

Executive Order No. 17 Local Government Mandate Evaluation Impact on Local Government and Property Taxpayers

Submitting Agency: Hudson River – Black River Regulating District

NYCRR Citation: 6NYCRR Part 606, sections 606.126 through 606.134

Description of the Regulation: Apportionment Grievance Hearing Procedure

Statutory Authority for the Regulation: NY ECL Article 15, Title 21, sections 15-2109(1) and 15-2121(5)

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1. Does the regulation impose a mandate on a county, city, town, village, school district or special district that requires such entity to:

a. Provide or undertake any program, project or activity;

Yes ☐

No ☒

b. Increase spending for an existing program, project or activity (even if such program, project or activity is voluntarily undertaken by a local government unit);

Yes ☐

No ☒

c. Grant any new property tax exemption, or broaden the eligibility or increase the value of any existing property tax exemption; or

Yes ☐

No ☒

d. Carry out a legal requirement that would likely have the effect of raising property taxes.

Yes ☒

No ☐

If the answer to all questions above are “no,” ensuring the regulation will not result in a mandate on local governments and property taxpayers, an accounting and the approval of the Office for Taxpayer Accountability are not required. If the answer to any question above is “yes,” and the regulation may have a fiscal impact on local governments and property taxpayers, please proceed to items 2 – 3.

2. Is the mandate required by federal law or regulation or state law?

Yes ☒

No ☐

a. If yes, please cite the specific provision in the statute or federal regulation.

The Regulating District's enabling statute requires that the Regulating District Board apportion the costs to operate the Regulating District's facilities, less the amount which may be chargeable to the state, among the public corporations and parcels of real estate benefited by such facilities in proportion to the amount of benefit which shall inure to each, NY ECL §15-2121. The United States Court of Appeals' *Albany Engineering v. FERC* decision, (2008, 548 F.3rd 1071), has forced the Regulating District to reapportion most costs from the FERC licensed merchant power plants along the Hudson and Sacandaga Rivers to the public corporations in that area. NY ECL §15-2121 also requires that the Regulating District Board allow persons and public corporations interested in or aggrieved by the Board's apportionment determination to review such determination in the same manner as a review is had of a determination of a board of assessors in making an assessment. The proposed rule establishes a grievance hearing procedure to facilitate the efficient administration of the determination review required by NY ECL §15-2121(5).

b. If yes, please describe any elements of the regulation not specifically mandated by the statute or regulation. There are no elements of the proposed grievance hearing rules not specifically mandated by statute.

3. If any portion of the mandate is not required by federal or state law, please attach to this Checklist an Accounting for such portion containing:*

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a. A description of the mandate in the regulation;

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b. An accounting of the impacts of such mandate that includes:

(i) A fiscal impact statement;

(ii) A cost-benefit analysis, which includes:

(x) a specific delineation of the costs and benefits to local governments and property taxpayers; and

(y) a quantification of the impact on local government revenue and expenditures, where such impact is quantifiable based on available information (please consult with the Governor's Office of Regulatory Reform if further guidance is needed);

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c. A description of input sought and received from affected local governments;

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d. A description of the proposed revenue sources to fund such mandate; and

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e. An explanation as to why this regulation should be advanced with a mandate.

*Note: The "Regulatory and Flexibility Analysis for Small Businesses and Local Governments" may be attached so long as the items set forth in 3 above are fully accounted for in the Analysis.