supporting a spouse or dependent child other than the creditor is typically unavailable in the State's automated child support system, which only contains information about cases receiving child support services. Given the purpose of the regulatory amendments, the federal Office of Child Support Enforcement has advocated for use of the lower withholding percentage limits (i.e., 50 percent for cases without qualifying arrears, and 55 percent for cases with qualifying arrears) when the IV-D program does not know if the debtor supports another family. Thus, the regulatory amendments to § 347.9(a)(2)(iv)(h)(12) are consistent with the federal recommendation and further help to ensure New York State's compliance with the federally-required form. Further, the requirements of § 347.9(a)(2)(iv)(h)(12) only apply to IWOs issued by the Support Collection Unit. The IWO is automatically generated by the State's child support system and must be prepopulated with a specific percentage systematically. Therefore, the percentage can only be populated based on information contained in the system, which, in this circumstance, is the presence or absence of qualifying arrears on the case. Thus, the regulatory amendments will also help ensure that New York State meets federal timeframes for issuance of IWOs, and that spouses and children will benefit from a more efficient and streamlined process for issuance of IWOs.

Based on the foregoing, OTDA maintains that revisions to the regulatory amendments are unnecessary.

## HEARINGS SCHEDULED FOR PROPOSED RULE MAKINGS

Agency I.D. No.	Subject Matter	Location—Date—Time
<b>Environmental Conservation, Department of</b>		
ENV-36-19-00001-P .....	Waste fuels	Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—November 8, 2019, 11:00 a.m.
ENV-36-19-00002-P .....	New aftermarket catalytic converter (AMCC) standards	Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—November 8, 2019, 11:00 a.m.
ENV-36-19-00003-P .....	Stationary combustion installations	Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—November 8, 2019, 11:00 a.m.
ENV-36-19-00014-P .....	Distributed generation sources located in New York City, Long Island, Westchester and Rockland Counties	Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—November 12, 2019, 11:00 a.m.
ENV-39-19-00003-P .....	Part 219 applies to various types of incinerators and crematories operated in New York State	Department of Transportation, One Hunters Point Plaza, 47-40 21st St., Rm. 834, Long Island City, NY—November 20, 2019, 2:00 p.m.
ENV-39-19-00003-P .....	Part 219 applies to various types of incinerators and crematories operated in New York State	Suffolk County Water Authority, 260 Motor Pkwy., Hauppauge, NY—December 3, 2019, 11:00 a.m.
ENV-39-19-00003-P .....	Part 219 applies to various types of incinerators and crematories operated in New York State	6274 Avon-Lima Rd. (Rtes. 5 and 20), Conference Rm., Avon, NY—December 4, 2019, 11:00 a.m.
ENV-43-19-00006-P .....	Class I and Class SD waters	Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—December 6, 2019, 11:00 a.m.
ENV-43-19-00010-P .....	Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Parts 620, 621 and 624	Department of Environmental Conservation, Region 2, 4740 21st St., Long Island City, NY—January 8, 2020, 2:00 p.m.
ENV-43-19-00010-P .....	Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Parts 620, 621 and 624	Department of Environmental Conservation, 625 Broadway, Albany, NY—January 7, 2020, 1:00 p.m.
<b>Long Island Power Authority</b>		
LPA-37-19-00005-P .....	Authority's annual budget, as reflected in the rates and charges in the Tariff for Electric Service	H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 12, 2019, 2:00 p.m.
LPA-37-19-00006-P .....	Modification of the SGIP to clarify and reflect updates to the State's Standardized Interconnection Requirements (SIR)	Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 13, 2019, 12:00 p.m.
LPA-37-19-00006-P .....	Modification of the SGIP to clarify and reflect updates to the State's Standardized Interconnection Requirements (SIR)	H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 12, 2019, 2:00 p.m.
LPA-37-19-00006-P .....	Modification of the SGIP to clarify and reflect updates to the State's Standardized Interconnection Requirements (SIR)	Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 13, 2019, 12:00 p.m.
LPA-37-19-00007-P .....	Standard rates for pole attachments of the Authority's Tariff for Electric Service	H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY—November 12, 2019, 2:00 p.m.
LPA-37-19-00007-P .....	Standard rates for pole attachments of the Authority's Tariff for Electric Service	Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—November 13, 2019, 12:00 p.m.
<b>Power Authority of the State of New York</b>		
PAS-42-19-00008-P .....	Rates for the sale of power and energy	Power Authority of the State of New York, 123 Main St., White Plains, NY—November 21, 2019, 11:00 a.m.

**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](http://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](http://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](http://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](http://www.dps.ny.gov)) under Case 19-E-0379.



**ACTION PENDING INDEX**

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

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

For additional information concerning any of the proposals

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

Agency code	Issue number	Year published	Serial number	Action Code
<b>AAM</b>	<b>01</b>	<b>12</b>	<b>0001</b>	<b>P</b>

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>AGING, OFFICE FOR THE</b>			
AGE-34-19-00014-P	08/20/20	Limits on Administrative Expenses and Executive Compensation	To bring this rule into compliance with current law in New York State
<b>AGRICULTURE AND MARKETS, DEPARTMENT OF</b>			
AAM-21-19-00002-ERP	05/21/20	Control of the European Cherry Fruit Fly	To help control the spread of the European Cherry Fruit Fly (ECFF), which renders cherries unmarketable if they are infested.
AAM-30-19-00004-P	07/23/20	Fuels for use in automobiles and motor-driven devices and equipment.	To conform regulations with federal requirements; to provide standards for, and relieve confusion in the sale of new fuels.
AAM-33-19-00003-P	08/13/20	State aid to districts	To conform Part 363 to S&WCL Sec. 11-a statutory amendments and to make technical amendments.
AAM-34-19-00001-EP	08/20/20	Spotted Lanternfly ("SL")	To prevent SL-infested articles originating in Dauphin County, in PA, or Cecil County, in MD, from entering NYS
AAM-43-19-00009-P	10/22/20	Control of the Asian Long Horned Beetle (ALB)	To lift approximately 58 square miles of Asian long horned beetle quarantine in Brooklyn and western Queens
<b>ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF</b>			
ASA-32-19-00005-P	08/06/20	Appeals, Hearings and Rulings	Protect patient confidentiality, update due process provisions, technical amendments
ASA-39-19-00004-P	09/24/20	Designated services (acupuncture and telepractice)	To identify standards for designation to provide acupuncture or telepractice services
ASA-39-19-00006-P	09/24/20	Children's behavioral health services	To identify addiction treatment services for children and families

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>AUDIT AND CONTROL, DEPARTMENT OF</b>			
AAC-29-19-00021-P	07/16/20	Limitations on Public Safety Overtime	To clarify that public safety overtime is subject to the limitations contained in the RSSL
<b>CHILDREN AND FAMILY SERVICES, OFFICE OF</b>			
CFS-51-18-00010-P	12/19/19	Residential and non-residential services to victims of domestic violence	To conform the existing regulations to comply with state and federal laws regarding services to victims of domestic violence
CFS-19-19-00006-ERP	05/07/20	Procedures for addressing children absent without consent from foster care, conditional releases and searches	To put into place procedures for children absent without consent from foster care, conditional releases and searches
CFS-36-19-00004-EP	09/03/20	Removal of non-medical exemption from vaccination regulations for child day care programs	To remove the non-medical exemption from vaccination regulations for child day care programs
CFS-39-19-00005-EP	09/24/20	Implement federal statutory requirements to include enhanced background checks, annual inspections, annual training and safety.	Implement federal statutory requirements to include enhanced background checks, annual inspections, annual training and safety.
CFS-39-19-00007-EP	09/24/20	Implement statutory requirements to include enhanced background checks, annual inspections, annual training and safety.	Implement statutory requirements to include enhanced background checks, annual inspections, annual training and safety.
CFS-42-19-00002-P	10/15/20	Permissible disclosure of records maintained by OCFS.	To amend existing regulations regarding the permissible disclosure of records by OCFS.
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-06-19-00001-P	02/06/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-13-19-00003-P	03/26/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-18-19-00007-P	04/30/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-18-19-00008-P	04/30/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-25-19-00001-P	06/18/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt and non-competitive classes.
CVS-25-19-00002-P	06/18/20	Jurisdictional Classification	To classify positions in the exempt class.
CVS-25-19-00003-P	06/18/20	Jurisdictional Classification	To classify a position in the exempt class.
CVS-25-19-00004-P	06/18/20	Jurisdictional Classification	To delete positions from the non-competitive class.
CVS-25-19-00005-P	06/18/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class.
CVS-25-19-00006-P	06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-25-19-00007-P	06/18/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-25-19-00008-P	06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-25-19-00009-P	06/18/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt and non-competitive classes.
CVS-25-19-00010-P	06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-29-19-00001-P	07/16/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class
CVS-29-19-00002-P	07/16/20	Jurisdictional Classification	To classify a position in the exempt class and to delete positions from and classify a position in the non-competitive class
CVS-29-19-00003-P	07/16/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-29-19-00004-P	07/16/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-29-19-00005-P	07/16/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-29-19-00006-P	07/16/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-29-19-00007-P	07/16/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-29-19-00008-P	07/16/20	Jurisdictional Classification	To delete a position from and classify positions in the non-competitive class
CVS-29-19-00009-P	07/16/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-29-19-00010-P	07/16/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-29-19-00011-P	07/16/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-29-19-00012-P	07/16/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-29-19-00013-P	07/16/20	Jurisdictional Classification	To classify positions in the exempt class and to delete positions from the non-competitive class
CVS-29-19-00014-P	07/16/20	Jurisdictional Classification	To delete a position in the non-competitive class
CVS-34-19-00002-P	08/20/20	Jurisdictional Classification	To classify positions in the exempt and non-competitive classes.
CVS-34-19-00003-P	08/20/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-34-19-00004-P	08/20/20	Jurisdictional Classification	To classify a position in the non-competitive class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-34-19-00005-P	08/20/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-34-19-00006-P	08/20/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-34-19-00007-P	08/20/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-34-19-00008-P	08/20/20	Jurisdictional Classification	To delete a subheading and to delete a position in the non-competitive class
CVS-34-19-00009-P	08/20/20	Jurisdictional Classification	To delete a position from and classify a position in the non-competitive class
CVS-34-19-00010-P	08/20/20	Jurisdictional Classification	To classify positions in the exempt and non-competitive classes
CVS-34-19-00011-P	08/20/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-42-19-00009-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-42-19-00010-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-42-19-00011-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00012-P	10/15/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-42-19-00013-P	10/15/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-42-19-00014-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00015-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00016-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-42-19-00017-P	10/15/20	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-42-19-00018-P	10/15/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-42-19-00019-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00020-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00021-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00022-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00023-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-42-19-00024-P	10/15/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-42-19-00025-P	10/15/20	Jurisdictional Classification	To delete positions from and classify positions in the exempt and non-competitive classes
CVS-42-19-00026-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt class and to delete a position from and classify positions in the non-competitive class
CVS-42-19-00027-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt and non-competitive classes
<b>CORRECTION, STATE COMMISSION OF</b>			
CMC-35-19-00002-P	08/27/20	Disciplinary and administrative segregation of inmates in special housing.	Prohibit the segregation of vulnerable inmates, and to standardize allowable uses and duration of special housing segregation.
CMC-41-19-00002-EP	10/08/20	Necessary age for admission to an adult lockup	To ensure that individuals under 18 years old are not admitted to an adult lockup
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-05-19-00006-RP	01/30/20	Standard Conditions of Release Parole Revocation Dispositions	Establish standard conditions of release and provide a workable structure for applying appropriate parole revocation penalties
CCS-21-19-00014-P	05/21/20	Adolescent Offender Facilities	To reclassify two existing correctional facilities to adolescent offender facilities.
CCS-28-19-00003-EP	07/09/20	Reclassification of Correctional Facilities	The classification of Collins and Queensboro Correctional Facilities as Work Release facilities
CCS-32-19-00007-P	08/06/20	Transfer of Foreign Nationals	Correct spelling and update employee responsibility
CCS-35-19-00001-P	08/27/20	Special Housing Units	Revisions have been made in order to be in compliance with new laws regarding special housing units and solitary confinement use
<b>CRIMINAL JUSTICE SERVICES, DIVISION OF</b>			
CJS-20-19-00003-P	05/14/20	Certified Instructors and Course Directors	Establish/maintain effective procedures governing certified instructors and course directors who deliver MPTC-approved courses
CJS-30-19-00010-EP	07/23/20	Use of Force	Set forth use of force reporting and recordkeeping procedures
<b>ECONOMIC DEVELOPMENT, DEPARTMENT OF</b>			
EDV-30-19-00003-EP	07/23/20	START-UP NY Program	Establish procedures for the implementation and execution of START-UP NY program
EDV-43-19-00001-P	10/22/20	Empire State Commercial Production Credit Program	Create administrative procedures for all components of the Empire State Commercial Production Credit Program

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>EDUCATION DEPARTMENT</b>			
*EDU-40-18-00010-RP	01/01/20	Professional development plans and other related requirements for school districts and BOCES	To improve the quality of teaching and learning for teachers and leaders for professional growth
EDU-52-18-00005-P	12/26/19	Annual professional performance reviews.	To extend the transition period for an additional year (until 2019-2020).
EDU-05-19-00008-RP	01/30/20	Protecting Personally Identifiable Information	To implement the provisions of Education Law section 2-d
EDU-17-19-00008-P	04/23/20	To require study in language acquisition and literacy development of English language learners in certain teacher preparation	To ensure that newly certified teachers enter the workforce fully prepared to serve our ELL population
EDU-27-19-00010-P	07/02/20	Substantially Equivalent Instruction for Nonpublic School Students	Provide guidance to local school authorities to assist them in fulfilling their responsibilities under the Compulsory Ed Law
EDU-31-19-00009-EP	07/30/20	Instructional Time for State Aid purposes	To provide school districts with additional flexibility when establishing their school calendars
EDU-39-19-00008-P	09/24/20	The Education, Experience, Examination and Endorsement Requirements for Licensure as an Architect	To more closely align New York's requirements for architects with national standards and to streamline the endorsement process.
EDU-39-19-00009-P	09/24/20	Requirements for Licensure as an Architect	To more closely align the Commissioner's Regulations with national standards for licensure as an architect.
EDU-39-19-00012-P	09/24/20	Building Condition Surveys and Visual and Periodic Inspections of Public School Buildings	To align the Commissioner's Regulations with amendments made to Education Law sections 409-9d, 409-e, and 3641.
EDU-43-19-00011-P	10/22/20	Addition of Subject Ares to the Limited Extension and SOCE for Certain Teachers of Students with Disabilities.	To enable more qualified teachers of students with disabilities to seek the limited extension and SOCE.
EDU-43-19-00012-EP	10/22/20	Annual Professional Performance Reviews of Classroom Teachers and Building Principals	Necessary to implement Part YYY of Chapter 59 of the laws of 2019.
EDU-43-19-00013-P	10/22/20	Requirements for Chiropractic Education Programs and Education Requirements for Licensure as a Chiropractor.	To conform educational requirements for the profession of chiropractic to the national preprofessional education standards.
<b>ELECTIONS, STATE BOARD OF</b>			
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
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
ENV-18-19-00006-EP	04/30/20	Regulations governing commercial fishing and harvest of scup.	To revise regulations concerning the commercial harvest of scup in New York State waters.
ENV-24-19-00002-P	08/18/20	Hazardous Waste Management Regulations (FedReg5)	To amend regulations pertaining to hazardous waste management
ENV-27-19-00001-P	07/02/20	Feeding of wild deer and moose, use of 4-Poster™ devices.	To prohibit feeding of wild deer and moose, to define conditions for use of 4-Poster™ devices.
ENV-27-19-00003-P	07/02/20	Black Bear hunting.	Expand bear hunting opportunities in Wildlife Management Unit 4W to reduce bear abundance.
ENV-28-19-00001-P	07/09/20	Omnibus changes to 6 NYCRR	Bring regulations current with statutory changes and to improve application efficiency as part of the Governor's Lean initiative
ENV-28-19-00002-EP	07/09/20	Regulations governing recreational fishing of scup	To revise regulations concerning the recreational harvest of scup in New York State
ENV-29-19-00016-P	09/15/20	Reasonably Available Control Technology (RACT) for Major Facilities of Oxides of Nitrogen (NOx)	Regulation of NOx emissions from major facilities of NOx. The regulation sets NOx limits for boilers, turbines, and engines
ENV-29-19-00017-P	09/15/20	Federal and State standards for acceptable air quality	To revise outdated State and Federal air quality standards
ENV-31-19-00008-EP	07/30/20	Sanitary Condition of Shellfish Lands	To reclassify underwater shellfish lands to protect public health
ENV-32-19-00006-P	08/06/20	Chronic wasting disease	Amend regulations to reduce risk of introduction of infectious material into New York
ENV-36-19-00001-P	11/07/20	Waste Fuels	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and incorporate federal standards.
ENV-36-19-00002-P	11/07/20	New Aftermarket Catalytic Converter (AMCC) standards	Prohibit sale of federal AMCCs and update existing AMCC record keeping and reporting requirements
ENV-36-19-00003-P	11/07/20	Stationary Combustion Installations	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and lower emission standards.
ENV-36-19-00014-P	11/19/20	Distributed generation sources located in New York City, Long Island and Westchester and Rockland counties	Establish emission control requirements for sources used in demand response programs or as price-responsive generation sources
ENV-37-19-00003-P	09/10/20	Clarifying determination of jurisdiction under the Endangered and Threatened Fish and Wildlife regulations	To improve the review of projects by removing some project types that are known not to cause harm from the review stream
ENV-38-19-00001-P	09/17/20	Animals dangerous to health or welfare	To expand the list of animals which pose a risk to health or welfare of the people of the state or indigenous fish and wildlife

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
ENV-39-19-00003-P	12/05/20	Part 219 applies to various types of incinerators and crematories operated in New York State.	This rule establishes emission limits and operating requirements for various types of incinerators.
ENV-42-19-00003-P	10/15/20	Amendments to Great Lakes sportfishery regulations in 6NYCRR Part 10	Proposed amendments are intended to improve high quality sportfisheries and associated economic benefits
ENV-43-19-00006-P	01/07/21	Class I and Class SD waters	To clarify best usages of Class I and SD waters were/are "secondary contact recreation and fishing" and "fishing," respectively
ENV-43-19-00010-P	01/06/21	Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Part 624, Part 621 and Part 620	To incorporate procedural and legal developments, develop consistency & reflect current practice in DEC hearings
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
*DFS-30-18-00007-RP	10/23/19	Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure	To clarify requirements regarding coverage and disclosure of information for contraceptives
*DFS-36-18-00003-RP	12/04/19	Professional Bail Agents; Managing General Agents; et al	To provide greater protection to consumers, and raise the standards of integrity in the bail business.
DFS-46-18-00014-P	11/14/19	Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act- Claims for Personal Injury Protection Benefit	To give insurer option to void assignment of benefits when insurer issues denial for EIP's failure to attend IME or EUO
DFS-18-19-00005-P	04/30/20	Servicing Mortgage Loans: Business Conduct Rules	Sets standards governing the servicing of residential home mortgage loans.
DFS-20-19-00002-P	05/14/20	Electronic Filings and Submissions	To require certain filings or submissions to be made electronically
DFS-20-19-00004-P	05/14/20	Valuation of Individual and Group Accident and Health Insurance Reserves	To adopt the 2016 Cancer Claim Cost Valuation Tables
DFS-21-19-00005-P	05/21/20	Continuing Care Retirement Communities	Amend rules related to permitted investments, financial transactions, reporting requirements and add new optional contract type.
DFS-28-19-00007-P	07/09/20	Accelerated Payment of the Death Benefit Under a Life Insurance Policy	Implement statutory amendments in: Laws of 2017 ch. 300, Laws of 2014 ch. 465, Laws of 2014 ch. 448, and Laws of 2010 ch. 563
DFS-32-19-00003-P	08/06/20	Minimum Standards for Form, Content and Sale of Medicare Supplement and Medicare Select Insurance, et al.	To conform with the NAIC model regulation for Medicare supplement insurance, as required by 42 U.S.C. Section 1395ss.
DFS-33-19-00004-P	08/13/20	Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure	To set forth minimum standards for the content of health insurance identification cards.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
DFS-39-19-00002-P	09/24/20	LICENSED CASHERS OF CHECKS; FEES	To increase the maximum fee that may be charged by licensed check cashers
DFS-43-19-00017-P	10/22/20	INDEPENDENT DISPUTE RESOLUTION FOR EMERGENCY SERVICES AND SURPRISE BILLS	To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided.
<b>GAMING COMMISSION, NEW YORK STATE</b>			
SGC-40-19-00010-P	10/01/20	Add racetrack operator to terms defined in Thoroughbred rules	To promote the integrity of racing and derive a reasonable return for government
SGC-40-19-00011-P	10/01/20	Remove obsolete reference to safety vest weight	To promote the integrity of racing and derive a reasonable return for government
SGC-40-19-00012-P	10/01/20	Add racetrack operator to terms defined in Thoroughbred rules	To promote the integrity of racing and derive a reasonable return for government
SGC-42-19-00004-P	10/15/20	Add racetrack operator to terms defined in harness racing rules	To promote the integrity of racing and derive a reasonable return for government
<b>GENERAL SERVICES, OFFICE OF</b>			
GNS-40-19-00005-P	10/01/20	Facility Use	To add "plastic knuckles" and remove "gravity knife" from the definition of "deadly weapon"
<b>HEALTH, DEPARTMENT OF</b>			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
HLT-42-18-00008-P	10/17/19	Office-Based Surgery Practice Reports	Requires accredited Office-Based Surgery practices to submit adverse event & practice information which includes procedural data
HLT-51-18-00018-P	12/19/19	New requirements for Annual Registration of Licensed Home Care Services Agencies	To amend the regulations for licensed home care services agencies for the annual registration requirements of the agency
HLT-05-19-00005-P	01/30/20	Midwifery Birth Center Services	To set the standards for all birth centers to follow the structure of Article 28 requirements
HLT-25-19-00013-P	06/18/20	Registered Nurses in the Emergency Department	To remove a barrier to new graduate nurse recruitment in the emergency department
HLT-29-19-00020-P	07/16/20	Patients' Bill of Rights	To protect D&TC patients against unknowingly receiving care from out-of-network providers, resulting in surprise medical bills
HLT-30-19-00006-P	07/23/20	Maximum Contaminant Levels (MCLs)	Incorporating MCLs for perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS) and 1,4-dioxane.
HLT-36-19-00005-EP	09/03/20	School Immunization Requirements	To be consistent with national immunization regulations and guidelines and to define "may be detrimental to the child's health".
HLT-36-19-00006-P	09/03/20	Limits on Executive Compensation	Removes "Soft Cap" prohibition on covered executive salaries.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
HLT-40-19-00002-EP	10/01/20	Required Signage Warning Against the Dangers of Illegal Products	To require sellers of legal e-liquids and e-cigarette products to post warning signs regarding illegal products
HLT-40-19-00004-P	10/01/20	Drug Take Back	To implement the State's drug take back program to provide for the safe disposal of drugs
HLT-43-19-00005-P	10/22/20	Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness	Delineate a clear pre-admissions process for determining whether a prospective resident is a person with serious mental illness
<b>HOUSING AND COMMUNITY RENEWAL, DIVISION OF</b>			
HCR-21-19-00019-P	07/21/20	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of flow-income housing tax credits.
<b>HOUSING FINANCE AGENCY</b>			
HFA-21-19-00020-P	07/21/20	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits
<b>HUMAN RIGHTS, DIVISION OF</b>			
HRT-27-19-00002-P	07/02/20	Gender Identity or Expression Discrimination	To conform the Division's regulations with Executive Law as amended by Chapter 8 of the Laws of New York 2019.
<b>LONG ISLAND POWER AUTHORITY</b>			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment.
*LPA-37-18-00018-P	exempt	The treatment of energy storage in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>LONG ISLAND POWER AUTHORITY</b>			
LPA-37-19-00005-P	..... exempt	The Authority's annual budget, as reflected in the rates and charges in the Tariff for Electric Service	To update the Tariff to implement the Authority's annual budget and corresponding rate adjustments
LPA-37-19-00006-P	..... exempt	The modification of the SGIP to clarify and reflect updates to the State's Standardized Interconnection Requirements (SIR)	To be consistent with the State's SIR and related orders
LPA-37-19-00007-P	..... exempt	The standard rates for pole attachments of the Authority's Tariff for Electric Service	To update the Authority's standard rates for pole attachments in accordance with recent Public Service Commission action
<b>MENTAL HEALTH, OFFICE OF</b>			
OMH-43-19-00008-P	..... 10/22/20	Personalized Recovery Oriented Services (PROS)	To Allow PROS participants to receive Clinic Treatment from an Article 31 Clinic operated by the same agency
<b>METROPOLITAN TRANSPORTATION AGENCY</b>			
MTA-23-19-00006-EP	..... 06/04/20	Debarment of contractors	To comply with Public Authorities Law, section 1279-h, which requires the MTA to establish a debarment process for contractors
<b>NIAGARA FALLS WATER BOARD</b>			
*NFW-04-13-00004-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
NFW-01-19-00019-EP	..... exempt	Adoption of Rates, Fees, and Charges	To pay for increased costs necessary to operate, maintain, and manage the system, and to meet covenants with the bondholders
<b>OGDENSBURG BRIDGE AND PORT AUTHORITY</b>			
*OBA-33-18-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit.
OBA-07-19-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
<b>PARKS, RECREATION AND HISTORIC PRESERVATION, OFFICE OF</b>			
PKR-37-19-00001-P	..... 09/10/20	Listing of state parks, parkways, recreation facilities and historic sites	To update the listing of state parks, parkways, recreation facilities and historic sites
<b>PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR</b>			
PDD-33-19-00015-P	..... 08/13/20	Limits on Administrative Expenses and Executive Compensation	To conform with recent court decisions

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>POWER AUTHORITY OF THE STATE OF NEW YORK</b>			
*PAS-01-10-00010-P	..... exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PAS-42-19-00008-P	..... exempt	Rates for the Sale of Power and Energy	To align rates and costs
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	..... exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	..... exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-42-07-00013-P	..... exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	..... exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*PSC-34-09-00017-P	..... exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	..... exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	..... exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	..... exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	..... exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	..... exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-36-10-00010-P	..... exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	..... exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	..... exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	..... exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*PSC-26-11-00007-P	..... exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	..... exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	..... exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	..... exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order.	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing.
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*PSC-23-12-00007-P	..... exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	..... exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	..... exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	..... exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements
*PSC-45-12-00008-P	..... exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	..... exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	..... exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	..... exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*PSC-08-13-00014-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	..... exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	..... exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines.	To help ensure efficient and economic expansion of the natural gas system as appropriate.
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.
*PSC-28-13-00017-P	..... exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	..... exempt	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices
*PSC-32-13-00012-P	..... exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island.	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.
*PSC-45-13-00022-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines.	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	..... exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity.	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	..... exempt	Conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.	Consideration of conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00011-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	..... exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties.	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties.
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336.	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00008-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	..... exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	..... exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets.	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator.	To consider waiver of RG&E's tariffed definition of emergency generator.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-26-14-00020-P	..... exempt	New electric utility backup service tariffs and standards for interconnection may be adopted.	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established.	To balance the need for the information necessary to support a robust market with customer privacy concerns.
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets.	To consider the Comcast and Charter transfer of systems, franchise and assets.
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter.	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive,Albany, NY.
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*PSC-36-14-00009-P	..... exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
*PSC-38-14-00003-P	..... exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison's low income program to include Medicaid recipients.	Whether to expand Con Edison's low income program to include Medicaid recipients.
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*PSC-40-14-00008-P	..... exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers.
*PSC-40-14-00009-P	..... exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality.	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1.
*PSC-40-14-00011-P	..... exempt	Late Payment Charge.	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-40-14-00015-P	..... exempt	Late Payment Charge.	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff' s electric outage investigation report for MNRR, New Haven Line.	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY..
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-08-15-00009-P	..... exempt	Approval of a surcharge.	To allow or disallow Emerald Green Lake Louise Marie Water Company, Inc. for a surcharge.
*PSC-08-15-00010-P	..... exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.	To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-10-15-00007-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	..... exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*PSC-13-15-00024-P	..... exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking's request to recover a shortfall in earnings
*PSC-13-15-00026-P	..... exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*PSC-13-15-00027-P	..... exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program.	To consider approval of remote net metering of a demonstration community net metering program.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project.	To consider approval of remote net metering of a Community Solar Demonstration Project.
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*PSC-40-15-00014-P	..... exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	..... exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.
*PSC-44-15-00028-P	..... exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation.	Consider Whitepaper on Implementing Lightened Ratemaking Regulation.
*PSC-48-15-00010-P	..... exempt	Lightened and incidental regulation of a 55 MW electric and steam generating facility.	Consider the lightened and incidental regulation of a 55 MW electric and steam generating facility.
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	..... exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-06-16-00013-P	..... exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs.	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs.
*PSC-06-16-00014-P	..... exempt	MEGA's proposed demonstration CCA program.	To consider MEGA's proposed demonstration CCA program.
*PSC-14-16-00008-P	..... exempt	Resetting retail markets for ESCO mass market customers.	To ensure consumer protections with respect to residential and small non-residential ESCO customers.
*PSC-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00014-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00015-P	..... exempt	Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process.	To ensure consumer protections for ESCO customers.
*PSC-18-16-00016-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00018-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-20-16-00008-P	..... exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).
*PSC-20-16-00010-P	..... exempt	Deferral and recovery of incremental expense.	To consider deferring costs of conducting leak survey and repairs for subsequent recovery.
*PSC-20-16-00011-P	..... exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study.	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device.
*PSC-24-16-00009-P	..... exempt	Petition to submeter gas service.	To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY.
*PSC-25-16-00009-P	..... exempt	To delay Companies' third-party assessments of customer personally identifiable information until 2018.	To extend the time period between the Companies' third-party assessments of customer personally identifiable information.
*PSC-25-16-00025-P	..... exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.
*PSC-25-16-00026-P	..... exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications.	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.
*PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
*PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs.	To consider participation of NYPA customers in surcharge-funded clean energy programs.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks.	To evaluate proposed methodologies of benefit-cost evaluation.
*PSC-33-16-00001-EP	..... exempt	Use of escrow funds for repairs.	To authorize the use of escrow account funds for repairs.
*PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility.	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges.
*PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service.	To consider the recovery of costs for installation of electric service.
*PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements.
*PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for RG&E.
*PSC-02-17-00012-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for NYSEG.
*PSC-14-17-00017-P	..... exempt	Petition for Full-Scale Deployment of AMI and to Establish an AMI Surcharge.	To consider the petition for Full-Scale Deployment of AMI and to Establish an AMI Surcharge.
*PSC-18-17-00024-P	..... exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist.
*PSC-18-17-00026-P	..... exempt	Revisions to the Dynamic Load Management surcharge.	To consider revisions to the Dynamic Load Management surcharge.
*PSC-19-17-00004-P	..... exempt	NYAW's request to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2016.	Consideration of NYAW's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2016.
*PSC-20-17-00008-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-20-17-00010-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-21-17-00013-P	..... exempt	The establishment and implementation of Earnings Adjustment Mechanisms.	To consider the establishment and implementation of Earnings Adjustment Mechanisms.
*PSC-21-17-00018-P	..... exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement.
*PSC-22-17-00004-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-23-17-00022-P	..... exempt	Changes in regulation of ESCOs, including restrictions on or prohibitions of marketing or offering certain products or services.	To ensure consumer protection for ESCO customers.
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry.	Improved data access.
*PSC-26-17-00005-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York.
*PSC-34-17-00011-P	..... exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver
*PSC-37-17-00005-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives.	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms.
*PSC-37-17-00006-P	..... exempt	Petition to submeter electricity.	To consider the petition of ACC OP (Park Point SU) LLC to submeter electricity at 417 Comstock Avenue, Syracuse, New York.
*PSC-39-17-00011-P	..... exempt	Whether to direct New York State Electric & Gas to complete electric facility upgrades at no charge to Hanehan.	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan.
*PSC-40-17-00006-P	..... exempt	The aggregation of electric service for the Empire State Plaza and the Sheridan Avenue Steam Plant	To consider a waiver of National Grid's tariff provision requiring all electric delivery points to be on the same premises
*PSC-42-17-00010-P	..... exempt	Petition for rehearing of negative revenue adjustment and contents of annual Performance Report.	To consider NFGD's petition for rehearing.
*PSC-48-17-00015-P	..... exempt	Low Income customer options for affordable water bills.	To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs.
*PSC-50-17-00017-P	..... exempt	New Wave Energy Corp.'s petition for rehearing.	To consider the petition for rehearing filed by New Wave Energy Corp.
*PSC-50-17-00018-P	..... exempt	Application of the Public Service Law to DER suppliers.	To determine the appropriate regulatory framework for DER suppliers.
*PSC-50-17-00019-P	..... exempt	Transfer of utility property.	To consider the transfer of utility property.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-50-17-00021-P	..... exempt	Disposition of tax refunds and other related matters.	To consider the disposition of tax refunds and other related matters.
*PSC-50-17-00022-P	..... exempt	Data protection rules for DER suppliers.	To determine the appropriate regulatory framework for DER suppliers.
*PSC-51-17-00011-P	..... exempt	Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project.	To consider Con Edison's petition for the recovery of costs for implementing the JFK Project.
*PSC-04-18-00005-P	..... exempt	Notice of intent to submeter electricity.	To consider the notice of intent of Montante/Morgan Gates Circle LLC to submeter electricity.
*PSC-05-18-00004-P	..... exempt	Lexington Power's ZEC compliance obligation.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-06-18-00012-P	..... exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria
*PSC-06-18-00017-P	..... exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity
*PSC-07-18-00015-P	..... exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades.	To consider AEC's petition requesting resolution of their billing dispute with National Grid.
*PSC-11-18-00004-P	..... exempt	New York State Lifeline Program.	To consider TracFone's petition seeking approval to participate in Lifeline.
*PSC-13-18-00015-P	..... exempt	Eligibility of an ESCO to market to and enroll residential customers.	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.
*PSC-13-18-00023-P	..... exempt	Reconciliation of property taxes.	To consider NYAW's request to reconcile property taxes.
*PSC-14-18-00006-P	..... exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
*PSC-18-18-00009-P	..... exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	..... exempt	Whether to impose consequences on Aspurity for its non-compliance with Commission requirements.	To ensure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-23-18-00014-P	..... exempt	Proposed major rate increase of approximately \$11.7 million to cover its Franklin and St. Lawrence Counties expansion project.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-24-18-00013-P	..... exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements.	To promote and maintain renewable and zero-emission electric energy resources.

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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-28-18-00011-P	..... exempt	Storm Hardening Collaborative Report.	To ensure safe and adequate gas service.
*PSC-29-18-00008-P	..... exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	..... exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-30-18-00004-P	..... exempt	Ownership of St. Lawrence Gas Company, Inc.	To consider whether a proposed transfer of ownership interests in St. Lawrence Gas Company, Inc. is in the public interest.
*PSC-34-18-00011-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-34-18-00015-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and energy efficiency protections are in place.
*PSC-34-18-00016-P	..... exempt	Deferral of pre-staging and mobilization storm costs.	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs.
*PSC-35-18-00003-P	..... exempt	Con Edison's 2018 DSIP and BCA Handbook Update.	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00005-P	..... exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update.	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers.
*PSC-35-18-00006-P	..... exempt	National Grid's 2018 DSIP and BCA Handbook Update.	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00008-P	..... exempt	Central Hudson's 2018 DSIP and BCA Handbook Update.	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00010-P	..... exempt	O&R's 2018 DSIP and BCA Handbook Update.	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider.
*PSC-39-18-00005-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-40-18-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018.
*PSC-40-18-00015-P	..... exempt	Proposed rate filing to increase annual revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-42-18-00011-P	..... exempt	Voluntary residential beneficial electrification rate design.	To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers.
PSC-42-18-00013-P	..... exempt	Petition for clarification and rehearing of the Smart Solutions Program Order.	To address the increased demand for natural gas in the Con Edison's service territory and the limited pipeline capacity.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-44-18-00012-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
PSC-44-18-00016-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
PSC-45-18-00004-P	..... exempt	Proposed transfer of two natural gas pipeline operating companies, and for lightened and incidental regulation	To consider transfer if there is no market power or ratepayer harm, incidental regulation, and continuing lightened regulation
PSC-45-18-00005-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-47-18-00008-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
PSC-50-18-00003-P	..... exempt	Proposed transfer of interests in an electric generating facility and dedicated natural gas pipeline	To consider the transfer of generating facility and dedicated gas pipeline if there is no market power or ratepayer harm
PSC-01-19-00004-P	..... exempt	Advanced Metering Infrastructure.	To determine whether Niagara Mohawk Power Corporation d/b/a National Grid should implement advanced metering infrastructure.
PSC-01-19-00013-P	..... exempt	Order of the Commission related to caller ID unblocking.	To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County.
PSC-01-19-00014-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
PSC-01-19-00015-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
PSC-01-19-00016-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
PSC-02-19-00014-P	..... exempt	Petition for use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-03-19-00002-P	..... exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings.	To reduce damage to underground utility facilities by requiring certain training and approving training curricula.
PSC-04-19-00004-P	..... exempt	Con Edison's petition for the Gas Innovation Program and associated budget.	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals.
PSC-04-19-00011-P	..... exempt	Update of revenue targets.	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues.
PSC-05-19-00009-P	..... exempt	Transfer of street lighting facilities	To consider whether the transfer of certain street lighting facilities is in the public interest

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<b>PUBLIC SERVICE COMMISSION</b>			
PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program.	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects.
PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements.	To insure the provision of safe and adequate energy service at just and reasonable rates.
PSC-07-19-00010-P	..... exempt	The rates and charges for non-roadway LED service offerings for outdoor lighting customers.	To determine whether to amend National Grid's P.S.C. No. 214 - Outdoor Lighting Tariff to provide new LED service offerings.
PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
PSC-09-19-00009-P	..... exempt	Amendments to the tariff of Con Edison pertaining to interruptible gas service customers.	To consider the appropriate tariff provisions for Con Edison interruptible gas service customers.
PSC-09-19-00010-P	..... exempt	Non-pipeline alternatives report recommendations.	To consider the terms and conditions applicable to gas service.
PSC-09-19-00013-P	..... exempt	Cyber Security requirements.	Establish a framework to ensure the protection of utility systems and customer data from cyber events.
PSC-10-19-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-11-19-00003-P	..... exempt	Transfer of street lighting facilities	To consider whether the transfer of certain street lighting facilities is in the public interest
PSC-12-19-00004-P	..... exempt	To test innovative pricing proposals on an opt-out basis.	To provide pricing structures that deliver benefits to customers and promote beneficial electrification technologies.
PSC-13-19-00010-P	..... exempt	New Commission requirements for gas company operator qualification programs.	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities.
PSC-13-19-00012-P	..... exempt	Paperless billing credit.	To provide just and reasonable rates.
PSC-15-19-00010-P	..... exempt	Tariff provisions for Interruptible and Off-Peak Firm Service Customers.	To amend certain penalties for non-compliant Interruptible and Off-Peak Firm Customers.
PSC-16-19-00005-P	..... exempt	Proposed major electric delivery revenue requirement increase of approximately \$485 million (or 4.6% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-16-19-00007-P	..... exempt	Recommendation of the levelization surcharge, changes to the System Improvement Charge, and a one-year stay-out.	To address the issues in NYAW's petition dated February 25, 2019.
PSC-16-19-00008-P	..... exempt	Proposed major rate increase in Con Edison's gas delivery revenues of approximately \$210 million (or 9.1% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-17-19-00014-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-18-19-00010-P	..... 04/30/20	Energy efficiency programs, budgets, and targets for investor-owned utilities.	To encourage the delivery and procurement of energy efficiency by investor-owned utilities.
PSC-18-19-00011-P	..... exempt	Policies, budgets and targets for support of heat pump deployment by investor-owned utilities.	To encourage the support for heat pump deployment by investor-owned utilities.
PSC-18-19-00012-P	..... 04/30/20	Policies, budgets and targets for support of energy efficiency programs for low- and moderate-income customers.	To encourage the support of energy efficiency programs for low- and moderate-income customers by investor-owned utilities.
PSC-18-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-18-19-00015-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-19-19-00013-P	..... exempt	Proposed merger of three water utilities into one corporation.	To determine if the proposed merger is in the public interest.
PSC-19-19-00014-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 124 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 124 MW electric generating facility.
PSC-19-19-00015-P	..... exempt	Establishment of the regulatory regime applicable to an energy storage facility of up to 316 MW.	Consideration of a lightened regulatory regime for an energy storage facility of up to 316 MW
PSC-19-19-00016-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 242 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 242 MW electric generating facility.
PSC-20-19-00008-P	..... exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases
PSC-20-19-00009-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-20-19-00010-P	..... exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
PSC-20-19-00011-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-20-19-00015-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 105.8 MW electric generating facility	Consideration of a lightened regulatory regime for an approximately 105.8 MW electric generating facility
PSC-21-19-00018-P	..... exempt	Methodology used to set discount level for income-based discounts to residential electric and gas utility bills.	To ensure that income-based discounts are adjusted in a manner that moderates annual changes.
PSC-22-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-23-19-00003-P	..... exempt	Ownership interest in poles.	To consider the transfer of ownership interest in certain poles from NYSEG to Verizon.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-23-19-00005-P	..... exempt	Proposed major rate increase in SWNY's annual base revenues of approximately \$31.5 million (or 19.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-24-19-00003-P	..... exempt	Three-year pilot for inspecting gas services at intervals longer than existing regulations require.	To use risk-based reasoning for gas service lines inspection intervals on a pilot basis.
PSC-24-19-00005-P	..... exempt	Non-Firm Demand Response service classes.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-24-19-00008-P	..... exempt	Non-Firm Demand Response service classes.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-25-19-00017-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-26-19-00002-P	..... exempt	Petition to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-27-19-00007-P	..... exempt	Implementation of consolidated billing for distributed energy resources.	To facilitate development of and participation in Community Distributed Generation projects.
PSC-27-19-00009-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-28-19-00004-P	..... exempt	Revenue and Property Tax Reconciliation Mechanism.	To ensure recovery of proper expenses and the continued provision of safe and adequate service.
PSC-28-19-00006-P	..... exempt	Establishment of an escrow account.	To maintain a replenishable escrow account with a maximum balance of \$5,000.
PSC-29-19-00018-P	..... exempt	Compensation for distributed energy resources.	To establish rules for NYPA customer participation in the Value of Distributed Energy Resources program.
PSC-29-19-00019-P	..... exempt	Transfer of street lighting facilities.	To determine whether to transfer street lighting facilities and the proper accounting for the transaction.
PSC-30-19-00007-P	..... exempt	Use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-30-19-00008-P	..... exempt	To institute a voluntary Tier 2(B) Physical Storage Program under the DDS Program.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-30-19-00009-P	..... exempt	An Index REC procurement mechanism for Tier 1 REC procurements.	To provide a hedge against market volatility, and lower costs to both renewable generators and customers.
PSC-31-19-00011-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-31-19-00012-P	..... exempt	Purchase of renewable energy from distributed generators and energy storage systems 15 kilowatts or less.	To establish provisions to ensure safe and reliable service for all customers.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-31-19-00013-P	..... exempt	Implementation of Statewide Energy Benchmarking.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-19-00014-P	..... exempt	Consideration of NYAW's Interim Implementation Plan.	To ensure NYAW improves its service to ratepayers.
PSC-31-19-00015-P	..... exempt	Proposed major rate increase in KEDNY's gas delivery revenues by \$236.8 million (13.6% increase in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-19-00016-P	..... exempt	Proposed major rate increase in KEDLI's gas delivery revenues of approximately \$49.4 million (or 4.1% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-19-00017-P	..... exempt	Implementation of e-DPAs.	To consider a proposal to implement e-DPAs.
PSC-32-19-00004-EP	..... exempt	RDM target modifications for SC 8 customers and defer any revenue shortfall as a regulatory asset.	To ensure SC 8 electric customers are being charged properly and avoid customer confusion and unnecessary rate volatility.
PSC-32-19-00008-P	..... exempt	Compensation of distributed energy resources	To ensure just and reasonable rates, including compensation, for distributed energy resources
PSC-32-19-00009-P	..... exempt	Petition to submeter electricity and waiver request	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-32-19-00010-P	..... exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-32-19-00011-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
PSC-32-19-00012-P	..... exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources
PSC-32-19-00013-P	..... exempt	Disposition of tax refunds received by New York American Water Company, Inc.	To determine the disposition of tax refunds and other related matters
PSC-33-19-00007-P	..... exempt	Transfer of street lighting facilities.	To determine whether to provide written consent for the proposed transfer of certain street lighting facilities.
PSC-33-19-00008-P	..... exempt	Pole attachment rates.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-33-19-00009-P	..... exempt	Transfer of street lighting facilities.	To determine whether to provide written consent for the proposed transfer of certain street lighting facilities.
PSC-33-19-00010-P	..... exempt	Purchase of renewable energy from new distributed generators and energy storage systems 15 kilowatts or less.	To establish provisions to ensure safe and reliable service for all customers.
PSC-33-19-00011-P	..... exempt	Update revenue targets and pass back regulatory liability/asset resulting from tax law changes.	To ensure New York American Water's rates are just and reasonable and accurately reflect the needed revenues.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-33-19-00012-P	..... exempt	Limited waiver of tariff provisions for customers with PEVs under Special Provision L of the SC-1 VTOU rate.	To ensure just and reasonable rates charged to customers without undue preferences
PSC-33-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-33-19-00014-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-34-19-00015-P	..... exempt	Major electric rate filing.	To consider a proposed increase in RG&E's electric delivery revenues of approximately \$31.7 million (or 4.1% in total revenues).
PSC-34-19-00016-P	..... exempt	Major gas rate filing.	To consider a proposed increase in RG&E's gas delivery revenues of approximately \$5.8 million (or 1.4% in total revenues).
PSC-34-19-00017-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-34-19-00018-P	..... exempt	Major electric rate filing.	To consider a proposed increase in NYSEG's electric delivery revenues of approximately \$156.7 million (10.4% in total revenues).
PSC-34-19-00019-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation for distributed energy resources.
PSC-34-19-00020-P	..... exempt	Major gas rate filing.	To consider a proposed increase in NYSEG's gas delivery revenues of approximately \$6.3 million (or 1.4% in total revenues).
PSC-34-19-00021-P	..... exempt	Customer Consent to Contact.	To include a new provision establishing customer consent for the utility to contact them electronically about utility service.
PSC-35-19-00004-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.
PSC-35-19-00005-P	..... exempt	Administrative costs and funding sources for the RES and ZEC programs.	To promote and maintain renewable and zero emission electric energy resources.
PSC-35-19-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-35-19-00007-P	..... exempt	Wireless pole attachment rate.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-35-19-00008-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-36-19-00008-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer of street lighting facilities and the proper accounting for the transaction.
PSC-36-19-00009-P	..... exempt	Minor rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-36-19-00010-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-36-19-00011-P	..... exempt	Minor electric rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-36-19-00012-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-37-19-00004-P	..... exempt	Proposed transfer of Hopewell's assets to the Town and dissolution of the company.	To determine if transfer of the water system to the Town of East Fishkill is in the public interest.
PSC-38-19-00002-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-39-19-00013-P	..... exempt	Proposed revisions to Consolidated Edison's Commercial Demand Response Programs.	To consider appropriate rules regarding Commercial Demand Response Programs.
PSC-39-19-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for the period ending August 31, 2019.
PSC-39-19-00015-P	..... exempt	Amendments to the New York State Standardized Interconnection Requirements (SIR).	To more effectively interconnect distributed generation and energy storage Systems 5 MW or less to the distribution system.
PSC-39-19-00016-P	..... exempt	PSC regulation 16 NYCRR § 86.3(a)(1), (2), (2)(iv), (b)(2), 86.4(b) and 88.4(a)(4).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-39-19-00017-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-39-19-00018-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-39-19-00019-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-39-19-00020-P	..... exempt	Initial Tariff Schedule, P.S.C. No. 1 - Water.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-40-19-00006-P	..... exempt	Net energy metering and VDER crediting for eligible New York Power Authority customers.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-40-19-00007-P	..... exempt	The sharing of ratepayer consumption data.	To allow for consumption based sewer billing and protect ratepayers' consumption data.
PSC-40-19-00008-P	..... exempt	Implementation of consolidated billing for distributed energy resources.	To facilitate development of and participation in Community Distributed Generation projects.
PSC-41-19-00001-EP	..... exempt	Appointment of a temporary operator.	To ensure safe water supply through appointment of a temporary operator.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-41-19-00003-P	..... exempt	A voluntary residential three-part rate that would include fixed, usage and demand charges.	To provide qualifying residential customers with an optional three-part rate.
PSC-41-19-00004-P	..... exempt	To consider acquiring cable television facilities and franchises of 27 municipalities from CCE I to Spectrum NE.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest.
PSC-41-19-00005-P	..... exempt	Tariff modifications to correct the calculation for the VDER Value Stack DRV.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-42-19-00006-P	..... exempt	Waiver of the prohibition on service to low-income customers by ESCOs.	To consider the petition for an extension of the waiver of the prohibition on service to low-income customers by ESCOs.
PSC-42-19-00007-P	..... exempt	Waiver of the prohibition on service to low-income customers by ESCOs.	To consider the petition for an extension of the waiver of the prohibition on service to low-income customers by ESCOs.
PSC-43-19-00014-P	..... exempt	Petition for the use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-43-19-00015-P	..... exempt	Modifications to the Gas Cost Factor and Daily Delivery Service Programs.	To consider a rehearing petition filed by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.
PSC-43-19-00016-P	..... exempt	Proposed rate filing to increase its semi-annual flat rate.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

**STATE, DEPARTMENT OF**

DOS-27-19-00014-P	..... 09/04/20	New York State Uniform Fire Prevention and Building Code (the Uniform Code)	To repeal the existing Uniform Code and adopt a new Uniform Code and to make conforming changes to 19 NYCRR Parts 1264 and 1265.
DOS-27-19-00015-P	..... 09/04/20	The State Energy Conservation Construction Code (the "Energy Code").	To repeal the existing Energy Code and to adopt a new, updated Energy Code.
DOS-40-19-00001-P	..... 10/01/20	Appraisal Standards	To adopt the 2020-2021 edition of the Uniform Standards of Professional Appraisal Practice
DOS-42-19-00001-P	..... 10/15/20	Real estate advertisements	To update current regulations concerning real estate advertisements

**STATE UNIVERSITY OF NEW YORK**

SUN-36-19-00013-P	..... 09/03/20	College Fees	To increase the college fee charged at State-operated campuses, excluding the four University Centers.
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**TAXATION AND FINANCE, DEPARTMENT OF**

TAF-34-19-00013-P	..... exempt	To set the sales tax component and the composite rate per gallon for the period October 1, 2019 through September 31, 2019	To set the sales tax component and the composite rate per gallon for the period October 1, 2019 through September 31, 2019
TAF-40-19-00009-P	..... 10/01/20	New York State and City of Yonkers withholding tables and other methods	To provide current New York State and City of Yonkers withholding tables and other methods

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>			
TDA-14-19-00007-P	04/02/20	Abandonment of requests for fair hearings	To require the issuance of letters to appellants who fail to appear at scheduled fair hearings involving Medical Assistance, also known as Medicaid, advising them how to request the rescheduling of such fair hearings
TDA-19-19-00007-P	05/07/20	Adult-Care Facilities and Shelters for Adults	To update State regulations pertaining to general provisions, inspections and enforcement, and shelters for adults
TDA-19-19-00008-P	05/07/20	Shelters for Families	To update State regulations pertaining to shelters for families
TDA-19-19-00010-P	05/07/20	Elimination of finger imaging requirement for public assistance applicants and recipients	To update State regulations to align public assistance programs with other State benefit programs regarding identification verification requirements
<b>URBAN DEVELOPMENT CORPORATION</b>			
UDC-33-19-00006-EP	08/13/20	Life Sciences initiative Program	Create administrative procedures for all components of the Life Sciences Initiatives program
<b>VICTIM SERVICES, OFFICE OF</b>			
OVS-24-19-00001-EP	06/11/20	Conduct contributing related to burial awards	Adopt rules necessary as the result of chapter 494 of the Laws of 2018, when considering the victim's own conduct
OVS-36-19-00007-P	09/03/20	Limits on administrative expenses and executive compensation.	To codify the determination made in the Matter of Leading Age NY, Inc v. Shah (2018), striking a portion of the rule.
<b>WORKERS' COMPENSATION BOARD</b>			
WCB-22-19-00009-P	05/28/20	Group self-insured trusts that are inactive but not insolvent	Provide assistance with inactive but not insolvent group self-insured trusts to purchase ALPs to wind down liabilities
WCB-27-19-00005-P	07/02/20	Medical Fee Schedules	Add new providers to the fee schedule
WCB-31-19-00018-P	07/30/20	Medical Treatment Guidelines	Add guidelines for treatment of hip and groin, foot and ankle, elbow and occupational interstitial lung disease
WCB-32-19-00001-P	08/06/20	Updating the prescription drug formulary	To add drugs to the prescription drug formulary in response to continuous feedback
WCB-37-19-00002-P	09/10/20	Applications for Reopenings	Clarify the process for reopening a case that has been previously closed

# SECURITIES OFFERINGS

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## STATE NOTICES

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

## DEALERS; BROKERS

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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* — Delaware

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* — Massachusetts

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* — Canada

Hartford Funds Distributors, LLC  
690 Lee Rd., Wayne, PA 19087  
*State or country in which incorporated* — Delaware

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., Uglund House, Grand Cayman, Cay-  
man 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* — Nevada

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. 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 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/ESBPlansAvailableIndex.asp>

For questions about purchase of bid documents, please send an e-mail to [DCPlans@ogs.ny.gov](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *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.

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 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](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *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 C, \$4,700 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 9:00 a.m. on October 15th, 2019 at Dulles State Office Building, 317 Washington Street, Watertown, 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 Megan Miller (315-785-6447) a minimum of 48

hours in advance of the date to provide the names of those who will attend the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises (“MBE”) participation and 15% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs) for Construction Work, 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](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *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 Chrisler Ave, 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 Chrisler 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 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](mailto:DCPlans@ogs.ny.gov), or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *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 COUNTIES; 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

Towns, Cities and Villages:	\$ 500,000
Counties:	\$ 1,000,000

#### 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 of ineligibility resulting from unanticipated delays or problems.

Applicants may make a request, based on demonstrated need, to submit a paper application in lieu of using the CDOL application system. Requests for approval to submit a paper application must be sent to: Crystal Loffler, Deputy Commissioner, NYS Homes and Community Renewal, Office of Community Renewal, Hampton Plaza, 38-40 State Street, 4th Floor South, Albany, NY 12207.

#### 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.

### 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 may 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.

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.

## 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)**

THIS REVISED NOTICE AMENDS THE PREVIOUS NOFA AND NOCA ISSUED BY NEW YORK STATE HOMES AND COMMUNITY RENEWAL AND PUBLISHED IN THE NEW YORK STATE REGISTER OF OCTOBER 2, 2019, IN REFERENCE TO THE NAME OF THE REQUEST FOR PROPOSALS AND THE AMOUNT OF CIF FUNDS MADE AVAILABLE.

#### DESCRIPTION:

New York State Homes and Community Renewal (HCR) announces the availability of funding under the 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, and the federal Housing Trust Fund (FHTF).

HCR also announces the availability of tax credits under the federal Low-Income Housing Credit Program (LIHTC) and New York State Low-Income Housing Tax Credit Program (SLIHC).

The Fall 2019 HCR Multifamily Finance 9% Request for Proposals (RFP) for site-specific multi-family project applications seeking funding under these programs was made available on October 8, 2019. The RFP and application materials, including application submission instructions, is available on the HCR website at <https://hcr.ny.gov/multifamily>.

#### APPLICATION DEADLINES:

There are two fall 2019 application deadlines. The first deadline will be for Early Award projects (EA) that meet criteria set forth in the RFP. The second deadline will be for all other applications.

Applications for EA Projects must be completed and submitted by 3:00 PM on November 15, 2019. All other fall 2019 applications must be completed and submitted by 3:00 PM on December 13, 2019.

A \$3,000 application fee is required for each LIHTC or SLIHC application with the following exception: not-for-profit applicants (or their wholly-owned subsidiaries) that will be sole general partner of the partnership/project owner or sole managing member of the limited liability company/project owner may request a deferral of payment until the time of credit allocation.

#### FALL 2019 FUNDS AVAILABLE:

Approximately up to \$42 million in HTF funds; \$5 million in CIF funds; \$30 million in SHOP funds; \$7 million in PHP funds; \$7 million in MIHP funds; \$5 million in HDF funds; and \$15 million in FHTF funds are available, subject to availability of appropriations. HCR expects to have approximately up to \$28 million available for LIHTC reservations. HCR also expects to have approximately up to \$3 million available for SLIHC reservations. Approximately 34 Housing Choice Project Based Vouchers will be available. Such applications will be considered within overall review of project funding requests. Applications requesting only Housing Choice Project Based Voucher assistance will not be considered.

#### APPLICATION WEBINAR:

HCR will hold an application webinar that will include a presenta-

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>.



# MISCELLANEOUS NOTICES/HEARINGS

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## Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

## 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

ENTITY NAME: 750 INC.  
REINSTATE: 08/02/19  
DIS BY PROC: 06/29/16

ENTITY NAME: 870 EAST 233RD STREET, INC.  
REINSTATE: 09/19/19  
DIS BY PROC: 06/24/81

**COUNTY: COLUMBIA**

ENTITY NAME: HUDSON RIVER INDUSTRIAL CORPORATION  
REINSTATE: 09/30/19  
DIS BY PROC: 12/15/72

**COUNTY: DUTCHESS**

ENTITY NAME: A & L PAWLING EQUITY CORP.  
REINSTATE: 08/26/19  
DIS BY PROC: 06/29/16

ENTITY NAME: LALI CORP.  
REINSTATE: 08/29/19  
DIS BY PROC: 06/29/16

**COUNTY: ERIE**

ENTITY NAME: ANADEEDS, INC.  
REINSTATE: 08/06/19  
DIS BY PROC: 08/31/16

ENTITY NAME: INTERTECK PACKAGING INC.  
REINSTATE: 08/26/19  
DIS BY PROC: 08/31/16

ENTITY NAME: NATIONAL CERTA INCORPORATED  
REINSTATE: 08/12/19  
DIS BY PROC: 06/29/16

ENTITY NAME: NELTONE CONSTRUCTION, INC.  
REINSTATE: 07/19/19  
DIS BY PROC: 03/24/93

ENTITY NAME: PURE INTEGRITY, INC.  
REINSTATE: 08/27/19  
DIS BY PROC: 10/26/11

ENTITY NAME: WOODLAWN DELI INC.  
REINSTATE: 09/17/19  
DIS BY PROC: 01/27/10

**COUNTY: JEFFERSON**

ENTITY NAME: HOMESTEAD QUALITY MOBILE HOMES,  
INC.  
REINSTATE: 09/10/19  
DIS BY PROC: 10/26/16

**COUNTY: KINGS**

ENTITY NAME: ALL STAR TAX & ACCOUNTING INC.  
REINSTATE: 08/13/19  
DIS BY PROC: 06/29/16

ENTITY NAME: ALLIED AIRPORT SHUTTLE SERVICE INC.  
REINSTATE: 08/20/19  
DIS BY PROC: 06/29/16

ENTITY NAME: CARING TOUCH HOMECARE INC  
REINSTATE: 09/23/19  
DIS BY PROC: 08/31/16

ENTITY NAME: D.M.N. AUTO COLLISION INC.  
REINSTATE: 08/29/19  
DIS BY PROC: 06/29/16

ENTITY NAME: DMGG INC  
REINSTATE: 08/01/19  
DIS BY PROC: 08/31/16

ENTITY NAME: EMPIRE EQUIPMENT, INC.  
REINSTATE: 08/13/19  
DIS BY PROC: 06/29/16

ENTITY NAME: EUGENE KHAYTSIN DDS, P.C.  
REINSTATE: 08/06/19  
DIS BY PROC: 04/25/12

ENTITY NAME: F&M DAGAN DAIRY INC.  
REINSTATE: 09/17/19  
DIS BY PROC: 03/24/99

ENTITY NAME: FAMILY AUTO REPAIR SHOP CORP.  
REINSTATE: 08/20/19  
DIS BY PROC: 06/29/16

ENTITY NAME: FKNG CORP.  
REINSTATE: 09/20/19  
DIS BY PROC: 10/26/16

ENTITY NAME: FLACO & ANDY BARBERSHOP INC  
REINSTATE: 08/14/19  
DIS BY PROC: 06/29/16

ENTITY NAME: G.B.S. FOODS INC.  
REINSTATE: 08/20/19  
DIS BY PROC: 06/29/16

ENTITY NAME: HATZLOCHA 123 INC  
REINSTATE: 09/04/19  
DIS BY PROC: 08/31/16

ENTITY NAME: LUXURIOUS STANDPOINT INC.  
REINSTATE: 09/03/19  
DIS BY PROC: 08/31/16

ENTITY NAME: M GATES CORP.  
REINSTATE: 08/22/19  
DIS BY PROC: 10/26/16

ENTITY NAME: OPEN STREAM INC  
REINSTATE: 09/30/19  
DIS BY PROC: 08/31/16

ENTITY NAME: PITKIN HOMES, INC  
REINSTATE: 09/20/19  
DIS BY PROC: 10/26/16

ENTITY NAME: Q JEWELRY CREATION LTD.  
REINSTATE: 07/01/19  
DIS BY PROC: 06/29/16

ENTITY NAME: ROCKAWAY AVE. PHARMACY, INC.  
REINSTATE: 09/27/19  
DIS BY PROC: 08/31/16

ENTITY NAME: RODI SERVICE CORP.  
REINSTATE: 09/30/19  
DIS BY PROC: 01/26/11

ENTITY NAME: ROMAR EXPORT AND TRADING CORPORATION  
 REINSTATE: 08/27/19  
 DIS BY PROC: 09/23/92

ENTITY NAME: RS DESIGN ASSOCIATES INC.  
 REINSTATE: 09/11/19  
 DIS BY PROC: 08/31/16

ENTITY NAME: SDI FURNITURE1 INTL. INC.  
 REINSTATE: 07/11/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: SHARPLOTS INC.  
 REINSTATE: 07/12/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: THE FILM COMMUNITY, INC.  
 REINSTATE: 08/13/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: TIAN YUN 99 II CENTS & UP INC  
 REINSTATE: 09/10/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: VITAL SOLUTIONS RX INC.  
 REINSTATE: 09/30/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: WING MING 168 REALTY, INC.  
 REINSTATE: 09/25/19  
 DIS BY PROC: 01/27/10

ENTITY NAME: WONDER AUTO INC  
 REINSTATE: 07/30/19  
 DIS BY PROC: 08/31/16

ENTITY NAME: YF DESIGN INC  
 REINSTATE: 08/30/19  
 DIS BY PROC: 08/31/16

ENTITY NAME: 167 PARK PLACE OWNERS CORP.  
 REINSTATE: 09/17/19  
 DIS BY PROC: 01/27/10

ENTITY NAME: 236 UTICA AVE. REALTY CORP.  
 REINSTATE: 08/29/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: 2544-50 WEST 13TH STREET, INC.  
 REINSTATE: 09/26/19  
 DIS BY PROC: 12/26/79

ENTITY NAME: 808 DEAN STREET CORP.  
 REINSTATE: 07/18/19  
 DIS BY PROC: 01/25/12

**COUNTY: MONROE**

ENTITY NAME: CURRENT SERVICE, INC.  
 REINSTATE: 09/13/19  
 DIS BY PROC: 10/26/11

ENTITY NAME: POWDER POINT BRIDGE, INC.  
 REINSTATE: 09/30/19  
 DIS BY PROC: 10/26/16

**COUNTY: NASSAU**

ENTITY NAME: DAVID JOSEPHS CATERING, INC.  
 REINSTATE: 07/31/19  
 DIS BY PROC: 06/29/16

ENTITY NAME: GIANLOUI TRANS. CORP.  
 REINSTATE: 09/16/19  
 DIS BY PROC: 10/26/11

ENTITY NAME: HYPERBOREANS CORP.  
 REINSTATE: 07/23/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: INTERACTIVE PAYROLL SYSTEMS INC.  
 REINSTATE: 07/16/19  
 DIS BY PROC: 06/29/16

ENTITY NAME: J R E HOLDING CORP.  
 REINSTATE: 07/25/19  
 DIS BY PROC: 06/29/16

ENTITY NAME: J. ROSEN PLASTERING, INC.  
 REINSTATE: 08/19/19  
 DIS BY PROC: 06/29/16

ENTITY NAME: LIMOLINK CORP.  
 REINSTATE: 09/03/19  
 DIS BY PROC: 06/29/16

ENTITY NAME: MADVIN TRUCKING CORP.  
 REINSTATE: 09/16/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: MIND YOUR BEESWAX, INC.  
 REINSTATE: 07/23/19  
 DIS BY PROC: 08/31/16

ENTITY NAME: R.T. MC GRATH'S PUB INC.  
 REINSTATE: 09/26/19  
 DIS BY PROC: 01/27/10

ENTITY NAME: SEMPREM INC.  
 REINSTATE: 07/31/19  
 DIS BY PROC: 08/31/16

ENTITY NAME: 78-80 CHRISTOPHER STREET OWNERS CORPORATION  
 REINSTATE: 07/31/19  
 DIS BY PROC: 06/29/16

**COUNTY: NEW YORK**

ENTITY NAME: ADNY GROUP, INC.  
 REINSTATE: 07/16/19  
 DIS BY PROC: 10/27/10

ENTITY NAME: ANTHONY MORGAN'S INSPIRATIONAL CHOIR OF HARLEM INCOPORATED  
 REINSTATE: 08/01/19  
 DIS BY PROC: 10/26/11

ENTITY NAME: ANTHONY SHUMEYKO INSURANCE AGENCY, INC.  
 REINSTATE: 07/12/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: ARCO INTERNATIONAL, LTD.  
 REINSTATE: 09/11/19  
 DIS BY PROC: 06/29/16

ENTITY NAME: AURIC PROPERTIES 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

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: RENSSELAER**

ENTITY NAME: DTB ENTERPRISES, INC.  
 REINSTATE: 08/07/19  
 DIS BY PROC: 10/26/16

**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

ENTITY NAME: 442 RICHMOND CORPORATION  
REINSTATE: 09/04/19  
DIS BY PROC: 06/29/16

**COUNTY: ROCKLAND**

ENTITY NAME: AMPM ENVIRONMENTAL INC.  
REINSTATE: 09/19/19  
DIS BY PROC: 06/29/16

ENTITY NAME: BANBURY SQUARE APARTMENTS CORP.  
REINSTATE: 09/27/19  
DIS BY PROC: 10/26/16

ENTITY NAME: PET NUTRITION CENTER INC.  
REINSTATE: 09/13/19  
DIS BY PROC: 03/28/01

**COUNTY: SUFFOLK**

ENTITY NAME: DIGITAL CONTROL CONCEPTS, INC.  
REINSTATE: 07/03/19  
DIS BY PROC: 07/29/09

ENTITY NAME: HO-HO ENTERPRISES, INC.  
REINSTATE: 07/31/19  
DIS BY PROC: 12/26/01

ENTITY NAME: K & R TRADING CORP.  
REINSTATE: 07/02/19  
DIS BY PROC: 08/31/16

ENTITY NAME: L.I. DECKS AND REMODELING LTD.  
REINSTATE: 08/14/19  
DIS BY PROC: 06/29/16

ENTITY NAME: MAXIMUS REALTY, INC.  
REINSTATE: 08/02/19  
DIS BY PROC: 06/29/16

ENTITY NAME: MIREILLE M. CONSTANT, MD, P.C.  
REINSTATE: 09/18/19  
DIS BY PROC: 06/29/16

ENTITY NAME: MORRIS & SONS, INCORPORATED  
REINSTATE: 08/13/19  
DIS BY PROC: 10/28/09

ENTITY NAME: RIPE ART GALLERY INC.  
REINSTATE: 09/19/19  
DIS BY PROC: 06/29/16

ENTITY NAME: S & S AUTO REPAIRS INC.  
REINSTATE: 09/20/19  
DIS BY PROC: 01/26/11

ENTITY NAME: SINO LION (USA), LTD.  
REINSTATE: 09/12/19  
DIS BY PROC: 04/25/12

ENTITY NAME: TENAMPA INC.  
REINSTATE: 09/26/19  
DIS BY PROC: 10/26/16

ENTITY NAME: WATER MANAGEMENT OF LONG ISLAND,  
INC.  
REINSTATE: 07/12/19  
DIS BY PROC: 10/26/16

ENTITY NAME: YAPHANK MAIN ST. REALTY CORP.  
REINSTATE: 09/17/19  
DIS BY PROC: 06/29/16

**COUNTY: SULLIVAN**

ENTITY NAME: EDEN ISLAND, INC.  
REINSTATE: 09/27/19  
DIS BY PROC: 06/29/16

ENTITY NAME: PAR COTTAGES INC.  
REINSTATE: 08/07/19  
DIS BY PROC: 10/28/09

**COUNTY: WARREN**

ENTITY NAME: THE DANCE CENTER OF QUEENSBURY, INC.  
REINSTATE: 08/12/19  
DIS BY PROC: 07/29/09

**COUNTY: WESTCHESTER**

ENTITY NAME: ATEKS APPLIANCE REPAIR INC.  
REINSTATE: 08/06/19  
DIS BY PROC: 10/26/16

ENTITY NAME: BEST HAIR PLACE OF NY INC.  
REINSTATE: 09/13/19  
DIS BY PROC: 08/31/16

ENTITY NAME: DOCA'S INC.  
REINSTATE: 07/31/19  
DIS BY PROC: 04/27/11

ENTITY NAME: DWYER REAL ESTATE CORP  
REINSTATE: 08/09/19  
DIS BY PROC: 06/29/16

ENTITY NAME: ENGEL TAX & ACCOUNTING INC.  
REINSTATE: 08/16/19  
DIS BY PROC: 06/29/16

ENTITY NAME: FIFTH AVENUE APPLIANCE SERVICE, INC.  
REINSTATE: 08/13/19  
DIS BY PROC: 04/27/11

ENTITY NAME: FOUR J'S TRANSPORTATION, INC.  
REINSTATE: 09/30/19  
DIS BY PROC: 06/30/04

ENTITY NAME: J & J MULTISERVICE, INC.  
REINSTATE: 07/12/19  
DIS BY PROC: 06/25/03

ENTITY NAME: KELTIC CONSTRUCTION & WOODWORK  
INC.  
REINSTATE: 09/30/19  
DIS BY PROC: 10/26/16

ENTITY NAME: MATT MCCORMICK CONTRACTING, INC.  
REINSTATE: 07/03/19  
DIS BY PROC: 10/26/11

ENTITY NAME: MONTAUK BEACH COMPANY, INC.  
REINSTATE: 08/27/19  
DIS BY PROC: 10/26/16

ENTITY NAME: REESE FAYDE & ASSOCIATES INC.  
REINSTATE: 07/19/19  
DIS BY PROC: 04/29/09

ENTITY NAME: RPM DESIGNS, INC.  
 REINSTATE: 07/11/19  
 DIS BY PROC: 08/31/16

ENTITY NAME: SILVIO'S ITALIAN RESTAURANT, INC.  
 REINSTATE: 09/04/19  
 DIS BY PROC: 04/27/11

ENTITY NAME: SOUTHERN GOODNESS BAKERY, INC.  
 REINSTATE: 09/24/19  
 DIS BY PROC: 01/25/12

ENTITY NAME: TC CONCRETE & PAVING INC.  
 REINSTATE: 07/30/19  
 DIS BY PROC: 06/29/16

**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

ENTITY NAME: RODCO INC.  
 REINSTATE: 08/26/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: SERNA CITY REALTY, INC.  
 REINSTATE: 07/09/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: SHALLOW CREEK, INC.  
 REINSTATE: 09/10/19  
 DIS BY PROC: 08/31/16

ENTITY NAME: THE MANHATTAN MILK COMPANY, INC.  
 REINSTATE: 08/13/19  
 DIS BY PROC: 06/29/16

ENTITY NAME: UNIVERSAL GLOBAL MACHINES, INC.  
 REINSTATE: 07/09/19  
 DIS BY PROC: 10/26/16

**COUNTY: QUEENS**

ENTITY NAME: HI DOGGY CORP.  
 REINSTATE: 08/07/19  
 DIS BY PROC: 10/26/16

ENTITY NAME: SUNHILL FOODS INC.  
 REINSTATE: 07/29/19  
 DIS BY PROC: 08/31/16

**COUNTY: SUFFOLK**

ENTITY NAME: GRACE DENTAL SMILES P.C.  
 REINSTATE: 08/27/19  
 DIS BY PROC: 08/31/16

ENTITY NAME: LAMMIE CORP.  
 REINSTATE: 07/31/19  
 DIS BY PROC: 06/29/16

ENTITY NAME: LAURA MARR LCSW SERVICES P.C.  
 REINSTATE: 07/31/19  
 DIS BY PROC: 10/26/16

**COUNTY: ULSTER**

ENTITY NAME: PLATTEKILL REALTY CORP.  
 REINSTATE: 08/22/19  
 DIS BY PROC: 07/25/12

**NOTICE OF ERRONEOUS INCLUSION  
 IN 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 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

ENTITY NAME: IBS SOFTWARE SERVICES AMERICAS INC.  
 JURIS: GEORGIA  
 REINSTATE: 09/10/19  
 ANNUL OF AUTH: 10/26/16

**COUNTY: DUTCHESS**

ENTITY NAME: TUNEIN, INC.  
 FICT NAME: TUNEIN MEDIA  
 JURIS: DELAWARE  
 REINSTATE: 08/22/19  
 ANNUL OF AUTH: 08/31/16

**COUNTY: NEW YORK**

ENTITY NAME: CAMPANIELLO ENTERPRISES, INC.  
 JURIS: FLORIDA  
 REINSTATE: 08/22/19  
 ANNUL OF AUTH: 01/25/12

ENTITY NAME: DIONEX CORPORATION  
 JURIS: DELAWARE  
 REINSTATE: 08/15/19  
 ANNUL OF AUTH: 06/29/16

ENTITY NAME: FIRESTAR GROUP, INC.  
 FICT NAME: FIRESTONE GROUP (NY)  
 JURIS: DELAWARE  
 REINSTATE: 09/09/19  
 ANNUL OF AUTH: 10/26/11

ENTITY NAME: TECHNOLOGY SOLUTIONS INTERNATIONAL  
 (INCORPORATED)  
 FICT NAME: TSICON  
 JURIS: NEW JERSEY  
 REINSTATE: 08/13/19  
 ANNUL OF AUTH: 01/27/10

**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: BROOME**

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

**COUNTY: NEW YORK**

ENTITY NAME: ABE ENVIRONMENTAL TESTING AND CONSULTING INC  
 JURIS: NEW JERSEY  
 REINSTATE: 08/01/19  
 ANNUL OF AUTH: 01/25/12

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

ENTITY NAME: THE TRANE COMPANY  
 JURIS: NEVADA  
 REINSTATE: 09/10/19  
 ANNUL OF AUTH: 09/23/98

**COUNTY: PUTNAM**

ENTITY NAME: HEREDIA AND KLIMIN INC.  
 JURIS: PENNSYLVANIA  
 REINSTATE: 08/07/19  
 ANNUL OF AUTH: 10/26/16

**COUNTY: QUEENS**

ENTITY NAME: MED 4 HOME INC.  
 JURIS: DELAWARE  
 REINSTATE: 09/26/19  
 ANNUL OF AUTH: 10/27/10

**COUNTY: ROCKLAND**

ENTITY NAME: H.C. CONSTRUCTORS, INC.  
 JURIS: NEW JERSEY  
 REINSTATE: 07/25/19  
 ANNUL OF AUTH: 08/31/16

**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 or 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'Conner, 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, Oneck 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](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](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-2019-0827ForPN.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

Notice of Review of Request for

Brownfield Opportunity Area

Conformance Determination

Project: 300 Ohio Street Site

Location: Buffalo River Corridor Brownfield Opportunity Area

City of Buffalo, Erie County

In accordance with General Municipal Law, Article 18 - C, Section 970-r, the Secretary of State designated the Buffalo River Corridor Brownfield Opportunity Area, in the City of Buffalo, on November 27, 2017. The designation of the Buffalo River Corridor Brownfield Opportunity Area was supported by a Nomination or a comprehensive planning tool that identifies strategies to revitalize the area which is affected by one or more known or suspected brownfield sites.

Pursuant to New York State Tax Law, Article 1, Section 21, the eligible taxpayer(s) of a project site located in a designated Brownfield

Opportunity Area may apply for an increase in the allowable tangible property tax credit component of the brownfield redevelopment tax credit if the Secretary of State determines that the project conforms to the goals and priorities established in the Nomination for a designated Brownfield Opportunity Area.

On October 2nd, 2019, 4216 Group, LLC submitted a request for the Secretary of State to determine whether the 300 Ohio Street Site, which will be located within the designated Buffalo River Corridor Brownfield Opportunity Area, conforms to the goals and priorities identified in the Nomination that was prepared for the designated Buffalo River Corridor Brownfield Opportunity Area.

The public is permitted and encouraged to review and provide comments on the request for conformance. For this purpose, the full application for a conformance determination is available online at: <https://www.dos.ny.gov/opd/programs/pdfs/BOA/300>

*Comments must be submitted no later than November 29th, 2019, either by mail to:* Christopher Bauer, Department of State, Office of Planning and Development, 65 Court St., Suite 208, Buffalo, NY 14202, or by email to: [chris.bauer@dos.ny.gov](mailto:chris.bauer@dos.ny.gov)

**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.

2018-0527 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 11758, 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.

2019-0584 Matter of JL 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 Sharon O'Brien, 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