
NEW YORK STATE
REGISTER

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

For notices published in this issue:

- the 60-day period expires on May 3, 2020
- the 45-day period expires on April 18, 2020
- the 30-day period expires on April 3, 2020

**ANDREW M. CUOMO
GOVERNOR**

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SECRETARY OF STATE**

NEW YORK STATE DEPARTMENT OF STATE

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NEW YORK STATE REGISTER

Be a part of the rule making process!

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

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

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

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

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

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

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

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

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

Office of Alcoholism and Substance Abuse Services

NOTICE OF WITHDRAWAL

Regulation to Outline the Regulatory Requirements for Persons Seeking Credentialing as an Addiction Professional

I.D. No. ASA-06-20-00011-W

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

Action taken: Notice of proposed rule making, I.D. No. ASA-06-20-00011-ASA, has been withdrawn from consideration. The notice of proposed rule making was published in the *State Register* on February 12, 2020.

Subject: Regulation to outline the regulatory requirements for persons seeking credentialing as an addiction professional.

Reason(s) for withdrawal of the proposed rule: Additional amendments are required to modify the fee section.

Department of Economic Development

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Minority and Women-Owned Business Enterprise Program

I.D. No. EDV-09-20-00007-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 140-145; and addition of Parts 146-147 to Title 5 NYCRR.

Statutory authority: L. 2019, ch. 96

Subject: Minority and Women-Owned Business Enterprise Program.

Purpose: Update the regulations of the Division of Minority and Women's Business Development.

Substance of proposed rule (Full text is posted at the following State website: www.esd.ny.gov): The following is a brief summary of the substantive changes made in Parts 140-147.

1) The regulation adds or changes definitions relevant to the MWBE Program. Key definitions include but are not limited to, articles of procurement, minority-owned business enterprise, personal net worth, State contract, substantially fails, women-owned business enterprise, four-year growth plan and Statewide Advocate.

2) The regulation clarifies procedures for State agencies' goal setting process by requiring agencies to develop and adopt annual goal plans, master goal plans and four-year growth plans, consistent with the findings of the disparity study. The four-year growth plan is to include plans to promote and increase the participation of MWBEs on state contracts and subcontracts. Four-year growth plans are to be submitted by January 15 beginning in 2021.

3) The regulation clarifies that State agencies that substantially fail to make a good faith effort to achieve the maximum feasible participation of MWBEs in their contracting shall be required to submit remedial plans to the Director of the DMWBD.

4) The regulation clarifies that agencies must set goals, where practicable, feasible, and appropriate and consistent with the findings of a disparity study for MWBEs on State contracts. In determining appropriate goals, State agencies shall give consideration to factors including but not limited to the relevant availability data and industry specific disparities contained within a disparity study.

5) The regulation clarifies that State agencies shall require contractors to submit utilization plans for achieving contract goals established for the participation of MWBEs on State contracts and to the extent practicable, upon completion of the restrictive period of a procurement, contracting agencies shall notify contractors of winning bids as well as any MWBEs identified in the contractor's submitted utilization plan of such contractor's receipt of the winning bid. Such notice to such MWBEs by the State agency does not guarantee that such MWBE will be selected to perform work on that contract.

6) The regulation clarifies that the Division may require State agencies to submit requests for waivers of goal requirements on a State contract to the Division for compliance review prior to final approval. The director of the Division will not participate in such compliance reviews.

7) The regulation clarifies that subsequent to the award of a State contract to a contractor that becomes deficient with respect to complying with its utilization plan and within twenty days of a State agency determi-

nation that such contractor has not acted in good faith or has failed to comply with the MWBE goals established in the State contract, a State agency may file a complaint with the director of the DMWBD and seek relief such as debarment, damages or fines.

8) The regulation clarifies that the director shall establish guidelines for the implementation of a debarment process regarding MWBEs which may be imposed for violations premised upon fraudulent or intentional misrepresentation by the contractor or the contractor's willful and intentional disregard of the MWBE participation requirements included in a State contract.

9) The regulation clarifies that with respect to the certification criteria of ownership, sources of capital contributions may be shown by providing documentary evidence of such sources, including money, property, equipment or expertise. In determining the sharing of risks and profits, the Division may consider for example, how proceeds of the business are conveyed.

10) The regulation clarifies that with respect to the certification criteria of operation, the minority group member or woman owner must be competent in the industry, must make operational decisions and devote time to the operation of the business. The Division shall consider for example and without limitation, the extent to which licensing, academic credentials or direct work experience is relevant to the industry and decision-making with respect to the critical functions of the business.

11) The regulation clarifies that with respect to the certification criteria of operation, the minority group member or woman owner must have the power to control the business, be the highest ranking officer, and represent themselves as the principal of their business entity to their clients and customers.

12) The regulation clarifies that with respect to the certification criteria of operation, the minority group member or woman owner must have a personal net worth that does not exceed \$15 million dollars or any other applicable threshold established by the Director.

13) The regulation clarifies that with respect to the certification criteria of operation, the minority group member or woman owner may be required to substantiate their claim of membership in a minority group and must agree to allow the department of taxation and finance and department of labor to share tax and employer information with the Division.

14) The regulation clarifies that applications to certify businesses enterprises as a minority or woman-owned business enterprise will be initially notified by the Division of the status of the application within 21 days of receipt. Such notification will identify any deficiencies in the application as well as additional documents needed. The Division may subsequently request additional documents. Applications are to submit requested documents within 20 days of the request and if an applicant does not submit such requested documents, the Division may reject the application. The regulation also clarifies that the Division shall make a determination to approve or deny an application within 45 days of receipt of the completed application.

15) The regulation clarifies that upon the determination by the Division to approve an application, written notice of the determination will be transmitted. Such notification will indicate, among other things that the business has been certified for a period of five years.

16) The regulation clarifies that with respect to denials of certification, if the applicant does not submit a timely request for an appeal, the denial determination will become final and the applicant may not reapply for certification for a period of two years from the receipt of the written notice of denial. If the applicant does appeal and the denial determination is upheld following the complete exhaustion of all appeals, the applicant may not reapply for certification for two years from the date of the final determination and/or judicial order, whichever is later.

17) The regulation clarifies that the director shall revoke the MWBE status of certified businesses for a period of two years if it is demonstrated that the minority group member or women owners no longer own and control the business enterprise. A certified business must notify the Division within 30 days of a material change that would materially affect eligibility and certification criteria, including for example, change in ethnicity, sex, percentage of ownership, officers and services provided.

18) The regulation clarifies that if the Director becomes aware that a certified MWBE no longer meets certification criteria or cannot perform a commercially useful function, the Director may initiate review of the certified MWBE for potential revocation.

19) The regulation clarifies that if the Director becomes aware that any person of an MWBE was convicted of fraud as it relates to the business' certification or was convicted of fraudulently misrepresenting the status of the business enterprise, the Director may revoke such business' certification, for various periods depending on the nature of the convictions.

20) The regulation permits an applicant to submit DD Form 214 by the United States Department of Defense in lieu of other documents as proof of race or ethnicity, date of birth, place of birth and verification of address for purposes of certification.

21) The regulation clarifies that the procedures for appeal of the denial of an application to certify a business enterprise as a minority- or woman-owned business or the issuance of a notification of intent to revoke certification. The regulation clarifies that requests for adjournments must be made to the independent hearing officer at least seven business days prior to the hearing or deadline to submit the written appeal. The regulation clarifies that on appeal, the evidence presented is limited to such relevant evidence and documentation that was before the Division at the time of the denial determination or notification of intent to revoke. The regulation also clarifies that an applicant may make requests for limited discovery. The Division will produce such documents within twenty-one days to the extent reasonable and if such production cannot be made within twenty-one days, the Division will notify the requester and the hearing officer. The regulation clarifies that the hearing officer will submit to the director his or her recommended order within 60 days of the closing of the appeal record and the director shall render his or her final order thereafter, within 30 days.

22) The regulation clarifies that on an appeal of the denial of certification as a minority or woman-owned business enterprise, the standard of review is whether the Division's denial was supported by substantial evidence.

23) The regulation clarifies that on appeal of the revocation of certification, the standard of review is whether the Division's intent to revoke is supported by a preponderance of the evidence.

24) The regulation clarifies that the procedures for appeal with respect to the resolution of complaints concerning state agencies and contractors. The regulation clarifies that requests for adjournments must be made to the independent hearing officer at least seven business days prior to the hearing or deadline to submit the written appeal. The regulation clarifies that on appeal, the evidence presented is limited to such relevant evidence and documentation that was before the Division at the time of the complaint. The regulation also clarifies that an applicant may request limited discovery. The Division will produce such documents within to the extent reasonable and if such production cannot be made within twenty-one days, the Division will notify the requester and the hearing officer.

25) The regulation clarifies that the Division will prepare an annual report concerning the activities of the Division and the efforts to promote the utilization of MWBEs on State contracts. Such report will be submitted to the Chief Diversity Officer by November 1st of each year and will summarize reports by contracting agencies as well as contain other information on, for example, waivers, annual participation rates for each agency, total number of certified MWBEs for that reporting year, total dollar value of state expenditures on certified MWBEs, summaries of determinations of violations by contractors or agencies and related penalties, and expenditures deemed exempt from participation goals. Copies will be provided to the Governor, the Comptroller, the Temporary President of the Senate, the Speaker of the Assembly, the Minority Leader of the Senate, and the Minority Leader of the Assembly and will be made available to the public.

Text of proposed rule and any required statements and analyses may be obtained from: Bella Satra, Department of Economic Development, 625 Broadway, 8th Floor, Albany, NY 12245, (518) 292-5325, email: bella.satra@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:

This rulemaking is made pursuant to Chapter 96 of the Laws of 2019. The statute authorizing the Minority and Women-Owned Business Enterprise ("MWBE") program directs the Director of the Division of Minority and Women's Business Development (the "Division" or "DMWBD") to assist the governor in the formulation and implementation of laws and policies relating to the program. This authority includes the adoption of procedures for the adoption of goal plans by state agencies for MWBE utilization, review of utilization plans by contractors, and certification of businesses as MWBEs. This regulatory impact statement is submitted in conjunction with the submission of a permanent regulation.

LEGISLATIVE OBJECTIVES:

The proposed rule is in accord with the public policy objectives the New York State Legislature sought to advance by enacting the MWBE Program. The program requires state agencies to set goals for participation by minority and women-owned businesses on agency contracts, and to approve utilization plans by contractors for the use of certified MWBEs on their contracts. It is the public policy of New York to address historic discrimination in the state contracting market, and to achieve the economic benefits associated with a competitive state contracting market free of discrimination, through the MWBE program. The proposed rule helps to further such objectives by updating the procedures through which agen-

cies establish goals for participation in state contracts by minority and women-owned businesses, refining the criteria for goal setting so as to better reflect the individual circumstances and capacities of each agency, and modifying the metrics by which agencies assess the availability of minority and women-owned businesses and grant exemptions to contractors' utilization plans.

NEEDS AND BENEFITS:

New York has a history of unequal access to performance on state contracts for businesses owned by women and minorities. The state has addressed these disparities, in part, through the MWBE program. Disparities in access to state contracts have been reduced, but continue to persist in all four of the areas of state contracting addressed by the MWBE program: construction, construction related services, services, and commodities.

Certain aspects of the administration of the program relating to the setting of goals by agencies, the assessment of the availability of minority and women-owned businesses, and the certification of businesses as MWBEs have not been optimized.

The proposed regulation addresses the shortcomings of the existing regulations in a number of ways. First, the rules update the regulations so as to adjust the procedures by which agencies set goals for contract participation by minority and women-owned businesses so as to better reflect the individual needs and capabilities of each agency as well as the relevant availability data and findings of the disparity study. Additionally, the rules update the regulations to facilitate review of requests by contractors for waivers from goal requirements to better hold contractors accountable to the purposes of the program, as well as the metrics by which the availability of minority and women-owned businesses are assessed in the process of setting contract-specific goals. Further, the rules streamline the procedures for applying for certification as a minority or women-owned business as well as clarify the eligibility criteria. The rules also clarify and streamline the procedures for administrative appeals.

COSTS:

I. Costs to private regulated parties (contractors on state contracts): None. The proposed regulation will not impose any additional costs on contractors awarded state contracts.

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. The proposed regulation will not impose any costs on local governments.

LOCAL GOVERNMENT MANDATES:

None. There are no local government mandates associated with the MWBE program.

PAPERWORK:

The rule does not establish any paperwork burdens in addition to those already imposed under the regulation.

DUPLICATION:

The proposed rule will amend an existing section of the regulations of the Commissioner of the Department of Economic Development, Parts 140-45 of 5 NYCRR, and add Parts 146-47 of 5 NYCRR. Accordingly, there is no risk of duplication in the adoption of the proposed rule.

ALTERNATIVES:

No alternatives were considered with regard to creating a new regulation in response to the statutory requirement. The regulation updates existing provisions of the NYCRR. This action is necessary in order to streamline the procedures of the program related to goal setting and adoption of utilization plans for agency procurement contracts and certification of businesses as MWBEs.

FEDERAL STANDARDS:

There are no federal standards applicable to the MWBE Program; it is purely a state program that promotes participation on certain state procurement contracts by minority and women-owned businesses. Therefore, the proposed rule does not exceed any federal standard.

COMPLIANCE SCHEDULE:

The affected agency (Department of Economic Development) and any affected contractors seeking to perform on state procurement contracts will be able to achieve compliance with the regulation as soon as it is implemented.

Regulatory Flexibility Analysis

Application to the minority and women business enterprise (MWBE) program is entirely at the discretion of each eligible business enterprise. Neither Executive Law Article 15-A nor the proposed regulations impose an obligation on any local government or business entity to participate in the program. The proposed regulation does not impose any adverse economic impact, reporting, record-keeping, or other compliance requirements on small businesses and/or local governments. In fact, because by law MWBE firms must be small businesses, the proposed regulations may have a positive economic impact on small businesses as the changes created in the proposed regulations may increase the number of certified small

businesses that are able to access contracting opportunities throughout New York State.

For clarification purposes, the changes crafted in the proposed regulation do not affect local governments because MWBE contract and reporting requirements attach to New York State funded contracts, not locally funded projects. Because it is evident from the nature of the proposed rule that it will have either no substantive impact, or a positive impact, on small businesses and local governments, 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 minority and women business enterprise program is a statewide program. There are eligible businesses in rural areas of New York State. However, participation in the program is entirely at the discretion of eligible business enterprises. The program does impose some responsibility on those businesses which participate such as submitting applications and reports. None of those requirements, however, are being changed by this amendment. The rule change will not impose any additional substantial reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. Therefore, the regulation will not have a substantial adverse economic impact on rural areas and will not impose reporting, recordkeeping 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 Minority and Women-Owned Business Enterprise (MWBE) program aims to remedy disparate access to performance on state contracts for minority and women-owned businesses. The amendments to the MWBE program update certain provisions of the regulation and streamline the procedures by which agencies set goals and evaluate the availability of MWBEs. To the extent that the regulation increases the utilization of MWBEs, it will not have a substantial adverse impact on jobs and employment opportunities as it will neither decrease nor increase the available work through state procurements. Because it is evident from the nature of the rulemaking that it will have no 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.

New York State Board on Electric Generation Siting and the Environment

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

Regulations Implementing Article 10 of the Public Service Law—Definitions

I.D. No. EGS-09-20-00001-EP

Filing No. 136

Filing Date: 2020-02-13

Effective Date: 2020-02-13

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

Proposed Action: Amendment of Parts 1000 and 1001 of Title 16 NYCRR.

Statutory authority: Public Service Law, section 165(5)

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

Specific reasons underlying the finding of necessity: Summary of findings

This rulemaking modifies the definition of the term “revision” and related provisions of 16 NYCRR Part 1000 – the regulations adopted to implement Article 10 of the Public Service Law (PSL). Application of the existing provisions is creating unintended negative consequences, the most prominent of which is to cause unwarranted delays in the permitting

and construction of renewable energy projects. These delays potentially render projects uneconomic by jeopardizing (1) their eligibility for a federal tax credit which expires at the end of 2020; (2) time-sensitive financing commitments; and (3) their achievement of construction milestones needed to maintain rights to interconnect into the State's electric power grid. Immediate action is required because the tax credit has incentivized a large number of environmentally beneficial projects to enter the Article 10 certification process, and that credit is available only to projects that reach completion by the end of 2020. The current regulatory provisions concerning "revisions" trigger additional administrative process, and the delays which that process incurs will likely cause these projects to miss critical construction deadlines and, in turn, could cause them to be withdrawn.

The modifications will facilitate project changes that benefit the environment. The new definition of "revision" ensures that outcome by only requiring further process for project amendments that result in more significant environmental impacts when compared to those impacts from project as certificated or proposed. Conversely, failure to immediately provide relief from the current rigid definition of "revision" will continue to subject the New York State Board on Electric Generation Siting and the Environment (Siting Board), the applicants, and the active parties to unnecessary and costly administrative litigation.

Absent this emergency rulemaking, the State's goals for deployment of renewable energy resources and reduction of greenhouse gas emissions would be impeded. Because these goals are vital to the protection of public health and welfare, and the existing provisions as applied may cause certificated renewable energy projects to be abandoned, the public interest warrants that the definition should be modified immediately and should not await the minimum 60-day public comment period prescribed by State Administrative Procedure Act (SAPA) § 202(1)(a)(ii).

This notice shall also constitute a Notice of Proposed Rulemaking for the purposes of SAPA § 202(1).

Facts and circumstances upon which the findings of emergency are based

Under PSL Article 10, when an application is amended post-filing or post-certification, the Siting Board must conduct a hearing in the same manner as on the initial application. See 16 NYCRR § 1000.16(c) (proposed amendment deemed a "revision" is subject to "a hearing following the procedures. . . for applications"). The existing definition of "revision" is as follows:

An amendment of an application or Certificate proposing or authorizing a change in the major electric generating facility likely to result in any significant increase in any environmental impact of such facility or a substantial change in the location of all or a portion of such facility as determined by the board; not including the shifting of a wind turbine, access road or electric collector line to a new location within a 500 foot radius of the original location provided such change does not significantly increase impacts on sensitive resources or decrease compliance with setback and similar requirements.

Id. § 1000.2(ak) (emphasis added). The Siting Board has interpreted this definition as establishing a bright line test pursuant to which a modification is treated as a "revision" for any proposed or certificated change in location of a wind turbine, access road or electric collector line by greater than 500 feet.¹ The current interpretation requires this result even for a proposed amendment that could be beneficial to the environment.

This emergency rulemaking will eliminate the bright-line test incorporated into the existing definition of "revision" and focus the analysis entirely on whether the proposed amendment would result in any significant adverse environmental impacts. The Siting Board's experience in applying its interpretation of the definition of "revision" to existing renewable energy projects has illustrated the unintended consequences of its adoption of the 500-foot limit as a bright-line test. For example, on January 17, 2018, the Siting Board issued a Certificate of Environmental Compatibility and Public Need ("Certificate") to Cassadaga Wind, LLC, authorizing construction and operation of a 126 MW wind-powered electric generating facility. By Petitions, dated August 21 and September 4, 2019, Cassadaga Wind sought approval of two sets of amendments to its Certificate: Cassadaga Wind proposed (i) relocating the Point of Interconnection (POI) substation by approximately 700 feet northeast of the original certified POI substation location; and (ii) shifting by more than 500 feet four access roads, two collection lines and the transmission line.² Cassadaga Wind attached several appendices to the Petitions to support its contention that the project changes would be environmentally beneficial. Despite this showing, by letter ruling dated October 7, 2019, the Secretary of the Siting Board determined that all of the proposed amendments constituted "revisions," based on the determination that the changes "will shift outside the 500-foot zone established in the regulation at 16 NYCRR § 1000.2(ak)." Accordingly, based on this determination, the Secretary directed further process related to the Project amendments.

The very next day, the Hearing Examiner assigned to the Cassadaga Wind case scheduled a hearing for October 29, 2019, in Sinclairville, New York – near the project location. During the hearing conference and to expedite a final decision on the revisions, the Hearing Examiner required an immediate evidentiary hearing to examine the environmental impacts associated with the Cassadaga Wind's proposed project changes. With respect to the change in location of the POI, an attorney for National Grid – the local distribution utility, explained that "siting got ahead of the interconnection" process that National Grid controls.³ National Grid's attorney then explained that in the context of the interconnection study process, which results were published after issuance of the Certificate for the project, the company concluded that the POI should be moved by approximately 700-feet from the location examined as part of the application process to a new location.⁴ For their parts, the Department of Environmental Conservation (DEC) and the Department of Public Service (DPS) – statutory parties to the proceeding, determined that none of the Project changes would have any significant adverse environmental impacts, taking into account the mitigation proposed by the applicant as part of its submission.⁵ One of the intervenors initially opposed the change of POI location based on noise concerns, but ended up withdrawing its objection.⁶

On November 26, 2019, the Hearing Examiner issued a decision regarding Cassadaga Wind's project amendments, concluding "that the Siting Board may find that the environmental impacts associated with the proposed modifications to the Project are avoided or minimized to the maximum extent practicable."⁷ The Siting Board issued an Order, dated December 3, 2019, adopting the proposed findings from the Recommended Decision. From the time that Cassadaga Wind filed the proposed modifications until the approval, then, it took four months for the applicant to get a final decision – and that was by a process which was as expeditious as the regulations allowed. This delay caused the applicant to miss the entire summer and fall construction seasons for what amounted to a summary determination that the Project amendments would not result in any adverse environmental impacts.

Under this emergency rulemaking, the term "revision" would be redefined so as to focus the evaluation entirely on environmental impacts:

An amendment of an application or Certificate proposing a change in the major electric generating facility likely to result in (i) any significant adverse environmental impacts of such facility, determined according to 6 NYCRR § 617.7(c), in comparison to such impacts of the facility as proposed or approved, or (ii) the identification of an adverse environmental impact not included in the application.

The bright-line test would be deleted from the definition and focus the analysis more appropriately on whether the modification would result in significant adverse environmental impacts that were not considered in the application or Certificate.⁸ Consistent changes would be made to the definition of the term "modification" found at Part 1000.2(x). Additionally, Part 1000.16 would be amended to clarify that the Secretary shall consult with Staff of DPS, DEC and the Department of Health and issue a decision within 14-days of the filing of a proposed amendment regarding whether a project amendment should be treated as a "modification" or "revision." Had this regulatory regime been in place when, for example, Cassadaga Wind filed its proposed changes to the project, the company very likely would have received a final decision within 14 days that the changes constituted a simple modification, thus allowing project construction to commence months earlier than under the current regulatory regime.

Absent the modifications, other certificated projects would likely be delayed by the current rule that a project amendment is a "revision" based solely on the 500-foot test. It is common practice in the renewable industry that project elements are shifted both during the application process and after issuance of a Certificate. Shifting of project elements occurs during construction for a variety of reasons including on-site engineering and construction optimization and landowner concerns. Indeed, wind projects typically range in size from 100 to 300 MW in capacity, equivalent to between 30 and 110 wind turbines. Each turbine, in turn, is typically located on separate, non-contiguous parcels, with at least one access road, accompanied by an individual generator step-up transformer, and are individually connected to collector system cabling and collection lines. Other non-contiguous project components include temporary lay-down areas used during construction, and POI switchyard and substation.

Because of the multi-parcel aspect of a wind project, design drawings and plans approved at the Siting Board are apt to deviate during the compliance and construction phases of a project for a variety of reasons, including: (i) as in Cassadaga, the utility that owns the transmission line(s) that the project will interconnect to, may through the interconnection study process, identify a POI that is different from the POI location proposed and examined in the proceeding; (ii) the shifting of access roads to reduce environmental impacts; (iii) the movement of turbines to mitigate environmental impacts, and sometimes to allow conformance to certificate conditions; (iv) rerouting of collector lines; and (v) other engineering or construction related project optimization changes resulting from field

observations by authorized individuals monitoring the construction of the facility.

In each of these examples, the project changes would likely trigger the same hearing requirement as applied with respect to the application process if any project component is shifted by more than 500 feet, regardless of any resulting environmental benefits. The requisite additional hearing can delay construction of the project, as occurred with respect to the Cas-sadaga amendment process. Indeed, the construction timetables for these projects often include activities that must occur during annually-occurring seasonal windows. A missed window could stall progress until the next available construction season. The construction process, moreover, involves a series of sequenced activities, some of which require the applicant to commit funds to reserve and schedule specialized equipment and technical personnel. In addition, failure to timely achieve certain construction milestones may result in financial penalties. Thus, based on the existing definition of “revision,” an otherwise minor relocation of a project element that occurs during the normal course of design work and/or construction can significantly delay the completion of a project by a year or more.

A regulatory delay, in turn, can jeopardize a renewables project in its entirety. The economic viability of such project often hinges upon time-sensitive financing and/or revenue contracts such as REC agreements or power purchase commitments. Missed deadlines may result in sponsor companies refusing to approve putting additional capital at risk and may result in expiration of those commitments. At present, there is typically a 12-month lead time for ordering wind turbines,⁹ with longer lead times needed for larger Class III turbines used for lower wind speeds and typically planned for New York projects. Wind turbines are ordered through Turbine Supply Agreements (TSAs), which require substantial deposits at execution and carry steep financial penalties associated with early-stage termination. Typically, developers that plan to seek third-party financing will not place a binding purchase order for equipment or labor until all project permits and approvals have been secured and the interconnection process has run its course. Developers must also carefully time and sequence turbine delivery with a project’s financial closing to fund construction, which is dependent on a project receiving all permits and approvals.

A regulatory delay may also cause the developer to forfeit the project’s position and/or ability to participate in the New York Independent System Operator’s (NYISO) annual Class Year process and/or the NYISO Large-Scale Interconnection Application (LGIA) study process¹⁰. If a regulatory delay were to occur and a required NYISO interconnection milestone in the OATT is not satisfied,¹¹ the developer may need to re-start the interconnection study process and re-supply the associated deposits (see Table 1 below), the additional cost and time needed to advance through the study process could further jeopardize a project’s economic viability.

Study	Typical Large Generator Deposit (may not cover full Study cost)
Interconnection Request	\$10,000
Feasibility Study	\$10,000 - \$60,000
System Impact Study/System Reliability Study	\$100,000 - \$150,000
Facilities Study	\$50,000 to \$100,000 plus \$3,000/MW contingent on meeting regulatory milestone ¹²

Table 1. NYISO Large Generator Interconnection Study Deposits Pursuant to OATT 25 Attachment S – Rules to Allocate Responsibility for the Cost of New Interconnection Section 25.6.2.3.4, a project may enter up to two, but no more than two, of the next three consecutive annual Class Year Studies. While a project may defer NYISO Class Year participation while waiting for permitting assurance, there is significant risk associated with deferring as the most recent 2017 Class Year took more than 2 years to complete. Therefore, deferring to enter the Class Year while waiting for permitting assurance may result in a two-year or more project delay. In addition, project sponsors may provide a NYISO Interconnection Facilities Study deposit of \$100,000 plus \$3,000/MW for the nameplate capacity of the project but does so with the intent of reaching the regulatory milestone within a 12-month grace period, upon which the project would be refunded the deposit.¹³ Should the regulatory milestone not be satisfied within the 12-month grace period, the project forfeits the deposit. Finally, once the NYISO tenders a draft Interconnection Agreement to the project, the project must achieve the required regulatory milestone within 6 months. If one of the specified regulatory milestones is not achieved, the project is removed from the NYISO Interconnection queue, a further set back to the project.

For projects with NYSERDA REC Agreements, NYSERDA requires

that developers post Contract Security for awarded projects, with additional Contract Security required throughout the development process to ensure that the project continues to be viable and will reach Commercial Operation. It is important to note that Contract Security is fully refundable upon Commercial Operation/Operational Certification by NYSERDA; it is only non-refundable if the project does not reach commercial operation. In the event the project reaches commercial operation with a smaller MW capacity than originally awarded, NYSERDA will retain a portion of the Contract Security in proportion to what was built.

Further, NYSERDA REC Agreements require additional Contract Security at predictable intervals throughout the project development process to ensure that the project continues to be viable and will reach Commercial Operation. Permitting delays introduce uncertainty to the project and may cause project sponsors to decline to put additional capital at risk for the project. Additional capital includes the provision of Contract Security to NYSERDA in exchange for extending the Agreements Commercial Operational Milestone Date (COMD). Failure to either meet the requirements of Commercial Operation or posting additional Contract Security to extend the COMD is a default under the NYSERDA Agreement.

When projects are bid into NYSERDA’s annual Renewable Energy Standard Request for Proposal solicitation, these bids typically assume the availability of the federal Investment Tax Credit and Production Tax Credit. While these tax structures were recently extended and updated in December 2019, the existing structures retain the need to demonstrate compliance via providing additional capital for procuring project specific equipment or starting project construction. The latter requires the applicant to obtain requisite permitting approvals, and the former is rarely entertained until the permitting and interconnection processes have matured to a point where any uncertainty of the project has been extinguished. As project sponsors will rarely risk capital for projects that are not yet legally permitted and able to proceed to construction, delaying approvals by a calendar year creates an environment where a wind generation project can lose at least 20% of the federal Tax Credit it was counting on for financing purposes, and can render the project uneconomic.

Moreover, as noted, many post-Certificate construction plan changes that move project elements by greater than 500 feet may be beneficial to the environment. The Article 10 process should not discourage renewable developers from making beneficial project changes by introducing additional risk and uncertainty to project development timelines. The 500-foot bright line test, thus, is potentially acting as a disincentive to developers from making beneficial project changes. Deletion of the bright-line test from the definition of “revision,” would eliminate this disincentive.

The proposed new definition of “revision” comports with the intent of PSL Article 10. Notably, PSL Article 10 itself does not contain a definition of “revision,” which was included in the first set of regulations, adopted on July 10, 2012. The Memorandum in Support of L. 2011, c. 388, enacting PSL Article 10, provides that “[a]n important element of increasing the availability of new power generation is enacting a simplified regulatory process to site new power plants.” Indeed, one of the primary purposes of Article 10 is to “streamline[] the licensing process for the siting of energy sources 25 megawatts or larger in a manner that will meet the energy and reliability needs of the state’s energy consumers.” The existing definition of “revision” circumvents the stated goal of this law by, as noted, creating more process for and creating potential disincentives to implement project modifications that are beneficial to the environment.

The existing definition of “revision” also conflicts with the State’s goals under the State Energy Plan to aggressively pursue renewable energy. The 2015 New York State Energy Plan (SEP), for example, explains that New York must accelerate both (i) “its ongoing transition to a clean energy economy in order to capture the benefits of scale that will lower project costs and produce the job growth, increased private investment in local economies, and emissions reductions that the State and its residents need,” and (ii) “the State’s clean energy transition by applying a set of coordinated and complementary actions and tools, including revising the State’s energy regulatory framework, advancing of the State’s clean energy programs, and leading by example through the execution of various State and local government operations and initiatives.”¹⁴ Around this time, the Commission adopted the Clean Energy Standard (CES), providing direction with respect to reaching the goal of 50 percent renewable energy by the year 2030.¹⁵

With the global climate change becoming more of a reality, the State has adopted even more aggressive renewable energy goals. For example, in the recently-enacted New York State Climate Leadership and Community Protection Act (CLCPA), the Legislature found that continued industrial emission of greenhouse gases at existing levels is threatening public health and welfare. The CLCPA, then, includes a commitment to obtain 70% of the State’s electric generation from non-emitting resources by the year 2030. Each megawatt of renewable generation added to the State’s electric resource mix potentially displaces a megawatt of generation produced by older facilities that emit harmful greenhouse gases. Every

lost opportunity to site a proposed renewable generation project, then, sets back the attainment of the CLCPA's intended public health and welfare benefits.

At present, land based renewable generation projects capable of supplying over 13,000 megawatts of emission-free electricity are either in the NYISO interconnection Queue or in the pre-application or application stages before the Siting Board review process under Article 10. This is a high quantity and when added to potential off-shore wind projects will go a long way in helping New York State achieve its renewable energy goals. If the Article 10 amendment process were to cause projects to miss the federal tax credit or NYSERDA deadlines, they would have less incentive to reach completion. The potential loss of these projects due to regulatory delay and the public health and welfare consequences of that loss, which will be mitigated by the proposed rule, warrants adoption of the rule on an emergency basis.

¹ See, e.g., Case 14-F-0490, Order Granting Certificate of Environmental Compatibility and Need, With Conditions (issued January 17, 2018); Case 16-F-0328, Order Granting Certificate of Environmental Compatibility and Need, With Conditions (issued November 12, 2019); and Case 16-F-0205, Application of Canisteo Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 for Construction of a Wind Energy Project in Steuben County (filed November 2, 2018).

² The documents filed in Cassadaga Wind, Case No. 14-F-0490, Application of Cassadaga Wind, LLC, can be found at: documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=14-F-0490&submit=Search.

³ See Transcript of October 29, 2019 Hearing, p. 17.

⁴ Id. p. 39.

⁵ Id. p. 39-42.

⁶ Recommended Decision (Nov. 26, 2019), p. 6.

⁷ Id. p. 7.

⁸ This definition refers to the aspect of the DEC's regulations that provide specific criteria for determining the significance of an environmental impact.

⁹ Bloomberg New Energy Finance, 2H 2019 Wind Turbine Price Index, Non-participant report, December 16, 2019, page 26.

¹⁰ The NYISO Class Year process is the process a project will undergo to be assigned Capacity (CRIS) and Energy (ERIS) rights. The NYISO's interconnection processes enable parties to pursue construction and interconnection of new and materially modified generation, transmission, and load facilities to the NYS Transmission System and Distribution System. See NYISO OATT 30 Attachment X – Standard Large Facility Interconnection Procedures.

¹¹ Pursuant to OATT 25 Attachment S – Rules to Allocate Responsibility for the Cost of New Interconnection Section 25.6.2.3.2

¹² See OATT 25 Attachment S – Rules to Allocate Responsibility for the Cost of New Interconnection Section 25.6.2.3.1, including Section 25.6.2.3.1.1.7

¹³ Pursuant to Section 25.6.2.3.1.1.7 of the NYISO OATT, for a Large Generator that is larger than 25 MW, a determination pursuant to Article 10 of the Public Service Law that the Article 10 application filed for the Large Generator is in compliance with PSL § 164.

¹⁴ The SEP can be found at <https://energyplan.ny.gov/Plans/2015.aspx>.

¹⁵ See Case No. 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, "Order Adopting A Clean Energy Standard" (Aug. 1, 2016).

Subject: Regulations Implementing article 10 of the Public Service Law—Definitions.

Purpose: To amend the regulatory definitions of "modification" and "revision" of an article 10 application for a CECPN.

Text of emergency/proposed rule: Paragraphs (x) and (ak) of Section 1000.2 are hereby amended as follows:

(x) Modification: An amendment of an application or Certificate that is not a revision [; including the shifting of a wind turbine, access road or electric collector line to a new location within a 500 foot radius of the original location provided such change does not significantly increase impacts on sensitive resources or decrease compliance with setback and similar requirements].

(ak) Revision: An amendment of an application or Certificate proposing [or authorizing] a change in the major electric generating facility likely to result in (i) any significant [increase in any] adverse environmental impacts of such facility [or a substantial change in the location of all or a portion of such facility as determined by the board; not including the shifting of a

wind turbine, access road or electric collector line to a new location within a 500 foot radius of the original location provided such change does not significantly increase impacts on sensitive resources or decrease compliance with setback and similar requirements], *determined according to 6 NYCRR § 617.7(c), in comparison to such impacts of the facility as proposed or approved, or (ii) the identification of an adverse environmental impact not included in the application.*

Paragraph (a) of Section 1000.16 is amended to read as follows:

(a) [To determine whether a proposed amendment is a revision: (1) the criteria for determining significance set forth in 6 NYCRR section 617.7(c) will apply; and (2) as appropriate, the staffs of the DPS, the DEC and the DOH shall be consulted] *The Secretary shall, within 14 days of the filing submitted pursuant to paragraph (b) of this section, determine whether a proposed amendment is a revision following consultation with the staffs of DPS and, as appropriate, the staffs of the DEC and the DOH.*

Paragraph (i) of Section 1001.22 is amended to read as follows:

(i) A map showing delineated boundaries based on on-site identification of all Federal, State and locally regulated wetlands present on the facility site and within [500] 100 feet of areas to be disturbed by construction, including the interconnections; and predicted presence and extent of wetlands on the remainder of site properties and adjacent properties within [500] 100 feet of areas to be disturbed by construction. For adjacent properties without accessibility, initial surveys may be based on remote-sensing data, interpretation of published wetlands and soils mapping and aerial photography.

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 May 12, 2020.

Text of rule and any required statements and analyses may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, NY 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, NY 12223, (518) 474-6530, email: secretary@dps.ny.gov

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

Regulatory Impact Statement

1. Statutory authority: Public Service Law § 165(5): "Hearing schedule. If an application for an amendment of a certificate proposing a change in the facility is likely to result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility, a hearing shall be held in the same manner as a hearing on an application for a certificate. The [New York State Board on Electric Generation Siting and the Environment] shall promulgate rules, regulations and standards under which it shall determine whether hearings are required under this subdivision and shall make such determinations."

2. Legislative objectives: To determine the standards under which hearings are required on an amendment to an application for a Certificate of Environmental Compatibility and Public Need under Public Service Law Article 10 for construction and operation of an electric generating facility, and to foster attainment of the Legislative goal, set forth in the in Chapter 106 of the Laws of 2019 "Climate Leadership and Community Protection Act", to obtain 70% of the State's electricity production from generation facilities which do not emit greenhouse gases by the year 2030.

3. Needs and benefits: The purpose of the proposed rule is to eliminate a regulatory hurdle that could jeopardize construction of new renewable electric generating facilities. It is expected that construction of certificated projects will be efficient by the revision to requirements related to a project amendment. This expectation is based on the relatively common practice in the renewable industry of shifting project elements both during the application process and after issuance of a Certificate. Shifting of project elements occurs during construction for a variety of reasons including on-site engineering and construction optimization and landowner concerns. The Article 10 process should encourage renewable developers to make beneficial project changes without introducing additional risk and uncertainty to project development timelines. Should a beneficial project change be identified in the field, the developer should be encouraged by the process to bring forth the better solution in a timely manner. The 500-foot bright line test, thus, is potentially acting as a disincentive to developers from making beneficial project changes. Deletion of the bright-line test from the definition of "revision," would eliminate this disincentive.

It is needed to ensure that the citizens of the State will receive the health and general welfare benefits afforded by expeditious deployment of renewable energy resources.

4. Costs: Regulated industries are already required to submit information for the application. The costs associated with this proposal may result in an incremental decrease in activities to comply with application process.

5. Local government mandates: There are no anticipated added costs to local governments.

6. Paperwork: The proposed amendments are not expected to entail any significant additional paperwork for the Department, industry, or State and local governments beyond that which is already required to comply with the application process.

7. Duplication: There are no relevant federal regulations that duplicate, overlap, or conflict with the proposed revisions.

8. Alternatives: There is a "No action alternative," but the purpose of this rule is to change the application review process.

9. Federal standards: Not applicable.

10. Compliance schedule: No additional time will be needed to enable regulated persons to achieve compliance with the rule.

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

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas or jobs.

The proposed rule would amend the definitions of "modification" and "revision" of an Article 10 application for a Certificate of Environmental Compatibility and Public Need (CECPN).

This is a statewide administrative process for those companies choosing to apply for permitting and construction of renewable energy projects. The proposed rule is intended to minimize impediments in the application process and assist the State in meeting renewable energy goals.

A regulatory flexibility analysis for small businesses and local governments is not being submitted because these amendments do 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.

A job impact statement is not submitted because this proposed rule will have no adverse impact on jobs or employment opportunities.

A rural area flexibility analysis is not required for this proposal since it will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on rural areas.

rected in this rulemaking, along with some modifications to areas where the State is different from federal requirements.

Eleven rules relate to National Emission Standards for Hazardous Air Pollutants for Source Categories, also known as Maximum Achievable Control Technology (MACT) rules. These include Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors and subsequent technical corrections, interim standards, and subsequent amendments; technical corrections to Hazardous Air Pollutant Standards; and national emissions standards for Surface Coating of Automobiles and Light-Duty Trucks.

Several other federal rules are discussed below. A complete list of Federal Rules and their descriptions is available on DEC's website.

Deletion of Five Waste Streams

The State proposes to revise 6 NYCRR 371.4(c) and Appendix 22 of Part 371 to delist K064, K065, K066, K090, and K091 from the listing of hazardous waste. EPA delisted these five waste streams, since the wastes are no longer generated, or are managed in a fashion that does not warrant listing.

Mineral Processing Spent Materials being Reclaimed as Solid Wastes and TCLP Use with MGP Waste

Two parts of the May 26, 1998 Phase IV Land Disposal Restrictions rule were vacated by a Federal Court. The first part vacated was a provision introduced in 1998 which classified mineral processing characteristic sludges and by-products being reclaimed as solid wastes. With the new 6 NYCRR 371.1(e)(1)(xxii) provision, mineral processing characteristic spent materials will become eligible for a conditional exclusion when being reclaimed. The court also vacated a part of the rule relating to manufactured gas plant (MGP) waste; based on that ruling MGP waste may be handled as non-hazardous solid waste. Most MGP waste is non-hazardous, but some wastes may exceed the Toxicity Characteristic Leaching Procedure (TCLP) limit for benzene. The state will adopt regulations that will allow MGP waste that exceeds the TCLP limit for benzene to be managed as non-hazardous waste under conditions consistent with the Division of Environmental Remediation (DER) Program Policy, Management of Coal Tar Waste & Coal Tar Contaminated Soils from Manufactured Gas Plants (DER-4). The waste must originate from a site being remediated under Department oversight; it must be thermally treated; and it cannot contain a significant percentage of sulfurous purifier waste.

Zinc Fertilizers made from Recycled Hazardous Secondary Materials

Parts 370 and 371 and subpart 374-1 are being amended to adopt the Zinc Fertilizer rule. This rule adopts EPA regulations governing new product specifications for contaminants in zinc fertilizers, and provides a more consistent regulatory framework for the recycling of hazardous secondary materials used to make zinc fertilizer products. The final pollutant standards in these regulations are consistent with the State's standards for solid waste-derived fertilizers.

Treatment Variance for Radioactively Contaminated Batteries

Revisions are being made to 6 NYCRR 376.4(a), Treatment Standards for Hazardous Wastes table, to adopt a treatability variance from the Land Disposal Restrictions standards for the treatment of radioactively contaminated cadmium, mercury and silver batteries. It also designates new waste/treatment subcategories for the safe disposal of residual radioactive contaminated materials.

Recycled Used Oil Management Standards; Clarification

This rule clarifies three aspects of the used oil management standards regulated by RCRA: (1) used oil contaminated with Polychlorinated Biphenyl (PCB); (2) used oil mixed with Conditionally Exempt Small Quantity Generator (CESQG) waste; and (3) the records that the initial marketer of on-specification used oil is required to keep. Clarifying revisions regarding used oil management were made to Part 371 in this rulemaking. Amendments to the 6 NYCRR 374-2 used oil regulations were incorporated into the Petroleum Bulk Storage (PBS) rulemaking which became effective in Fall 2015.

Nonwastewaters from Productions of Dyes, Pigments, and Food, Drug, and Cosmetic Colorants; and Dyes and Pigments Corrections

EPA identifies nonwastewaters generated from the production of certain dyes, pigments and FD&C colorants as hazardous. In addition, this rule adds five components that serve as a basis for classifying wastes as hazardous substances and it establishes land disposal restriction treatment standards for these wastes. Changes are being made to Parts 371 and 376 to adopt this rule.

Methods Innovation Rule and SW-846 Final Update IIIB and Subsequent Correction

EPA amended a variety of testing and monitoring requirements in the RCRA hazardous and nonhazardous regulations and in certain Clean Air Act regulations that relate to hazardous waste combustors, in order to allow more flexibility when conducting RCRA-related sampling and analysis. (State language will not specifically list all methods in SW846 in the incorporation by reference section.) Changes to the 6 NYCRR 374-2 used oil regulations were incorporated into the PBS rulemaking which became effective in Fall 2015.

Department of Environmental Conservation

NOTICE OF ADOPTION

Hazardous Waste Management Regulations (FedReg5)

I.D. No. ENV-24-19-00002-A

Filing No. 141

Filing Date: 2020-02-18

Effective Date: 60 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 370-374 and 376 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, art. 3, title 3, art. 27, titles 7, 9, art. 70, art. 71, titles 27 and 35

Subject: Hazardous Waste Management Regulations (FedReg5).

Purpose: To amend regulations pertaining to hazardous waste management.

Substance of final rule: The New York State Department of Environmental Conservation's (DEC) hazardous waste management regulations are contained in 6 NYCRR Parts 370, 371, 372, 373, 374, and 376.

On May 29, 1986, the United States Environmental Protection Agency (EPA) granted New York final base authorization to administer and enforce DEC's July 14, 1985 regulations in lieu of the equivalent federal regulations (51 FR 17737). In order to maintain this authorization, DEC must continually amend the hazardous waste regulations to be consistent with and at least as stringent as the EPA's amendments to the federal hazardous waste management regulations pursuant to Section 3006 of Resource Conservation and Recovery Act (RCRA) as amended.

Federal Rules

The proposed rulemaking incorporates into New York State regulations changes made within 38 federal regulations, promulgated from September 30, 1999 through April 8, 2015 with certain conforming changes through November 28, 2016. In addition, about 80 typographical errors, clarifications and inconsistencies between State and federal regulations are cor-

Universal Waste: Mercury Containing Equipment and Subsequent Correction

This rule adds mercury-containing equipment to the federal list of universal wastes regulated under the RCRA hazardous waste regulations. EPA has concluded that this change will lead to better management of this equipment and facilitate compliance with hazardous waste requirements. This rule has already been effectively implemented in the State using enforcement discretion pursuant to CP-39, Use of Enforcement Discretion for Discarded Mercury-Containing Equipment. Once provisions for this rule are adopted into the hazardous waste management regulations, CP-39 will be formally rescinded by DEC.

Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (“Headworks Exemptions”)

6 NYCRR 371.1(d)(1)(ii) is being amended to add benzene and 2 ethoxyethanol to the list of spent solvents that may be contained in wastewaters when going to treatment, and the concentrations at which they may be exempted from the definition of hazardous waste under RCRA. In addition, this subparagraph is being amended to allow generators to directly measure solvent chemical levels at wastewater treatment systems. It also extends the eligibility for the de minimis exemption in 6 NYCRR 371.1(d)(ii) to other hazardous wastes and to non-manufacturing facilities.

RCRA Burden Reduction Incentive

This rule promotes changes to the regulatory requirements of the RCRA hazardous waste program to reduce the paperwork burden to states, EPA and the regulated community. EPA has estimated the annual savings will range from 22,000 to 37,500 in man hours and \$2 million to \$3 million in cost. It will streamline the information collection requirements of the RCRA program. Certain state notification and documentation requirements will be retained throughout the hazardous waste management regulations, and the State requirement for independent professional engineer certification will be retained.

Cathode Ray Tubes (CRTs), and Revisions

This rule streamlines the management requirements for recycling of used CRTs and glass removed from CRTs. This rule is intended to encourage recycling and reuse of used CRTs and CRT glass. This rule has already been effectively implemented in the State using enforcement discretion pursuant to CP-57, Use of Enforcement Discretion for Cathode Ray Tube (CRT) Glass. Once provisions for this rule are adopted into the hazardous waste management regulations, CP-57 will be formally rescinded by DEC. EPA’s 2014 revisions, which allow EPA to better track exports, will also be adopted.

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019

The scope of hazardous waste code F019 is amended in 6 NYCRR 371.4(b) to conditionally exempt wastewater treatment sludges from zinc phosphating, when such phosphating is used in the motor vehicle manufacturing process.

Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities

New 6 NYCRR 372.2(e) is adopted to provide an alternative set of regulations which allow eligible academic entities the flexibility to make hazardous waste determinations in the laboratory; at an on-site central accumulation area; or at an on-site treatment, storage, or disposal facility (TSDF). This rule also provides incentives for eligible academic entities to clean-out old and expired chemicals that may pose unnecessary risk. Further, this rule requires the development of a Laboratory Management Plan (LMP). Eligible academic entities may choose to remain subject to the pre-existing hazardous waste generator requirements. Eligible academic entities are colleges and universities, and teaching hospitals and nonprofit research institutes that are either owned by or formally affiliated with a college or university.

Delisting of Saccharin and its Salts (U202)

Saccharin and its salts are removed from the lists of hazardous wastes and hazardous constituents in Parts 371 and 376.

Revision of Treatment Standards for Carbamate Wastes

This rule revises the Land Disposal Restrictions (LDR) treatment standards in 6 NYCRR 376.4(a), Treatment Standards for Hazardous Wastes table, and in 6 NYCRR 376.4(j), Universal Treatment Standards table. This is for hazardous wastes from the production of carbamates and carbamate commercial chemical products, off-specification or manufacturing chemical intermediates and container residues that become hazardous wastes when they are discarded or intended to be discarded. The rule allows the use of the best demonstrated available technologies (BDAT) as an alternate standard for treating these wastes. In addition, this action removes carbamate regulated constituents from the Universal Treatment Standards table.

Response to Vacatures of the Comparable Fuels Rule and the Gasification Rule

This rule revises regulations associated with the comparable fuels exclusion and the gasification exclusion. These revisions implement vacatures ordered by the US Court of Appeals on June 27, 2014.

State Initiatives

Most of the state initiatives address clarifications and improvements to the regulations. Three particular proposed changes which clarify regulatory intent are discussed below.

The definition of “small quantity generator” in 370.2(b) is being revised to clarify the meaning, and to conform to EPA’s revised definition, published in the Federal Register on November 28, 2016.

Clause 373-1.5(a)(2)(viii)(‘a’) is modified to clarify that permit applications address prevention of hazards for loading as well as unloading areas, and including spills in addition to physical hazards.

In summary, the proposed amendment to 6 NYCRR Parts 370-374 and 376 will: (1) update several provisions that are required for compatibility with federal regulations; and (2) simplify, clarify and update language.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 373-1.7(c)(15), 373-2.5(b)(1), (c)(2) and 373-2.10(g)(6).

Text of rule and any required statements and analyses may be obtained from: Michelle Ching, Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7256, (518) 402-8651, email: hwregs@dec.ny.gov

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

Summary of Revised Regulatory Impact Statement

1. Statutory Authority

Article 3, Title 3; Article 27, Titles 7 and 9; Article 70; and Article 71, Titles 27 and 35 of the Environmental Conservation Law (ECL) authorize this regulatory package. The New York State Department of Environmental Conservation (DEC) is authorized to promulgate regulations and standards applicable to the generation, storage, transportation, treatment and disposal of hazardous waste, as necessary to protect human health and the environment. By statute (ECL Section 27-0900), these regulations and standards must be at least as stringent as those established by the United States Environmental Protection Agency (EPA) under authority of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) (42 USC Sections 6901 et seq.).

2. Legislative Objectives

The statutory authority for DEC to amend Parts 370-374 and 376 is found in Chapter 639, Laws of 1978, ECL Article 27, Title 7, and ECL Article 27, Title 9, and is consistent with ECL Article 27, Title 21 and ECL Article 27, Title 26. The full Regulatory Impact Statement summarizes each of these statutory sections.

3. Needs and Benefits

DEC’s hazardous waste management regulations are contained in 6 NYCRR Parts 370, 371, 372, 373, 374, and 376.

On May 29, 1986, the EPA granted New York final base authorization to administer and enforce DEC’s July 14, 1985 regulations in lieu of the equivalent federal regulations (51 FR 17737). In order to maintain this authorization, DEC must continually amend the hazardous waste regulations to be consistent with and at least as stringent as the EPA’s amendments to the federal hazardous waste management regulations pursuant to Section 3006 of RCRA and HSWA.

The proposed rulemaking incorporates changes made within 38 federal registers, promulgated from September 30, 1999 through April 8, 2015, with certain conforming changes through November 28, 2016, into New York State regulations. These changes will reduce regulatory duplication for the regulated community and improve consistency with EPA. The rules will be protective of human health and the environment, while encouraging environmentally sound recycling and reclamation. Adoption of some provisions is necessary to incorporate improved worker safety and environmental protection. Because some of the federal provisions are more stringent, DEC must adopt these provisions in order to maintain authorization for the RCRA program. For several of the rules, significant cost savings and paperwork reductions will be recognized by the regulated community while protection of human health and the environment will be maintained. Some changes to state regulation are administrative, others address corrections or clarifications to regulations.

In addition, about 80 typographical errors, clarifications and inconsistencies between state and federal regulations are corrected along with some modifications to areas where state requirements are different from federal requirements. While some of the state initiatives may be seen as more, or less, stringent than existing regulation, any decrease in stringency is administrative in nature, and the regulations continue to be at least as stringent as analogous federal requirements.

The proposed rulemaking reflects what is presently effective at the federal level. The proposed rulemaking includes amendments to 6 NYCRR Parts 370, 371, 372, 373, 374, and 376. A general description of the amendments can be found in the Summary of Express Terms.

Maintaining RCRA and HSWA authorization and keeping current with the federal regulations is beneficial to the state and the regulated community:

a. New York would continue to have primary responsibility for management of the federal hazardous waste management program and any related compliance and enforcement activities.

b. Less confusion occurs when the regulated community can follow one set of regulations (i.e., New York's). This will eliminate dual regulation and the need for the regulated community to obtain two permits. New York State would be the sole permitting authority upon delegation.

c. Where EPA has promulgated amended HSWA regulations that are more stringent than existing state regulations, the regulated community must meet two different regulatory standards for the same regulated activity. The resulting confusion is resolved when the state adopts the new federal standards and matches the revised federal regulations.

d. The state's management of the hazardous waste regulatory program is more sensitive to local conditions, concerns and needs.

e. The state would obtain maximum grant support from the EPA.

f. Limited state, federal and private resources can be more effectively used to protect human health and the environment.

g. The state would maintain a comprehensive set of regulations regarding air, water, and solid and hazardous waste programs, managing all environmental aspects of industrial and commercial facilities.

The federal registers referenced in the Summary of Express Terms provide greater detail on the environmental benefits resulting from the federally based proposed changes. The federal registers also provide further discussion on areas where revised standards will simplify waste management or encourage recycling while still being protective of human health and the environment.

The proposed change to clarify that permit application documents address prevention of hazards for loading as well as unloading areas, and expand the examples of hazards to include spills in addition to physical hazards will increase environmental protection.

4. Costs

a. Costs to the Regulated Community

DEC is adopting the majority of EPA's updated regulations without substantive change. The adoption of these proposed amendments should not result in substantial additional costs to the regulated community or other branches of local or state government. In some instances, the cost of regulatory conformance will decrease. These changes will also increase consistency between New York State regulations and federal regulations.

There were no cost increases to the regulated community noted in the federal registers that DEC is proposing to adopt. In six federal registers proposed for adoption, the EPA identifies national cost savings:

The Mercury-Containing Equipment rule: The cost savings in New York is estimated to be about \$17 thousand annually.

The revisions to the "Headworks Exemption:" New York entities could realize savings of \$830 thousand to \$3.5 million annually.

The federal Burden Reduction rule: While not all of the federal changes were adopted, New York facilities could realize an annual savings of up to 748 to 1,258 in work-hours and \$68 thousand to \$102 thousand in cost.

The Cathode Ray Tubes Rule: A net savings of about \$365 thousand in 2005 dollars could be realized.

The Academic Labs Rule: Annual savings of around \$30 thousand in 2008 dollars could be realized if two entities that are large quantity generators and six entities that are small quantity generators participate in the Academic Labs Rule.

The removal of saccharin and its salts from the list of hazardous constituents is expected to result in net savings and reduction in paperwork to regulated entities.

The EPA did not identify cost increases in any federal registers proposed for adoption.

b. Costs to DEC, State, and Local Government

The actual costs to DEC for implementing these changes should not be substantial. The proposed regulations require no additional statutory authority, do not create new regulatory programs, do not expand existing regulatory programs, and do not increase the universe of the regulated community beyond that which is already required by the federal regulations.

- Adoption of the "Headworks Exemptions" will require additional staff time of about 27 hours.

- Adoption of the CRT Rule will result in additional workload to DEC because the rule encourages more entities to recycle CRTs.

- Adoption of the Academic Labs Rule will require approximately 3 hours of additional staff time per participating entity.

Other costs to DEC should be minimal. Conformance with these amend-

ments should not result in substantial additional costs to other branches of local or state governments.

Cost savings to DEC will result from DEC's adoption of the federal rules addressing the standards for hazardous air pollutants by decreasing duplication of effort in the permitting process. Cost savings to DEC will also result from eliminating the requirement for generators of certain recyclable materials to submit notifications to DEC, called "c7" notifications.

The costs involved for DEC to complete this rulemaking process are those associated with printing the amendments, notifying the regulated community, procuring reference documents, conducting the public hearings, and staff time.

Failure to promulgate any of these proposed regulations could result in revocation of New York's authorization to administer its hazardous waste program by the EPA, thereby leading to a reduction in EPA grant monies and confusion in the regulated community. It would also result in New York State regulations being less stringent than their federal counterpart.

The Federal Registers proposing and adopting these changes to federal regulation provided cost/benefit analysis. For those federal rules promulgated under HSWA authority which increase stringency, these rules are already in effect pursuant to federal law. There is no additional cost to the regulated community for the state to adopt them. The rulemaking will allow the state to also enforce these rules and, once authorized, to enforce the rules in lieu of EPA.

Federal rules promulgated under RCRA which increase stringency do not become effective in authorized states until the state adopts them. New York State is mandated by statute to adopt these changes. Additional analysis beyond what has been presented here for these rulemaking changes can be found in the Federal Register. This federal analysis also addresses environmental benefit. The proposed rules are either mandated by statute and/or will decrease costs to the regulated community. A listing of all the federal rules proposed for adoption is included in the Summary of Express Terms.

c. Basis of Cost Estimates

EPA completed full cost analysis for each federal rule and the cost information from these federal analyses were used as the basis for the development of the cost estimates included in the discussion above. Data from the "National Biennial RCRA Hazardous Waste Report (2009)" and from DEC's computer data systems were used to assist in determining New York State's component of national costs.

5. Local Government Mandates

No additional recordkeeping, reporting, or other requirements will be imposed just on local governments by this rulemaking.

6. Paperwork

Some of the proposed regulations may result in added paperwork. Some of the changes will make existing regulations less stringent and reduce paperwork requirements. In most cases, paperwork may now be submitted and maintained in electronic format.

7. Duplication

The proposed amendments will not result in a duplication of state regulations. Instead, by adopting the recent federal regulations, New York will not only retain authorization, but also reduce duplicative state and federal regulation of hazardous waste in New York State.

8. Alternatives

For the federal changes which increase stringency, amending the existing Part 370 series regulations is the only viable regulatory alternative available for maintaining DEC's regulations as stringent as EPA's. Similarly, there are no viable non-regulatory options.

The "no-action" alternative could result in the state's loss of authorization. If this were to occur, the regulated community would have to satisfy two sets of regulations (i.e., federal and pre-existing state) and DEC would suffer a loss of federal grant monies for the state program which amounts to approximately \$5 million annually. DEC may choose the "no-action" alternative for those federal changes which are less stringent than existing state regulation and adopt only those amendments necessary to maintain authorization. This would impose different standards on the regulated community than those mandated by EPA, with negligible anticipated environmental benefit. New York's failure to implement this rulemaking could cause confusion and regulatory implementation difficulties for interstate activities as the regulated community tries to determine which regulatory requirements apply and at what point.

9. Federal Standards

The proposed changes will increase consistency between state and federal regulations. Certain federal changes that increase stringency must be adopted to maintain authorization for DEC. Other amendments are adopted to more closely parallel federal regulations. Some of proposed changes to state regulations will result in rules that exceed a federal minimum standard.

10. Compliance Schedule

As the proposed regulations are currently existing federal regulations,

regulated persons must comply with those that are more stringent than existing state regulations. Existing federal regulations being adopted here that are more stringent than current state regulations are already in effect. Regulatory changes that decrease the regulatory burden do not require any substantive changes by the regulated community. The rulemaking takes effect 60 days after publication by the Department of State. The regulated community will be able to meet this compliance schedule.

Revised Regulatory Flexibility Analysis

The Regulatory Flexibility Analysis (RFA) was not revised because the minor revisions made to the regulations did not impose additional requirements for small businesses or local governments.

Revised Rural Area Flexibility Analysis

The Rural Area Flexibility Analysis (RAFA) was not revised because the minor revisions made to the regulations did not impose additional impacts on entities in rural areas.

Revised Job Impact Statement

The Job Impact Statement (JIS) was not revised because the minor revisions made to the regulations did not impose additional impacts on jobs and employment opportunities.

Initial Review of Rule

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

Assessment of Public Comment

The New York State Department of Environmental Conservation (DEC) proposed revisions of the State’s hazardous waste management regulations and published notice of this rulemaking on June 12, 2019. A public hearing, public availability session, and webinars were held to inform the public about the proposed rules and to answer questions from both the regulated community and the general public. DEC received five sets of formal written comments and approximately 350 form emails during the public comment period, as well as several additional comments during the public hearing. Many of the formal written comments submitted to DEC raised distinct individualized issues, while the form emails addressed the same set of concerns. DEC grouped comments by regulatory section since many of the submissions included multiple comments on different aspects of the proposed rules. This summary provides an overview of the comments and DEC’s response while the full Assessment of Public Comment provides a response to each individual comment received during the public comment period.

Proposed Part 370 contains the definitions used throughout proposed Parts 370 to Part 374 and Part 376. Comments received on this section were minor and included support for a regulatory change included in the rulemaking package and a suggestion to update some reference documents for test methods to include Updates IV and V of SW-846. DEC will not be incorporating those updates to SW-846 because they constitute only official guidance. The regulated community is not required by federal regulation to use the methods in Updates IV and V, as they are with the test methods in SW-846 Updates I through IIIB. SW-846 is a compendium of test methods published by the United States Environmental Protection Agency.

Proposed Part 371 covers the regulations for the identification and listing of hazardous waste. This Part also includes exemptions and exclusions for certain materials from regulation as hazardous waste. Hundreds of commenters objected to the exclusion in 6 NYCRR Part 371 for drill cuttings or other drilling and production waste from oil and natural gas well development that categorically excludes those wastes from the definition of hazardous waste. This exclusion will be addressed as part of a separate regulatory initiative because the removal of that provision was not evaluated as a part of this rulemaking. DEC also received comments requesting clarification regarding the documentation requirements for C7 notifications. DEC provided the criteria that is used to evaluate C7 notifications and described what type of documentation would be acceptable for those notifications. C7 notifications are forms that hazardous waste generators are required to complete and, in most cases, submit to DEC to notify that they are utilizing certain exclusions from the hazardous waste regulations. As a part of this rulemaking, C7 notifications for certain activities related to e-waste, dental amalgam, precious metals, and lead acid batteries must be completed by the generator and retained on-site, but do not have to be submitted to DEC.

Proposed Part 372 contains the hazardous waste management standards for generators and transporters, and the regulations that govern hazardous waste manifesting. Most comments about this Part were requests to make conforming changes to match language in the e-Manifesting Rules that have been enacted by EPA. DEC did not include those rules in the scope of this rulemaking but does plan to include those rules in a future rulemaking. The federal regulations promulgated under those rules also pre-empt existing DEC regulations in some cases. DEC published an

enforcement discretion letter in 2018 to resolve potential conflicts between federal and New York State requirements until such time as DEC adopts those rules. DEC also received numerous comments requesting clarification of several provisions from the Academic Labs Rule. Those comments were largely technical and interpretive in nature and did not require amendment of the proposed revisions. DEC also received a comment requesting modification to an existing exemption for the consolidation of PCB waste by public utilities to include contractors working for the utility. DEC will consider changing that exemption in a future rulemaking.

Proposed Subpart 373-1 is comprised of the requirements for hazardous waste treatment, storage and disposal facility (TSDF) permitting. DEC only received one comment supporting a change in the treatment of federal Class 2 permit modifications under DEC’s minor/major permit modification structure. DEC has determined that these changes would conflict with the Uniform Procedures regulations in 6 NYCRR 621. DEC will remove these revisions from in this rulemaking and revisit these provisions in a future rulemaking.

Proposed Subpart 373-2 covers the regulation of final status TSDFs. The majority of the comments that DEC received about this Subpart concerned conforming changes from the e-Manifest Rules and the Burden Reduction Rule. DEC received several comments about potential conflicts between federal rules governing the e-Manifest system and existing New York State requirements. DEC published an enforcement discretion letter in 2018 to resolve potential conflicts between federal and New York State requirements until such time the DEC adopts those rules. DEC plans to include the provisions e-Manifest Rules in a future rulemaking. Regarding the Burden Reduction Rule provisions, DEC agreed with two of the changes suggested by commenters and revised those provisions accordingly. Several comments requested changes that could be considered less stringent than federal regulations. DEC cannot enact regulations that are less stringent than federal regulations and will not be making those changes. DEC will consider other burden reduction measures as part of a future rulemaking.

Proposed Part 374 contains the requirements for the management of specific hazardous waste categories, including used oil and universal waste. DEC received one comment that supported the use of cold crushing of used oil filters that DEC is proposing to include in a future rulemaking. DEC also received a comment requesting clarification about the regulatory status of waste light emitting diode (LED) lamps. DEC confirmed that the regulated community can manage LED lamps as universal waste but acknowledged that more effort, either in the form of guidance or revised regulations, could be made to make this clear to the regulated community.

NOTICE OF ADOPTION

New Aftermarket Catalytic Converter (AMCC) Standards

I.D. No. ENV-36-19-00002-A

Filing No. 133

Filing Date: 2020-02-13

Effective Date: 30 days after filing

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

Action taken: Amendment of Parts 200 and 218 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 1-0303, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 19-1101, 19-1103, 19-1105, 71-2103, 71-2105; Federal Clean Air Act (42 USC 7507), section 177

Subject: New Aftermarket Catalytic Converter (AMCC) standards.

Purpose: Prohibit sale of Federal AMCCs and update existing AMCC recordkeeping and reporting requirements.

Text of final rule: Sections 200.1 through 200.8 remain unchanged.

Section 200.9, Table 1 is amended to read as follows:

218-1.2(d) through 218-6.2 remain unchanged.

218-7.2 through 218-7.5 is amended to read as follows:

- 218-7.2(c)(1) California Code of Regulations, Title 13, Section 2222 [(10-1-09)] (4-17-17) **

- 218-7.2(c)(2) California Code of Regulations, Title 13, Section 2222 [(10-1-09)] (4-17-17) **

- 218-7.2(c)(8) California Code of Regulations, Title 13, Section 2222 (4-17-17) **

- 218-7.3(a)(1) California Code of Regulations, Title 13, Section 2221 (12-30-83) **

	California Code of Regulations, Title 13, Section 2224 (8-16-90)	** ***
218-7.3(a)(2)	California Code of Regulations, Title 13, Section 2224(a) (8-16-90)	** ***
218-7.4(b)(3)(i)	California Code of Regulations, Title 13, Section 2222 [(10-1-09)] (4-17-17)	** ***
218-7.4(b)(3)(ii)	California Code of Regulations, Title 13, Section 2222 [(10-1-09)] (4-17-17)	** ***
218-7.5(b)	California Code of Regulations, Title 13, Section 2222 [(10-1-09)] (4-17-17)	** ***

218-8.1(a) through 218-11.2 remain unchanged. Sections 218-7.1 through 218-7.2(b) are unchanged, section 218-7.2(c) is amended to read:

(1) It is unlawful for any person to install, sell, offer for sale, or advertise any new aftermarket catalytic converter intended for use on a gasoline powered passenger car, light-duty truck, or medium duty vehicle originally certified with a catalytic converter in New York State unless it has been exempted pursuant to the requirements of California Code of Regulations, title 13, section 2222 (see Table 1, section 200.9 of this Title). *As of January 1, 2023 all replacement catalytic converters sold, offered for sale, or installed in New York State shall be either a CARB certified new aftermarket catalytic converter, or an original equipment manufacturer replacement catalytic converter. After January 1, 2023 it is unlawful to offer for sale, sell or install any federal certified aftermarket catalytic converter in New York State unless the vehicle owner has obtained a waiver from the department. Federal certified aftermarket catalytic converters may be shipped to distribution centers, warehoused, and shipped through New York State without penalty. Federal certified aftermarket catalytic converters may be sold out of state without penalty.*

(2) It is unlawful for any person to install, sell, offer for sale or advertise any used, recycled, or salvaged catalytic converter in New York State pursuant to the requirements of California Code of Regulations, title 13, section 2222 (see Table 1, section 200.9 of this Title).

(3) *Installers of new aftermarket catalytic converters shall verify that the vehicle is specifically included in the vehicle application list for the new aftermarket catalytic converter being installed. This shall be verified by means including, but not limited to, the aftermarket catalytic converter manufacturer's vehicle application guide, the aftermarket catalytic converter manufacturer's website, contacting the aftermarket catalytic converter manufacturer, other manufacturer's documentation distributed to installers, or by contacting the department.*

(4) *Manufacturers of aftermarket catalytic converters shall ensure that the required information is available to installers using, but not limited to, the previously mentioned methods.*

(5) *A new aftermarket catalytic converter shall not be installed if any of the following installation requirements are not met: 1) The vehicle must be beyond its original emissions warranty coverage period and a legitimate need for replacing the existing catalytic converter must be established and documented on the repair invoice; 2) The new aftermarket catalytic converter shall be installed in the same location as the original equipment manufacturer catalytic converter; 3) The installation shall not alter the location, position, number of catalytic converters, nor the location, position, number or orientation of oxygen sensors, nor disable other emission control devices.*

(6) *Installers of new aftermarket catalytic converters shall retain records pertaining to the sale and installation of the aftermarket catalytic converters for a minimum of 4 years from the date of installation. Records shall be kept onsite at the installation location, either hardcopy or electronically, and shall be produced upon request from the commissioner's designee.*

(7) *Manufacturers (including manufacturers of cross-marketed catalytic converters), distributors, wholesalers, and retailers (including on-line retailers providing products to New York State customers) of new aftermarket catalytic converters delivered or sold in New York State shall provide records pertaining to the delivery and sale of aftermarket catalytic converters in the State upon request from the commissioner's designee.*

(8) *Manufacturers of aftermarket catalytic converters, including cross-marketed catalytic converters, are required to submit, to the department, using the same format used to report this information to CARB as set forth in California Code of Regulations, title 13, section 2222 (see Table 1, section 200.9 of this Title), semi-annual warranty information reports of catalytic converters sold in New York.*

Sections 218-7.3 through 218-7.7 are unchanged.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 218-7.2(c)(1).

Text of rule and any required statements and analyses may be obtained from: Jeff Marshall P.E., NYSDEC, Division of Air Resources, 625 Broadway, Albany, NY 12233-3255, (518) 402-8292, email: air.regs@dec.ny.gov

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

Summary of Revised Regulatory Impact Statement

1. Statutory authority

The statutory authority for this rule is found in Environmental Conservation Law (ECL) Sections 1-0101, 1-0303, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 19-1101, 19-1103, 19-1105, 71-2103, 71-2105 and Section 177 of the federal Clean Air Act (42 USC 7507).

2. Legislative objectives

The Department is revising standards for new aftermarket catalytic converters (AMCC) which were originally adopted November 9, 2012 and effective June 1, 2013. This regulation package will further the goals of reducing air pollution from motor vehicles by requiring cleaner AMCCs be sold in New York. This is not a mandate on local governments pursuant to Executive Order 17.

3. Needs and benefits

New York has made considerable progress in improving its air quality; however, several areas of the State still do not meet federal health based national ambient air quality standards (NAAQS) for ozone and have been categorized as non-attainment areas. The Department has the obligation to regulate and mitigate criteria pollutant and greenhouse gas (GHG) emissions from mobile sources to safeguard the health of State residents and protect the State's environment.

In 2014, on-road light-duty vehicles emitted approximately 65,600 tons of volatile organic compounds (VOC) and 72,600 tons of oxides of nitrogen (NO_x) annually¹. In 2014, the transportation sector accounted for approximately 34 percent of all GHG emissions in New York State². It is essential that the Department continue to adopt stringent mobile source emissions standards to protect human health and the environment.

The Department is adopting amendments to Subpart 218-7 to incorporate revisions to the standards for new California certified AMCCs. The adopted amendments prohibit the sale and installation of federal certified AMCC in New York State absent a waiver from the Department. The adopted amendments also include provisions pertaining to AMCC installation requirements; AMCC installer recordkeeping requirements; recordkeeping requirements for AMCC manufacturers, distributors, wholesalers, and retailers; and clarification of AMCC manufacturer reporting requirements.

Prohibition of federal certified AMCC: The Department is prohibiting the sale and installation of federal certified AMCCs in New York. Following adoption of the AMCC standards in 2012, the Department determined that federal certified AMCCs may legally be offered for sale and installed on vehicles with federal only emissions certification. The continued sale of federal certified AMCCs has become unmanageable from an enforcement perspective.

Staff conducted compliance audits at various points in the AMCC supply chain including AMCC distributors. Some audits determined that more than 60 percent of AMCCs delivered to retailers, installers and consumers in New York were noncompliant federal certified AMCCs. These findings appear to corroborate allegations that federal certified AMCCs are continuing to be shipped into New York in quantities far exceeding the number of federally certified vehicles in New York State's fleet mix.

The adopted amendments will prohibit the offering for sale, sale, advertising, and installation of federal certified AMCCs for use on any vehicle in New York regardless of the vehicle's emissions certification or state of registration. Legal replacement options will be California AMCCs or original equipment manufacturer (OEM) parts. The lone exception will be for vehicles that have been granted a waiver from the Department. AMCC manufacturers, distributors, and retailers operating distribution centers within New York State will be allowed to warehouse in, and ship through, the State without violating the standards.

The prohibition of federal certified AMCCs will become effective January 1, 2023. The delayed effective date provides AMCC manufacturers, distributors, and retailers adequate time to certify, produce, and stock sufficient quantities of complaint AMCCs to serve the New York market. The Department will conduct outreach and education activities directed towards the regulated community and consumers to inform them of the adopted changes.

AMCC installer requirements: Under the adopted amendments, AMCC installers will be required to verify that the AMCC being installed is California certified and specifically included on the vehicle application list for the make, model, model year, engine displacement, and engine family in question. Installers will be required to ensure installation requirements are met before installing a new AMCC.

Recordkeeping requirements for AMCC installers: The Department is amending the AMCC standards to require all installers of California certified AMCCs to retain records pertaining to the sale and installation of

AMCC at the site of the installation. Records shall be kept onsite at the installation location in either electronic or paper copies and shall be produced upon request from Department staff.

Recordkeeping requirements for AMCC manufacturers, distributors and retailers: The Department is adopting new recordkeeping requirements for AMCC manufacturers, distributors and retailers of California AMCCs delivered for sale or sold in New York State. Any entity involved in the production, delivery, or sale of new AMCCs in New York must provide records associated with such sale upon request from a Department representative.

AMCC manufacturer reporting requirements: The adopted amendments will require AMCC manufacturers to submit semi-annual warranty reports. The reports will be identical in format and content to those submitted to California. The lone exception is the inclusion of New York State sales data rather than California sales. The Department is also requiring that all companies wishing to sell cross-marketed AMCCs in New York must submit a copy of all cross-marketing agreements to the Department prior to offering products for sale in New York. The Department is requiring cross-marketed AMCC manufacturers be subject to the same recordkeeping, reporting, and warranty requirements as original AMCC manufacturers.

The Department updated the estimated emissions benefit derived from the AMCC standards for this rulemaking. The estimated hydrocarbon + oxides of nitrogen (HC + NO_x) emission benefit Statewide for 2016 is 2.00 tons per day.

4. Costs

Potential Impact on Manufacturers.

The adopted amendments may increase costs for AMCC manufacturers. California compliant AMCCs have a greater catalyst loading and a longer warranty period relative to federal certified AMCCs, which will require manufacturers to allocate resources for production and warranty claims. The adopted amendments also include recordkeeping and reporting requirements for AMCC manufacturers that will require the allocation of resources.

AMCC manufacturers currently not producing California compliant AMCCs will experience the greatest adverse impact. These manufacturers will have to certify their products with CARB, enter into cross-marketing agreements with manufacturers of CARB compliant AMCCs, or exit the New York market. The Department is adopting an extended lead time from the date of adoption to provide all manufacturers time to certify, produce, and deliver sufficient quantities of compliant AMCCs for the New York market.

In the 2012 rulemaking, the Department estimated the cost effectiveness in New York State to be \$3.60 per pound of HC+ NO_x reduced. The average cost increase is attributable to the increased amounts of precious metals required to comply with the regulation. However, this cost increase is partially offset by the regulation's increased durability and warranty requirements. The Department believes this cost estimate is still valid.

Potential Impact on Consumers.

The adopted amendments are expected to result in additional costs for New York State consumers. The Department reviewed publicly available AMCC retail prices from automotive parts retailers and determined the \$200 average incremental cost increase estimated in the original 2012 rulemaking was still valid for this adopted rulemaking. This increase would be offset by improved warranty provisions for applicable consumers.

Consumers accustomed to purchasing federal certified AMCC, regardless of their vehicle's emission certification, will experience the greatest adverse impact. This practice has been in violation of the AMCC standards for most vehicles since enforcement of the standards began January 1, 2014. Some vehicle owners may be limited to purchasing OEM replacement catalytic converters. The Department does not require owners to scrap their vehicles if a compliant AMCC or OEM replacement is unavailable. A waiver process is available which will allow the installation of a suitable replacement converter.

Potential Impact on Business Competitiveness.

The adopted amendments apply equally to all AMCC manufacturers and affiliated businesses delivering new AMCCs for sale in New York. The adopted standards apply equally to entities selling AMCCs in New York whether they have a physical location in the State or are an online retailer. While New York State registered vehicles may cross state lines to obtain non-compliant AMCCs, any CARB or 50 State emissions certified out-of-state vehicles installing an AMCC while in New York State will be required to comply with the regulation. Several of the surrounding states have adopted, or may adopt, similar requirements. The adopted regulation is not expected to impose a competitive disadvantage.

Potential Impact on Employment.

The adopted amendments are not expected to cause a noticeable change in New York employment.

Potential Impact on Business Creation, Elimination or Expansion.

The adopted AMCC regulations may have an adverse impact on business creation, elimination, or expansion. The Department expects any increase in materials, research, development and testing costs to be passed along to consumers in the form of higher purchase prices. The Department is aware of retailers curtailing sales to exclude federal certified AMCC following implementation of the initial AMCC regulation. These businesses will not be at a disadvantage under the adopted amendments since the continued sale of federal certified AMCC will be prohibited without a DEC issued waiver.

The Department is aware of allegations attributing business closures or loss of income to the current AMCC regulations. The Department has been unable to substantiate any alleged business closures directly resulting from the current AMCC regulations. Several stakeholders raised issues related to the cost and space required to stock dual inventories of CARB and federal certified AMCCs for the sale in the New York market. It is the Department's belief that many of the issues related to stocking dual inventories stems largely from widespread non-compliance with the existing regulation.

Potential Costs to Local and State Agencies.

The adopted amendments are not expected to result in any additional costs for local and state agencies. No additional paperwork or staffing requirements are expected.

5. Local government mandates

The adopted amendments do not impose a local government mandate. No additional paperwork or staffing requirements are expected. This is not a mandate on local governments pursuant to Executive Order 17. Local governments have no additional compliance obligations as compared to other subject entities.

6. Paperwork

The adopted AMCC amendments will not result in any new significant paperwork requirements for New York vehicle manufacturers or dealers. This has been the case since New York first adopted the California AMCC standards in 2012. Implementation of the adopted amendments is not expected to be burdensome in terms of paperwork to owners/operators of vehicles. Installers that have not been complying with the current AMCC regulation will experience an increase in paperwork associated with the AMCC warranty requirements. All AMCC installers will be required to complete a warranty card in triplicate with the original going to the customer, one copy to the installer, and one copy to the AMCC manufacturer. Companies manufacturing cross-marketed AMCCs will be required to submit copies of the cross-marketing agreement and required reports to the Department. The Department will experience an increase in paperwork associated with AMCC warranty reporting requirements and cross-marketing agreements. An increase in AMCC waiver requests and associated paperwork is anticipated. Existing Department staff will cover the increased workload.

7. Duplication

There are no relevant state or federal rules or other legal requirements that will duplicate, overlap or conflict with this.

8. Alternatives

The option of maintaining current AMCC standards without adopting the adopted amendments was reviewed and rejected. The continued sale and installation of federal certified AMCCs in New York State has led to widespread noncompliance which has adversely affected emissions reductions from the LEV program.

9. Federal standards

There are no equivalent federal certified AMCC standards available as an alternative. Current federal certified AMCC standards do not achieve equivalent emission reductions, nor provide equivalent emission warranty coverage.

10. Compliance schedule

The adopted regulatory amendments, except the federal certified AMCC prohibition, will take effect 30 days after adoption. The prohibition of federal certified AMCCs for all 1993 and subsequent model year on-road gasoline fueled light and medium-duty motor vehicles will take effect January 1, 2023.

¹ U.S. Environmental Protection Agency. National Emissions Inventory. <https://www.epa.gov/air-emissions-inventories/2014-nei-data>

² New York State Energy Research and Development Authority (NYSERDA). New York State Greenhouse Gas Inventory:1990-2014. December 2016, Revised February 2017. Pg S-3. <https://www.nyserdera.gov/About/Publications/EA-Reports-and-Studies/Energy-Statistics>

Revised Regulatory Flexibility Analysis

1. Effect of rule:

The New York State Department of Environmental Conservation (Department) is adopting amendments to 6 NYCRR Section 200.9 and 6 NYCRR Subpart 218-7 to update New York's standards for new aftermar-

ket catalytic converters (AMCC). The AMCC standards were initially adopted in November 2012 as part of the low emission vehicle (LEV) program, and incorporate California's AMCC standards by reference. These changes apply to AMCCs purchased by consumers, businesses, and government agencies in New York and may impact businesses involved in manufacturing, selling, leasing, or installing AMCCs.

State and local governments are also consumers of AMCCs that will be regulated under the adopted amendments. Therefore, local governments who own or operate vehicles in New York State are subject to the same requirements as owners of private vehicles in New York State; i.e., they must purchase California certified AMCCs. This rulemaking is not a local government mandate pursuant to Executive Order 17.

The adopted changes are a revision of the current LEV standards. The new motor vehicle emissions program has been in effect in New York State since model year 1993 for passenger cars and light-duty trucks, with the exception of the 1995 model year, and the Department is unaware of any significant adverse impact to small businesses or local governments as a result of previous revisions. Section 177 of the federal Clean Air Act requires New York to maintain standards identical to California's in order to maintain the LEV program.

2. Compliance requirements:

There are no specific requirements in the adopted regulation which apply exclusively to small businesses or local governments. Reporting, recordkeeping and compliance requirements are effective statewide. The adopted amendments prohibit the sale and installation of federal certified AMCC in New York State absent a waiver from the Department. The adopted amendments also include provisions pertaining to AMCC installation requirements; AMCC installer recordkeeping requirements; recordkeeping requirements for AMCC manufacturers, distributors, wholesalers, and retailers; and clarification of AMCC manufacturer reporting requirements.

The adopted amendments will prohibit the offering for sale, sale, advertising, and installation of federal certified AMCCs for use on any vehicle in New York regardless of the vehicle's emissions certification or state of registration. Legal replacement options will be California AMCCs or original equipment manufacturer (OEM) parts. The lone exception will be for vehicles that have been granted a waiver from the Department. AMCC manufacturers, distributors, and retailers operating distribution centers within New York State will be allowed to warehouse in, and ship through, the State without violating the standards.

Installers will be required to ensure the following installation requirements are met before installing a new AMCC. The vehicle must be beyond its original emissions warranty coverage period and a legitimate need for replacement of the existing catalytic converter must be established and documented on the repair invoice. The installation must not alter the location, position, number of catalytic converters, nor the location, position, or orientation of the oxygen sensors. AMCC manufacturers will be required to ensure that the information required by AMCC installers is available and accessible.

The Department is adopting amendments to the AMCC standards to require all installers of California certified AMCCs to retain records pertaining to the sale and installation of AMCC at the site of the installation. Records shall be kept onsite at the installation location in either electronic or paper copies and shall be produced upon request from Department staff. The records must be retained for a minimum of 4 years from the installation date. Failure to retain AMCC records onsite, or failure to provide access to these records upon request from a Department representative, shall be considered a violation of Part 218 and subject to potential enforcement action.

The Department is adopting new recordkeeping requirements for AMCC manufacturers, distributors and retailers of California AMCCs delivered for sale or sold in New York State. Any entity involved in the production, delivery, or sale of new AMCCs in New York must provide records associated with such sale upon request from a Department representative. Failure to comply with records requests will be considered a violation of Part 218 and subject to potential enforcement action.

Following adoption of the amendments, AMCC manufacturers will be required to submit semi-annual warranty reports. The reports will be identical in format and content to those submitted to California as set forth in California Evaluation Procedures for New Aftermarket Catalytic Converters (f)(2)(C). The lone exception is the inclusion of New York State sales data rather than California sales.

3. Professional services:

There are no professional services needed by small business or local government to comply with the adopted rule.

4. Compliance costs:

Any entity involved in the manufacture, distribution, sale, or installation of AMCCs must comply with the adopted recordkeeping and reporting requirements. The costs associated with these requirements are expected to be minimal. The prohibition of federal certified AMCCs is not

expected to negatively impact profits as the same overall demand for AMCCs would remain unchanged. AMCC manufacturers, particularly those currently without California certified AMCCs, would incur costs related to research, development, and certification of compliant AMCCs. It is expected that any compliance costs would be passed onto consumers in the form of increased retail prices.

New York State currently maintains personnel and equipment to administer the LEV program. No additional costs will be incurred by local governments for the administration of this program.

5. Economic and technological feasibility:

As stated previously, the prohibition of federal certified AMCCs is not expected to negatively impact profits as the same overall demand for AMCCs would remain unchanged. It is expected that any compliance costs would be passed onto consumers in the form of increased retail prices. While compliant California AMCCs may initially cost more than non-compliant federal certified AMCCs, they offer better emission reduction performance and better warranty protection which partially offsets the increased purchase price.

The adopted revisions apply equally to all AMCC manufacturers and affiliated businesses delivering new AMCCs for sale in New York and is not expected to impose a competitive disadvantage. Cross-border sales of non-compliant AMCCs have been put forth as a significant threat to affiliated businesses within the State. The Department notes that cross-border sales have always existed to varying degrees and will likely continue. However, it should also be noted that out-of-state vehicles requiring the installation of an AMCC while in New York will be required to comply with the adopted regulation. Overall, the adverse impact of cross-border sales and non-compliant AMCCs should be minimal.

6. Minimizing adverse impact:

The amendments attempt to minimize adverse impacts of the federal certified AMCC prohibition by delaying the effective date of the prohibition until January 1, 2023. The delayed effective date provides approximately 3 years leadtime, which is almost twice as much leadtime as provided during the initial AMCC adoption. The recordkeeping and reporting provisions will take effect 30 days after adoption. The revisions to Part 218 will apply to all 1993 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles. AMCC manufacturers, distributors, and retailers will be allowed to warehouse and ship non-compliant AMCCs through New York State to supply surrounding states. The adopted revisions only prohibit the sale of non-compliant AMCCs within New York State.

There will be no adverse impact on local governments who own or operate vehicles in the state because they are subject to the same requirements as those imposed on owners of private vehicles. This rulemaking is not a local government mandate pursuant to Executive Order 17. This regulation contains exemptions for emergency vehicles, and military tactical vehicles and equipment.

7. Small business and local government participation:

The Department plans on holding public hearings at various locations throughout New York State after the amendments are adopted. Small businesses and local governments will have the opportunity to attend these public hearings. Additionally, there will be a public comment period in which interested parties can submit written comments.

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

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 maintain identity with Section 177 of the Clean Air Act.

Revised Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The New York State Department of Environmental Conservation (Department) is adopting amendments to 6 NYCRR Section 200.9 and 6 NYCRR Subpart 218-7 to update New York's standards for new aftermarket catalytic converters (AMCC). The AMCC standards were initially adopted in November 2012 as part of the low emission vehicle (LEV) program, and incorporate California's AMCC standards by reference.

There are no requirements in the adopted regulation which apply only to rural areas. These changes apply to manufacturers' requirements for the manufacture and sale of vehicles sold in New York. The changes to these regulations may impact businesses involved in manufacturing, selling, or installing new AMCCs for on-road gasoline fueled passenger cars, light-duty trucks, and medium-duty vehicles.

The adopted changes are revisions to the current LEV standards. The new motor vehicle emission program has been in effect in New York State since model year 1993 for passenger cars as well as light-duty trucks, with the exception of model year 1995, and the Department is unaware of any adverse impact to rural areas as a result. The beneficial emission reductions from the program accrue to all areas of the state.

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

There are no specific requirements in the adopted regulations which apply exclusively to rural areas. Reporting, recordkeeping and compliance requirements apply to AMCC installers, retailers, distributors, and manufacturers. Reporting and recordkeeping requirements mirror the California requirements, and are thus not expected to be burdensome. AMCC installers must maintain records for a minimum of 4 years onsite to demonstrate compliance. Professional services are not anticipated to be necessary to comply with the adopted rules.

3. Costs:

The adopted revisions are expected to result in additional costs for New York State consumers. When the AMCC standards were initially adopted in November 2012, it was estimated that the average cost of a compliant AMCC would increase \$200 relative to a non-compliant federal certified AMCC. The Department reviewed publicly available AMCC retail prices and determined that the \$200 average incremental cost increase remained valid for this adopted rulemaking. Owners of low volume vehicles, or vehicles without a compliant AMCC option, may be limited to purchasing original equipment manufacturer (OEM) replacement catalytic converters. OEM converters cost significantly more than AMCC, in some cases well over \$1,000.

4. Minimizing adverse impact:

The adopted changes apply Statewide. The Department has adopted a delayed effective date for the prohibition of non-compliant federal certified AMCC until January 1, 2023. The intent of the delayed effective date is to provide sufficient lead-time for AMCC manufacturers and affiliated businesses to certify, produce, and stock complaint AMCCs to service the New York market.

The Department also has a waiver process available for vehicles without a compliant AMCC or OEM replacement catalytic converter option in order to avoid scrapping an otherwise functioning vehicle. The waiver permits the installation of a suitable AMCC in cases where compliant replacement options no longer exist. The vehicle is still required to pass an annual emissions inspection.

5. Rural area participation:

The Department plans on holding public hearings at various locations throughout New York State once the regulation is adopted. Some of these locations will be convenient for persons from rural areas to participate. Additionally, there will be a public comment period in which interested parties can submit written comments.

Revised Job Impact Statement

1. Nature of impact:

The New York State Department of Environmental Conservation (Department) is adopting amendments to 6 NYCRR Section 200.9 and 6 NYCRR Subpart 218-7 to update New York's standards for new aftermarket catalytic converters (AMCC). The AMCC standards were initially adopted in November 2012 as part of the low emission vehicle (LEV) program, and incorporate California's AMCC standards by reference.

The adopted amendments to the regulations may adversely impact jobs and employment opportunities in New York State. New York State has had a LEV program in effect since model year 1993 for passenger cars and light-duty trucks, with the exception of model year 1995, and the Department is unaware of any significant adverse impact to jobs and employment opportunities as a result of previous revisions.

2. Categories and numbers affected:

The adopted revisions may have an adverse impact on AMCC manufacturers, distributors, and retailers. There is currently little, or no, AMCC manufacturing in New York State. As a result, no significant job losses in this sector are expected within the State. Most, if not all, AMCC manufacturers will have to allocate resources to produce a greater quantity of California compliant AMCCs to supply the New York market along with associated record keeping, reporting, and warranty costs.

After the initial AMCC adoption, some AMCC manufacturers stated they would be forced to layoff employees due to decreased business. The Department is aware of allegations attributing business closures or loss of income to the current AMCC regulations. The Department has been unable to substantiate any alleged business closures directly resulting from the current AMCC regulations. AMCC manufacturers that currently do not produce compliant AMCCs will be required to obtain California certification(s) for their product(s), negotiate cross-marketing agreements for compliant AMCCs, or exit the New York market.

There are a significant number of affiliated businesses such as distributors and retailers located in New York State which may be adversely impacted by the adopted revisions. The adopted revisions apply equally to all AMCC manufacturers and affiliated businesses delivering new AMCCs for sale in New York and is not expected to impose a competitive disadvantage. Cross-border sales and online sales of non-compliant AMCCs have been put forth as a significant threat to affiliated businesses within the State. The Department notes that cross-border sales have always existed to varying degrees and will likely continue. However, it should also be noted that out-of-state vehicles requiring the installation of an

AMCC while in New York will be required to comply with the adopted regulation. Online retailers conducting transactions with New York customers will be held to the same standards as retailers located within the State to ensure a level playing field for all retailers. Overall, the adverse impact of cross-border sales and non-compliant AMCCs should be minimal. The Department is unaware of any affiliated business job losses which are directly attributable to the existing AMCC regulation.

3. Regions of adverse impact:

None.

4. Minimizing adverse impact:

The amendments attempt to minimize adverse impacts of the federal certified AMCC prohibition by delaying the effective date of the prohibition until January 1, 2023. The delayed effective date provides approximately 3 years lead-time, which is almost twice as much lead-time as provided during the initial AMCC adoption. The recordkeeping and reporting provisions will take effect 30 days after adoption. The revisions to Subpart 218-7.2 will apply to all 1993 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles. Online retailers conducting transactions with New York customers will be held to the same standards as retailers located within the State to ensure a level playing field for all retailers. AMCC manufacturers, distributors, and retailers will be allowed to warehouse and ship non-compliant AMCCs through New York State to supply surrounding states. The adopted revisions only prohibit the sale of non-compliant AMCCs within New York State.

5. Self-employment opportunities:

None that the Department is aware of at this time.

Initial Review of Rule

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

Assessment of Public Comment

General Comments

Comment 1: MECA supported DEC's current aftermarket catalytic converter program for light-duty vehicles as first adopted back in 2012, which requires California ARB certified aftermarket converters for vehicles certified to California of 50-State emission standards but allows U.S. EPA-certified aftermarket converters to be used on federal-certified vehicles. MECA, however, recognizes the enforcement challenges that have been raised by DEC staff regarding the sale and installation of federal aftermarket converters in the state. Commenter 2.

Comment 2: As a leading manufacturer of both EPA and CARB qualified AMCCs, Tenneco supports New York's efforts to simplify the requirements for AMCCs to a single certified standard. Commenter 3.

Response to Comments 1 and 2: The Department thanks you for your comments.

Lead Time

Comment 3: MECA believes that a minimum lead time of two years is necessary to effectively transition the industry given a change of this magnitude. Manufacturers require this minimum lead time to ensure that new CARB-certified aftermarket parts are available and that federal-certified parts already in distribution are phased out of the market. In addition, sufficient lead time is needed to adequately educate consumers, distributors, and installers about the new requirements. Commenter 2.

Response to Comment 3: The Department agrees that the originally proposed effective date of January 1, 2021 for the prohibition of federal aftermarket catalytic converters does not provide sufficient lead time. The Department has set a new effective date of January 1, 2023 to provide sufficient time to produce and stock compliant products, revise parts catalogs, as well as to conduct education and outreach efforts to inform the regulated community and general public.

Product Coverage

Comment 4: The proposed prohibition of federal aftermarket converters would leave federal-certified vehicles in New York without an aftermarket converter repair alternative. These vehicles are typically older, lower in value, and less likely to have access to OEM replacement parts, placing a hardship on their owners if a repair is needed. Commenter 2.

Response to Comment 4: New York State has required all new vehicles sold in the State since 1993 to be either California, or U.S. EPA 50 State certified. Over that time, a small percentage of federally certified vehicles were introduced into New York through various paths, including the used vehicle market. Federal vehicles are not unique in terms of age, value, or availability of parts when compared to older California, or 50 State, certified vehicles. Older vehicles, regardless of emission certification, have a greater chance of becoming a high-emitting vehicle due to the deterioration, or failure, of emissions control components, including catalytic converters. The Department will continue to assist vehicle owners and repair technicians in finding suitable replacement catalytic converter options.

Comment 5: We believe, based on EPA vehicle certification records and

our own sales history in New York, that a substantial number of federal emission vehicle (sic) exist in your state. The proposed regulation would therefore result in federal emission vehicles losing access to cost effective aftermarket parts. Commenter 3.

Comment 6: We estimate that at least 15% of New York's vehicle population consists of federal emission vehicles that would not be covered by an AMCC under the proposed regulation. Commenter 3.

Response to Comments 5 and 6: The Department agrees that federal vehicles exist in the State, but believes this population is closer to 5%. Even using Commenter three's estimate of the federal vehicle population in New York State, the number of federal aftermarket catalytic converters currently being sold and installed greatly exceeds what the Department considers to be valid. See also Response to Comment 4.

Comment 7: MECA recommends that DEC incorporate provisions in their aftermarket converter requirements by which manufacturers can catalog and market CARB converters for federal applications under specific criteria similar to those used by CARB in their case-by-case considerations. Specifically, this language would say that DEC would consider test data used to obtain certification from CARB to be relevant even where the vehicle engine family was not originally included in the Executive Order, provided the vehicle application falls in an equivalent or less stringent emission tier level and has similar or less demanding physical characteristics (i.e., vehicle type [car vs. truck], equal to or lower vehicle mass, equal to or smaller engine displacement, and the same exhaust configuration) as the original California-certified vehicle. MECA can work with DEC to help further develop the criteria for this option for inclusion in DEC's aftermarket converter requirements.

Under this approach, manufacturers would use engineering judgement to determine which federal-certified vehicles would work with their CARB-approved converters based on the aforementioned criteria. Manufacturers would list these CARB converters for the applicable federal vehicles in their aftermarket converter catalogs. Engineering judgement is commonly used today to develop vehicle lists for aftermarket converters since it is not possible to locate and test all possible vehicles listed. DEC would be able to request from a manufacturer at any time the supporting test data used to identify which CARB part meets the defined criteria for use on a specified federal vehicle. The vehicle's on-board diagnostic (OBD) system would serve as a confirmation that the part is compatible with the vehicle.

This streamlined approach for finding a CARB converter for a federal vehicle is similar to the one that MECA has suggested that EPA incorporate in their proposed update to the federal enforcement policy regarding aftermarket catalytic converters. Such an approach could become a model for other states that are considering requiring CARB aftermarket converters in their programs. Commenter 2.

Comment 8: We believe that CARB qualified converters can satisfy New York's needs, provided allowances are made to legally sell and install CARB converters on federal emission vehicles. Commenter 3.

Comment 9: Tenneco believes that CARB converters can successfully serve the federal emission vehicle market if New York will allow them to be used. We recommend that the DEC incorporate in the final regulation formal provisions allowing manufacturers to catalog and market CARB AMCCs for federal vehicles under the conditions below.

A CARB AMCC can be installed on a federal emissions vehicle if:

1. The vehicle falls within the same type (passenger car or light truck) and the weight class of the vehicles covered by the CARB certification.
2. The vehicle converter exhaust configuration (single, in-line, dual, etc.) is the same as those covered by CARB certification.
3. The vehicle's federal emissions tier is equivalent of less stringent than those covered by CARB certification. Commenter 3.

Response to Comments 7, 8, and 9: The Department thanks you for your comments and is willing to take your suggestions under consideration. The Department intends to reconvene a workgroup of interested stakeholders and believes these proposals, as well as warranty and on-board diagnostic compatibility, can be discussed in greater detail in that venue.

Environmental Benefit

Comment 10: I live in Yates County one of the smallest counties in terms of population in NYS and far from any major metropolitan areas where air pollution is a critical issue. Commenter 1.

Response to Comment 10: The Department disagrees with the premise that air pollution is only a critical issue in major metropolitan areas. All New Yorkers have the inherent right to breathe clean air regardless of where they reside within the State. The Department notes that all 62 counties in New York State are contained within the Ozone Transport Region. The proposed revisions ensure that in-use vehicles maintain the same rigorous emissions standards to which they were originally certified, thereby preventing as many high emitting vehicles as possible.

Comment 11: I also note that one of the justifications for this rule change is that many of the federal AMCC do not pass the specifications for such devices but there is no data that shows whether the California devices conform to their specifications. Commenter 1.

Response to Comment 11: The Department disagrees. Manufacturers of California aftermarket catalytic converters are required to demonstrate that their products achieve the same emissions standards to which the vehicle was originally certified. They are required to warranty this performance for a period of 5 years or 50,000 miles for performance and defect. Federal aftermarket catalytic converters have less catalyst loading and are only required to achieve a set percentage reduction. They are less effective than California aftermarket catalytic converters and have a less stringent warranty. Federal aftermarket converter performance is only covered under warranty for a period of 2 years or 25,000 miles.

Cost

Comment 12: The requirement for use of only California certified AMCC will effectively double the price of CC replacement for my 1998 vehicle and result in my having to junk it. Commenter 1.

Response to Comment 12: While the initial cost of California aftermarket catalytic converters is higher than federal aftermarket, they offer significantly better performance and warranty protection. The Department is not proposing a requirement to scrap vehicles. The Department has aided vehicle owners in determining suitable replacement options since initial adoption of the aftermarket catalytic converter standards in 2012. This assistance will continue under the proposed regulations.

Enforcement

Comment 13: Once implemented, enforcement of the new aftermarket converter requirements is essential to achieve the full emission benefits of the program and to maintain a level playing field in the market. Commenter 2.

Response to Comment 13: The Department agrees with this comment. The proposed regulatory revision will address widespread noncompliance with the current regulation, which provides an unfair competitive advantage to violators.

Comment 14: To facilitate enforcement, we urge DEC to work with the New York State Department of Motor Vehicles to incorporate a visual inspection requirement under the state's light-duty vehicle inspection and maintenance program, as is being done by California's Smog Check program, to confirm that the proper converter is installed on each vehicle. Commenter 2.

Response to Comment 14: The Department agrees with this comment. The Department has had several discussions with the Department of Motor Vehicles (DMV) regarding the inclusion of a visual inspection requirement for aftermarket catalytic converters. This requirement can only be incorporated via a regulatory change by DMV. The Department will continue to engage DMV on this matter.

Miscellaneous

Comment 15: I would request that you include a rural county exception for this ruling and/or an age exception for vehicles over 10 years old. Commenter 1.

Response to Comment 15: The requested exceptions are inappropriate given the intent of the regulation. Older vehicles have a greater likelihood of becoming high-emitting vehicles if emissions controls are not properly maintained or replaced. Older vehicles would be outside of the vehicle manufacturer's emissions warranty coverage and aftermarket catalytic converters would be a legal replacement option. In some cases, they would be the only available option due to the lack of OEM replacements. It is precisely for these reasons that the Department is implementing more stringent requirements. See also Response to Comments 10 and 11.

Comment 16: The right answer for this problem is for the state to implement a certification program for Federal AMCC sold in NYS, not mandate a conversion to the California specification devices. Commenter 1.

Response to Comment 16: The Department disagrees with this comment. New York has joined with several states to persuade U.S. EPA to implement a national program for improved aftermarket catalytic converter certification standards. U.S. EPA has not acted upon these repeated requests. New York will continue to implement, and update as necessary, the California aftermarket catalytic converter standards in the absence of action by U.S. EPA. As mentioned in the support documents, a major reason for the proposed regulations is the widespread use of noncompliant federal converters on vehicles certified to California standards.

List of Commenters

1. Ira Goldman
2. Antonio Santos, Director, Special Projects, Manufacturers of Emission Controls Association (MECA)
3. Steve Myers, Director, Product Engineering, Tenneco, Inc.

NOTICE OF ADOPTION

Part 219 Applies to Various Types of Incinerators and Crematories Operated in New York State

I.D. No. ENV-39-19-00003-A

Filing No. 132

Filing Date: 2020-02-13

Effective Date: 30 days after filing

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

Action taken: Amendment of Parts 200 and 219 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, 19-0306, 19-0311, 71-2103 and 71-2105

Subject: Part 219 applies to various types of incinerators and crematories operated in New York State.

Purpose: This rule establishes emission limits and operating requirements for various types of incinerators.

Substance of final rule: The New York State Department of Environmental Conservation (Department) is proposing several revisions to its operating requirements for human and animal crematories. These requirements are found in Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Part 219, Incinerators (Part 219).

Table 1 of Section 200.9 is amended to add a reference to the definition of 'household waste' at 40 CFR 261.4(b)(1).

Paragraph 219-1.1(b)(2) is revised to remove the table of toxic equivalency factors and refer to Subdivision 200.1(cx). Paragraph 219-1.1(b)(7) is revised to update the definition of 'incinerator'. Paragraph 219-1.1(b)(8) is revised to correct a reference to Part 371 and to correct a reference to the definition of the term 'household waste'. Paragraph 219-1.1(b)(9) is rewritten to better define 'municipal solid waste'. A new Paragraph 219-1.1(b)(11) is added to define the term 'pathological waste'. Existing Paragraph 219-1.1(b)(11) is renumbered as Paragraph 219-1.1(b)(12). Existing Paragraphs 219-1.1(b)(12) – 219-1.1(b)(14) are repealed. A new Paragraph 219-1.1(b)(13) is added to define the term 'solid waste'. Existing Section 219-1.2 is repealed and replaced with a new Section 219-1.2 that adds a severability clause.

Existing Subpart 219-4 is repealed and replaced with a new Subpart 219-4. Section 219-4.1 includes definitions for various terms used throughout Subpart 219-4. Section 219-4.2 states that Subpart 219-4 applies to all new, modified, and existing cremation units. Section 219-4.3 establishes particulate matter emissions limitations for cremation units. Section 219-4.4 establishes various operating requirements for cremation units, including: an opacity limitation, a minimum secondary combustion chamber temperature and residence time, a continuous temperature monitoring and recording requirement, a prohibition on the combustion of certain materials, a requirement for the preparation of a cremation certification form, and a prohibition on the charging of remains in excess of the manufacturer's rated capacity of the cremation unit. Section 219-4.5 establishes emissions testing and modeling requirements for cremation units. Section 219-4.6 establishes operator training and certification requirements. Section 219-4.7 establishes an annual inspection and maintenance requirement. Section 219-4.8 describes the recordkeeping requirements for crematory facilities. Section 219-4.9 describes the compliance schedule for existing cremation units that are subject to the requirements of existing Subparts 219-4, 219-5, or 219-6. Section 219-4.10 adds a severability clause.

Existing Subpart 219-5 is repealed.

Existing Subpart 219-6 is repealed.

A new Subpart 219-10 is added for the regulation of Oxides of Nitrogen emissions from municipal and private solid waste combustion units. Section 219-10.1 states that Subpart 219-10 applies to all new, modified, and existing municipal and private solid waste incineration units. Section 219-10.2 establishes 24-hour and annual emissions limitations for oxides of nitrogen and describes the procedures affected facilities can use to demonstrate that they have already applied Reasonably Available Control Technology. Section 219-10.3 outlines the compliance demonstration requirements for affected facilities, including an initial performance test and continuous emissions monitoring requirements. Section 219-10.4 adds a severability clause.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 200.9, Table 1, 219-1.1(a), (b)(2), 219-4.1(a), 219-10.2(a), (b), (c), (d), 219-10.3(a), (c), (d) and (f).

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

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

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

The edits made to the Express Terms do not require any changes to the RIS, RFA, RAFA and JIS.

Initial Review of Rule

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

Assessment of Public Comment

Comments received from September 25, 2019 through 5:00 P.M., December 11, 2019

Nine commenters commented on the proposed revisions to 6 NYCRR Parts 200 and 219 (Part 219). This document summarizes those comments and the Department's responses.

General Comments

Two commenters questioned the Department's statutory obligation to regulate the cremation industry and the approach taken in this proposal. The Department explained its statutory obligations and explained how they differ from other state agencies.

Two commenters expressed support for this proposal. The Department thanked those commenters for their support.

Sunset of Subparts 219-5 and 219-6

One commenter expressed concern regarding the potential costs of upgrades to existing equipment to comply with this proposal. Another commenter indicated that these upgrades are not cost prohibitive. The Department explained the proposed compliance schedule, which affords affected facilities 60 months (five years) to demonstrate compliance with the proposed requirements and provides for an extension of the compliance date following a demonstration of cause. The Department believes sufficient time has been provided for affected facilities to plan for any costs.

One commenter expressed concern over the cost of stack testing to demonstrate compliance with proposed Subpart 219-4, particularly where the affected facility has already submitted a stack test to the Department. The Department explained that proposed Subpart 219-4 does not require a stack test in all cases. Further, the crematory owner or operator may be able to submit a representative stack test conducted on an identical unit. If a representative test is provided the crematory owner would not incur any testing costs.

One commenter indicated that existing IEE Power Pak IE43 (PP) and ALL 1701 cremators cannot comply with this proposal. The Department is aware some older cremation equipment installed prior to January 1, 1989 may not be able to meet the proposed requirements. These units are typically approaching the end of their 30-year expected useful life and would need to be replaced regardless of this proposal. To ameliorate costs associated with the replacement of these units, the proposal contains a 60-month (5 year) compliance period.

Two commenters indicated that compliance with existing regulations to construct crematories is already a lengthy process and that this proposal may add additional time to that process. The Department responded that the proposed regulation includes a compliance schedule allowing existing crematories 60 months (5 years) to demonstrate compliance. In addition, the proposed regulation allows the Department to grant an extension following a demonstration of cause. These provisions allow for sufficient time to address the approval processes the commenters reference.

Crematory Operating Requirements

Three commenters expressed support for the operating requirements contained in the proposed Subpart 219-4. The Department thanked these commenters for their support.

Two commenters expressed concern that this proposal would prohibit items other than human or animal remains from being placed in the container with the remains. The Department reminded the commenters that this practice is currently prohibited by Subpart 219-4. This proposal clarifies the types of materials that can and cannot be combusted in a crematory to clarify the requirements of Subpart 219-4.

Two commenters expressed concern related to honoring religious practices for human cremation and the varied ways crematory owners are called on to meet religious customs. The proposed regulation places no specific restrictions on religious practices. The Department responded by stating that this regulation is in no way intended to interfere with religious practices for human cremation and indeed does not do so.

Two commenters indicated that crematory owners would be in violation of the proposed regulation if families included mementos inside the sealed cremation container delivered to the crematory facility because Section 1517(d) of the Not-for-Profit Corporation Law prohibits crematory operators from opening the container. The Department is aware of Section

1517(d) and the challenges it presents to both the existing Subpart 219-4 and this proposal. To address this, the proposed regulation requires the person providing the remains for cremation to attest in writing that the remains and their container do not contain materials prohibited from being combusted in a crematory.

One commenter inquired if the proposed Subdivision 219-4.4(f) meant that human crematory operators would only be able to operate at a rate stated by each manufacturer, and if so, would they need to provide documentation. The Department responded by stating that cremation equipment is rated by the manufacturer for a certain capacity to avoid operational issues which may cause excess emissions. If the operator is following the proper operating procedures described by the manufacturer, compliance with this requirement should not be an issue. Documentation such as the operating manual for the cremation unit and a record of cremations including the approximate weight of the remains will be sufficient to demonstrate compliance with this requirement.

One commenter inquired what action should be taken if the 6-minute average opacity exceeds the proposed standard. The Department responded that the crematory owner should take the same actions as those that are taken under the current regulation which has an identical requirement.

Recordkeeping and Reporting

One commenter indicated that the proposed recordkeeping requirements do not conform to recordkeeping requirements by the Division of Cemeteries and that there should be consistency between the two agencies. The Department responded by stating that the Department and the Division of Cemeteries have differing statutory obligations, and therefore require records relevant to demonstrating compliance with their requirements. If a record kept pursuant to Division of Cemeteries requirements contains identical information to records required to be kept by this proposal, there is no need to duplicate the record.

One commenter indicated that proposed Subpart 219-4 states that operators will need to retain a record of the date, time, and cause of all malfunctions and any corrective action taken to resolve them, but no definition of malfunction is provided. The Department stated that the term 'malfunction' is defined in 6 NYCRR Paragraph 201-2.1(b)(22) and clarified this in the final express terms.

NOx RACT for Municipal Waste Combustors

Two commenters indicated that if a waste combustion unit currently meets the proposed technology-based NOx limits there is no need to prepare and submit a NOx RACT analysis. The Department clarified that a facility that currently meets the proposed emission limits would not need to prepare and submit a NOx RACT analysis.

Three commenters indicated that Subdivisions 219-10.3(a), (b), and (d) should be revised to include language related to the transition to the new requirements for units that already have continuous emissions monitors (CEMs). This language should include the use of CEMs rather than performance testing to demonstrate initial compliance. The Department agreed with the commenters and made the necessary changes to the express terms.

Two commenters indicated that the proposed Paragraphs 219-10.3(c)(1) and (2) conflict with federal CEMs monitoring guidance at 40 CFR 60.13(h)(2). The commenters suggested that this language be replaced with references to the federal requirements. The Department indicated that the proposed language does not conflict with federal CEMs monitoring guidance. A facility with an existing NOx CEM system using the requirements at 40 CFR 60.13(h)(2) to demonstrate compliance with the applicable federal NOx emission standard will be deemed to be in compliance with proposed Subdivision 219-10.3(c) because the monitoring requirements at 40 CFR 60.13(h)(2) are more stringent.

Two commenters stated that it is not necessary to prepare a Title V permit modification application to incorporate new requirements because the Department has the authority to modify the permit under 6 NYCRR Subdivision 621.13(a). While the Department agrees that it has this authority, some facilities may need to complete an economic and technical feasibility analysis, purchase and install CEMs, or take other steps to demonstrate compliance with the proposed regulation. Accordingly, it is more appropriate for the facility owner or operator to prepare and submit a Title V permit modification that addresses the specific compliance methodology the facility will follow.

One commenter presented technical concerns with respect to the ability of affected facilities to meet the proposed NOx emission standards during periods of start-up, shutdown, and malfunction. The Department considered these technical issues and agreed with the commenters concerns. The proposed language of Section 219-10.2 has been revised to exclude these periods.

One commenter indicated that the proposed compliance date of January 1, 2020 cannot be achieved since the regulation has not been adopted. The Department agrees and has extended the proposed compliance date to June 30, 2021.

One commenter indicated that one year after the effective date of the

Subpart is not sufficient time to conduct a compliance demonstration if a permit application is required to be submitted and a NOx control system needs to be engineered and installed to meet the proposed limit. The date of compliance demonstration should instead be one year after receipt of any permits. The Department agreed with the commenter's concern and revised Subdivision 219-10.3(a) to indicate that the compliance demonstration date will be one year after the issuance of a Title V permit modification to incorporate the proposed requirements.

One commenter suggested that the proposed 24-hour average be calculated based on a minimum of 18 valid hourly averages to ensure there is sufficient data to provide a representative average in the event a CEM is offline for maintenance or repair. The Department agreed with this comment and revised Subdivision 219-10.3(c) accordingly.

One commenter suggested that the annual NOx average be calculated on a 365-day rolling average basis. The Department intended the annual average to be calculated in this way, and revised Subdivisions 219-10.2(b) and 219-10.3(d) to clarify this requirement.

One commenter indicated that proposed Subdivision 219-10.3(f) is redundant with proposed Subdivision 219-10.2(d). While both Subdivisions require the submittal of a permit modification, they may not apply to a given facility. A facility may either submit a complete application for a Title V permit modification to incorporate the proposed requirements or prepare a facility specific NOx RACT analysis. Facilities that choose to prepare a NOx RACT analysis will be required to submit a complete Title V permit modification application as described in Subdivision 219-10.3(f). The language of Subdivision 219-10.3(f) has been revised to more clearly state this.

Costs to Crematories

One commenter indicated that the cost estimates do not adequately reflect the actual cost of retort replacement as some owners may need to construct new buildings to house new equipment. Further, the commenter indicated that the cost estimates presented in this proposal include non-human cremation equipment. While these changes may affect the total cost of replacement for certain facilities, they are not universal. Construction costs may differ based on geographic location or project specific parameters. Accordingly, the Department focused the cost analysis in this proposal on the only consistent cost between facilities – the retort itself. As this proposal affects both human and animal crematories, the Department must consider the costs of both types of equipment.

Regulatory Flexibility Analysis for Small Businesses and Local Governments (RFA)

One commenter indicated that the RFA incorrectly states that only one of the 10 affected municipal waste combustion facilities is owned by a local government. This does not properly account for the two facilities owned by a public entity yet operated by a separated private entity. The Islip Resource Recovery Agency (MacArthur Resource Recovery Facility) and the Dutchess County Resource Recovery Agency are public benefit corporations and not municipalities.

One commenter indicated that Paragraph 8 of the Compliance Costs section suggests that MacArthur RRF would be required to complete a NOx RACT analysis and that this should be corrected. The Department thanked the commenter for this comment.

Miscellaneous Comments

One commenter indicated that sixteen "stand-a-lone" crematories owned by funeral homes were afforded legal protection under the 1998 Anti-Combination Act to continue operating provided they met certain requirements. The commenter wanted to call attention to this and seek concurrence that the continued ownership of these crematories by funeral homes should not be jeopardized due to this proposal. The Department responded that the Anti-Combination Act largely pertains to the business relationships between cemetery corporations and funeral entities and is irrelevant to the environmental regulation of crematories.

Department of Financial Services

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Enterprise Risk Management and Own Risk and Solvency Assessment; Group-Wide Supervision

I.D. No. DFS-09-20-00008-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 82 (Regulation 203) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 110, 301, 302, 308, 1503(b), 1504(c), 1604(b) and 1717

Subject: Enterprise Risk Management and Own Risk and Solvency Assessment; Group-Wide Supervision.

Purpose: To authorize the Superintendent to act as the group-wide supervisor for an internationally active insurance groups.

Text of proposed rule: The title of Part 82 is amended to read as follows:

ENTERPRISE RISK MANAGEMENT AND OWN RISK AND SOLVENCY ASSESSMENT; **GROUP-WIDE SUPERVISION**

Subdivisions (e), (f), (g), (h), (i), (j), and (k) of Section 82.1 are relettered, consecutively, as (f), (g), (h), (j), (k), (l), and (m).

New subdivisions (e) and (i) of Section 82.1 are added as follows:

(e) *Group-wide supervisor means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities.*

(i) *Internationally active insurance group or IAIG means a holding company system, Article 16 system, or Article 17 system that includes an insurer registered under Insurance Law sections 1503, 1604, or 1717 and meets the following criteria: (1) has premiums written in at least three countries; (2) the percentage of gross premiums written outside the United States is at least ten percent of the holding company system's, Article 16 system's, or Article 17 system's total gross written premiums; and (3) based on a three-year rolling average, the total assets of the holding company system, Article 16 system, or Article 17 system are at least \$50 billion or the total gross written premiums of the holding company system, Article 16 system, or Article 17 system are at least \$10 billion dollars.*

Sections 82.4 and 82.5 are renumbered as sections 82.5 and 82.6.

A new section 82.4 is added as follows:

§ 82.4 *Group-wide supervision of internationally active insurance groups.*

(a) *The superintendent may act as the group-wide supervisor for any IAIG in accordance with the provisions of this section. A holding company system, Article 16 system, or Article 17 system that does not otherwise qualify as an IAIG may request that the superintendent make a determination as to whether he or she is a group-wide supervisor pursuant to this section.*

(b) *The superintendent may determine at any time that the superintendent is the appropriate group-wide supervisor for an IAIG that conducts substantial insurance operations in this State. The superintendent shall consider the following factors when making a determination under this subdivision:*

(1) *the place of domicile of the insurers within the IAIG that hold the largest share of the IAIG's written premiums, assets, or liabilities;*

(2) *the place of domicile of the top-tiered insurer or insurers in the IAIG's holding company system, Article 16 system, or Article 17 system;*

(3) *the location of the executive offices or largest operational offices of the IAIG;*

(4) *whether another regulatory official is acting or seeking to act as the group-wide supervisor under a regulatory system that the superintendent determines to be substantially similar to the system of regulation provided under the laws of this State, or otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and*

(5) *whether another regulatory official acting or seeking to act as the group-wide supervisor provides the superintendent with reasonably reciprocal recognition and cooperation.*

(c) *In the case of an IAIG that has not conducted substantial insurance operations in this State, the superintendent may determine that he or she is the group-wide supervisor for the IAIG pursuant to subdivision (b) of this section in the event of a material change in the IAIG that results in: (1) the IAIG's insurers domiciled in this State holding the largest share of the IAIG's premiums, assets, or liabilities; or (2) this State being the place of domicile of the top-tiered insurer or insurers in the holding company system, Article 16 system, or Article 17 system.*

(d) *Pursuant to Insurance Law sections 308 and 1504, any insurer registered pursuant to Insurance Law sections 1503, 1604, or 1717 shall provide the superintendent with all information necessary to determine whether the superintendent may act as the group-wide supervisor of an IAIG. Prior to issuing a determination that an IAIG is subject to group-wide supervision by the superintendent, the superintendent will notify the insurer registered pursuant to Insurance Law section 1503 and the entity within the IAIG. The IAIG shall have 30 days, or such additional time as the superintendent may permit, to provide the superintendent with additional information pertinent to the pending determination. The superintendent shall publish on the department's website the identity of any IAIG that the superintendent has determined is subject to group-wide supervision by the superintendent.*

(e) *If the superintendent is the group-wide supervisor for an IAIG, then the superintendent may:*

(1) *assess the enterprise risks within the IAIG to ensure that: (i) the material financial condition and liquidity risks to the members of the IAIG that are engaged in the business of insurance are identified by management; and (ii) reasonable and effective mitigation measures are in place;*

(2) *request, from any member of an IAIG subject to the superintendent's supervision, information necessary and appropriate to assess enterprise risk, including information about the members of the IAIG pertaining to governance, risk assessment and management, capital adequacy, and material intercompany transactions;*

(3) *coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the IAIG are domiciled, compel development and implementation of reasonable measures designed to ensure that the IAIG is able timely to recognize and mitigate enterprise risks to members of the IAIG that are engaged in the business of insurance;*

(4) *communicate with other state, federal, and international regulatory agencies that oversee members of the IAIG and share relevant information subject to the provisions of Insurance Law section 110, through supervisory colleges as set forth in Insurance Law section 302, or otherwise;*

(5) *enter into agreements with or obtain documentation from any insurer registered under Insurance Law sections 1503, 1604, or 1717, any member of the IAIG, and any other state, federal, and international regulatory agencies that oversee members of the IAIG, providing the basis for or otherwise clarifying the superintendent's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials; and*

(6) *engage in other group-wide supervision activities, consistent with the authorities and purposes enumerated above, as considered necessary by the superintendent.*

(f) *The superintendent may enter into agreements with or obtain documentation from any insurer registered under Insurance Law sections 1503, 1604, or 1717, any affiliate of such insurer, and other state, federal, and international regulatory agencies that oversee members of the IAIG, which agreements or documentation provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.*

(g) *Nothing in this Part shall be construed as limiting any powers of the superintendent granted by the laws of this State and the regulations promulgated thereunder.*

Text of proposed rule and any required statements and analyses may be obtained from: Joana Lucashuk, Department of Financial Services, One State Street, 20th Floor, New York, NY 10004, (212) 480-2125, email: Joana.Lucashuk@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.

Regulatory Impact Statement

1. Statutory authority: Financial Services Law §§ 202 and 302 and Insurance Law §§ 110, 301, 302, 308, 1503(b), 1504(c), 1604(b), and 1717.

Financial Services Law § 202 establishes the office of the Superintendent of Financial Services ("Superintendent").

Financial Services Law § 302 and Insurance Law § 301, in material part, authorize the Superintendent to effectuate any power accorded to the Superintendent by the Financial Services Law, Insurance Law, or any other law, and to prescribe regulations interpreting the Insurance Law.

Insurance Law § 110 authorizes the Superintendent to share and receive confidential information with and from other state, federal, and international regulatory agencies and law enforcement authorities and the National Association of Insurance Commissioners ("NAIC").

Insurance Law § 302 authorizes the Superintendent to participate in a supervisory college with other regulators to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management, and governance processes of insurers that are part of a holding company system or other group and have international operations.

Insurance Law § 308 authorizes the Superintendent to address to an authorized insurer and its officers any inquiry in relation to the insurer's transactions or condition or any matter connected therewith.

Insurance Law § 1503(b) requires a holding company that directly or indirectly controls an insurer to adopt a formal enterprise risk management ("ERM") function and file an enterprise risk report with the Superintendent annually.

Insurance Law § 1504(c) requires the Superintendent to keep the content of each report made pursuant to Insurance Law Article 15 and any information obtained in connection therewith confidential and prohibits the Superintendent from making the information public without the prior written consent of the controlled insurer to which the information pertains unless the Superintendent, after notice and a hearing, determines that the interests of policyholders, shareholders, or the public will be served by the publication of the information.

Insurance Law § 1604(b) requires an authorized domestic property/casualty insurer, other than an insurer required to register as a controlled insurer pursuant to Insurance Law § 1503, to adopt a formal ERM function and file an enterprise risk report with the Superintendent annually.

Insurance Law § 1717 requires a parent corporation, other than a parent corporation required to register as a controlled insurer pursuant to Insurance Law § 1503, to adopt a formal ERM function and file an enterprise risk report with the Superintendent annually.

2. Legislative objectives: Insurance Law §§ 1503(b), 1604(b), and 1717 require holding companies and certain domestic insurers to adopt a formal ERM function and file an enterprise risk report with the Superintendent annually. Insurance Law § 110 authorizes the Superintendent to share and receive confidential information with and from other state, federal, and international regulatory agencies and law enforcement authorities and the NAIC, while Insurance Law § 302 authorizes the Superintendent to participate in a supervisory college with other regulators to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management, and governance processes of insurers that are part of a holding company system or other group and have international operations.

This rule accords with the public policy objectives that the Legislature sought to advance in Insurance Law §§ 110, 302, 1503(b), 1604(b), and 1717 by authorizing the Superintendent to act as a group-wide supervisor (“GWS”) for an internationally active insurance group (“IAIG”).

3. Needs and benefits: In 2014, the NAIC amended its model Insurance Holding Company System Regulatory Act (the “Model”). The Model grants an insurance commissioner authority to act as a GWS for an IAIG and to acknowledge another regulatory official as a GWS under certain circumstances. The Model defines an “IAIG” as “[a]n insurance holding company system that (1) includes an insurer registered under Section 4; and (2) meets the following criteria: (a) premiums written in at least three countries, (b) the percentage of gross premiums written outside the United States is at least ten percent (10%) of the insurance holding company system’s total gross written premiums, and (c) based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars (\$50,000,000,000) or the total gross written premiums of the insurance holding company system are at least ten billion dollars (\$10,000,000,000).”

As a GWS, the Superintendent would be authorized to: (1) assess the enterprise risks within an IAIG; (2) request, from any member of an IAIG subject to the Superintendent’s supervision, information necessary and appropriate to assess enterprise risk; (3) coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the IAIG are domiciled, compel development and implementation of reasonable measures designed to ensure that the IAIG is able timely to recognize and mitigate enterprise risks to members of the IAIG that are engaged in the business of insurance; (4) communicate with other state, federal, and international regulatory agencies for members of the IAIG and share relevant information; (5) enter into agreements with or obtain documentation from any registered insurer, any member of the IAIG, and any other state, federal, and international regulatory agencies for members of the IAIG; and (6) engage in other group-wide supervision activities as necessary.

This GWS requirement became an NAIC accreditation standard on January 1, 2020. NAIC accreditation is a certification that a state receives once it demonstrates that it has met and continues to meet certain legal, financial, and organizational standards. The purpose of the NAIC accreditation program is to ensure effective insurer financial solvency regulation across the United States.

This amendment implements the Model by authorizing the Superintendent to act as the GWS for an IAIG.

4. Costs: This amendment would not impose any compliance costs on IAIGs. The Department of Financial Services (“DFS”) may incur costs for the implementation and continuation of this proposed amendment. However, any additional costs incurred should be minimal and DFS should be able to absorb the costs in its ordinary budget.

5. Local government mandates: This rule does not impose any program, service, duty, or responsibility upon a county, city, town, village, school district, fire district, or other special district.

6. Paperwork: This amendment does not impose any reporting requirements, including forms and other paperwork.

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

8. Alternatives: DFS considered amending the rule to permit the Superintendent to acknowledge that another insurance regulator is the GWS for an IAIG. However, DFS believes that doing so would be an impermissible delegation of its authority so it did not include that language.

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: An IAIG must comply with the amendment upon publication of the Notice of Adoption in the State Register.

Regulatory Flexibility Analysis

This amendment should not impose any adverse economic impact or reporting, recordkeeping, or other compliance requirements on small busi-

nesses or local governments because it does not apply to small businesses or local governments. The amendment merely authorizes the Superintendent of Financial Services (“Superintendent”) to act as a group-wide supervisor (“GWS”) for an internationally active insurance group (“IAIG”). The amendment defines an “IAIG” as “a holding company system, Article 16 system, or Article 17 system that includes an insurer registered under Insurance Law sections 1503, 1604, or 1717 and meets the following criteria: (1) has premiums written in at least three countries; (2) the percentage of gross premiums written outside the United States is at least ten percent of the holding company system’s, Article 16 system’s, or Article 17 system’s total gross written premiums; and (3) based on a three-year rolling average, the total assets of the holding company system, Article 16 system, or Article 17 system are at least \$50 billion or the total gross written premiums of the holding company system, Article 16 system, or Article 17 system are at least \$10 billion dollars.”

An IAIG would not fall within the definition of a “small business” as defined by State Administrative Procedure Act § 102(8), because an IAIG is not independently owned and operated and does not employ 100 or fewer employees.

Thus, this amendment does not adversely impact small businesses or local governments.

Rural Area Flexibility Analysis

This amendment should not have a substantial adverse impact on rural areas in New York State. The amendment merely authorizes the Superintendent of Financial Services (“Superintendent”) to act as a group-wide supervisor (“GWS”) for an internationally active insurance group (“IAIG”). As a GWS, the Superintendent would be authorized to: (1) assess the enterprise risks within an IAIG; (2) request, from any member of an IAIG subject to the Superintendent’s supervision, information necessary and appropriate to assess enterprise risk; (3) coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the IAIG are domiciled, compel development and implementation of reasonable measures designed to ensure that the IAIG is able timely to recognize and mitigate enterprise risks to members of the IAIG that are engaged in the business of insurance; (4) communicate with other state, federal, and international regulatory agencies for members of the IAIG and share relevant information; (5) enter into agreements with or obtain documentation from any registered insurer, any member of the IAIG, and any other state, federal, and international regulatory agencies for members of the IAIG; and (6) engage in other group-wide supervision activities as necessary.

Job Impact Statement

This amendment should not adversely impact jobs or employment opportunities in New York State. The amendment merely authorizes the Superintendent of Financial Services (“Superintendent”) to act as a group-wide supervisor (“GWS”) for an internationally active insurance group (“IAIG”). As a GWS, the Superintendent would be authorized to: (1) assess the enterprise risks within an IAIG; (2) request, from any member of an IAIG subject to the Superintendent’s supervision, information necessary and appropriate to assess enterprise risk; (3) coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the IAIG are domiciled, compel development and implementation of reasonable measures designed to ensure that the IAIG is able timely to recognize and mitigate enterprise risks to members of the IAIG that are engaged in the business of insurance; (4) communicate with other state, federal, and international regulatory agencies for members of the IAIG and share relevant information; (5) enter into agreements with or obtain documentation from any registered insurer, any member of the IAIG, and any other state, federal, and international regulatory agencies for members of the IAIG; and (6) engage in other group-wide supervision activities as necessary.

Department of Health

EMERGENCY RULE MAKING

Prohibition on the Sale of Electronic Liquids with Characterizing Flavors

I.D. No. HLT-53-19-00001-E

Filing No. 138

Filing Date: 2020-02-14

Effective Date: 2020-02-14

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

Action taken: Addition of Subpart 9-3 to Title 10 NYCRR.

Statutory authority: Public Health Law, section 225

Finding of necessity for emergency rule: Preservation of public health.

Specific reasons underlying the finding of necessity: Emergency regulations are necessary to address the alarming increase of e-cigarette use among New York's youth. New York State-specific surveillance data shows that youth e-cigarette use has risen at a dramatic rate over just the last four years, driven primarily by the abundance of e-liquid flavors. Swift interventions are needed to protect our youth from a lifetime addiction to nicotine. Therefore, restricting the availability of flavored e-liquids will deter youth from initiating e-cigarette use and reduce ongoing e-cigarette use.

According to the U.S. Food and Drug Administration (FDA), the use of e-cigarettes by youth has reached epidemic proportions nationally. Since the New York State Department of Health (Department) began tracking e-cigarette use in New York State (NYS) in 2014, use by youth in high school has increased 160 percent, from 10.5 percent in 2014, to 20.6 percent in 2016, to an astounding 27.4 percent in 2018. A review of youth risk behavior data since 1997 revealed that there has never before been such a dramatic increase, in such a short amount of time, of any substance use among youth. The rate for 2018 is equivalent to youth use of combustible cigarettes in 2000 prior to the dramatic decline in the use of combustible cigarettes among NYS youth. Currently, just 4.8 percent of NYS youth smoke a combustible cigarette, one of the lowest rates in the nation. However, the rate of smoking by youth is increasing, as the rate in 2016 was 4.3 percent. Schools across New York State are finding it especially challenging to address the alarming increase in e-cigarette use by adolescents. Enforcement of minimum age statute and prohibitions on school grounds are especially difficult given that most products are sleek and easy to conceal by youth users.

The recently published National Academy of Science, Engineering, and Medicine (NASEM) report on the Public Health Consequences of E-Cigarettes concluded that there is:

3) "...substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and young adults," and

4) "...moderate evidence that e-cigarette use increases the frequency and intensity of subsequent combustible tobacco cigarette smoking" among youth and young adults.

Given the recent rise in combustible cigarette use by youth and the fact that e-cigarettes are now the most commonly used tobacco product by youth in NYS, evidence exists that use of e-cigarettes could reverse the long-standing decline in combustible cigarette use and reverse the public health benefits that NYS has achieved. A biennial survey of high school youth has shown that since 2014, openness to vaping has increased from 24% to 31%. After years of decline in openness to smoking, students in NY showed an uptick in openness to combustible smoking (decreased from 22% in 2010 to 17% in 2016, increased to 19% in 2018). Openness to smoking is a predictor of smoking experimentation among youth.

The flavorant chemicals used in e-cigarettes have been approved by the FDA for ingestion only; however, these chemicals have not been approved for inhalation. Because inhalation and ingestion are very different processes, nothing about the approval for ingestion should be interpreted to suggest that these products are safe for inhalation. Food products, chemicals and flavorings that are ingested are detoxified through the liver before entering the circulatory system. Aerosols that are inhaled have a direct impact on lung tissue and directly enter the circulatory system, and are not detoxified through the liver.

Some of the over 15,000 flavors now available include fruit flavors (apple, cherry, peach, melon, strawberry), dessert flavors (vanilla custard,

peanut butter cup, cream cookie, milk 'n honey), candy flavors (cinnablate, bubblegum, mango burst, caramel), and menthol flavor, including mint and wintergreen. More recently, manufacturers have developed "concept flavors" that may be difficult to perceive as a single distinctive flavor and the product names reflect that (e.g., Jazz, First Flight, and Unicorn Milk) and simple color names (such as Blue and Yellow) that substitute for the names of flavors (Vanilla and Banana respectively). The list of flavors continues to grow. The commonality of all these flavors is that they are distinct from plain tobacco flavor or unflavored tobacco.

The dramatic increase in use of e-cigarettes by youth is driven in large part by flavored e-liquids, and flavors are a principal reason that youth initiate and maintain e-cigarette use. In a 2019 survey of adolescent e-cigarette users in NYS, 51.8 percent preferred fruit flavors, followed by mint/menthol (34.1%) and chocolate, candy or other sweets (8.8%). In that same survey, 19.8 percent of adolescent e-cigarette users say that flavors are the reason they currently use e-cigarettes, and for 11.5 percent of adolescent e-cigarette users, flavors were the primary reason for first use. Some flavors also confer misperceptions about the relative safety of e-cigarettes. The survey also found that adolescents are more likely to believe that sweet flavors like fruit, chocolate and candy and menthol/mint flavors are less harmful than traditional flavors like tobacco.

There is also concern regarding human exposure to nicotine. Users are often unaware of how much nicotine they are consuming. The newest and most popular e-cigarettes deliver high levels of nicotine, the addictive component in all tobacco products.

Nicotine is not a benign chemical. Nicotine has deleterious effects on the developing human brain – a process that continues through the mid-twenties. According to the US Surgeon General, these deleterious effects from nicotine can lead to lower impulse control and mood disorders; disrupt attention and learning among youth and young adults; and prime the developing brain for addiction to alcohol and other drugs.

Adult use of e-cigarettes differs by age category. Adults over age 24 use e-cigarettes at very low rates; just 4.2 percent in 2018. The rate of e-cigarette use among young adults 18 to 24 years of age is about 14 percent. A lower proportion of young adults (9%) use combustible cigarettes. Almost 40 percent of the young adult smokers are concurrently using e-cigarettes, known as dual use. The same health concerns described above apply to the use of e-cigarettes by adults aged 18 to 24.

The Department will continue to monitor the impact of new legislation that took effect on November 13, 2019 that raises the legal age for purchase of e-cigarettes and related products to 21 years to determine the impact that has on youth use rates. In addition, the Department routinely conducts surveys that ask youth, among other things, their preference and current use of flavored products and will monitor the trends with respect to use of menthol, mint and other broad flavoring categories.

In addition, although it is too soon to understand the long-term health effects of a lifetime of e-cigarette use, research is beginning to accumulate about certain health effects related to cardiovascular conditions and respiratory conditions. Some e-cigarette flavors contain diacetyl, the buttery-flavored chemical that is used in foods like popcorn and caramel. When inhaled, diacetyl can cause bronchiolitis obliterans, a scarring of the tiny air sacs in the lungs, which is a serious concern that has symptoms that are similar to chronic obstructive pulmonary disease.

The Department will continue to closely monitor the research literature for health impact related to e-cigarettes. Adult smokers who want to continue to use e-cigarettes will have the option of unflavored, menthol or tobacco flavored e-cigarettes.

Subject: Prohibition on the Sale of Electronic Liquids with Characterizing Flavors.

Purpose: To prohibit the sale of electronic liquids with characterizing flavors.

Text of emergency rule: A new Subpart 9-3, titled "Prohibition on the Sale of Electronic Liquids with Characterizing Flavors", is added to read as follows:

Section 9-3.1 Definitions.

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

(a) The terms "electronic cigarette," "e-cigarette", "electronic liquid," and "e-liquid" shall have the same meanings as established in Subpart 9-2.

(b) The term "flavored e-liquid" means any e-liquid with a distinguishable taste or aroma, other than the taste or aroma of tobacco or menthol, imparted either prior to or during consumption of an e-cigarette or a component part thereof, including but not limited to tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, herb or spice, or any "concept flavor" that imparts a taste or aroma that is distinguishable from tobacco flavor but may not relate to any particular known flavor. An e-liquid shall be presumed to be a flavored e-liquid if a tobacco retailer, manufacturer,

or a manufacturer's agent or employee has made a statement or claim directed to consumers or the public, whether expressed or implied, that the product or device has a distinguishable taste or aroma other than the taste or aroma of tobacco or menthol.

(c) The term "possession" means having physical possession or otherwise exercising dominion or control over flavored e-liquids or a product containing the same. For purposes of this definition, among other circumstances not limited to these examples, the following individuals and/or entities shall be deemed to possess flavored e-liquids, or a product containing the same: (1) any individual or entity that has an ownership interest in a retail, distribution or manufacturing establishment that possesses, distributes, sells or offers for sale flavored e-liquids, or a product containing the same; and (2) any clerk, cashier or other employee or staff of a retail establishment, where the establishment possesses, distributes, sells or offers for sale a flavored e-liquids or a product containing the same, and who interacts with customers or other members of the public.

Section 9-3.2 Possession, Manufacture, Distribution, Sale or Offer of Sale of Flavored E-Liquid Prohibited.

It shall be unlawful for any individual or entity to possess, manufacture, distribute, sell or offer for sale any flavored e-liquid or product containing the same.

Section 9-3.3 Penalties.

A violation of any provision of this Subpart is subject to all civil and criminal penalties as provided for by law. For purposes of civil penalties, each individual container or other separate unit of flavored e-liquid, product containing the same, or any component part that imparts flavor to an e-cigarette, that is possessed, manufactured, distributed, sold, or offered for sale, shall constitute a separate violation under this Subpart.

Section 9-3.4 Severability.

If any provisions of this Subpart or the application thereof to any person or entity or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Subpart or the application thereof to other persons, entities, and circumstances.

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. HLT-53-19-00001-P, Issue of December 31, 2019. The emergency rule will expire April 13, 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:

The Public Health and Health Planning Council (PHHPC) is authorized by Section 225 of the Public Health Law (PHL) to establish, amend and repeal sanitary regulations to be known as the State Sanitary Code (SSC) subject to the approval of the Commissioner of Health. PHL Section 225(5)(a) provides that the SSC may deal with any matter affecting the security of life and health of the people of the State of New York.

Legislative Objectives:

PHL Section 225(4) authorizes PHHPC, in conjunction with the Commissioner of Health, to protect public health and safety by amending the SSC to address issues that jeopardize health and safety. This proposed regulation furthers this legislative objective by prohibiting the possession, manufacture, distribution, sale or offer for sale of flavored electronic liquids (e-liquids) to discourage youth electronic cigarette (e-cigarette) use.

Needs and Benefits:

Emergency regulations are necessary to address the alarming increase of e-cigarette use among New York's youth. New York State-specific surveillance data shows that youth e-cigarette use has risen at a dramatic rate over just the last four years, driven primarily by the abundance of e-liquid flavors. Swift interventions are needed to protect our youth from a lifetime addiction to nicotine. Therefore, restricting the availability of flavored e-liquids will deter youth from initiating e-cigarette use and reduce ongoing e-cigarette use.

According to the U.S. Food and Drug Administration (FDA), the use of e-cigarettes by youth has reached epidemic proportions nationally. Since the New York State Department of Health (Department) began tracking e-cigarette use in New York State (NYS) in 2014, use by youth in high school has increased 160 percent, from 10.5 percent in 2014, to 20.6 percent in 2016, to an astounding 27.4 percent in 2018. A review of youth risk behavior data since 1997 revealed that there has never before been such a dramatic increase, in such a short amount of time, of any substance use among youth. The rate for 2018 is equivalent to youth use of combustible cigarettes in 2000 prior to the dramatic decline in the use of combustible cigarettes among NYS youth. Currently, just 4.8 percent of

NYS youth smoke a combustible cigarette, one of the lowest rates in the nation. However, the rate of smoking by youth is increasing, as the rate in 2016 was 4.3 percent. Schools across New York State are finding it especially challenging to address the alarming increase in e-cigarette use by adolescents. Enforcement of minimum age statute and prohibitions on school grounds are especially difficult given that most products are sleek and easy to conceal by youth users.

The recently published National Academy of Science, Engineering, and Medicine (NASEM) report on the Public Health Consequences of E-Cigarettes concluded that there is:

- 1) "...substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and young adults," and
- 2) "...moderate evidence that e-cigarette use increases the frequency and intensity of subsequent combustible tobacco cigarette smoking" among youth and young adults.

Given the recent rise in combustible cigarette use by youth and the fact that e-cigarettes are now the most commonly used tobacco product by youth in NYS, evidence exists that use of e-cigarettes could reverse the long-standing decline in combustible cigarette use and reverse the public health benefits that NYS has achieved. A biennial survey of high school youth has shown that since 2014, openness to vaping has increased from 24% to 31%. After years of decline in openness to smoking, students in NY showed an uptick in openness to combustible smoking (decreased from 22% in 2010 to 17% in 2016, increased to 19% in 2018). Openness to smoking is a predictor of smoking experimentation among youth.

The flavorant chemicals used in e-cigarettes have been approved by the FDA for ingestion only; however, these chemicals have not been approved for inhalation. Because inhalation and ingestion are very different processes, nothing about the approval for ingestion should be interpreted to suggest that these products are safe for inhalation. Food products, chemicals and flavorings that are ingested are detoxified through the liver before entering the circulatory system. Aerosols that are inhaled have a direct impact on lung tissue and directly enter the circulatory system, and are not detoxified through the liver.

Some of the over 15,000 flavors now available include fruit flavors (apple, cherry, peach, melon, strawberry), dessert flavors (vanilla custard, peanut butter cup, cream cookie, milk 'n honey), candy flavors (cinnablaze, bubblerazz, mango burst, caramel), and menthol flavor, including mint and wintergreen. More recently, manufacturers have developed "concept flavors" that may be difficult to perceive as a single distinctive flavor and the product names reflect that (e.g., Jazz, First Flight, and Unicorn Milk) and simple color names (such as Blue and Yellow) that substitute for the names of flavors (Vanilla and Banana respectively). The list of flavors continues to grow. The commonality of all these flavors is that they are distinct from plain tobacco flavor or unflavored tobacco.

The dramatic increase in use of e-cigarettes by youth is driven in large part by flavored e-liquids, and flavors are a principal reason that youth initiate and maintain e-cigarette use. In a 2019 survey of adolescent e-cigarette users in NYS, 51.8 percent preferred fruit flavors, followed by mint/menthol (34.1%) and chocolate, candy or other sweets (8.8%). In that same survey, 19.8 percent of adolescent e-cigarette users say that flavors are the reason they currently use e-cigarettes, and for 11.5 percent of adolescent e-cigarette users, flavors were the primary reason for first use. Some flavors also confer misperceptions about the relative safety of e-cigarettes. The survey also found that adolescents are more likely to believe that sweet flavors like fruit, chocolate and candy and menthol/mint flavors are less harmful than traditional flavors like tobacco.

There is also concern regarding human exposure to nicotine. Users are often unaware of how much nicotine they are consuming. The newest and most popular e-cigarettes deliver high levels of nicotine, the addictive component in all tobacco products.

Nicotine is not a benign chemical. Nicotine has deleterious effects on the developing human brain – a process that continues through the mid-twenties. According to the US Surgeon General, these deleterious effects from nicotine can lead to lower impulse control and mood disorders; disrupt attention and learning among youth and young adults; and prime the developing brain for addiction to alcohol and other drugs.

Adult use of e-cigarettes differs by age category. Adults over age 24 use e-cigarettes at very low rates; just 4.2 percent in 2018. The rate of e-cigarette use among young adults 18 to 24 years of age is about 14 percent. A lower proportion of young adults (9%) use combustible cigarettes. Almost 40 percent of the young adult smokers are concurrently using e-cigarettes, known as dual use. The same health concerns described above apply to the use of e-cigarettes by adults aged 18 to 24.

The Department will continue to monitor the impact of new legislation that takes effect on November 13, 2019 that raises the legal age for purchase of e-cigarettes and related products to 21 years to determine the impact that has on youth use rates. In addition, the Department routinely conducts surveys that ask youth, among other things, their preference and current use of flavored products and will monitor the trends with respect to use of menthol, mint and other broad flavoring categories.

In addition, although it is too soon to understand the long-term health effects of a lifetime of e-cigarette use, research is beginning to accumulate about certain health effects related to cardiovascular conditions and respiratory conditions. Some e-cigarette flavors contain diacetyl, the buttery-flavored chemical that is used in foods like popcorn and caramel. When inhaled, diacetyl can cause bronchiolitis obliterans, a scarring of the tiny air sacs in the lungs, which is a serious concern that has symptoms that are similar to chronic obstructive pulmonary disease.

In a study performed at the Stanford University School of Medicine, scientists found that menthol and cinnamon flavored e-liquids, specifically, caused the most damage to endothelial cells (the cells that line the interior of blood vessels). Some of the effects of the e-liquid flavors were independent of the nicotine concentration. Researchers concluded that flavoring liquid used in e-cigarettes may increase the risk of heart disease. In a study at the Duke University School of Medicine, high levels of a carcinogenic oil banned in the U.S. as a food additive were found in samples of menthol-flavored e-cigarette liquids and smokeless tobacco products. Concentrations of the additive pulegone were 100 to more than 1,000 times higher than the concentrations considered safe for ingested food products by the FDA.

The Department will continue to closely monitor the research literature for health impact related to e-cigarettes. Adult smokers who want to continue to use e-cigarettes will have the option of unflavored or tobacco flavored e-cigarettes.

Costs:

Costs to Private Regulated Parties:

The regulation will impose costs, in terms of lost sales, for private regulated parties whose primary product line focuses on the sale of e-cigarettes, flavored e-liquids, and related products.

Costs to State Government and Local Government:

State and local governments will incur costs for enforcement. Exact costs cannot be predicted at this time because the extent of the need for enforcement cannot be fully determined. Some of the cost however may be offset by fines and penalties imposed pursuant to the Public Health Law as well as through utilizing State Aid funding.

Local Government Mandates:

The SSC establishes a minimum standard for regulation of health and sanitation. Local governments can, and often do, establish more restrictive requirements that are consistent with the SSC through a local sanitary code. Local governments have the power and duty to enforce the provisions of the State Sanitary Code, including 10 NYCRR Part 9, utilizing both civil and criminal options available.

Paperwork:

The regulation imposes an increase of administrative paperwork for program implementation in regard to developing adequate enforcement mechanisms, record-keeping of enforcement activities and compliance history, and complaint-driven enforcement actions.

Duplication:

There are currently no State or federal regulations regarding the possession, manufacture, distribution, sale or offer for sale of e-cigarettes with characterizing flavors.

Alternatives:

The alternative to the proposed regulation is to wait for the FDA to regulate in this area; however, due to the health concerns associated with increase e-cigarette use among youths, this alternative was rejected.

Federal Standards:

The FDA has not proposed any standards for e-cigarette devices or for the constituents used in the devices to create the aerosol, including characterizing flavors. FDA only requires that those purchasing e-cigarette products be at least 18 years old, that e-liquids carry a warning statement about the addictiveness of nicotine, and that e-liquids be in child-proof containers.

Compliance Schedule:

The regulation will be effective upon filing with the Department of State.

Regulatory Flexibility Analysis

Effect of Rule:

The amendment will affect the small businesses that are engaged in selling flavored e-liquids or e-cigarettes. The NYS Vapor Association (<http://nysva.org/>) claims there are at least 700 "vape shops" employing 2700 persons across the state, although the Department cannot confirm this information as no official registration mechanism for "vape shops" currently exists.

Compliance Requirements:

Small businesses must comply with the proposed regulation by not engaging in any possession, manufacturing, distribution, sale, or offer of sale of flavored e-liquids. Local governments must comply by enforcing the proposed regulations as they are part of the State Sanitary Code.

Professional Services:

Small businesses will need no additional professional services to comply.

Compliance Costs:

Costs to Private Regulated Parties:

The regulation will impose costs, in terms of lost sales, for private regulated parties whose primary product line focuses on the sale of e-cigarettes, flavored e-liquids, and related products.

Costs to State Government and Local Government:

State and local governments will incur costs for enforcement. Exact costs cannot be predicted at this time because the extent of the need for enforcement cannot be fully determined. Some of the cost however may be offset by fines and penalties imposed pursuant to the Public Health Law as well as through utilizing State Aid funding.

Economic and Technological Feasibility:

The rule does not impose any economic or technological compliance burdens.

Minimizing Adverse Impact:

The New York State Department of Health will assist local governments by providing consultation, coordination and information and updates on its website.

Small Business and Local Government Participation:

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

Cure Period:

Violations of this regulation can result in civil and criminal penalties. In light of the magnitude of the public health threat posed by flavored e-liquids, the risk that some small businesses will not comply with the regulations and continue to possess, manufacture, distribute, sell or offer for sale any flavored e-liquid or product containing the same justifies the absence of a cure period.

Rural Area Flexibility Analysis

Pursuant to Section 202-bb of the State Administrative Procedure Act (SAPA), a rural area flexibility analysis is not required. These provisions apply uniformly throughout New York State, including all rural areas. The proposed rule will not impose an adverse economic impact on rural areas, nor will it impose any additional reporting, record keeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

Nature of Impact:

E-cigarettes and e-liquids are sold in many types of retail outlets. The impact on businesses where e-cigarette sales is not the focus of the business (e.g., convenience store) will have no job impact from this regulation as e-cigarettes make up only a small percentage of their sales. Some e-cigarette retailers focus the bulk of their business on e-cigarettes and e-liquids and these outlets will be affected by this regulation. Although they will still be able to sell e-cigarette devices and unflavored, menthol or tobacco flavored e-liquid, the prohibition on flavored e-liquids is likely to affect these businesses. The Department does not have an accurate estimate of the number of stores affected since the registration requirement for e-cigarette retailers will not be effective until December 1, 2019.

Categories and Numbers Affected:

The main category affected by this regulation is the store that focuses its primary business on the sale of e-cigarette devices and e-liquids. The NYS Vapor Association (<http://nysva.org/>) claims there are at least 700 of such "vape shops" employing 2700 persons across the state, although the Department cannot confirm this information as no official registration mechanism for "vape shops" currently exists. Because of the lack of data about the number of these stores, it is not possible to accurately estimate the number of jobs affected.

Regions of Adverse Impact:

The Department anticipates any jobs or employment impacts will occur equally throughout the regions of the state.

Minimizing Adverse Impact:

The Department will consider different types/levels of enforcement while retailers adapt to the new regulation.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Licensed Home Care Services Agencies (LHCSAs)

I.D. No. HLT-45-19-00002-A

Filing No. 140

Filing Date: 2020-02-14

Effective Date: 2020-04-01

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

Action taken: Amendment of Subpart 765-1 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 3612

Subject: Licensed Home Care Services Agencies (LHCSAs).

Purpose: To implement changes to public need and financial feasibility review for applications for HCSAs licensure and change of ownership.

Substance of final rule: The proposal would amend various provisions of Part 765 of Title 10 NYCRR to implement recently enacted legislation.

Section 765-1.2. Applications for licensure. This section will be amended to require applications for licensure as a Licensed Home Care Service Agency (LHCSA) to include information on the public need for additional LHCSAs and the financial resources of the proposed agency as required by law, in addition to the existing requirement of a character and competence review. Amendments would specify that applications for licensure based on change of ownership for LHCSAs actively serving at least 25 patients shall only be evaluated based on financial feasibility and the character and competence of the proposed operator.

Section 765-1.3. Requirements for approval. This section will be amended to require applicants for licensure as a LHCSA to satisfactorily demonstrate to the Public Health and Health Planning Council (PHHPC) the public need for the agency and the financial resources of the agency in order to be approved for licensure, in addition to the existing requirement of a character and competence review.

Section 765-1.4. Amendments to applications. This section will be amended to add to the list of actions that constitute an amendment to a pending application for licensure for a home care services agency, requiring review and approval by PHHPC. The proposal will require that any significant change to the proposed patient capacity, any change in the agency's proposed service area, and any significant change to the agency's proposed annual operating budget will constitute an amendment and require approval by PHHPC, in addition to the existing language stating that changes to services and changes in the principles of the applicant as considered by PHHPC are amendments. A new section will be added specifying that failure to disclose this information prior to the issuance of a license shall be grounds for revocation, limitation, or annulment of the approval for licensure. This is consistent with the approval processes for other types of home care agencies including certified home health agencies and hospices.

This proposal would also add a new section 765-1.16. Determinations of public need, to detail the public need methodology to be used to implement recent statutory changes. Subdivisions of this new section will include planning area designations, determination of public need, public need exemption criteria and additional requirements for applications seeking PHHPC approval, and priority considerations for the Department.

The regulations will affect all agencies applying for licensure as a home care services agency or for changes of ownership on or after April 1, 2020.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 765-1.2(b)(3), 765-1.16(c)(1), (3), (4), (d)(2) and (e).

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

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

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

Initial Review of Rule

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

Assessment of Public Comment

The New York State Department of Health ("Department") received public comments in response to the proposed rulemaking amending Part 765 of Title 10 of the NYCRR relating to licensed home care services agencies (LHCSAs). The comments and responses are summarized below.

Comments in support: Two commenters supported the provision that change of ownership applications for agencies serving 25 or more patients not be subjected to public need review; one commenter noted its support of the proposed LHCSA need methodology and suggested that workforce be a primary consideration; and one commenter supported the inclusion of the financial feasibility review parameters. These supportive comments are noted by the Department.

Comment (multiple stakeholders): Clarify various terms used in the regulation, including "significant change" and "reasonableness."

Response: The Department will provide terminology clarification in guidance documents. No changes to the regulation are necessary.

Comment: Assisted Living Program (ALP)-affiliated LHCSAs should be allowed to continue to serve a patient after ALP discharge.

Response: The ALP's discharge plan should accommodate the patient and their home care provider if one is needed. No changes to the regulation are necessary.

Comment (two stakeholders): ALP-affiliated LHCSAs should be allowed to serve patients outside of the ALP without requiring public need review.

Response: As the regulation appropriately addresses the conditions under which an ALP-affiliated LHCSA will be exempt from public need review, regulatory changes are unnecessary.

Comment: The word "operating" should be removed from the term "operating revenues".

Response: The Department made a technical amendment in response to this comment.

Comment (two stakeholders): There should be a flexible definition of planning areas.

Response: As the Department believes the regulation's definition of planning areas is sufficiently flexible, no changes were made to the regulation in response to this comment.

Comment (five stakeholders): Clarify that an existing LHCSA seeking to expand into an additional county or add services to an existing license would not be subject to public need review.

Response: There is no statutory basis to apply the new LHCSA public need methodology to actions that are defined as construction under Article 36 of the Public Health Law. No changes were made to the regulation in response to this comment.

Comment (five stakeholders): The Department should withdraw the proposed methodology, reconsider the limit of five agencies, or clarify that the presumption of no need is rebuttable.

Response: The Department made technical amendments to clarify that the presumption of no need is rebuttable, and the regulation sets forth the requirements for this rebuttable presumption.

Comment: LHCSAs that are only providing Fiscal Intermediary services should not be counted towards the threshold of five LHCSAs per planning area.

Response: Only agencies that are actively serving patients are counted towards the planning area threshold; regulatory changes are therefore unnecessary.

Comment: Clarify the criteria that the Department will use to review the adequacy of the public need methodology.

Response: As the need methodology is new, the Department believes it is more useful to review its adequacy once it has been in use; therefore, no changes were made due to this comment.

Comment: Omit the following phrase in Section 765-1.16(d)(2): "and who cannot be served adequately in other settings."

Response: The Department agrees with the comment and has made a technical amendment to section 765-1.16(d)(2).

Comment: Clarify how LHCSAs can obtain information on the number of patients on waiting lists to access LHCSA services.

Response: The Department will work with applicants to develop this information using existing resources. No changes were made to the regulation in response to this comment.

Comment (two stakeholders): Clarify the quality measures to be evaluated in determining need.

Response: Quality measures will be further clarified in guidance documents. No changes were made in response to this comment.

Comment: Clarify how the cultural competency of existing agencies can be determined by a LHCSA applicant.

Response: The Department does not believe the addition of such information in regulation is necessary; therefore, no changes were made.

Comment: Provide information on the Department's plan to monitor and enforce LHCSA compliance.

Response: The Department will utilize existing surveillance tools to monitor compliance with the proposed requirements; therefore, no changes were made.

Comment (four stakeholders): LHCSAs that do not receive Medicaid reimbursement should be exempt from the public need methodology.

Response: The Public Health Law requires that applications for licensure be reviewed for public need without consideration of payor source; therefore, no changes were made.

Comment: There should not be a presumption of adequate access to home care based on the number of LHCSAs per county, as LHCSAs may not be providing services in all areas of the counties included on their license.

Response: Based on Department policy, if a LHCSA is licensed to operate in a county it must provide access in all areas of the county; thus, changes to the regulation are unnecessary.

Comment: The public need methodology should be based upon the development of a population-based formula.

Response: Due to the lack of available and current data, the Department rejected this proposal; therefore, no changes were made to the regulation.

Comment: Setting the presumption of no need at five LHCSAs per county does not accurately capture the need for services in the planning area.

Response: There is no evidence presented by the commenter that supports this assertion. The Department thus declines to make changes to the regulation.

Comment (two stakeholders): The report on the adequacy of the need methodology should be issued no later than three years from adoption.

Response: The Department made technical amendments to the regulation to require the report be issued no later than three years from adoption and be delivered to numerous parties.

Comment: The Department should provide guidance on the resources available to applicants to detail the factors set forth in section 765-1.16(d).

Response: The Department will work with applicants to develop this information using existing resources; therefore, no changes were made to the regulation.

Comment: The Department should provide guidance relating to the relative priority of factors to be considered when determining need.

Response: As it would be more effective to determine the priority of factors after the regulation has been in place and applications are reviewed, no changes were made to the regulation in response to this comment.

Comment: Clarify whether the requirement that an applicant agree to serve population groups who have difficulty accessing services precludes a LHCSA from being approved if it only serves private pay patients.

Response: The regulation applies to all payor sources. Therefore, the Department declines to make the requested change.

Comment: Language should be added to require the timely review and approval of applications.

Response: The Department is committed to the timely review of applications but does not believe the addition of such language is necessary in regulation; thus, no changes were made to the regulation in response to this comment.

Comment: The Certificate of Need process should be simple so LHCSAs can adapt to changes in the health care market.

Response: The proposed regulations do not limit an agency's ability to adapt to changes in the health care market; therefore, no changes were made to the regulation as a result of this comment.

Comment (two stakeholders): LHCSAs should be exempt from the public need methodology based on their affiliation with specific programs.

Response: The Department agrees that Nurse Family Partnership (NFP) and Continuing Care Retirement Community affiliated LHCSAs should be excluded from the public need methodology, and therefore has made technical amendments to the final rule.

Comment: LHCSAs only providing NFP services should not count toward the five-agency limit.

Response: Agencies affiliated with a NFP, ALP, PACE, or CCRC, which exclusively serve patients within those programs, will not count towards the five-agency limit; thus, no changes were made in response to this comment.

Comment: There should be flexibility in the financial feasibility review to account for unique categories of providers.

Response: The final rule allows flexibility, and the Department can issue additional clarifying guidance; therefore, no changes have been made in response to this comment.

Comment: Although the need methodology addresses the establishment of new agencies, it does not address the standards of currently-operating agencies; therefore, new standards should be established for all agencies.

Response: This recommendation is outside the scope of this regulation; therefore, no changes were made.

Comment: The character and competence review requirements for a new LHCSA application should be revised.

Response: The provisions in the proposed regulation are intended to be flexible to account for a variety of situations, and the Department can issue additional guidance documents. Therefore, no changes were made to the regulation.

Comment: Confirm that Section 765-1.4 of the regulation only applies to agencies making changes to a pending application.

Response: Section 765-1.4 only applies to agencies seeking to make an amendment to a pending application for licensure.

Comment: The definition of "affiliated" should be revised to include common ownership or control.

Response: The Department will evaluate all relevant information to determine "affiliation"; therefore, no changes were made in response to this comment.

Comment: Requiring documented evidence of waiting list information is not realistic.

Response: As this information is important in understanding the scope of need across the State, no changes were made to the regulation due to this comment.

Comment: Applicants should be required to describe their plans to develop the home care workforce.

Response: Section 765-1.16(d) sufficiently addresses this request; therefore, no changes were made due to this comment.

Comment: Populations that have difficulty accessing home care due to geographic location should be added to the list of populations that applicants must agree to serve.

Response: The Department agrees and has made a technical amendment to the regulation.

Comment: Public need review should not apply to changes of ownership that would result in the consolidation of two or more LHCSA licenses.

Response: Due to concerns that this suggestion would create a mechanism for proposed agencies to avoid public need review, the Department declines to make this change.

Comment: The exemption threshold for change of ownership applications should be reduced from 25 to 5 patients.

Response: The Department finds the 25-patient standard to be reasonable to ensure operational activeness; therefore, no changes were made to the regulation.

Comment: All change of control transactions that do not result in a new license and that involve parties who have previously passed a character and competence review for direct or indirect control of a LHCSA should be exempt from the public need review, regardless of the corporate structure.

Response: The commenter raises an issue that the Department will review over the next two years and include in its report on the adequacy of the need methodology. However, changes to the regulation are currently unnecessary.

Comment: The financial feasibility review in the proposed regulation should be completed by the regional offices with recommendation to PHHPC.

Response: The process for the financial feasibility review will be established through guidance documents; therefore, no changes were made in response to this comment.

Comment: Confirm that the proposed regulation, as it relates to changes in ownership applications, applies to the purchase of the assets of an existing LHCSA, which would require termination of the existing license and approval of a new license.

Response: An applicant must submit sufficient proof to the Department that a change of ownership has occurred; accordingly, changes to the regulation are unnecessary.

Comment: Provide information on which entities store, publish, or have access to the number of LHCSAs in a planning area and the number of LHCSAs serving 25 patients and how that information can be accessed by the public.

Response: The Department maintains general information on LHCSAs, including service areas and number of patients served. No changes were made to the regulation in response to this comment.

Comment: Clarify that ALP-affiliated LHCSAs are not required to serve specific population groups.

Response: The Department will work with prospective ALP-affiliated LHCSAs on their unique patient population. No changes were made to the regulation in response to this comment.

Long Island Power Authority

PROPOSED RULE MAKING HEARING(S) SCHEDULED

LIPA's Tariff for Buy-Back Service (Service Classification No. 11) I.D. No. LPA-09-20-00009-P

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

Proposed Action: The Long Island Power Authority proposes to modify the Tariff for Electric Service to authorize purchases of renewable resources under a new Solar Communities Feed-In Tariff.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: LIPA's Tariff for Buy-Back Service (Service Classification No. 11).

Purpose: To add a new Feed-In Tariff to supply the newly proposed Solar Communities program.

Public hearing(s) will be held at: 10:00 a.m., May 4, 2020 at Rose

Caracappa Auditorium, William H Rogers Bldg. #20, 725 Veterans Memorial Hwy., Smithtown, NY; 2:00 p.m., May 4, 2020 at Long Island Power Authority, 333 Earle Ovington Blvd., Uniondale, 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: The Long Island Power Authority Staff proposes to modify the Tariff for Electric Service ("Tariff") effective June 1, 2020, to authorize purchases of renewable resources under a new Feed-In Tariff to supply the newly proposed Solar Communities program.

Text of proposed rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: tariffchanges@lipower.org

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.

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.

PROPOSED RULE MAKING HEARING(S) SCHEDULED

To Update and Implement Latest Requirements for ESCOs Proposing to do Business Within the Authority's Service Territory

I.D. No. LPA-09-20-00010-P

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

Proposed Action: The Long Island Power Authority proposes to modify LIPA's Tariff for Electric Service to require each Energy Service Company ("ESCO") participating in Long Island Choice must meet the ESCO eligibility requirements of the Department of Public Service.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory.

Purpose: To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets.

Public hearing(s) will be held at: 10:00 a.m., May 4, 2020 at Rose Caracappa Auditorium, William H Rogers Bldg. #20, 725 Veterans Memorial Hwy., Smithtown, NY; 2:00 p.m., May 4, 2020 at Long Island Power Authority, 333 Earle Ovington Blvd., Uniondale, 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: The Long Island Power Authority ("LIPA") staff proposes to modify LIPA's Tariff for Electric Service (the "Tariff") effective June 1, 2020, to require that each Energy Service Company ("ESCO") participating in the Long Island Choice Program, in order to be eligible, must meet the latest requirements established by the New York Public Service Commission for ESCOs doing business in New York.¹ Specifically, each ESCO must complete a Retail Access Eligibility Application Form with the New York Department of Public Service (the "Department" or "DPS"), receive a finding from the Department of eligibility to sell electricity as an ESCO, and maintain eligibility with the Department at all times during the ESCO's participation in Long Island Choice. In order to be eligible to serve mass market customers, pursuant to the Department's requirements, ESCOs will be required to provide either guaranteed savings, a fixed-rate product with a price limit, or green energy; to give customers access to transparency of pricing information; to refrain from offering non-energy related valued-added products and services pending further Commission proceedings regarding such products and service; and to refrain from the use of misleading marketing materials.

¹ Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process, Case 15-M-0127, In the Matter of Eligibility Criteria for Energy Service Companies (December 12, 2019).

Text of proposed rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: tariffchanges@lipower.org

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.

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.

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Modification of Service Classification No. 13 – Negotiated Contracts

I.D. No. LPA-09-20-00011-P

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

Proposed Action: The Long Island Power Authority proposes to modify Service Classification No. 13 in order to negotiate contracts with sewer districts participating in the Suffolk County Coastal Resiliency Initiative (SCCRI).

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: Modification of Service Classification No. 13 – Negotiated Contracts.

Purpose: To update the Authority's Tariff and authorize a negotiated contract with the Suffolk County Department of Public Works.

Public hearing(s) will be held at: 10:00 a.m., May 4, 2020 at Rose Caracappa Auditorium, William H Rogers Bldg. #20, 725 Veterans Memorial Hwy., Smithtown, NY; 2:00 p.m., May 4, 2020 at Long Island Power Authority, 333 Earle Ovington Blvd., Uniondale, 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: The Long Island Power Authority ("LIPA") is proposing an addition to Service Classification No. 13 – Negotiated Contracts to authorize a negotiated contract with sewer districts participating in the Suffolk County Coastal Resiliency Initiative ("SCCRI"). These contracts will provide electric service to separately metered pumping equipment at thousands of individual customer locations as part of an effort to protect ground water sources and sustain the regional environment on Long Island that will benefit LIPA's customers and the surrounding waterways of the Great South Bay.

Text of proposed rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: tariffchanges@lipower.org

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.

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.

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

Smart Grid Small Generator Interconnection Procedures

I.D. No. LPA-09-20-00012-P

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

Proposed Action: The Long Island Power Authority proposes to modify the Smart Grid Small Generator Interconnection Procedures consistent with recent changes made to the New York State Standardized Interconnection Requirements.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: Smart Grid Small Generator Interconnection Procedures.

Purpose: To be consistent with the New York State Standardized Interconnection Requirements.

Public hearing(s) will be held at: 10:00 a.m., May 4, 2020 at Rose Caracappa Auditorium, William H Rogers Bldg. #20, 725 Veterans Memorial Hwy., Smithtown, NY; 2:00 p.m., May 4, 2020 at Long Island Power Authority, 333 Earle Ovington Blvd., Uniondale, 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: PSEG Long Island's Smart Grid Small Generator Interconnection Procedures (the "SGIP") is an addendum to the Long Island Power Authority ("LIPA")'s Tariff for Electric Service (the "Tariff"). It provides the interconnection procedures for Distributed Generators (DG) ten megawatts and under connecting to the distribution system. LIPA staff proposes to modify the SGIP, effective June 1, 2020, to reflect additional updates and clarifications of the New York Public Service Commission (the "Commission") to the New York State Standardized Interconnection Requirements ("SIR") for Small Distributed Generators as a result of the December 13, 2019 Order Modifying Standardized Interconnection Requirements¹ (5 MW or Less) and to extend such changes as applicable to the SGIP for five megawatts to ten megawatts.

¹ Case 19-E-0566, Joint Petition for Certain Amendments to the New York State Standardized Interconnection Requirements (SIR) for New Distributed Generators and Energy Storage Systems 5 MW or Less Connected in Parallel with Utility Distribution Systems, Order Modifying Standardized Interconnection Requirements; Issued and Effective December 13, 2019.

Text of proposed rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: tariffchanges@lipower.org

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.

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.

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

Long Island Choice Provisions of the Authority's Tariff

I.D. No. LPA-09-20-00013-P

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

Proposed Action: The Long Island Power Authority proposes to modify its Tariff for Electric Service to enable Community Choice Aggregation ("CCA") within the Authority's Long Island Choice Program.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: Long Island Choice provisions of the Authority's Tariff.

Purpose: To enable CCA formation within the Long Island Choice Program.

Public hearing(s) will be held at: 10:00 a.m., May 4, 2020 at Rose Caracappa Auditorium, William H Rogers Bldg. #20, 725 Veterans Memorial Hwy., Smithtown, NY; 2:00 p.m., May 4, 2020 at Long Island Power Authority, 333 Earle Ovington Blvd., Uniondale, 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: The Long Island Power Authority staff proposes to modify the Tariff for Electric Service effective June 1, 2020, to enable Community Choice Aggregation within the Authority's Long Island Choice Program, consistent with the New York State Public Service Commission Proceeding 14-M-0224; Proceeding on Motion of the Commission to Enable Community Choice Aggregation Program.

Text of proposed rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: tariffchanges@lipower.org

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.

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.

Metropolitan Transportation Agency

**EMERGENCY
RULE MAKING**

Debarment of Contractors

I.D. No. MTA-23-19-00006-E

Filing No. 137

Filing Date: 2020-02-14

Effective Date: 2020-02-14

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

Action taken: Addition of Part 1004 to Title 21 NYCRR.

Statutory authority: Public Authorities Law, sections 1265(5), 1266(4) and 1279-h

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

Specific reasons underlying the finding of necessity: This emergency rule making is necessary to immediately implement the recent amendment to the Public Authorities Law, enacted as part of the 2020 Budget, which added a new Section 1279-h. That new statutory provision, effective immediately on enactment on April 12, 2019 and applicable to all contracts in effect on or entered into after that date, requires the Metropolitan Transportation Authority to establish "pursuant to regulation" a process for debarment of contractors under certain circumstances specified in the statute.

Subject: Debarment of contractors.

Purpose: To comply with Public Authorities Law, section 1279-h, which requires the MTA to establish a debarment process for contractors.

Text of emergency rule: A new Part 1004 is added to read as follows:

Section 1004.1 Purpose

(a) This Part establishes rules and regulations governing the debarment of contractors by the Metropolitan Transportation Authority and its subsidiaries and affiliates, as required by Section 1279-h of the Public Authorities Law, which was enacted on and made effective immediately as of April 12, 2019. Once adopted, it shall apply to all contracts that were in effect on, or entered into after, April 12, 2019.

(b) Nothing in this Part shall preclude or otherwise limit the Authority,

as defined below, from assessing the responsibility of any bidder, contractor, subcontractor, or supplier pursuant to its All-Agency Responsibility Guidelines or from prohibiting any bidder, contractor, subcontractor, or supplier found to be not responsible from responding to new and future contract solicitations or from being awarded new and future contracts or subcontracts.

Section 1004.2 Definitions

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

(a) Authority means the Metropolitan Transportation Authority, the Long Island Rail Road Company, the Metro-North Commuter Railroad Company, the Staten Island Rapid Transit Operating Authority, MTA Bus Company, MTA Capital Construction Company, the New York City Transit Authority, the Manhattan and Bronx Surface Transit Operating Authority, or the Triborough Bridge and Tunnel Authority, or any combination thereof, as the case may be.

(b) Contract means an enforceable agreement including a task order entered into by a contractor and the Authority for goods or services, including without limitation construction services.

(c) Contractor means any person, partnership, firm, corporation, or association, including any consultant, supplier or vendor, with whom the Authority has entered into a construction, consultant, equipment, supply, or services contract, but shall not include the federal government, a state agency, any public authority or public benefit corporation, or any unit of local government.

(d) Debar or debarment means the prohibition of a contractor from responding to any contract solicitation of or entering into any contract with the Authority for five years from a final debarment determination as provided in section 1004.6 of this Part.

(e) Contract Modification means amendments, change orders, additional work orders, or modifications with respect to a contract that are executed in accordance with the terms and conditions of such contract.

(f) Substantially Complete, unless otherwise defined in the contract at issue, means the contractor's completion of the work as necessary for the Authority's beneficial use of the applicable project or improvements or the Authority's acceptance of those goods or services required to be delivered by a deadline.

(g) Total adjusted time frame means (1) with respect to all work under a contract, the period of time that a contract provides for a contractor to substantially complete the work, as may have been extended or reduced by one or more contract modifications, and (2) with respect to contracts for goods or services, as to any portion of the goods or services that must be delivered by a deadline, the period of time that the contract provides for such delivery, as may have been extended or reduced by one or more contract modifications.

(h) Total adjusted contract value means the original awarded amount of the contract plus or minus the aggregate net amount of all contract modifications.

Section 1004.3 Grounds for Debarment

(a) The Authority, including all contracting personnel therein, must debar a contractor if it makes a final determination that the contractor has:

(1) (i) failed to substantially complete all the work within the total adjusted time frame by more than ten percent of the total adjusted time frame, or (ii) failed to progress the work in a manner so that it will be substantially complete within ten percent of the total adjusted time frame and has refused or in the opinion of the Authority is unable to accelerate the work so that it will be substantially complete within ten percent of the total adjusted time frame, and such refusal or failure is an event of default under the contract; or (iii) with respect to contracts for goods or services, as to any portion of the goods or services that must be delivered by a deadline, materially failed to deliver such goods or services by more than ten percent of the total adjusted time frame.

(2) asserted a claim or claims for payment of additional amounts beyond the total adjusted contract value and one or more of such claims are determined to be invalid under the contract's dispute resolution process or if no such process is specified in the contract in a final determination made by the chief engineer or otherwise by the Authority, and together the sum of any such invalid claims exceeds by ten percent or more the total adjusted contract value.

(3) The Authority, including all contracting personnel therein, must commence a debarment procedure where there is any evidence that any specific provision referenced in provision (a)(1) and (a)(2) have been violated, and the Authority and its contracting personnel have no discretion to excuse or justify violations of any provision referenced in provision (a)(1) and (a)(2).

Section 1004.4 Notice of Intent to Debar and Written Response

(a) Upon the occurrence of one or both of the circumstances set forth in section 1004.3 of this Part, the Authority shall provide a written notice of intent to debar to the contractor, advising the contractor that it will hold a

hearing to make a final determination as to whether a ground for debarment exists. At a minimum, the notice of intent to debar shall:

(1) state the facts upon which the Authority made its preliminary finding that one or both statutory grounds for debarment exists, including the basis for determining as provided in section 1004.4 of this Part that the contractor failed to timely Substantially Complete or the Authority's calculation of costs arising from claims determined to be invalid, and

(2) provide the contractor 30 calendar days after the date of the notice of intent to debar to respond.

(b) A contractor's written response must address each of the factual statements made by the Authority in its notice of intent to debar and state in detail any defenses including but not limited to force majeure.

(c) After submission by the contractor of a written response within the time permitted, or after the failure by the contractor to submit a written response within such time, a debarment hearing will be held, as provided in section 1004.5 of this Part.

(d) Subject to section 1004.1(b) of this Part, a contractor who has received a notice of intent to debar may respond to other contract solicitations issued by the Authority pending the hearing and a final debarment determination, if any; provided, however, that if the Authority awards such contractor a new contract or contracts after having provided the contractor a notice of intent to debar, and such contractor is later debarred by the Authority pursuant to such notice, the Authority must view such debarment as cause for termination under such new contract or contracts and thereupon terminate any such new contracts for cause.

Section 1004.5 Debarment Hearing

(a) A debarment hearing shall be conducted within:

(1) 21 calendar days from the Authority's receipt of a contractor's written response to a notice of intent to debar or within such further reasonable time that the authority shall proscribe; or

(2) 14 calendar days after the date the contractor's response was due, if no response is received from the contractor within the deadline.

(b) A recording or transcript of the debarment hearing shall be made.

(c) The debarment hearing shall be conducted by a panel of at least three managerial level employees of the MTA designated by majority vote of the Authority's board; provided that no employee who has taken part in the award of any Authority contract to such contractor or overseen such contractor's performance on any Authority contract may serve on a panel considering the debarment of such contractor.

(d) A contractor shall have the right to appear by and be represented by counsel at the debarment hearing and any hearings in connection with other proceedings conducted pursuant to this Part.

(e) A contractor at the debarment hearing may assert any and all defenses to debarment including without limitation force majeure.

(f) If a contractor fails to appear at a debarment hearing, the panel may proceed with the hearing on the basis of the record before it and reach a final determination without providing for any further appearance or submission by the contractor.

Section 1004.6 Final Debarment Determination

(a) After the hearing is completed, the panel shall determine if one or both of the grounds for debarment as set forth in section 1004.3 of this Part exists.

(b) The panel's determination shall be set forth in writing. If the final debarment determination is that one or both of the grounds for debarment exist, the contractor shall be debarred for five years from the date of the final debarment determination. The panel may, in its discretion, also debar any of (1) the contractor's parent(s), subsidiaries and affiliates; (2) any joint venture (including its individual members) and any other form of partnership (including its individual members) that includes a contractor or a contractor's parent(s), subsidiaries, or affiliates of a contractor; (3) a contractor's directors, officers, principals, managerial employees, and any person or entity with a ten percent or more interest in a contractor; (4) any legal entity controlled, or ten percent or more of which is owned or controlled, by a contractor, or by any director, officer, principal, managerial employee of contractor, or by any person or entity with a 10 percent or greater interest in contractor, including without limitation any new entity created after the date of the notice of intent to debar.

(c) The panel's determination shall be timely submitted to the board of the Authority for ratification. The board of the Authority shall review such determination and either: (i) ratify the determination or; (ii) remit the determination to the panel for further consideration of facts or circumstances identified in the remission. The facts or circumstances identified in the remission shall be reviewed by the panel who shall then, after reconsideration, make a determination. Such determination shall then be resubmitted to the Authority board for ratification or nullification. Upon initial Authority board ratification of a panel determination, or Authority board ratification or nullification of a panel determination made after reconsideration, such determination shall be deemed final.

(d) Timely and complete compliance with each and all of the requirements of this Part shall be a precondition to any legal challenge that the

contractor may be permitted to bring arising out of its debarment pursuant to Section 1279-h of the Public Authorities Law.

(e) Pursuant to Executive Order 192, the Authority shall notify the New York State Office of General Services of any final debarment determination within five days of the date thereof.

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. MTA-23-19-00006-EP, Issue of June 5, 2019. The emergency rule will expire April 13, 2020.

Text of rule and any required statements and analyses may be obtained from: Peter Sistrom, Metropolitan Transportation Authority, 2 Broadway, 9th Floor, New York, NY 10004, (212) 878-7176, email: psistrom@mtahq.org

Regulatory Impact Statement

Statutory Authority:

Section 1266(4) of the Public Authorities Law provides that the Metropolitan Transportation Authority (MTA) may establish rules and regulations as it may deem necessary, convenient, or desirable for the use and operation of any transportation facility and related services operated by the MTA. Newly enacted Section 1279-h of the Public Authorities Law, enacted on April 12, 2019 and effective immediately, directs the MTA to establish pursuant to regulation a debarment process for its contractors.

Legislative Objectives:

The Legislature enacted the new Section 1279-h of the Public Authorities Law as part of the 2020 Budget. It requires the MTA to establish a process that will debar for five years any contractor who either fails to substantially complete the work within the time frame set by the contract, or in any subsequent change order, by more than ten percent of the contract term, or whose disputed work exceeds ten percent or more of the total contract cost where claimed costs are deemed to be invalid pursuant to the contractual dispute resolution process. And the statute requires that the debarment process ensures that contractors have notice and an opportunity to be heard including the opportunity to present as a defense acts such as force majeure. The proposed rule accords with this legislative objective by establishing a process for debarment of contractors.

Needs and Benefits:

The proposed rule is necessary to implement the newly enacted Section 1279-h of the Public Authorities, which expressly requires the MTA to establish a debarment process and specifies the circumstances under which MTA must debar a contractor. Contractors who are significantly late in performing their contractual work or in meeting contractual delivery dates or who assert substantial and unjustified claims for payment should not be allowed to compete to be awarded new contracts.

Costs:

(a) Regulated parties. This proposal does not impose new costs on contractors. It provides for process for determining whether factual circumstances exist, which the Legislature has determined require debarment. The proposed rule establishes a process to ensure that contractors are provided notice and an opportunity to be heard.

(b) Local government. The proposed rule will impose no costs on local governments.

(c) MTA. The MTA will use existing resources including its existing procurement and legal staff to undertake debarments of contractors.

Paperwork:

The proposed rule will require the MTA to develop a notice to inform contractors that they might be debarred.

Local Government Mandates:

The proposed rule does not impose any new programs, services, duties, or responsibilities on local government.

Duplication:

The proposed rule does not duplicate, overlap, or conflict with any State or Federal rule.

Alternatives:

The Legislature has expressly directed the MTA to establish by regulation a debarment process for its contractors, so MTA has not considered not doing so.

Federal Standards:

The proposed rule does not exceed any Federal minimum standards.

Compliance Schedule:

There is no compliance schedule imposed by this proposed rule. Once adopted, it will be effective immediately and will apply to contracts in effect on, or entered into after, the effective date of Section 1279-h of the Public Authorities Law, which was April 12, 2019.

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

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rule making proposal because it will not adversely affect small businesses, local governments, rural areas, or jobs.

This proposed rule making will allow the Metropolitan Transportation Authority to debar a contractor under specified statutorily proscribed circumstances after giving such contractor notice and opportunity to be heard. Due to its narrow focus, this proposed rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses or local governments in rural or urban areas or on jobs and employment opportunities.

Assessment of Public Comment

On May 22, 2019, the MTA submitted to the Secretary of State a Notice of Emergency Adoption and Proposed Rulemaking; it was published in the New York State Register on June 5. The emergency rule, which was identical to the proposed rule and added a new Part 1004 to Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York, became effective upon filing. The MTA re-adopted the same emergency rule on August 19, October 18, and December 16, and has now re-adopted the same emergency rule on February 14.

Meanwhile, in the 60-day period for public comment following publication in the New York State Register, the MTA received nearly 50 separate comments totaling over 200 pages. Commenters included:

- 17 trade associations representing, among others, general contractors, sureties, electrical contractors, architectural and engineering consultants, and subcontractors

- 27 individual firms that have and continue to do construction-related work for the MTA including Bombardier, John G. Civetta & Sons, Schindler Elevator, Siemens Mobility, Skanska, STV Companies, Syska Hennessy, TC Electric, and Tutor Perini

- 5 other commenters, including the Citizens Budget Commission and the Partnership for New York City

Many of these commenters called debarment of contractors who are late or over budget an unduly harsh and punitive consequence. The MTA, they say, has effective contractual remedies and uses them, sometimes unfairly. According to these commenters, debarment should be used only for fraud or criminal activity. Many predicted that few contractors will bid on MTA projects going forward and those who do will increase their bid prices.

Many commenters asserted that whatever new debarment procedure the MTA adopts should lawfully apply only to contracts entered after the debarment statute, Public Authorities Law § 1279-h, took effect in April 2019. Otherwise, they assert, their existing contracts would be impaired, which they asserted would be both unconstitutional and unfair because their bid prices did not consider the added risk of debarment.

Several commenters urged MTA to exclude participants in the MTA's Small Business Mentoring Program.

Other commenters objected to the proposed rule for being inflexible, asserting that it would give the MTA no discretion to consider what they said were "mitigating factors."

Some commenters objected that "invalid claim" is not defined in the proposed rule and so MTA has too much discretion to debar contractors for submitting in good faith payment claims that are denied by the MTA's dispute resolution process. Others suggested that it was unfair to hold contractors accountable for payment claims by their subcontractors that they are contractually obligated to forward to MTA whether they believe them valid.

Other commenters objected to the provision allowing a hearing panel to debar not only a contractor but affiliated entities and individuals.

MTA continues to evaluate these public comments but has not yet decided whether to adopt the proposed rule or to revise it and therefore is not ready, and is not required, to fully assess and respond to all the comments. Since the filing of the Notice of Emergency Adoption on December 16, 2019 (which was published in the New York State Register on December 31, 2019), the MTA has received no further public comments.

Public Service Commission

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-32-19-00009-A

Filing Date: 2020-02-12

Effective Date: 2020-02-12

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

Action taken: On 2/6/20, the PSC adopted an order approving G & M

Realty L.P.'s (G & M Realty) petition to submeter electricity at 22-44 Jackson Avenue, Long Island City, New York and request for a waiver of 16 NYCRR section 96.5(k)(3).

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Submetering of electricity.

Purpose: To approve G & M Realty's petition to submeter electricity.

Substance of final rule: The Commission, on February 6, 2020, adopted an order approving G & M Realty L.P.'s petition to submeter electricity at 22-44 Jackson Avenue, Long Island City, New York, located in the service territory of Consolidated Edison Company of New York, Inc. and request for a waiver of 16 NYCRR section 96.5(k)(3), subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(19-E-0372SA1)

NOTICE OF ADOPTION

Submetering of Electricity and Waiver Request

I.D. No. PSC-36-19-00010-A

Filing Date: 2020-02-12

Effective Date: 2020-02-12

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

Action taken: On 2/6/20, the PSC adopted an order approving Site 2 DSA Residential LLC and Site 2 DSA Affordable MT LLC's (Site 2 DSA) notice of intent to submeter electricity at 125 Delancey Street, New York, NY and request for a waiver of 16 NYCRR section 96.5(k)(3).

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Submetering of electricity and waiver request.

Purpose: To approve Site 2 DSA's notice of intent to submeter electricity and request for waiver of 16 NYCRR section 96.5(k)(3).

Substance of final rule: The Commission, on February 6, 2020, adopted an order approving Site 2 DSA Residential LLC and Site 2 DSA Affordable MT LLC's notice of intent to submeter electricity at 125 Delancey Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. and request for a waiver of 16 NYCRR § 96.5(k)(3), subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(19-E-0519SA1)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-47-19-00015-A

Filing Date: 2020-02-12

Effective Date: 2020-02-12

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

Action taken: On 2/6/20, the PSC adopted an order approving Central

Hudson Gas & Electric Corporation's (Central Hudson) tariff amendments to P.S.C. No. 12 — Gas and P.S.C. No. 15 — Electricity, effective March 1, 2020.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff amendments.

Purpose: To approve Central Hudson's tariff amendments.

Substance of final rule: The Commission, on February 6, 2020, adopted an order approving Central Hudson Gas & Electric Corporation's (Central Hudson) tariff amendments to P.S.C. No. 12 – Gas and P.S.C. No. 15 – Electricity, to add a new provision, Customer Consent to Contact, to set forth a customer's consent to receive autodialed and prerecorded/automated calls and texts (collectively communications) that are closely related to their utility service, such as service outage or potential service interruption warnings. The provision also details methods in which customers may opt-out of receiving these communications. The tariff amendments shall become effective on March 1, 2020, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(19-M-0687SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-47-19-00016-A

Filing Date: 2020-02-12

Effective Date: 2020-02-12

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

Action taken: On 2/6/20, the PSC adopted an order approving 378 WEA OWNER LLC's (378 WEA OWNER) notice of intent to submeter electricity at 378 West End Avenue, New York, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Submetering of electricity.

Purpose: To approve 378 WEA OWNER's notice of intent to submeter electricity.

Substance of final rule: The Commission, on February 6, 2020, adopted an order approving 378 WEA OWNER LLC's notice of intent to submeter electricity at 378 West End Avenue, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(19-E-0689SA1)

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

Request for Waiver of 16 NYCRR 96.5(k)(3)

I.D. No. PSC-09-20-00002-P

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

Proposed Action: The Commission is considering the wavier request of

GO HPS LLC to submeter electricity at 57-28 2nd Street, Queens, New York, located in the service territory of Consolidated Edison Company of New York, Inc.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Request for waiver of 16 NYCRR 96.5(k)(3).

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

Substance of proposed rule: The Commission is considering the waiver request filed by GO HPS LLC on February 7, 2020, to submeter electricity at, 57-28 2nd Street, Queens, New York, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

By stating its intent to submeter electricity, GO HPS LLC requests a waiver of 16 NYCRR § 96.5(k)(3), which requires proof that an energy audit has been conducted when 20 percent or more of the residents receive income-based housing assistance. The owner states that because the building is new construction, it must comply with the current New York State Energy Conservation Construction Code, which provides strict energy conservation requirements for new and renovated buildings, including the design and construction of energy-efficient building envelopes, mechanical, lighting and power systems and therefore, an energy audit is not appropriate in this case.

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

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

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

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

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

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

(19-E-0680SP2)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Proposed Transfer of the Company's Assets to the Town and Dissolution of the Company

I.D. No. PSC-09-20-00003-P

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

Proposed Action: The Commission is considering a petition filed by the Lake Meadows Water Company, Inc. and the Town of North Greenbush for the transfer of all the Company's water supply assets to the Town and the dissolution of the Company.

Statutory authority: Public Service Law, sections 4(1), 89-c(1), (10), 89-h(1) and 108

Subject: Proposed transfer of the Company's assets to the Town and dissolution of the Company.

Purpose: To determine if transfer of the water system to the Town of North Greenbush is in the public interest.

Substance of proposed rule: The Public Service Commission is considering a joint petition, filed on February 6, 2019 by the Lake Meadows Water Company, Inc. (Company) and the Town of North Greenbush (Town), for the transfer of all Company water supply assets to the Town and the dissolution of the Company.

The Company serves approximately 114 customers in the real estate subdivision known as Lake Meadows in the Town. The petition states that Mending Wall Associates, L.P., the holding company responsible for the operation and maintenance of the Water Company, has dissolved and is in the process of liquidating assets. After making two connections to the Town water supply, the wells and storage tank of the Company will be abandoned. The petition further states that the transfer is in the public interest because the Town does not need to pay the same taxes as a private

company, therefore the town can potentially provide service at lower rates. The Company also requests that it be granted permission to dissolve after the transfer of the assets to the Town because it will have no assets related to the provision of utility service.

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

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

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

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

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

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

(20-W-0063SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Petition to Submeter Electricity

I.D. No. PSC-09-20-00004-P

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

Proposed Action: The Commission is considering the petition of 45 Columbia Street Assoc. LLC to submeter electricity at 45 Columbia Street, Albany, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Petition to submeter electricity.

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

Substance of proposed rule: The Commission is considering the petition, filed by 45 Columbia Street Assoc. LLC, on February 7, 2020, to submeter electricity 45 Columbia Street, Albany, New York, located in the service territory of Niagara Mohawk Power Corporation d/b/a National Grid.

By stating its intent to submeter electricity, 45 Columbia Street Assoc. LLC, requests authorization to take electric service from National Grid and then distribute and meter that electricity to its tenants. Submetering of electricity to residential tenants is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

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

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

Data, views or arguments may be submitted to: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

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

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

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

(20-E-0071SP1)

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

Petition for the Use of Gas Metering Equipment

I.D. No. PSC-09-20-00005-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. and Orange and Rockland Utilities, Inc. for the use of the Itron 550G Encoder Receiver Transmitter (ERT) device in gas metering applications.

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

Subject: Petition for the use of gas metering equipment.

Purpose: To ensure that consumer bills are based on accurate measurements of gas usage.

Substance of proposed rule: The Public Service Commission is considering a petition filed by Consolidated Edison Company of New York and Orange and Rockland Utilities, Inc. on January 6, 2020, seeking approval to use the Itron 550G Encoder Receiver Transmitter (ERT) device in residential and commercial gas metering applications in New York State.

The Commission requires testing of new types of gas meters and accessories, and they must be approved by the Commission prior to being deployed for customer billing. In this case, the Itron 550G ERT will be installed on the gas meter, and testing is necessary to ensure the Itron 550G ERT does not negatively impact the performance of the gas meter.

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

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

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

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

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

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

(20-G-0007SP1)

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

Petition for the Use of an Electric Meter in Submetering Applications

I.D. No. PSC-09-20-00006-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 Grid Gear Solutions Ltd., for the use of the GG single channel solid state kilowatt-hour meter for submetering applications in New York State.

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

Subject: Petition for the use of an electric meter in submetering applications.

Purpose: Whether to permit the use of the GG electric meter in submetering applications in New York State.

Substance of proposed rule: The Public Service Commission is considering a petition filed by GridGear Solutions LTD, on January 17, 2020, seeking approval to use the GridGear model GG electric submeter in residential electric submetering applications in New York State.

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. In this case, the GridGear model GG

electric submeter will be installed in residential buildings approved by the Commission for electric submetering, and testing is necessary to ensure the GridGear model GG electric submeter is able to accurately measure electronic consumption.

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

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

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

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

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

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

(20-E-0027SP1)

State University of New York

**EMERGENCY
RULE MAKING**

Tuition, Fees and Charges

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

Filing No. 139

Filing Date: 2020-02-14

Effective Date: 2020-02-14

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

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

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

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

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

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

Subject: Tuition, Fees and Charges.

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

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

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

This notice is intended to serve 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. SUN-50-19-00001-EP, Issue of December 11, 2019. The emergency rule will expire April 13, 2020.

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

Regulatory Impact Statement

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

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

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

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

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

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

7. Duplication: None.

8. Alternatives: No significant alternative proposals were considered.

9. Federal Standards: None.

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

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

No job impact statement is submitted with this notice because the proposed rule does not impose any adverse economic impact on existing jobs, employment opportunities, or self-employment. This regulation governs application fees for State University of New York and will not have any adverse impact on the number of jobs or employment.

**HEARINGS SCHEDULED
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
Bridge Authority, New York State		
SBA-01-20-00004-P	A proposal to amend the NYS Bridge Authority toll schedule	Poughkeepsie Grand Hotel, 40 Civic Center Plaza, Palm Court Rm., Poughkeepsie, NY—March 9, 2020, 7:00 p.m.
SBA-01-20-00005-P	Toll collection and violations	Poughkeepsie Grand Hotel, 40 Civic Center Plaza, Palm Court Rm., Poughkeepsie, NY—March 9, 2020, 7:00 p.m.
Environmental Conservation, Department of		
ENV-53-19-00016-P	Certain substances that contain hydrofluorocarbons, highly-potent greenhouse gases	<p>Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—March 4, 2020, 12:30 p.m.</p> <p>Henrietta Public Library, 625 Calkins Rd., Community Rm., Rochester, NY—March 6, 2020, 12:30 p.m.</p> <p>Department of Environmental Conservation, Region 2 Office, 47-40 21st St., 8th Fl., Rm. 834A/834B, Long Island City, NY—March 9, 2020, 12:30 p.m.</p>
ENV-05-20-00001-P	Use of ultra low sulfur diesel fuel and best available retrofit technology for heavy duty vehicles	Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—April 10, 2020, 11:00 a.m.
ENV-05-20-00002-P	Sulfur-in fuel limitations	Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—April 10, 2020, 11:00 a.m.
ENV-06-20-00018-P	Repeal and replacement of 6 NYCRR Part 230 gasoline dispensing sites and transport vehicles	<p>Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—April 14, 2020, 11:00 a.m.</p> <p>Department of Transportation, One Hunter’s Point Plaza, 47-40 21st St., Rm. 834, Long Island City, NY—April 15, 2020, 11:00 a.m.</p> <p>Department of Environmental Conservation, 6274 Avon-Lima Rd., Rtes. 5 and 20, Conference Rm., Avon, NY—April 16, 2020, 11:00 a.m.</p>
ENV-06-20-00019-P	Consumer products	<p>Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—April 14, 2020, 11:00 a.m.</p> <p>Department of Transportation, One Hunter’s Point Plaza, 47-40 21st St., Rm. 834, Long Island City, NY—April 15, 2020, 11:00 a.m.</p> <p>Department of Environmental Conservation, 6274 Avon-Lima Rd., Rtes. 5 and 20, Conference Rm., Avon, NY—April 16, 2020, 11:00 a.m.</p>
ENV-06-20-00020-P	New source review requirements for proposed new major facilities and major modifications to existing facilities	<p>Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—April 14, 2020, 11:00 a.m.</p> <p>Department of Transportation, One Hunter’s Point Plaza, 47-40 21st St., Rm. 834, Long Island City, NY—April 15, 2020, 11:00 a.m.</p> <p>Department of Environmental Conservation, 6274 Avon-Lima Rd., Rtes. 5 and 20, Conference Rm., Avon, NY—April 16, 2020, 11:00 a.m.</p>

Long Island Power Authority

LPA-09-20-00009-P	LIPA’s tariff for buy-back service (Service Classification No. 11)	<p>Rose Caracappa Auditorium, William H Rogers Bldg. #20, 725 Veterans Memorial Hwy., Smithtown, NY—May 4, 2020, 10:00 a.m.</p> <p>Long Island Power Authority, 333 Earle Ovington Blvd., Uniondale, NY—May 4, 2020, 2:00 p.m.</p>
LPA-09-20-00010-P	To update and implement latest requirements for ESCOs proposing to do business within the authority’s service territory	<p>Rose Caracappa Auditorium, William H Rogers Bldg. #20, 725 Veterans Memorial Hwy., Smithtown, NY—May 4, 2020, 10:00 a.m.</p> <p>Long Island Power Authority, 333 Earle Ovington Blvd., Uniondale, NY—May 4, 2020, 2:00 p.m.</p>
LPA-09-20-00011-P	The modification of service classification No. 13 - Negotiated Contracts	<p>Rose Caracappa Auditorium, William H Rogers Bldg. #20, 725 Veterans Memorial Hwy., Smithtown, NY—May 4, 2020, 10:00 a.m.</p> <p>Long Island Power Authority, 333 Earle Ovington Blvd., Uniondale, NY—May 4, 2020, 2:00 p.m.</p>
LPA-09-20-00012-P	The smart grid small generator interconnection procedures	<p>Rose Caracappa Auditorium, William H Rogers Bldg. #20, 725 Veterans Memorial Hwy., Smithtown, NY—May 4, 2020, 10:00 a.m.</p> <p>Long Island Power Authority, 333 Earle Ovington Blvd., Uniondale, NY—May 4, 2020, 2:00 p.m.</p>
LPA-09-20-00013-P	The Long Island choice provisions of the authority’s tariff	<p>Rose Caracappa Auditorium, William H Rogers Bldg. #20, 725 Veterans Memorial Hwy., Smithtown, NY—May 4, 2020, 10:00 a.m.</p> <p>Long Island Power Authority, 333 Earle Ovington Blvd., Uniondale, NY—May 4, 2020, 2:00 p.m.</p>

ACTION PENDING INDEX

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

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

For additional information concerning any of the proposals

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

Agency code	Issue number	Year published	Serial number	Action Code
AAM	01	12	0001	P

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
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AGING, OFFICE FOR THE

AGE-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
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AUDIT AND CONTROL, DEPARTMENT OF

AAC-07-20-00012-P 02/18/21	Approval of contracts made by MTA and the NYCTA	Modify existing time frames for the approval of MTA and NYCTA contracts to conform with the MTA Reform and Traffic Mobility Act
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BRIDGE AUTHORITY, NEW YORK STATE

SBA-01-20-00004-P exempt	A proposal to amend the NYS Bridge Authority Toll Schedule.	To amend toll schedule for vehicular bridges controlled by the NYS Bridge Authority in order to provide additional revenue.
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SBA-01-20-00005-P 03/09/21	Toll collection and violations.	To amend toll collection procedures and implement toll violation enforcement on NYSBA bridges.
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CHILDREN AND FAMILY SERVICES, OFFICE OF

*CFS-51-18-00010-RP 03/18/20	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
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CFS-39-19-00005-ERP 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
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CFS-39-19-00007-ERP 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.
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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.
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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CHILDREN AND FAMILY SERVICES, OFFICE OF			
CFS-46-19-00002-P	11/12/20	Behavioral health services, elimination of room isolation and authority to operate de-escalation rooms	To implement standards for behavioral health services and the operation of de-escalation rooms and to eliminate room isolation
CFS-49-19-00001-P	12/03/20	Limits on executive compensation	To remove the soft cap limit on executive compensation
CFS-04-20-00009-P	01/28/21	Host Family Homes	The proposed regulations would establish standards for the approval and administration of host family homes.
CFS-06-20-00021-EP	02/11/21	Categories of relatives eligible to become a foster parent of a child in non-relative foster care.	Regulations are necessary to comply with legislative changes to Family Court Act section 1028-a by Ch. 434 of L. 2019.
CIVIL SERVICE, DEPARTMENT OF			
CVS-25-19-00006-P	06/18/20	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-34-19-00011-P	08/20/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-42-19-00010-P	10/15/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-42-19-00014-P	10/15/20	Jurisdictional Classification	To classify a position in the exempt 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-42-19-00023-P	10/15/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-42-19-00024-P	10/15/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-45-19-00003-P	11/05/20	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-45-19-00004-P	11/05/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-45-19-00005-P	11/05/20	Jurisdictional Classification	To delete positions from and classify a position in the non-competitive class
CVS-45-19-00006-P	11/05/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-45-19-00007-P	11/05/20	Jurisdictional Classification	To delete a position from and classify a position in the exempt class and to delete positions from the non-competitive class
CVS-45-19-00009-P	11/05/20	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-51-19-00002-P	12/17/20	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-51-19-00003-P	12/17/20	Jurisdictional Classification	To classify a position in the exempt class
CVS-51-19-00004-P	12/17/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-51-19-00005-P	12/17/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-51-19-00006-P	12/17/20	Jurisdictional Classification	To classify positions in the exempt class
CVS-51-19-00007-P	12/17/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-51-19-00008-P	12/17/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-51-19-00009-P	12/17/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-51-19-00010-P	12/17/20	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-51-19-00011-P	12/17/20	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-51-19-00012-P	12/17/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-51-19-00013-P	12/17/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-51-19-00014-P	12/17/20	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-03-20-00003-P	01/21/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-03-20-00004-P	01/21/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-03-20-00005-P	01/21/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-03-20-00006-P	01/21/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-03-20-00007-P	01/21/21	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-06-20-00001-P	02/11/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-06-20-00002-P	02/11/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-06-20-00003-P	02/11/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-20-00004-P	02/11/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-20-00005-P	02/11/21	Jurisdictional Classification	To delete positions from the non-competitive class

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-06-20-00006-P	02/11/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-06-20-00007-P	02/11/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class and to delete positions from the non-competitive class
CVS-06-20-00008-P	02/11/21	Jurisdictional Classification	To delete a subheading and positions from and to classify a subheading and positions in the exempt and non-competitive classes
CORRECTION, STATE COMMISSION OF			
CMC-35-19-00002-P	08/27/20	Disciplinary and administrative segregation of inmates in special housing.	Prohibit the segregation of vulnerable inmates, and to standardize allowable uses and duration of special housing segregation.
CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF			
CCS-21-19-00014-P	05/21/20	Adolescent Offender Facilities	To reclassify two existing correctional facilities to adolescent offender facilities.
CCS-35-19-00001-P	08/27/20	Special Housing Units	Revisions have been made in order to be in compliance with new laws regarding special housing units and solitary confinement use
CCS-50-19-00002-P	12/10/20	Raise the Age	To update each correctional facility's regulation as a direct result of the Raise the Age legislation
CRIMINAL JUSTICE SERVICES, DIVISION OF			
CJS-20-19-00003-P	05/14/20	Certified Instructors and Course Directors	Establish/maintain effective procedures governing certified instructors and course directors who deliver MPTC-approved courses
CJS-30-19-00010-ERP	07/23/20	Use of Force	Set forth use of force reporting and recordkeeping procedures
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
EDV-09-20-00007-P	03/04/21	Minority and Women-Owned Business Enterprise Program	Update the regulations of the Division of Minority and Women's Business Development
EDUCATION DEPARTMENT			
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-39-19-00008-ERP	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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
EDU-39-19-00009-RP	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-43-19-00012-ERP	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-52-19-00007-P	12/23/20	Update Provisions Relating to Pupil Transportation	To update provisions of the Commissioner's Regulations relating to pupil transportation
EDU-52-19-00008-EP	12/23/20	Restricted License for Clinical Laboratory Technologist	Implement chapter 227 of 2019 by adding toxicology to the category of restricted licenses for clinical laboratory technologists
EDU-52-19-00009-EP	12/23/20	Continuing Education in the Profession of Public Accountancy	Implement the provisions of chapter 413 of the Laws of 2018
EDU-52-19-00010-EP	12/23/20	Duties and responsibilities of the counsel of the State Education Department	To designate counsel as the deputy commissioner of education as specified in Education Law, section 101
EDU-04-20-00005-P	01/28/21	Residency Program Requirement for Dental Licensure	Adds dental anesthesiology to the list of accredited residency programs in a specialty of dentistry.
EDU-04-20-00006-P	01/28/21	Financial Transparency and Data Reporting Requirements for Charter Schools	To establish criteria and procedures relating to charter financial transparency reporting to ensure compliance with ESSA.
EDU-04-20-00007-P	01/28/21	Time Extension of Initial, Transitional and Provisional Certificates	To provide educators with a Time Extension after the issuance of their first Initial or Provisional certificate.
EDU-04-20-00008-EP	01/28/21	ESSA Financial Transparency Reporting Requirements.	To implement financial transparency reporting requirements of ESSA.
EDU-08-20-00007-P	02/25/21	The Practice of Psychology, Social Work and Mental Health Practitioner Professions	To implement part Y of chapter 57 of the laws of 2018
EDU-08-20-00008-P	02/25/21	The Composition of the Professional Standards and Practices Board for Teaching (PSPB)	To require the PSPB to have at least four members who are practicing, certified school building or district administrator
EDU-08-20-00009-P	02/25/21	Term Limits for Members of the Advisory Committee on Long-Term Clinical Clerkships	To remove the two term limit for committee members to most effectively advise the Board of Regents and the Department
ELECTIONS, STATE BOARD OF			
SBE-22-19-00003-EP	05/28/20	Process for Early Voting	Establishing Process for Early Voting
SBE-02-20-00002-P	01/14/21	Combine the 10 Day Post Primary Filing with the July 15th disclosure statement	This amendment combines the 10 Day Post Primary Filing with the July 15th disclosure statement that political committees file
ELECTRIC GENERATION SITING AND THE ENVIRONMENT, NEW YORK STATE BOARD ON			
EGS-09-20-00001-EP	03/04/21	Regulations Implementing Article 10 of the Public Service Law - Definitions.	To amend the regulatory definitions of "modification" and "revision" of an Article 10 application for a CECPN.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
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-27-19-00003-P	07/02/20	Black Bear hunting.	Expand bear hunting opportunities in Wildlife Management Unit 4W to reduce bear abundance.
ENV-36-19-00001-P	11/07/20	Waste Fuels	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and incorporate federal standards.
ENV-36-19-00003-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
ENV-43-19-00006-P	01/07/21	Class I and Class SD waters	To clarify best usages of Class I and SD waters were/are "secondary contact recreation and fishing" and "fishing," respectively
ENV-43-19-00010-P	01/06/21	Repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Part 624, Part 621 and Part 620	To incorporate procedural and legal developments, develop consistency & reflect current practice in DEC hearings
ENV-53-19-00016-P	03/09/21	Certain substances that contain hydrofluorocarbons, highly-potent greenhouse gases	Remove greenhouse gas emission sources that endanger public health and the environment
ENV-04-20-00004-EP	01/28/21	Regulations governing commercial fishing of quota managed species.	To improve efficiency, reduce waste, and increase safety in marine commercial fisheries.
ENV-05-20-00001-P	04/10/21	Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology for Heavy Duty Vehicles	Updating to meet with statutory deadline
ENV-05-20-00002-P	04/10/21	Sulfur-in Fuel Limitations	Limit sulfur in liquid and solid fuels throughout NYS
ENV-06-20-00018-P	04/16/21	The repeal and replacement of 6 NYCRR Part 230 Gasoline Dispensing Sites and Transport Vehicles	To further reduce harmful volatile organic compounds (VOCs) emitted into the atmosphere.
ENV-06-20-00019-P	04/16/21	Consumer Products	Reduce Volatile Organic Compound emissions from Consumer Products - those products used in the average household.
ENV-06-20-00020-P	04/16/21	New Source Review requirements for proposed new major facilities and major modifications to existing facilities.	To conform to federal NSR rule requirements and related court rulings, correct typographical errors, and clarify rule language.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
FINANCIAL SERVICES, DEPARTMENT OF			
*DFS-17-16-00003-P	..... exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	..... exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
DFS-33-19-00004-P	..... 08/13/20	Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure	To set forth minimum standards for the content of health insurance identification cards.
DFS-43-19-00017-P	..... 10/22/20	INDEPENDENT DISPUTE RESOLUTION FOR EMERGENCY SERVICES AND SURPRISE BILLS	To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided
DFS-48-19-00002-P	..... 11/26/20	SUPERINTENDENT'S REGULATIONS: INFORMATION SUBJECT TO CONFIDENTIAL TREATMENT	Provide rules concerning publication or disclosure of information subject to confidential treatment
DFS-51-19-00015-P	..... 12/17/20	Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure	Clarifying discriminatory activities prohibited by and coverages included within preventive care and screenings under the IL
DFS-53-19-00013-EP	..... 12/30/20	Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services	To unify and clarify the procedures for adjudicatory proceedings before the Department of Financial Services
DFS-53-19-00014-EP	..... 12/30/20	Charges for Professional Health Services	To delay the effective date of the workers' compensation fee schedules for no-fault reimbursement.
DFS-53-19-00015-EP	..... 12/30/20	Supplementary Uninsured/Underinsured Motorist Coverage	To comport with statutory amendments to Chapter 59, Part III of the Laws of 2019 and Insurance Law Section 3420(f)
DFS-01-20-00002-P	..... 01/07/21	Certification of Compliance, Due Date	To amend the date by which Covered Entities must submit a certification of compliance, from February to April.
DFS-03-20-00011-EP	..... 01/21/21	Valuation of Life Insurance Reserves; Recognition of the 2001 CSO Mortality Table and the 2017 CSO Mortality Table, et al	Prescribes 2001 CSO ultimate mortality for guaranteed issue policies issued on or after 1/1/20 and extends 2015 reserve relief
DFS-07-20-00015-P	..... 02/18/21	Audited Financial Statements	To require insurers meeting a certain premium threshold to establish and maintain an internal audit function.
DFS-08-20-00011-P	..... 02/25/21	Public Access to Department Records	To update regulations regarding public access to records of the Department of Financial Services
DFS-09-20-00008-P	..... 03/04/21	Enterprise Risk Management and Own Risk and Solvency Assessment; Group-Wide Supervision	To authorize the Superintendent to act as the group-wide supervisor for an internationally active insurance groups
GAMING COMMISSION, NEW YORK STATE			
SGC-01-20-00006-P	..... 01/07/21	Permit Thoroughbred horses with digital tattoos to race in New York	To promote the integrity of racing and derive a reasonable return for government

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
GAMING COMMISSION, NEW YORK STATE			
SGC-07-20-00002-P	02/18/21	Allow claimant to void claim of lame horse	To enhance horse health and safety in thoroughbred racing
SGC-07-20-00003-P	02/18/21	Spanish 21, a blackjack variant to be offered in commercial casinos.	To set forth the practices and procedures for the operation of Spanish 21 as a casino table game.
SGC-07-20-00004-P	02/18/21	Relating to the provision of social security numbers.	Limit collection of social security numbers.
SGC-07-20-00014-P	02/18/21	Thoroughbred pick-five and pick-six wagers.	To improve the pick-five and pick-six wagers in thoroughbred racing.
GENERAL SERVICES, OFFICE OF			
GNS-40-19-00005-P	10/01/20	Facility Use	To add "plastic knuckles" and remove "gravity knife" from the definition of "deadly weapon"
HEALTH, DEPARTMENT OF			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
HLT-30-19-00006-RP	07/23/20	Maximum Contaminant Levels (MCLs)	Incorporating MCLs for perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS) and 1,4-dioxane.
HLT-36-19-00006-P	09/03/20	Limits on Executive Compensation	Removes "Soft Cap" prohibition on covered executive salaries.
HLT-40-19-00004-P	10/01/20	Drug Take Back	To implement the State's drug take back program to provide for the safe disposal of drugs
HLT-43-19-00005-P	10/22/20	Transitional Adult Home Admission Standards for Individuals with Serious Mental Illness	Delineate a clear pre-admissions process for determining whether a prospective resident is a person with serious mental illness
HLT-46-19-00003-P	11/12/20	Tanning Facilities	To prohibit the use of indoor tanning facilities by individuals less than 18 years of age
HLT-47-19-00008-P	11/19/20	Hospital Medical Staff - Limited Permit Holders	To repeal extra years of training required for limited permit holders to work in New York State hospitals.
HLT-47-19-00009-P	11/19/20	Empire Clinical Research Investigator Program (ECRIP)	To expand the types of & change the time frames for past research grants that qualify staff to supervise the ECRIP project.
HLT-48-19-00003-EP	11/26/20	Secondary Syringe Exchange in New York State	To reduce the spread of blood-borne pathogens, to reduce or eliminate other harms associated with contaminated syringes
HLT-51-19-00001-P	12/17/20	Women, Infants and Children (WIC) Program	To support implementation of eWIC; clarify rules for violations, penalties & hearings & conform vendor authorization criteria.
HLT-53-19-00001-P	12/30/20	Prohibition on the Sale of Electronic Liquids with Characterizing Flavors	To prohibit the sale of electronic liquids with characterizing flavors

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HEALTH, DEPARTMENT OF			
HLT-53-19-00011-P	12/30/20	Cardiac Services	To amend existing Certificate of Need requirements for approval of adult cardiac surgery centers.
HLT-53-19-00012-P	12/30/20	Consumer Directed Personal Assistance Program Reimbursement	To establish a program to pay home care services & establish a methodology framework for the payment of FI administrative costs.
HLT-04-20-00002-P	01/28/21	Reducing Annual Tuberculosis Testing of Health Care Workers	To replace annual tuberculosis testing of health care workers.
HLT-04-20-00003-P	01/28/21	Applied Behavior Analysis	To include Applied Behavior Analysis in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit.
HLT-04-20-00011-P	01/28/21	Nursing Home Case Mix Rationalization	To authorize the Department of Health to change the case mix acuity process for all nursing homes.
HLT-04-20-00012-P	01/28/21	State Aid for Public Health Services: Counties and Cities	Clarifying State Aid payments for maintaining a cooling tower program.
HLT-08-20-00001-EP	02/25/21	Communicable Diseases Reporting and Control - Adding Severe or Novel Coronavirus	To require physicians, hospitals, nursing homes, D&TCs and clinical laboratories to report instances of severe or novel coronavirus
HOUSING AND COMMUNITY RENEWAL, DIVISION OF			
HCR-21-19-00019-P	07/21/20	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation o flow-income housing tax credits.
HOUSING FINANCE AGENCY			
HFA-21-19-00020-P	07/21/20	Low-Income Housing Qualified Allocation Plan	To amend definitions, threshold criteria and application scoring for the allocation of low-income housing tax credits
HUMAN RIGHTS, DIVISION OF			
HRT-27-19-00002-P	07/02/20	Gender Identity or Expression Discrimination	To conform the Division's regulations with Executive Law as amended by Chapter 8 of the Laws of New York 2019.
LABOR, DEPARTMENT OF			
LAB-46-19-00004-P	11/12/20	NY State Public Employees Occupational Safety and Health Standards	To incorporate by reference updates to OSHA standards into the NY State Public Employee Occupational Safety and Health Standards
LAB-03-20-00012-P	01/21/21	Minimum Wage Tip Allowances	Amendment of regulations governing tip allowances in the Miscellaneous Industries Wage Order
LONG ISLAND POWER AUTHORITY			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff

Action Pending Index

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LONG ISLAND POWER AUTHORITY			
*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.
LPA-47-19-00017-P	..... exempt	VDER, net metering, and community distributed generation	To update the Authority's tariff for consistency with the Public Service Commission, Department of Public Service, and CLCPA.
LPA-09-20-00009-P	..... exempt	LIPA's Tariff for Buy-Back Service (Service Classification No. 11)	To add a new Feed-In Tariff to supply the newly proposed Solar Communities program
LPA-09-20-00010-P	..... exempt	To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory.	To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets.
LPA-09-20-00011-P	..... exempt	The modification of Service Classification No. 13 - Negotiated Contracts	To update the Authority's Tariff and authorize a negotiated contract with the Suffolk County Department of Public Works
LPA-09-20-00012-P	..... exempt	The Smart Grid Small Generator Interconnection Procedures	To be consistent with the New York State Standardized Interconnection Requirements
LPA-09-20-00013-P	..... exempt	The Long Island Choice provisions of the Authority's Tariff.	To enable CCA formation within the Long Island Choice Program.
MENTAL HEALTH, OFFICE OF			
OMH-46-19-00005-P	..... 11/12/20	Definition of "Case record, clinical record, medical record or patient record"	To clarify that the agency does not consider the provision to apply to the definition of "record" as set forth in MHL 9.01
OMH-47-19-00001-P	..... 11/19/20	Limits on Executive Compensation	To eliminate "soft cap" restrictions on compensation.
METROPOLITAN TRANSPORTATION AGENCY			
MTA-23-19-00006-EP	..... 06/04/20	Debarment of contractors	To comply with Public Authorities Law, section 1279-h, which requires the MTA to establish a debarment process for contractors

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
MOTOR VEHICLES, DEPARTMENT OF			
MTV-07-20-00005-P	02/18/21	Electronic transmission of data by dismantlers and scrap processors	To establish procedures for the electronic transmission of data by dismantlers and scrap processors
NIAGARA FALLS WATER BOARD			
*NFW-04-13-00004-EP	exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
OGDENSBURG BRIDGE AND PORT AUTHORITY			
*OBA-33-18-00019-P	exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit.
*OBA-07-19-00019-P	exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR			
PDD-06-20-00009-EP	02/11/21	Creates Extended Treatment Units	To provide service and supports for individuals in crisis
POWER AUTHORITY OF THE STATE OF NEW YORK			
*PAS-01-10-00010-P	exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PUBLIC SERVICE COMMISSION			
*PSC-09-99-00012-P	exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-34-04-00031-P	..... exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	..... exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	..... exempt	Accounts recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*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

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PUBLIC SERVICE COMMISSION			
*PSC-06-06-00015-P exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	..... exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*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

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PUBLIC SERVICE COMMISSION			
*PSC-18-07-00010-P exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	..... exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	..... exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	..... exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.
*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

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PUBLIC SERVICE COMMISSION			
*PSC-12-08-00021-P exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*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.

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PUBLIC SERVICE COMMISSION			
*PSC-07-09-00015-P exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-39-09-00015-P	..... exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	..... exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	..... exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-16-10-00007-P	..... exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	..... exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	..... exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-41-10-00022-P	..... exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	..... exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	..... exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-35-11-00011-P	..... exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	..... exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	..... exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	..... exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*PSC-23-12-00007-P	..... exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	..... exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	..... exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	..... exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*PSC-08-13-00014-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	..... exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	..... exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.
*PSC-28-13-00017-P	..... exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	..... exempt	To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices	To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices
*PSC-32-13-00012-P	..... exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island.	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-47-13-00009-P	..... exempt	Petition for submetering of electricity.	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y.
*PSC-47-13-00012-P	..... exempt	Conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.	Consideration of conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.
*PSC-49-13-00008-P	..... exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00011-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality andthe Customer Trouble Report Rate levels at certain central office entities
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-16-14-00015-P	..... exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336.	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00008-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	..... exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	..... exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets.	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator.	To consider waiver of RG&E's tariffed definition of emergency generator.
*PSC-26-14-00020-P	..... exempt	New electric utility backup service tariffs and standards for interconnection may be adopted.	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established.	To balance the need for the information necessary to support a robust market with customer privacy concerns.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*PSC-36-14-00009-P	..... exempt	Modification to the Commission's Electric Safety Standards.	To consider revisions to the Commission's Electric Safety Standards.
*PSC-38-14-00003-P	..... exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison's low income program to include Medicaid recipients.	Whether to expand Con Edison's low income program to include Medicaid recipients.
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-40-14-00013-P	..... exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.
*PSC-40-14-00014-P	..... exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-40-14-00015-P	..... exempt	Late Payment Charge.	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.
*PSC-42-14-00003-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY..
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-08-15-00010-P	..... exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.	To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program.
*PSC-10-15-00007-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	..... exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*PSC-13-15-00024-P	..... exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking's request to recover a shortfall in earnings
*PSC-13-15-00026-P	..... exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program.	To consider approval of remote net metering of a demonstration community net metering program.
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project.	To consider approval of remote net metering of a Community Solar Demonstration Project.
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation.	Consider Whitepaper on Implementing Lightened Ratemaking Regulation.
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	..... exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.
*PSC-06-16-00013-P	..... exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs.	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs.
*PSC-06-16-00014-P	..... exempt	MEGA's proposed demonstration CCA program.	To consider MEGA's proposed demonstration CCA program.
*PSC-14-16-00008-P	..... exempt	Resetting retail markets for ESCO mass market customers.	To ensure consumer protections with respect to residential and small non-residential ESCO customers.
*PSC-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00014-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*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).

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-20-16-00010-P	..... exempt	Deferral and recovery of incremental expense.	To consider deferring costs of conducting leak survey and repairs for subsequent recovery.
*PSC-20-16-00011-P	..... exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study.	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device.
*PSC-24-16-00009-P	..... exempt	Petition to submeter gas service.	To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY.
*PSC-25-16-00009-P	..... exempt	To delay Companies' third-party assessments of customer personally identifiable information until 2018.	To extend the time period between the Companies' third-party assessments of customer personally identifiable information.
*PSC-25-16-00025-P	..... exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.
*PSC-25-16-00026-P	..... exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications.	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.
*PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
*PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs.	To consider participation of NYPA customers in surcharge-funded clean energy programs.
*PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks.	To evaluate proposed methodologies of benefit-cost evaluation.
*PSC-33-16-00001-EP	..... exempt	Use of escrow funds for repairs.	To authorize the use of escrow account funds for repairs.
*PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility.	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges.
*PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service.	To consider the recovery of costs for installation of electric service.
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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.
*PSC-20-17-00010-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-21-17-00013-P	..... exempt	The establishment and implementation of Earnings Adjustment Mechanisms.	To consider the establishment and implementation of Earnings Adjustment Mechanisms.
*PSC-21-17-00018-P	..... exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement.
*PSC-22-17-00004-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry.	Improved data access.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-13-18-00015-P	..... exempt	Eligibility of an ESCO to market to and enroll residential customers.	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.
*PSC-13-18-00023-P	..... exempt	Reconciliation of property taxes.	To consider NYAW's request to reconcile property taxes.
*PSC-14-18-00006-P	..... exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
*PSC-18-18-00009-P	..... exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	..... exempt	Whether to impose consequences on Aspurity for its non-compliance with Commission requirements.	To ensure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-24-18-00013-P	..... exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-28-18-00011-P	..... exempt	Storm Hardening Collaborative Report.	To ensure safe and adequate gas service.
*PSC-29-18-00008-P	..... exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	..... exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00011-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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-42-18-00011-P	..... exempt	Voluntary residential beneficial electrification rate design.	To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers.
*PSC-42-18-00013-P	..... exempt	Petition for clarification and rehearing of the Smart Solutions Program Order.	To address the increased demand for natural gas in the Con Edison's service territory and the limited pipeline capacity.
*PSC-44-18-00016-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
*PSC-45-18-00004-P	..... exempt	Proposed transfer of two natural gas pipeline operating companies, and for lightened and incidental regulation	To consider transfer if there is no market power or ratepayer harm, incidental regulation, and continuing lightened regulation
*PSC-45-18-00005-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
*PSC-47-18-00008-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
*PSC-01-19-00004-P	..... exempt	Advanced Metering Infrastructure.	To determine whether Niagara Mohawk Power Corporation d/b/a National Grid should implement advanced metering infrastructure.
*PSC-01-19-00013-P	..... exempt	Order of the Commission related to caller ID unblocking.	To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County.
*PSC-01-19-00014-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
*PSC-01-19-00015-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
*PSC-01-19-00016-P	..... exempt	To modify provisions for accepting new or additional gas service applications when there is inadequate supply or capacity.	To continue to provide safe and reliable service to existing customers.
*PSC-02-19-00014-P	..... exempt	Petition for use of electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
*PSC-03-19-00002-P	..... exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings.	To reduce damage to underground utility facilities by requiring certain training and approving training curricula.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-04-19-00004-P	..... exempt	Con Edison's petition for the Gas Innovation Program and associated budget.	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals.
*PSC-04-19-00011-P	..... exempt	Update of revenue targets.	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues.
*PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program.	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects.
*PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements.	To insure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
PSC-09-19-00009-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-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-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-19-19-00016-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-20-19-00010-P	..... exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
PSC-20-19-00015-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 105.8 MW electric generating facility	Consideration of a lightened regulatory regime for an approximately 105.8 MW electric generating facility
PSC-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
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-31-19-00011-P	..... exempt	Electric metering equipment.	To ensure that consumer bills are based on accurate measurements of electric usage.
PSC-31-19-00013-P	..... exempt	Implementation of Statewide Energy Benchmarking.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-19-00015-P	..... exempt	Proposed major rate increase in KEDNY's gas delivery revenues by \$236.8 million (13.6% increase in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-19-00016-P	..... exempt	Proposed major rate increase in KEDLI's gas delivery revenues of approximately \$49.4 million (or 4.1% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-32-19-00008-P	..... exempt	Compensation of distributed energy resources	To ensure just and reasonable rates, including compensation, for distributed energy resources
PSC-32-19-00010-P	..... exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-32-19-00012-P	..... exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources
PSC-32-19-00013-P	..... exempt	Disposition of tax refunds received by New York American Water Company, Inc.	To determine the disposition of tax refunds and other related matters
PSC-34-19-00015-P	..... exempt	Major electric rate filing.	To consider a proposed increase in RG&E's electric delivery revenues of approximately \$31.7 million (or 4.1% in total revenues).
PSC-34-19-00016-P	..... exempt	Major gas rate filing.	To consider a proposed increase in RG&E's gas delivery revenues of approximately \$5.8 million (or 1.4% in total revenues).
PSC-34-19-00017-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-34-19-00018-P	..... exempt	Major electric rate filing.	To consider a proposed increase in NYSEG's electric delivery revenues of approximately \$156.7 million (10.4% in total revenues).
PSC-34-19-00020-P	..... exempt	Major gas rate filing.	To consider a proposed increase in NYSEG's gas delivery revenues of approximately \$6.3 million (or 1.4% in total revenues).
PSC-36-19-00009-P	..... exempt	Minor rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-36-19-00011-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-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-38-19-00002-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
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-39-19-00018-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
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-40-19-00007-P	..... exempt	The sharing of ratepayer consumption data.	To allow for consumption based sewer billing and protect ratepayers' consumption data.
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-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-44-19-00003-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-44-19-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-44-19-00005-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-44-19-00006-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-44-19-00007-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-44-19-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-44-19-00009-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-45-19-00011-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-45-19-00012-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-45-19-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-46-19-00008-P	..... exempt	Wappingers Falls Hydroelectric LLC's facility located in Wappingers Falls, New York.	To promote and maintain renewable electric energy resources.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-46-19-00010-P	..... exempt	To test innovative rate designs on an opt-out basis.	To implement alternative innovative rate designs intended to assess customer behaviors in response to price signals
PSC-47-19-00011-P	..... exempt	Waiver of National Grid's code of conduct to allow for use of its name.	To determine if it is in the public interest to allow for the use of National Grid's name in the weatherization program.
PSC-47-19-00013-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-48-19-00005-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-19-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-19-00007-P	..... exempt	Extension of the State Universal Service Fund.	To continue to provide universal service at a reasonable rate in certain service territories.
PSC-49-19-00004-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-49-19-00005-P	..... exempt	Sale of Street Lighting Facilities to the Town of Farmington.	To consider the transfer of street lighting facilities to the Town of Farmington.
PSC-50-19-00004-P	..... exempt	Petition to submeter electricity and waiver of energy audit.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-50-19-00005-P	..... exempt	Modifications and clarifications to the DCFC Per-Plug Incentive Program.	To clarify certain elements of the DCFC Per-Plug Incentive Program and consider modifications to the Program.
PSC-50-19-00006-P	..... exempt	Compensation of and incentives for distributed energy resources.	To encourage the development of and ensure just and reasonable rates for distributed energy resources.
PSC-50-19-00007-P	..... exempt	Participation of customers served under P.S.C. No. 12 (PASNY) in CDG projects receiving Value Stack compensation.	To encourage the development of and ensure just and reasonable rates for distributed energy resources.
PSC-52-19-00001-P	..... exempt	SUEZ Water New York Inc.'s acquisition of 100% of Heritage Hills Water Works Corporation's assets.	To determine if the proposed acquisition is in the public interest.
PSC-52-19-00002-P	..... exempt	The New York State Reliability Council's establishment of an Installed Reserve Margin of 18.9%	To ensure adequate levels of Installed Capacity.
PSC-52-19-00003-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-52-19-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-52-19-00005-P	..... exempt	Compensation of and rates for distributed energy resources.	To encourage the development of and ensure just and reasonable rates for distributed energy resources.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-52-19-00006-P	..... exempt	Authorization to defer pension settlement losses.	To address the ratemaking related to the pension settlement losses.
PSC-53-19-00003-P	..... 12/30/20	Technical Amendments of State regulations and Administrative Corrections	To make the provision of natural gas service safer in New York State
PSC-53-19-00004-P	..... 12/30/20	Technical Amendments of State regulations and Administrative Corrections	To make the provision of natural gas service safer in New York State.
PSC-53-19-00006-P	..... exempt	To amend the terms to which the customer must abide when discontinuing gas service.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-53-19-00007-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-53-19-00008-P	..... exempt	Extension of time for issuance of securities and other forms of indebtedness.	To consider an additional twelve months for the issuance of securities and other forms of indebtedness.
PSC-53-19-00009-P	..... exempt	Transfer of street lighting facilities.	To consider whether the transfer of certain street lighting facilities is in the public interest.
PSC-53-19-00010-P	..... exempt	To clarify the term "customer" under Rule 28 - Special Services Performed by Company for Customer at a Charge.	To ensure safe and adequate service at just and reasonable rates charged to customers without preferences.
PSC-01-20-00007-P	..... exempt	Proposed tariff revisions and clarifications for the summer 2020 capability period.	To have more efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-01-20-00008-P	..... exempt	Request for waiver of 16 NYCRR § 96.5(k)(3).	To consider the request for waiver of the energy audit requirement requirement per 16 NYCRR 96.5(k)(3).
PSC-01-20-00009-P	..... exempt	Modifying RG&E's DLM dispatch threshold to improve the Commercial System Relief Program.	To have more efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-01-20-00010-P	..... exempt	Proposed transfer of water supply assets and dissolution of the Company.	To determine whether the transfer of water supply assets to the Town of North Collins is in the public interest.
PSC-02-20-00005-P	..... exempt	The 2020 Electric Emergency Response Plans for electric utilities subject to the provisions of PSL § 25-a	To consider the adequacy of the 2020 Electric Emergency Response Plans
PSC-02-20-00006-P	..... exempt	The application of the earnings sharing mechanism related to a partial year period.	To consider O&R's petition to modify the application of the earnings sharing mechanism.
PSC-03-20-00008-P	..... exempt	Authority to issue and sell unsecured debt obligations	To consider the Company's request for authority to issue and sell unsecured debt obligations
PSC-03-20-00009-P	..... exempt	Changes to the Utility Energy Registry	To determine appropriate rules for data availability
PSC-03-20-00010-P	..... exempt	Waivers of certain tariff provisions and terms of an agreement for the provision of service	Whether a proposed agreement for provision of service by Saratoga Water Services, Inc. is in the public interest

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-04-20-00010-P	..... exempt	Petition for waiver of the requirements of Opinion No. 76-17 and 16 NYCRR Part 96 regarding individual metering of living units.	To consider the petition of Comunilife Woodhull HDfC for waiver of Opinion No. 76-17 and 16 NYCRR Part 96.
PSC-04-20-00014-P	..... exempt	Transfer of the Indian Point site, nuclear waste, and decommissioning and site restoration funds from Entergy to Holtec.	To protect the public interest.
PSC-05-20-00003-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-05-20-00004-P	..... exempt	A statewide Make-Ready Program that that would provide incentives to deploy EVSE&I to charge light duty electric vehicles (EV).	To deploy the infrastructure needed to meet the State's goals of 850,000 EVs by 2025 and recommend appropriate utility roles.
PSC-05-20-00005-P	..... exempt	Wireline and wireless pole attachment rates.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-05-20-00006-P	..... exempt	Waiver of pipeline reassessment completion deadline while adequate tools to conduct inspection are found.	To ensure the safety of the Clove Lake Segment Pipeline with the use of adequate reassessment tools.
PSC-05-20-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-06-20-00012-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-06-20-00013-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-06-20-00014-P	..... exempt	A program for the procurement of Renewable Energy Certificates from existing renewable resources.	To purchase Renewable Energy Certificates and maintain the State's baseline of existing renewable resources.
PSC-06-20-00015-P	..... exempt	New Tariff Schedule, P.S.C. No. 3 - Water and waiver of rate setting authority.	To provide the rates, rules, and regulations under which water service will be provided to the customers of the system.
PSC-06-20-00016-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-06-20-00017-P	..... exempt	Petitions for rehearing, reconsideration, clarification and stay of the December 12, 2019 Order.	To determine whether the Commission should grant, deny, or modify the relief sought and actions proposed by Petitioners
PSC-07-20-00006-P	..... exempt	Discontinuation of a program administered by Con Edison and removal of the program from the tariff.	Consider discontinuation of the Smart AC Kit Program.
PSC-07-20-00007-P	..... exempt	Procurement of environmental attributes associated with offshore wind resources.	To achieve the State's renewable and clean energy goals.
PSC-07-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-07-20-00009-P	..... exempt	Transfer of street lighting facilities.	To consider whether the transfer of certain street lighting facilities is in the public interest.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-07-20-00010-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-07-20-00011-P	..... exempt	Transfer of street lighting facilities.	To consider the transfer of street lighting facilities to the Town of Fallsburg.
PSC-08-20-00002-P	..... exempt	Transfer of stock resulting in a complete ownership transfer.	To determine whether the proposed transfer is in the public interest.
PSC-08-20-00003-P	..... exempt	PSC regulation 16 NYCRR § 86.3(a)(2) and 86.3(b)(2).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-08-20-00004-P	..... exempt	Waiver of provisions and service agreement.	To consider if the waiver and the proposed terms of a service agreement are in the public interest.
PSC-08-20-00005-P	..... exempt	The use funding for certain pipeline safety programs.	To ensure appropriate use of funds reserved for gas safety programs.
PSC-08-20-00006-P	..... exempt	To establish procedures and modify terminology for Underground Residential Distribution Systems.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-09-20-00002-P	..... exempt	Request for waiver of 16 NYCRR 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-09-20-00003-P	..... exempt	Proposed transfer of the Company's assets to the Town and dissolution of the Company.	To determine if transfer of the water system to the Town of North Greenbush is in the public interest.
PSC-09-20-00004-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-09-20-00005-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-09-20-00006-P	..... exempt	Petition for the use of an electric meter in submetering applications.	Whether to permit the use of the GG electric meter in submetering applications in New York State.
STATE, DEPARTMENT OF			
DOS-42-19-00001-P	..... 10/15/20	Real estate advertisements	To update current regulations concerning real estate advertisements
DOS-02-20-00003-P	..... 01/14/21	Enhanced fair housing provisions	To provide additional notices and other enhancements relating to fair housing and the Human Rights Law
STATE UNIVERSITY OF NEW YORK			
SUN-50-19-00001-EP	..... 12/10/20	Tuition, Fees and Charges	To authorize the waiver of admission application fees for military veterans and their spouses
SUN-53-19-00002-P	..... 12/30/20	Proposed amendments to the traffic and parking regulations at State University of New York College at Old Westbury	Amend existing regulations to update traffic and parking regulations

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
STATE UNIVERSITY OF NEW YORK			
SUN-53-19-00005-P	12/30/20	Proposed amendments to the traffic and parking regulations at State University Agricultural and Technical College at Morrisville	Amend existing regulations to update traffic and parking regulations
SUN-01-20-00001-P	01/07/21	Limitations on operating costs for purposes of State financial assistance.	To determine how state appropriated reimbursement for rental costs for physical space will be distributed to community colleges.
TAXATION AND FINANCE, DEPARTMENT OF			
TAF-50-19-00003-EP	12/10/20	Metropolitan Transportation Business Tax Surcharge	To provide metropolitan transportation business tax rate for tax year 2020
TAF-02-20-00001-EP	01/14/21	Property tax levy limits for school districts in relation to certain costs resulting from capital local expenditures	To implement Education Law 2023-a relating to certain costs resulting from capital local expenditures of school districts
TAF-07-20-00013-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.	To set the sales tax component and the composite rate per gallon for the period April 1, 2020 through June 30, 2020.
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-14-19-00007-P	04/02/20	Abandonment of requests for fair hearings	To require the issuance of letters to appellants who fail to appear at scheduled fair hearings involving Medical Assistance, also known as Medicaid, advising them how to request the rescheduling of such fair hearings
TDA-46-19-00006-P	11/12/20	Limits on executive compensation	To remove requirements related to private funding from the \$199, 000 per annum limit on executive compensation and to make corresponding technical updates
TDA-49-19-00003-P	12/03/20	Annual service fee on persons receiving child support services and minimum annual collection requirement to impose such fee	To amend the existing State regulatory provisions regarding the annual service fee imposed on persons who receive child support services
THRUWAY AUTHORITY, NEW YORK STATE			
THR-01-20-00003-P	01/07/21	Toll rate adjustments on the New York State Thruway system.	To provide for toll rate adjustments necessary to support the Authority's financial obligations.
WORKERS' COMPENSATION BOARD			
WCB-31-19-00018-P	07/30/20	Medical Treatment Guidelines	Add guidelines for treatment of hip and groin, foot and ankle, elbow and occupational interstitial lung disease
WCB-37-19-00002-P	09/10/20	Applications for Reopenings	Clarify the process for reopening a case that has been previously closed

SECURITIES OFFERINGS

STATE NOTICES

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

Valiant India Opportunities Fund, L.P.
One Market St., Steuart Tower, Suite 2625, San Francisco, CA 94105
Partnership — Valiant India GP II, LLC

DEALERS; BROKERS

20/20 GeneSystems, Inc.
9430 Key West Ave., Rockville, MD 20850
State or country in which incorporated — Delaware

Capital Estate Advisors, Inc.
116 Central Park S, Suite 6, New York, NY 10019
State or country in which incorporated — New York

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

Lubert-Adler Real Estate Fund VIII, L.P.
2400 Market St., Suite 301, Philadelphia, PA 19103
Partnership — Lubert-Adler Group VIII, L.P.

Order for Me Company
1653 7th St., Santa Monica, CA 90401
State or country in which incorporated — Delaware

Red Oak Capital Fund IV, LLC
625 Kenmoor Ave. SE, Suite 211, Grand Rapids, MI 49546
State or country in which incorporated — Delaware

Reedy Branch Partners, LLC
1366 E. 15th St., Edmond, OK 73013
State or country in which incorporated — Delaware

Serenity Alternative Investments Fund I, LP
c/o Serenity Alternative Investments GP, LLC, 222 Merchandise Mart
Plaza, Suite 1212, Chicago, IL 60654
Partnership — Serenity Alternative Investments GP, LLC

Shopoff Securities, Inc.
Two Park Plaza, Suite 770, Irvine, CA 92614
State or country in which incorporated — Delaware

Speedwagon Properties Fund VI, LP
400 N. LaSalle St., Suite 805, Chicago, IL 60654
State or country in which incorporated — Delaware limited partnership

TPC Outdoor Investors LP
c/o TPC Outdoor Investors GP LLC, 860 Washington St., 6th Fl., New
York, NY 10014
Partnership — TPC Outdoor Investors GP LLC

ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

SEALED BIDS

CONSTRUCTION/ELECTRICAL WORK

Department of Transportation Region 4
Pavilion, Genesee County

Sealed bids for Project Nos. 46126-C and 46126-E, comprising separate contracts for Construction Work and Electrical Work, DOT Region 4, Genesee County, Route 19 and 20, Pavilion (Genesee 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, March 4, 2020, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$24,300 for C and \$3,000 for E.).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$250,000 and \$500,000 for C, and between \$25,000 and \$50,000 for E.

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

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for in-

flation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

X Project commenced design before January 1, 2020. Not subject to provision.

Project commenced design on or after January 1, 2020. Subject to provision.

As a condition of award, within 48 hours of receipt of the proposed Contract Agreement from the State, the apparent low bidder shall return the Contract Agreement to the State, properly executed, along with the Bonds if required by said Agreement. Low bidders who cannot meet these provisions may be subject to disqualification and forfeiture of the bid security.

The State intends to expedite award of this Contract and the Contractor shall be prepared to proceed with the Work accordingly. Bidders are warned that time is of the essence of the Contract and substantial completion of the Work must occur by August 27, 2020. Due to the tightness of the construction schedule, bidders should consider the necessity for an increased work force and shift operations.

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 February 25, 2020 at DOT Region 4, Route 19 & 20, Pavilion, 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 Lori Pautler, (585-591-0356) 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 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE") participation and 5% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work. The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and

payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

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

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

By *John D. Lewyckyj, Deputy Director*
OGS - Design & Construction Group

**PROVIDE
CLASSROOMS/OFFICE SPACE**
Collins Correctional Facility
Collins, Erie County

Sealed bids for Project Nos. 46129-C, 46129-E, 46129-H and 46129-P, comprising separate contracts for Construction Work, Electrical Work, HVAC Work, and Plumbing Work to Provide Classrooms & Office Space, Building 130, Restricted Housing Program, Collins Correctional Facility, Middle Road, Collins (Erie 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 Correctional Services, until 2:00 p.m. on Wednesday, March 4, 2020 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 \$89,400 for C, \$24,200 for E, \$29,000 for H, and \$23,400 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 \$500,000 and \$1,000,000 for E, between \$500,000 and \$1,000,000 for H, 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 John Pupons, Jessica Hoffman 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>

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder

provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

X Project commenced design before January 1, 2020. Not subject to provision.

Project commenced design on or after January 1, 2020. Subject to provision.

As a condition of award, within 48 hours of receipt of the proposed Contract Agreement from the State, the apparent low bidder shall return the Contract Agreement to the State, properly executed, along with the Bonds if required by said Agreement. Low bidders who cannot meet these provisions may be subject to disqualification and forfeiture of the bid security.

The State intends to expedite award of this Contract and the Contractor shall be prepared to proceed with the Work accordingly. Bidders are warned that time is of the essence of the Contract and substantial completion of the Work must be within 442 days after the Agreement is approved by the Comptroller. Due to the tightness of the construction schedule, bidders should consider the necessity for an increased work force and shift operations.

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 February 24th, 2020 at the OGS Field Office, 14312 Taylor Hollow Road, Gowanda, 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 Kim Himes, (716-532-5151) a minimum of 72 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, HVAC and Plumbing Work and an overall goal of 4% for MWBE participation, 2% for Minority-Owned Business Enterprises ("MBE") participation and 2% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Electrical Work. The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CD's on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

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

For additional information on this project, please use the link below

and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewykyj, Deputy Director*
OGS - Design & Construction Group

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

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

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

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

NOTICE OF PUBLIC HEARING

Delaware River Basin Commission

[Docket D-2017-009-2]

Adjudicatory Hearing and Additional Written Comment Period

SUMMARY: Pursuant to the Delaware River Basin Compact, Pub.L. 87-328, Approved September 27, 1961, 75 Stat. 688; New York Laws of 1961, Chapter 148, Approved March 17, 1961, The Delaware River Basin Commission will hold an adjudicatory hearing (a trial-like proceeding) commencing April 15, 2020 on Docket D-2017-009-2, issued by the Commission on June 12, 2019, to Delaware River Partners, LLC for the project known as Gibbstown Logistics Center Dock 2. The purpose of the hearing is to afford objectors an opportunity to show that the Commission's docket approval should be changed. The Commission will accept additional written comment on this matter during the pendency of the hearing, through April 24, 2020.

DATES: The hearing commencing on April 15, 2020 will run from 9 a.m. until no later than 4 p.m. and will continue on successive business days until complete. The start time on successive days will be determined by the Hearing Officer at the close of each day's proceedings and will be posted on the DRBC website, www.drbc.gov (see link under "Recent Postings") each day after 4 p.m. Additional written comments on Docket D-2017-009-2 will be accepted through 5 p.m. on April 24, 2020.

ADDRESSES: The hearing will take place at the State of New Jersey Office of Administrative Law, Quakerbridge Plaza Building 9, Mercerville (Hamilton), NJ 08619, Hearing Room 1. Additional written comments on Docket D-2017-009-2 may be submitted through the Commission's web-based comment system, a link to which is provided at www.drbc.gov. Use of the web-based system ensures that all submissions are captured in a single location and their receipt is acknowledged. Exceptions to the use of this system are available based on need, by writing to the attention of the Commission Secretary, DRBC, P.O. Box 7360, 25 Cosey Road, West Trenton, NJ 08628-0360.

For assistance, please contact Giselle Hernandez at giselle.hernandez@drbc.gov.

SUPPLEMENTARY INFORMATION: The Commission on June 6, 2019 held a duly noticed public hearing on a draft of Docket D-2017-009-2 for the Gibbstown Logistics Center Dock 2. The Commission accepted written comment on the draft docket through 5 p.m. on June 7, 2019. The Commission by unanimous vote at its regularly scheduled quarterly business meeting on June 12, 2019 approved the final docket, incorporating changes made in response to comments received on the draft. In accordance with Article 6 (Subpart F) of the Commission's Rules of Practice and Procedure, The Delaware Riverkeeper and The Delaware Riverkeeper Network (collectively, "DRN") by letter dated July 11, 2019 requested an adjudicatory hearing on the docket approval, and during its business meeting of September 11, 2019, the Commission granted DRN's request. Copies of Docket D-2017-009-2 as approved, staff's memo responding to comments received on the draft docket, DRN's request for an administrative hearing on the approval, and Minutes of the Commission's meetings of June 12 and September 11, 2019 are available on the Commission's website at drbc.gov (see link under "Recent Postings").

Hearing Procedure. The adjudicatory hearing, a trial-like proceeding, will be conducted pursuant to Article 6 (Subpart F) of the Rules of Practice and Procedure – Sections 2.6.1 through 2.6.10 (18 CFR 401.71 – 401.90). Participants are limited to those interested parties who have been identified pursuant to Section 2.6.4(a) (18 CFR 401.84(a)), consisting of docket holder Delaware River Partners, LLC; objector DRN; and members of the Commission staff.

To attend the Adjudicatory Hearing. Limited seating – an estimated 40 places – will be available for the general public on a first-come first-served basis. Doors open at 8 a.m. Members of the public will not be afforded an opportunity to speak during the hearing.

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the adjudicatory hearing should contact the Commission Secretary directly at 609-883-9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Updates. Because the daily start time and the duration of the adjudicatory hearing in its entirety cannot be pre-determined, between April 15, 2020 and the close of the hearing, the next day's start time will be posted after 4 p.m. on the DRBC website, www.drbc.gov (see link under "Recent Postings").

Additional Information, Contacts. Additional public records relating to Docket D-2017-009-2 may be obtained through a request in accordance with Article 8 (Subpart H) of the Rules of Practice and Procedure. See <https://www.state.nj.us/drbc/about/public/records-access.html> for details, and/or contact Denise McHugh at 609-883-9500, ext. 240.

Dated: February 18, 2020

Pamela M. Bush

Commission Secretary and Assistant General Counsel

Pamela.Bush@drbc.gov

25 Cosey Road, P.O. Box 7360

West Trenton, NJ 08628-0360

(609) 883-9500

PUBLIC NOTICE**Chemung County**

Chemung County is requesting proposals from qualified administrative services agencies, and/or financial organizations relating to administration, trustee services and/or funding of a deferred compensation plan for employees of Chemung County meeting the requirements of Section 457 of the Internal Revenue Code and Section 5 of the State Finance Law, including all rules and regulations issued pursuant thereto.

A copy of the proposal questionnaire may be obtained from: Tricia A. Wise, CPPO, CPPB, Chemung County Director of Purchasing, 203 Lake St., Elmira, NY 14901, e-mail: twise@chemungcountyny.gov

All proposals must be submitted no later than 4:30 PM on April 3, 2020.

PUBLIC NOTICE**City of Gloversville**

The City of Gloversville is soliciting proposals from Administrative Service Agencies, Trustees, and Financial Organizations for services in connection with a Deferred Compensation Plan that will meet the requirements of Section 457 of the Internal Revenue Code and Section 5 of the State Finance Law, including all rules and regulations issued pursuant thereto.

A copy of the proposal questionnaire may be obtained from: Maryann Reppenhagen, Deputy Commissioner of Finance, 3 Frontage Rd., Gloversville, NY 12078 or e-mail: mreppenhagen@cityofgloversville.com

All proposals must be submitted no later than 30 days from the date of this publication.

PUBLIC NOTICE**Department of State**

F-2019-1002

Date of Issuance – March 4, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2019-1002, The Birches on Murray LLC is proposing to remove an existing 8' x 75' crib dock and the 3 existing rock filled cribs, build and install an 8' x 60' floating dock, and remove and replace an existing 8' x 25' walkway. This project is located at 42751 Murray Isle, Town of Clayton, Jefferson County, St. Lawrence River.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-1002.pdf>

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s):

- Eel Bay Significant Coastal Fish and Wildlife Habitat: https://www.dos.ny.gov/opd/programs/WFRevitalization/LWRP_status.html
- Town of Clayton Local Waterfront Revitalization Program <https://www.dos.ny.gov/opd/programs/consistency/scfwhabitats.html>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice or March 19, 2020.

Comments should be addressed to: Department of State, Office of

Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE**Department of State**

F-2019-1250

Date of Issuance – March 4, 2020

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2019-1250, The City of Tonawanda is proposing to construct a pedestrian access fishing pier along the waterfront adjacent the bike/pedestrian path in Niawanda Park. The new Kohler Street Pier will consist of a wooden platform approximately 110 feet in length and 11 feet wide. The platform will stand approximately 3 feet over the water and will be lined with a railing for safety purposes. The total area of the pier will be approximately 1,333 square feet. The project is located along the Niagara River at the Niawanda Park, 200 Niagara Street, Tonawanda, NY 14150.

The applicant's consistency certification and supporting information are available for review at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2019-1250KohlerPier.pdf>

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or April 3, 2020.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE**Department of State****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.

2020-0085 Matter of Building Permits Plus, Jason Allen, 19 Stillwood Road, Brookhaven, NY 11719, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 35 Maple Avenue, Town of Brookhaven, NY 11967, County of Suffolk, State of New York.

2020-0086 Matter of Diane Nielsen, 7 Brunswick Road, Ronkonkoma, NY 11779, for a variance concerning safety require-

ments, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 7 Brunswick Road, Town of Brookhaven, NY 11779, County of Suffolk, State of New York.

2020-0087 Matter of Zachary Clanahan, 14 Gravel Hill Road, Hampton Bays, NY 11946, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 14 Gravel Hill Road, Town Of Southampton, NY 11946, County of Suffolk, State of New York.

2020-0088 Matter of Brookhaven Expeditors, Andrew Malguarnera, 713 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 70 Center Street, Town of Brookhaven, NY 11779, County of Suffolk, State of New York.

2020-0089 Matter of Brookhaven Expeditors, Andrew Malguarnera, 713 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 7 Leatherstocking Lane, Town of Brookhaven, NY 11790, County of Suffolk, State of New York.

2020-0090 Matter of Brookhaven Expeditors, Andrew Malguarnera, 713 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the required heights under a girder/soffit. Involved is an existing one family dwelling located at 31 Wyandotte Street, Town of Brookhaven, NY 11784, 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.

2020-0098 In the matter of Howard Hanna Real Estate, Panagiota O'Donnell, 2333 Triphammer Road, Ithaca, NY 14850, for John Poulos, Executor, concerning safety requirements including a variance for reduction in required height of existing interior stair handrails.

Involved is the certificate of compliance inspection of an existing residential occupancy, two stories in height, located at 108 Sears Street, City of Ithaca, County of Tompkins, New York.

EXECUTIVE ORDERS

Executive Order No. 147.32: A Special Prosecutor to Investigate and Prosecute Matters Relating to the Deaths of Civilians Caused by Law Enforcement Officers.

In view of the request of Attorney General Letitia James, my order and requirement, embodied in Executive Order Number one hundred and forty-seven, dated July 8, 2015, is hereby amended to include an additional paragraph to the penultimate paragraph as amended by Executive Order Numbers 147.1 - 147.31 to read as follows:

FURTHER, the requirement imposed on the Special Prosecutor by this Executive Order shall include the investigation, and if warranted, prosecution:

(ff) of any unlawful acts or alleged unlawful acts or omissions by any law enforcement officer, as listed in subdivision 34 of section 1.20 of the Criminal Procedure Law, arising out of, relating to or in any way connected with the death of Tina Davis on January 5, 2020, in Rockland County.

(L.S.)

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

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor

COURT NOTICES

AMENDMENT OF RULE

Rules of Professional Conduct, Standards of Civility

The Judicial Departments of the Appellate Division of the New York State Supreme Court, pursuant to the authority vested in them, do hereby amend Part 1200, Appendix A (Rules of Professional Conduct, Standards of Civility) of Title 22 of the Official Compilation of the Codes, Rules, and Regulations of the State of New York, as follows, effective immediately (deletions in strikethrough, additions underlined). A clean copy of the amended Standards of Civility is attached as Exhibit A.

STANDARDS OF CIVILITY

[Preamble]PREAMBLE

The New York State Standards of Civility for the legal profession set forth principles of behavior to which the bar, the bench and court employees should aspire. (*The term “court” as used herein also may refer to any other tribunal, as appropriate.*) They are not intended as rules to be enforced by sanction or disciplinary action, nor are they intended to supplement or modify the Rules Governing Judicial Conduct, the [Code]Rules of Professional [Responsibility and its Disciplinary Rules,] Conduct or any other applicable rule or requirement governing conduct. Instead they are a set of guidelines intended to encourage lawyers, judges and court personnel to observe principles of civility and decorum, and to confirm the legal profession’s rightful status as an honorable and respected profession where courtesy and civility are observed as a matter of course.

The Standards of Civility are divided into *two main sections, one that is generally applicable but also contains a number of items specifically directed to the litigation setting, and one that is more specifically directed to transactional and other non-litigation settings. The first section, in turn, is divided into four parts: lawyers’ duties to other lawyers, litigants [and], witnesses and others; lawyers’ duties to the court and court personnel; court’s duties to lawyers, parties and witnesses; and court personnel’s duties to lawyers and litigants. There is also a Statement of Client’s Rights appended to the Standards of Civility.*

As lawyers, judges [and], court employees and officers of the court, and as attorneys generally, we are all essential participants in the judicial process. That process cannot work effectively to serve the public unless we first treat each other with courtesy, respect and civility.

SECTION 1 – GENERAL STANDARDS

LAWYERS’ DUTIES TO OTHER LAWYERS, LITIGANTS, [AND] WITNESSES AND CERTAIN OTHERS

I. Lawyers should be courteous and civil in all professional dealings with other persons.

A. Lawyers should act in a civil manner regardless of the ill feelings that their clients may have toward others.

B. Lawyers can disagree without being disagreeable. Effective representation does not require antagonistic or acrimonious behavior. Whether orally or in writing, lawyers should avoid vulgar language, disparaging personal remarks or acrimony toward other counsel, parties or witnesses.

C. Lawyers should not engage in conduct intended primarily to harass or humiliate witnesses.

D. Lawyers should require that persons under their supervision conduct themselves with courtesy and civility.

II. When consistent with their clients’ interests, lawyers should cooperate with opposing counsel in an effort to avoid litigation and to resolve litigation that has already commenced.

A. Lawyers should avoid unnecessary motion practice or other judicial intervention by negotiating and agreeing with other counsel whenever it is practicable to do so.

B. Lawyers should allow themselves sufficient time to resolve any dispute or disagreement by communicating with one another and imposing reasonable and meaningful deadlines in light of the nature and status of the case.

III. A lawyer should respect the schedule and commitments of opposing counsel, consistent with protection of the client’s interests.

A. In the absence of a court order, a lawyer should agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of the client will not be adversely affected.

B. Upon request coupled with the simple representation by counsel that more time is required, the first request for an extension to respond to pleadings ordinarily should be granted as a matter of courtesy.

C. A lawyer should not attach unfair or extraneous conditions to extensions of time. A lawyer is entitled to impose conditions appropriate to preserve rights that an extension might otherwise jeopardize, and may request, but should not unreasonably insist on, reciprocal scheduling concessions.

D. A lawyer should endeavor to consult with other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts. A lawyer should likewise cooperate with opposing counsel when scheduling changes are requested, provided the interests of his or her client will not be jeopardized.

E. A lawyer should notify other counsel and, if appropriate, the court [or]and other persons at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed.

[IV. A lawyer should promptly return telephone calls and answer correspondence reasonably requiring a response.]

IV. Responding to communications.

A lawyer should promptly return telephone calls and electronic communications and answer correspondence reasonably requiring a response, as appropriate. (For the avoidance of doubt, the foregoing refers to communications in connection with matters in which the lawyer is engaged, not to unsolicited communications.) A lawyer has broad discretion as to the manner and time in which to respond and need not necessarily follow the same means or format as the original communication or the manner requested in the original communication.

V. The timing and manner of service of papers should not be designed to cause disadvantage to the party receiving the papers.

A. Papers should not be served in a manner designed to take advantage of an opponent’s known absence from the office.

B. Papers should not be served at a time or in a manner designed to inconvenience an adversary.

C. Unless specifically authorized by law or rule, a lawyer should not submit papers to the court without serving copies of all such papers upon opposing counsel in such a manner that opposing counsel will receive them before or contemporaneously with the submission to the court.

VI. A lawyer should not use any aspect of the litigation process, including discovery and motion practice, as a means of harassment or for the purpose of unnecessarily prolonging litigation or increasing litigation expenses.

A. A lawyer should avoid discovery that is not necessary to obtain facts or perpetuate testimony or that is designed to place an undue burden or expense on a party.

B. A lawyer should respond to discovery requests reasonably and not strain to interpret the request so as to avoid disclosure of relevant and non-privileged information.

VII. In depositions and other proceedings, and in negotiations, lawyers should conduct themselves with dignity and refrain from engaging in acts of rudeness and disrespect.

A. Lawyers should not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.

B. Lawyers should advise their clients and witnesses of the proper conduct expected of them in court, [at] depositions and [at] conferences, and[, to the best of their ability,] *make reasonable efforts* to prevent clients and witnesses from causing disorder or disruption.

C. A lawyer should not obstruct questioning during a deposition or object to deposition questions unless necessary.

D. Lawyers should ask only those questions they reasonably believe are necessary for the prosecution or defense of an action. Lawyers should refrain from asking repetitive or argumentative questions and from making self-serving statements.

VIII. A lawyer should adhere to all express promises and agreements with other counsel, whether oral or in writing, and to agreements implied by the circumstances or by local customs.

IX. Lawyers should not mislead [other persons in the litigation process].

A. A lawyer should not falsely hold out the possibility of settlement as a means for adjourning discovery or delaying trial.

B. A lawyer should not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

C. In preparing written versions of agreements and court orders, a lawyer should attempt to correctly reflect the agreement of the parties or the direction of the court.

X. Lawyers should be mindful of the need to protect the standing of the legal profession in the eyes of the public. Accordingly, lawyers should bring the New York State Standards of Civility to the attention of other lawyers when appropriate.

LAWYERS' DUTIES TO THE COURT AND COURT PERSONNEL

I. A lawyer is both an officer of the court and an advocate. As such, the lawyer should always strive to uphold the honor and dignity of the profession, avoid disorder and disruption in the courtroom, and maintain a respectful attitude toward the court.

A. Lawyers should speak and write civilly and respectfully in all communications with the court and court personnel.

B. Lawyers should use their best efforts to dissuade clients and witnesses from causing disorder or disruption in the courtroom.

[C. Lawyers should not engage in conduct intended primarily to harass or humiliate witnesses.]

[D.]C. Lawyers should be punctual and prepared for all court appearances; if delayed, the lawyer should notify the court and counsel whenever possible.

II. Court personnel are an integral part of the justice system and should be treated with courtesy and respect at all times.

JUDGES' DUTIES TO LAWYERS, PARTIES AND WITNESSES

I. A Judge should be patient, courteous and civil to lawyers, parties and witnesses.

A. A Judge should maintain control over the proceedings and insure that they are conducted in a civil manner.

B. Judges should not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with lawyers, parties or witnesses.

C. Judges should, to the extent consistent with the efficient conduct

of litigation and other demands on the court, be considerate of the schedules of lawyers, parties and witnesses when scheduling hearings, meetings or conferences.

D. Judges should be punctual in convening all trials, hearings, meetings and conferences; if delayed, they should notify counsel when possible.

E. Judges should make all reasonable efforts to decide promptly all matters presented to them for decision.

F. Judges should use their best efforts to insure that court personnel under their direction act civilly toward lawyers, parties and witnesses.

DUTIES OF COURT PERSONNEL TO THE COURT, LAWYERS AND LITIGANTS

I. Court personnel should be courteous, patient and respectful while providing prompt, efficient and helpful service to all persons having business with the courts.

A. Court employees should respond promptly and helpfully to requests for assistance or information.

B. Court employees should respect the judge's directions concerning the procedures and atmosphere that the judge wishes to maintain in his or her courtroom.

SECTION 2 - STANDARDS FOR TRANSACTIONAL/NON-LITIGATION SETTINGS

INTRODUCTION

Section 1 of the Standards of Civility, while in many respects applicable to attorney conduct generally, in certain respects addresses the practice of law in the setting of litigation and other formal adversary proceedings, where conduct is governed by a variety of specific procedural rules of order and may be supervised by a judge or other similar official. This Section 2, which is more directed to transactional and other non-litigation settings, should be read with Section 1 as one integrated whole for a profession that has multiple facets and spheres of activity.

The differences in practice between lawyers' roles and the expectations in litigation and other settings can sometimes be significant. Although fewer formal rules of conduct and decorum apply outside of the litigation setting, lawyers conducting transactional work should keep Section 1 of Standards of Civility in mind, along with the following additional items.

ADDITIONAL TRANSACTIONAL/NON-LITIGATION STANDARDS

I. A lawyer should balance the requirements and directions of the client in terms of timing with a reasonable solicitude for other parties. Unless the client specifically instructs to the contrary, a lawyer should not impose deadlines that are more onerous than necessary or appropriate to achieve legitimate commercial and other client-related outcomes.

II. A lawyer should focus on the importance of politeness and decorum, taking into account all relevant facts and circumstances, including such elements as the formality of the setting, the sensitivities of those present and the interests of the client.

III. Where an agreement or proposal is tentative or is subject to approval or to further review by a lawyer or by a client, the lawyer should be careful not to proceed without proper authorization or otherwise imply that authority from the client has been obtained when such is not the case.