
NEW YORK STATE
REGISTER

INSIDE THIS ISSUE:

- Recreational Harvest and Possession of Marine Fish Species
- Rates for the Sale of Certain Power and Energy
- Crossing Charge Schedule

Notice of Availability of State and Federal Funds

Executive Orders

Court Notices

Concurrent Resolutions

Appendix

2005 Register Production Schedule

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, December 12, 2004
- the 45-day period expires on Saturday, November 27, 2004
- the 30-day period expires on Friday, November 12, 2004

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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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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

Environmental Conservation, Department of

- 1 / Recreational harvest and possession of marine fish species (E)
- 5 / Consumer products (A)
- 6 / Permits and certificates (A)
- 6 / Conformity to State or Federal implementation plans (A)
- 6 / Control of emissions of non-methane organic compounds (NMOC) from municipal solid waste (MSW) landfills (A)
- 6 / Archery season for white-tailed deer in Suffolk and Westchester Counties (A)
- 7 / Harvest of white-tailed deer with muzzleloading firearms in the Northern Zone (A)

Environmental Facilities Corporation

- 7 / Access to Public Records Law (A)

Power Authority of the State of New York

- 7 / Rates for the sale of certain power and energy (P)

Public Service Commission

- 8 / Renewable sources of electricity (A)
- 9 / Submetering of electricity by Albanese Development Corporation (A)
- 9 / Submetering of electricity by Hudson Waterfront Company A, LLC (A)
- 9 / Initial tariff schedule by National Aqueous Corporation (A)
- 9 / Major gas rate increase by Consolidated Edison Company of New York, Inc. (A)
- 10 / Low income rate programs and competitive market programs (A)
- 10 / Major steam rate increase by Consolidated Edison Company of New York, Inc. (A)
- 10 / Competitive backout credit by National Fuel Gas Distribution Corporation (A)
- 10 / Street lighting by New York State Electric & Gas Corporation (A)
- 11 / Fuel adjustment clause by the City of Jamestown (A)
- 11 / Transfer, financing and lightened regulation by Great Lakes Power, Inc. (A)
- 11 / Discontinuance of bill credit by National Fuel Gas Distribution Corporation (A)
- 11 / Design of gas rates to full service and transportation customers by New York State Electric & Gas Corporation (A)
- 12 / Design delivery service by KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island (A)
- 12 / Comprehensive transportation and balancing service by The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery NY (A)
- 12 / Business Incentive Rate Program by KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island (A)
- 13 / Commodity pricing option enrollments by Rochester Gas and Electric Corporation (A)
- 13 / Lightened regulation by Bethpage Energy Center 3, LLC (A)
- 13 / Economic development by the Massena Electric Department (P)
- 13 / Net lost revenues by National Fuel Gas Distribution Corporation (P)
- 14 / Pole attachments by Fibertech Networks, LLC and Cable Telecommunications Association of New York, Inc. (P)
- 14 / Transfer of certain real property by New York State Electric & Gas Corporation (P)
- 14 / Transfer of franchises or stocks by Mt. Ebo Water Works, Inc. and Mt. Ebo Associates, Inc. (P)

Racing and Wagering Board

14 / Rules of bingo (A)

Taxation and Finance, Department of

16 / Notice of expiration

Transportation, Department of

16 / Safety of operations and equipment by motor carriers (A)

Triborough Bridge and Tunnel Authority

16 / Crossing charge schedule (P)

Hearings Scheduled for Proposed Rule Makings / 17

Action Pending Index / 19

Securities Offerings _____

61 / State Notices

63 / Further State Notices

Advertisements for Bidders/Contractors _____

71 / Notice to Bidders

71 / Sealed Bids

Notice of Availability of State and Federal Funds _____

75 / Education Department

75 / Department of Health

75 / Office of Science, Technology and Academic Research (NYSTAR)

75 / Office of Temporary Disability Assistance

76 / Western New York Developmental Disabilities Service Office

Miscellaneous Notices/Hearings _____

77 / Notice of Abandoned Property Received by the State Comptroller

77 / Public Notices

80 / Sale of Forest Products

Executive Orders _____

81 / Executive Order No. 113.87: Temporary Suspension of Provisions Relating to Out-of-State Law/Enforcement Officers Serving as Railroad Police Officers

Court Notices _____

83 / Amendment of Rule—Rules of the Chief Judge

83 / Amendment of Rule—Rules of the Chief Administrator of the Courts

Concurrent Resolutions / 85 _____

Appendix / 89 _____