

# REGULATORY AGENDA

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## Department of Environmental Conservation

The New York State Department of Environmental Conservation maintains an updated regulatory agenda on its website @ <http://www.dec.ny.gov/regulations/36816.html>

## Department of Labor

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act (SAPA), notice is hereby provided of the following rules that the Department of Labor is considering proposing but for which a rule making proceeding has not been commenced. The Department of Labor's regulatory plans are subject to change and the Department reserves the right to add, delete, or modify any item herein. In addition, the Department may propose a rule for adoption which was not under consideration at the time that this regulatory agenda was submitted for publication.

This notice is also intended to provide small businesses, local governments, and public and private interests in rural areas with the opportunity to participate in the rule making process, as provided for in sections 202-b and 202-bb of SAPA. Each rule listed below may require a regulatory flexibility analysis or a rural area impact statement pursuant to SAPA sections 202-b and 202-bb, respectively.

The public is welcome to send written comments on the Department of Labor's Regulatory Agenda to the contact person at the end of this list.

1. Amend Title 12 NYCRR Part 56 to clarify fire/life safety regulatory requirements at asbestos projects within New York State. This revision will also incorporate Asbestos Successor Law definitions and minor clarifications.

2. Amend Title 12 NYCRR 61-3 To reflect new OSHA regulation regarding crane operators.

3. Amend Title 12 NYCRR Part 470, Part 471, Part 472, Part 473, Part 480, Part 481, Part 482 and Part 490 to conform those parts to changes in state and federal law and to repeal obsolete provisions.

4. Amend Title 12 NYCRR Part 700 to implement regulations required by 20 CFR 603 regarding public access to Unemployment Insurance Records.

5. Amend various provisions within 12 NYCRR that are obsolete, have been superseded or where the Commissioner no longer has authority regarding the subject matter of the regulation.

6. Amend Title 12 NYCRR Part 32 for Ski Tow Safety regulations to reflect the ANSI 2011 edition of Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors-Safety Requirements.

To obtain information or submit written comments regarding this regulatory agenda, contact Amy Karp, Esq., Legislative Counsel, New York State Department of Labor, Building 12, State Office Campus, Counsel's Office, Room 508, Albany, New York 12240, or [regulations@labor.ny.gov](mailto:regulations@labor.ny.gov). When e-mailing, please include "Regulations – Regulatory Agenda" in the subject line. You may also reach this office by phone at 518-457-7350.

## Workers' Compensation Board

Pursuant to section 202-d of the State Administrative Procedures Act, notice is hereby provided of the following rules which the Workers' Compensation Board is considering proposing but for which a rule making proceeding has not been commenced. All references are to Title 12 of the New York Code of Rules and Regulations unless otherwise noted. The Workers' Compensation Board's regulatory plans are subject to change and the Board reserves the right to add, delete or modify any item herein. The Board is not required to propose for adoption any rule summarized in this regulatory agenda. In addition, the Board may propose a rule for adoption which was not under consideration at the time that this regulatory agenda was submitted for publication.

This notice is also intended to provide small businesses, local governments, and public and private interests in rural areas with the opportunity to participate in the rule making process, as provided for in State Administrative Procedures Act sections 202-b and 202-bb. All of the rules described below may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis pursuant to State Administrative Procedures Act sections 202-b and 202-bb, respectively.

The public is welcome to send written comments on the Workers' Compensation Board's Regulatory Agenda to the contact person at the end of this list.

The Chair and/or the Workers' Compensation Board are considering proposing the following rules:

1. Add a new Part 304 to set forth the provisions governing the direct deposit of workers' compensation benefit payments.

2. Add a new Part 325-9, pursuant to Workers' Compensation Law sections 13(e) and 20, to establish guidelines and parameters for the use of impartial medical specialists when an established claim requires an expert opinion or examination.

3. Add Part 318 to establish rules for group self-insured trusts pursuant to Workers' Compensation Law § 50(3-a).

4. Repeal and readopt Subparts 325-5 and 325-6 regarding the Health Insurer Matching Program to clarify the statute of limitations, set forth the timely filing of a reimbursement request, and amend the defenses a workers' compensation insurer may raise in response to a claim.

5. Add a new part 300.39 to establish rules for the cross-examination of medical witnesses and to repeal section 300.10(c).

6. Amend Parts 390 and 393 regarding the Aggregate Trust Fund to conform to the amendments to Workers' Compensation Law § 27, the decisions of the Board and the decision by the Court of Appeals in *Raynor v. Landmark Chrysler*, 18 NY3d 48 [2011].

7. Add a new Part 318/319 to establish rules and procedures for the determination and collection of assessments as required by Workers' Compensation § 151.

8. Amendment to multiple sections of Parts 327, 328, 329, 330, 332, 342, 345, 347, and 349, to implement the provision for a single arbitrator process as set forth in recently amended Workers' Compensation Law §§ 13-g, 13-k, 13-l and 13-m.

9. Amendment of Sections 300.13, 300.15 and 300.16 to implement rules governing applications for discretionary full Board review as set forth in recently amended Workers' Compensation Law § 23.

10. The Board will continue to review its rules in an effort to provide for clearer and more accurate references to Board policies and procedures, while also eliminating typographical errors and obsolete forms/practices, etc.

*To obtain information about or submit written comments concerning any item in this Regulatory Agenda, contact:* Heather M. MacMaster, Associate Attorney, Workers' Compensation Board, 328 State St., Schenectady, NY 12305-2318, (518) 486-9564, e-mail: [regulations@wcb.ny.gov](mailto:regulations@wcb.ny.gov)