
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 45 days following publication in the *Register* of a Notice of Proposed Rule Making or a Notice of Emergency Adoption and Proposed Rule Making for which full text was included in the Notice or posted on a state web site, or which is a consensus rule or a rule defined in SAPA §102(2)(a)(ii); or 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 for which a summary of the text of the rule was included in the Notice and the full text of which was not published on a state web site; and for 30 days after publication of a Notice of Revised Rule Making in the *Register*. When a public hearing is required by statute, the hearing cannot be held until 45 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 Sunday, January 9, 2005
- the 45-day period expires on Saturday, December 25, 2004
- the 30-day period expires on Friday, December 10, 2004

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GOVERNOR**

**RANDY A. DANIELS
SECRETARY OF STATE**

NEW YORK STATE DEPARTMENT OF STATE

Frank P. Milano, First Deputy Secretary of State

Eamon Moynihan, Deputy Secretary of State for Public Affairs

Keith W. Stack, Deputy Secretary of State for Business and Licensing Services

Peter Constantakes, Assistant Secretary of State for Public Affairs

For press and media inquiries call:

(518) 474-0050

DIVISION OF ADMINISTRATIVE RULES

Deborah Ritzko, Publications Manager

For *State Register* production, scheduling and subscription information

call: (518) 474-6785

E-mail: adminrules@dos.state.ny.us

OFFICE OF COUNSEL

Glen T. Bruening, General Counsel

For legal assistance with *State Register* filing requirements

call: (518) 474-6740

E-mail: counsel@dos.state.ny.us

The *New York State Register* is now available on-line at:

www.dos.state.ny.us/info/tocmain.html



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

POSTMASTER: Send address changes to the Department of State, Division of Administrative Rules, 41 State Street, Albany, NY 12231-0001.

printed on recycled paper

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Be a part of the rule making process!

The public is encouraged to comment on any of the proposed rules appearing in this issue. Comments must be made in writing and must be submitted to the agency that is proposing the rule. Address your comments to the agency representative whose name and address are printed in the notice of rule making. No special form is required; a handwritten letter will do.

To be considered, comments must reach the agency before the proposed rule is adopted. The law provides for a minimum 45-day public comment period after publication in the *Register* of every Notice of Proposed Rule Making; and a 30-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 public comments are due.

The Administrative Regulations Review Commission (ARRC) is charged with the task of reviewing newly proposed regulations to examine the 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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The *Register* costs \$80 a year for a subscription mailed first class and \$40 for periodical (second) class. Prepayment is required. To order, send a check or money order payable to the NYS Department of State to the following address:

NYS Department of State
Attn: REGISTER
41 State Street
Albany, NY 12231-0001

Telephone: (518) 474-6785

REVIEW REQUIREMENTS FOR NEW AND REVISED REGULATIONS

Executive Order No. 20 established a system of executive branch review of proposed state agency regulations by the Governor's Office of Regulatory Reform (GORR). The following is a brief description of the review requirements imposed by Executive Order 20 for new and revised rules.

Prior to submitting a proposed or revised rule for publication in the *State Register*, an agency must submit it to GORR along with any required regulatory impact statement; regulatory flexibility analysis for small businesses; rural area flexibility analysis; any cost-benefit, risk assessment and job retention analysis; or the results of any negotiated rule making or policy dialogue.

GORR reviews agency material for compliance with the following criteria:

1. The rule:
 - a) is clearly within the authority delegated by law;
 - b) is consistent with and necessary to achieve a specific legislative purpose;
 - c) is clearly written so that its meaning will be easily understood by those persons affected by it;
 - d) does not unnecessarily duplicate or exceed existing federal or state statutes or rules;
 - e) is consistent with existing state statutes and rules;
 - f) consistent with state statutory requirements, will produce public benefits which will outweigh the costs, if any, imposed on affected parties;
 - g) does not impose a mandate on local governments or school districts which is not fully funded, except as specifically required by state statute;
 - h) prescribes methodologies or requirements that allow regulated parties flexibility and encourage innovation in meeting the legislative or administrative requirements and objectives underlying the rule;
 - i) is based on credible assessments, using recognized standards, of the degree and nature of the risks which may be regulated, including a comparison with every-day risks familiar to the public;
 - j) gives preference to the least costly, least burdensome regulatory and paperwork requirements needed to accomplish legislative and administrative objectives;

- k) is based upon the best scientific, technical and economic information that can reasonably and affordably be obtained; and
- l) if possible and practical, favors market-oriented solutions and performance standards over command-and-control regulation.

2. The agency has complied with SAPA §§202-a, 202-b and 202-bb, relating to regulatory impact statement, regulatory flexibility analysis for small businesses and rural area flexibility analysis.

If GORR concludes that any of the criteria is not met, it may require the agency to undertake additional analyses, including a cost-benefit analysis or risk assessment.

Once the information provided to GORR is complete, GORR recommends to the Secretary to the Governor, Counsel to the Governor, Director of State Operations and Director of the Division of the Budget whether the agency may submit the rule making for publication in the *State Register*.

After publication, GORR again reviews the rule for any new information or factors. If GORR concludes that any such new factors exist, the agency is notified of any deficiencies within 45 days of publication of the proposed rule (30 days of publication of a revised rule).

GORR reviews the agency response to determine whether it adequately addresses the deficiencies. If the response is adequate, the agency may proceed with the rule making. If the agency response is inadequate, GORR may notify the agency that it may not adopt the rule. This notification may then be confirmed or modified by the Governor's Senior Advisors.

Agencies should submit proposed and substantially revised rules, together with their required statements and analyses, in their entirety, to:

Amelia F. Stern, Counsel
Governor's Office of Regulatory Reform
P.O. Box 2107
Empire State Plaza, Bldg. 1
Albany, NY 12220-0107

Questions and comments may be directed to Counsel's Office at the above address or by telephone, to (518) 473-0620.

KEY: (P) Proposal; (RP) Revised Proposal; (RC) Revised Proposal/Continuation; (RXC) Revised Proposal/Extra Continuation; (E) Emergency; (EP) Emergency and Proposal; (A) Adoption; (AA) Amended Adoption; (C) Continuation; (W) Withdrawal

Rule Making Activities

Agriculture and Markets, Department of

1 / Standards and testing procedures for gasoline and kerosene (P)

Correctional Services, Department of

3 / Departmental records and release of information (P)

Insurance Department

5 / Physicians and surgeons professional insurance merit rating plans (E)

8 / Claim submission guidelines for medical service and hospital claims (EP)

Mental Retardation and Developmental Disabilities, Office of

11 / Obsolete service fee and rate schedules (A)

Power Authority of the State of New York

12 / Charges applicable to the sale of certain power and energy (P)

Public Service Commission

12 / Notice of withdrawals

13 / Base cost of fuel by the Village of Richmondville (A)

13 / Mini rate increase by Salamanca Board of Public Utilities (A)

13 / Submetering of electricity by New 19 West LLC (A)

13 / Service fees to be charged by Utilities to Energy Service Companies (A)

14 / Purchase of the retail supplier's accounts receivable by Central Hudson Gas & Electric Corporation (A)

14 / Rider M—Voluntary Real-Time Pricing by Consolidated Edison Company of New York, Inc. (A)

14 / Retail Access Program by Central Hudson Gas & Electric Corporation (A)

14 / Interruptible and off-peak customers by Consolidated Edison Company of New York (A)

15 / Application form for steam service by Consolidated Edison Company of New York, Inc. (A)

15 / Gas supply charge revenues by Rochester Gas and Electric Corporation (A)

15 / Schedule for gas service by KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island (A)

15 / Schedule for gas service by The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York (A)

16 / Schedule for gas service by Rochester Gas and Electric Corporation (A)

16 / Transfer of water plant assets by Camfield-Purcell Water Works, Inc., Brickyard Road Water System, *et al.* (A)

16 / Intercarrier agreement between Sprint Communications Company L.P. and Verizon New York Inc. (P)

16 / Intercarrier agreement between PAETEC Communications, Inc. and Citizens Telecommunications of New York, Inc. d/b/a Frontier Citizens Communications of New York (P)

17 / Order setting permanent hot cut rates by Bridgecom International Inc., *et al.* (P)

17 / Interconnection agreement between Verizon New York Inc. and Broadview NP Acquisition Corp. (P)

17 / Retail renewable portfolio standard implementation plan (P)

18 / Service Quality Performance Program by Rochester Gas and Electric Corporation (P)

18 / Distributed generation by Consolidated Edison Company of New York, Inc. (P)

- 18 / Service Quality Performance Program by Rochester Gas and Electric Corporation (P)
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- 19 / Energy competitive rate design policy (P)
- 20 / Public access procedures by William A. Huston (P)
- 20 / Transfer of water plant assets by the Town of Schodack (P)

Racing and Wagering Board

- 20 / Video lottery gaming occupational licensing (E)

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- 22 / Fuel use tax on motor fuel and diesel motor fuel (A)
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