

REGULATORY AGENDA

DEPARTMENT OF AGRICULTURE AND MARKETS

Pursuant to sub-division 1 of section 202-d of the State Administrative Procedure Act, notice is hereby provided of the following rules which the Department of Agriculture and Markets is considering proposing but for which a rulemaking proceeding has not been commenced. All section and Part references are to Title 1 of the New York Code of Rules and Regulations.

DIVISION OF MILK CONTROL AND DAIRY SERVICES

- Parts 2 & 3 Consider amending requirements for the production, processing and distribution of milk and milk products.
- Section 2.8 Consider amending the pasteurized milk and pasteurized cultured product standards to include a zero tolerance standard for pathogenic coliform.
- Part 17 Consider adoption of current federal standards of identity for milk and milk products.
- Parts 19 & 20 Consider repeal of the New York-New Jersey milk marketing regulation because of implementation of a Federal Northeast Milk Marketing Area.
- Part 21 Consider amending the Western New York Milk Marketing Area to correspond with changes under the Federal Northeast Milk Marketing Area.
- Part 24 Consider amending milk dealer licensing procedures to reduce certain reporting requirements for milk dealers and clarifying license classifications of such dealers.
- Parts 40 & 43 Consider amending the Dairy Promotion Order and milk producer security provisions to conform to changes in the federal milk marketing order reform.
- Part 41 Consider amending milk transportation provisions to conform to Agriculture and Markets Law §257-a.
- Part 44 Consider adopting procedures for enforcement of milk price gouging prohibitions in the General Business Law.
Name of agency contact: Will Francis
Office Address: 1 Winners Circle
Albany, New York 12235
Telephone number: 518-457-1772
- Part 45 **DIVISION OF ANIMAL INDUSTRY**
Consider amending the avian influenza control provisions to establish a sanitation, cleaning and disinfection program applicable to live poultry markets and to prohibit the direct movement of live poultry from the farm to a live poultry market to control avian influenza.

- Part 46 Consider adoption of federal standards (UM & R) for brucellosis in cattle, bison, swine and deer.
- Part 57 Consider repeal of certain requirements relating to the control of Salmonella enteritidis (SE), to take into account new technology and poultry industry participation in a voluntary program intended to minimize the potential for SE contamination of eggs.
- Part 60 Consider adoption of federal standards (UM & R) for tuberculosis testing for cattle, bison, swine, goats, and deer.
- Part 61 Consider adoption of record keeping requirements for swine, cervid, camelid, goat, and sheep dealers and sanitation and record keeping requirements for poultry transporters.
- Part 62 Consider adoption of federal standards (UM & R and 9 CFR) for the interstate movement of sheep, goats, deer and llamas and the intrastate movement of deer.
- Part 62 Consider amending existing Chronic Wasting Disease control provisions, to establish mandatory requirements applicable to captive cervid producers and hunting preserves.
- Section 62.8 Consider adoption of requirements for the importation of deer to prevent the introduction of Chronic Wasting Disease into New York State. (Currently, a rule on the subject is in effect on an emergency basis.)
- Section 64.9 Consider the repeal of provisions which exempt certain horses claimed in a claiming race from EIA testing.
Name of agency contact: Dr. Jeffrey Huse
Office Address: 1 Winners Circle
Albany, New York 12235
Telephone number: 518-457-3502
- DIVISION OF PLANT INDUSTRY**
- Section 95.3 Consider changing a reference to the "International Crop Improvement Association" to the organization's current name "Association of Official Seed Certifying Agencies."
- Section 95.5 Consider changing the germination of vegetable seed standards for chives and upland cress, to conform with the Association of American Seed Control Officials Recommended Uniform State Seed Law.
- Sections 96.12 and 96.14 Consider amending certified seed sample sizes to conform with other states' Seed Certification Programs.

Part 131 Consider amending the Pine Shoot Beetle quarantine to conform to federal quarantine provisions. (Currently, a rule on the subject is in effect on an emergency basis.)

Part 137 Consider repeal of Pear Root Stock and Seed quarantine.

Part 153 Consider amending provisions governing the sale and analysis of commercial fertilizer to exempt certain compost products under specified conditions.

Section 153.7 Consider establishing a fertilizer tonnage report form.
Name of agency contact: Robert Mungari
Office Address: 1 Winners Circle
Albany, New York 12235

Telephone number: 518-457-2087

BUREAU OF WEIGHTS AND MEASURES

Section 220.1 Consider changing the issuing authority for Certificates of Conformance to the National Conference on Weights and Measures under the National Type Evaluation Program and adding formal procedures to withdraw a Certificate of Type Approval.

Section 220.1 Consider granting authority to weights and measures officials to accept certain specified device types without prior approval by the Commissioner, provided the device is inspected for conformity with applicable standards and the official notifies the Commissioner.

Section 220.2 Consider adoption of the 2003 2004 edition of NIST Handbook 44, which contains the specifications and tolerances for commercial weighing devices.

Sections 220.3(e), 220.4, and Part 221 Consider amending methods for collecting unpaid device 220.12 testing fees and increasing fees for services where Department costs have increased. Consider adopting national standards, based on "NIST Handbook 130," for commodity labeling and methods of sale for foods and consumer commodities under the Department's jurisdiction.

Section 221.11 Consider adoption of the 2003 2004 Edition of NIST Handbook 133 relating to procedures for testing packaged goods commodities.

Section 224.2 Consider adoption of the current version of Section 5 of the Annual Book of Standards, which contains the specifications and test methods for petroleum products established by the American Society for Testing and Materials for petroleum products. (The 1992 edition is now in effect.)

Section 224.3, and 224.9 Consider amending definitions and tests for octane rating to conform to Federal Trade Commission Rules.

Name of agency contact: Ross Andersen
Office Address: 1 Winners Circle
Albany, New York 12235
Telephone number: 518-457-3146

DIVISION OF FOOD SAFETY AND INSPECTION

Part 245 Consider amending sanitation requirements for small animal slaughterhouses.

Part 257 Considering amending requirements for the manufacture and distribution of commercial feed to exempt certain commercial feed manufacturers from facility registration requirements.

Part 260 Consider adoption of federal standards (21 CFR

Part 120) relative to the manufacturing of fruit juices.

Part 262 Consider adoption of federal standards (21 CFR Part 123) relative to Fish and Fishery Products.

Part 302 Consider adoption of sanitation requirements for rendering plants.
Name of agency contact: Joseph Corby
Office Address: 1 Winners Circle
Albany, New York 12235
Telephone number: 518-457-4492
EXECUTIVE DIVISION

Part 350 Consider repeal of entry fee maximums at local fairs.

Parts 360 and 365 Consider amending regulations relating to public access to Department records.
Name of agency contact: Jessica Chittenden
Office Address: 1 Winners Circle
Albany, New York 12235
Telephone number: 518-457-3136
DIVISION OF AGRICULTURAL PROTECTION AND DEVELOPMENT

Part 206 Consider adoption of a research and development market order pertaining to peaches and nectarines.

Part 207 Consider adoption of a research and development market order for sweet cherries.

Part 208 Consider adoption of a research and development market order for tart cherries.
Name of agency contact: Kim Blot
Office Address: 1 Winners Circle
Albany, New York 12235
Telephone number: 518-457-7076

BANKING DEPARTMENT

First Half 2004

The New York State Banking Department, specifically the Superintendent of Banks and the staff of the Banking Department, is planning to seek comments on the following regulatory proposals:

1. Possible amendments to Part 14 of the General Regulations of the Banking Board (Investments in Corporations by Banks and Trust Companies) pertaining to investments by banks in subsidiary corporations, to cover various additional investments, such as investments in limited liability companies, joint ventures, trusts, minority-ownership investments; as well as review and possible updating of prior and after-the-fact notice procedures in Part 14.
2. Amendments to Part 410 of the Superintendent's Regulations (Mortgage Bankers: Licensing Requirements; Mortgage Brokers; Registration Requirements; Branch Applications: Notification Provisions: Books and Records; Annual Reports) to require bankers and brokers, under certain circumstances, to establish and maintain particular policies and procedures and to maintain adequate books and records to allow for more thorough financial examinations by the Banking Department, to add the definition of consultant and to amend the bond requirements for mortgage brokers and mortgage bankers. The Department intends to adopt these amendments on an emergency basis.
3. Addition of a new Part 414 to the Superintendent's Regulations to implement reporting requirements regarding instances of fraud or larceny in connection with a mortgage loan.
4. Addition of a new Part 315 to the Superintendent's Regulations to determine eligibility of a bank or trust company to participate in a community bank deposit program established by Article 15-A of the New York State Finance Law which authorizes the State Comptroller and the State Commissioner of Taxation and Finance

- to deposit state funds in community banking institutions that evidence a high degree of service to their local communities, in order to enhance the ability of such institutions to engage in commercial lending and promote economic development with their communities.
5. Addition of a new Part 305 of the Superintendent's Regulations (Reporting of Crimes Against Banking Institutions, Mysterious Disappearances and Misconduct) to broaden coverage of institutions and events, specifically to require institutions to file the same with the Banking Department that they file with federal agencies.
 6. Addition of a new Part 342 of the Superintendent's Regulations requiring the Department to consider money laundering compliance in all chartering, licensing, merger, change in control and branching applications filed with the Department.
 7. Addition of a new Part 343 and amendment to Part 400 of the Superintendent's Regulations requiring institutions licensed or chartered by the Department to maintain bank secrecy and OFAC compliance programs.
 8. Amendment to Part 406 of the Superintendent's Regulations to provide standards for the use of agents and subagents by Licensed Money Transmitters.
 9. Amendment to Supervisory Procedure G 106 (Public Access to Banking Department Records; Trade Secret Exemption) to conform with Public Officers Law 89(3) by deleting the procedure that if access to records is neither granted or denied within 10 business days after the date of acknowledgement of receipt of a request, the request may be deemed denied and such denial may be appealed as hereinafter provided.
 10. Amendment to Part 38 of the General Regulations of the Banking Board (Definitions of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D) to add the definition of electronic loan solicitation branch and to formalize the definitions of "net branch" and "application." There also will be an accompanying amendment to Part 410.6 (Branch application; investigation fees; annual branch fees) to reflect the addition of electronic loan solicitation branch.
 11. Amendment to Supervisory Procedure CB 105 (Application for Approval of the Formation of a Bank Holding Company, the Expansion of an Existing Bank Holding Company, the Voting by a Bank Holding Company of the Stock of a Banking Subsidiary, a Merger, a Consolidation, or a Purchase of Assets) to clarify the applicability of portions thereof to particular types of transactions.
 12. Amendment to Supervisory Procedure CB 117 (Application for Companies Seeking to Acquire or Exercise Control of a Banking Institution Under Banking Law Section 143-b) to reflect current practice regarding waiver of particular information and/or acceptance of federal application information in its stead.
 13. Amendments to Part 16 of the General Regulations of the Banking Board (Certain Mergers and Acquisitions of Assets involving Banking Institutions) regarding interstate transactions.
 14. Amendments to Part 402 (Budget Planners) to reflect changes to budget planning law. These amendments were adopted on December 24, 2003 on an emergency basis.
 15. Addition of a new Part 404 to set forth the requirements and standards of operation for entities licensed under Article 12-C of the New York Banking Law to conduct the business of budget planning when the licensees use the services of third party entities in making payments of debtor funds to creditor of the debtors. These amendments were adopted on December 19, 2003 on an emergency basis.
 16. Amendments to Part 41 of the General Regulations of the Banking Board (Restrictions and Limitations on High Cost Loans) to ensure compliance with recently enacted predatory lending legislation. These amendments were adopted on December 12, 2003 on an emergency basis.
 17. Wildcard request concerning extending the 23A "sister bank" exemption to NYSBL 103 lending limit.
 18. Amendment to Supervisory Procedure FB 105 (Change of General Manager, Representative or Individual designated to receive process) to eliminate the requirement that an officer designated to receive process must submit a litigation affidavit and resume.
 19. Amendment to Part 82 of the General Regulations of the Banking Board (Alternative Mortgage Instruments) to increase the Loan-to-Value ratio of up to 103% on Alternative Rate Mortgage Instruments to achieve parity with national banks.
 20. Amendment to Part 301 of the Superintendent's Regulations regarding ATM tape retention from 30 to 45 days.
 21. Amendment to Part 32 of the General Regulations of the Banking Board regarding the ability of certain banking institutions to impose either a one-time fee or a daily maintenance fee in addition to a one-time fee when they pay checks for checking account customers who do not have overdraft loan agreements.
 22. Amendment to Part 6 of the General Regulations of the Banking Board regarding wildcard action extending number of board meetings to savings banks and savings and loan association.
 23. Amendment to Part 400.12 of the Superintendent's Regulations regarding proposed fees that can be charged by check cashers.
 24. Amendment to Part 6.5 of the General Regulations of the Banking Board regarding self-certification in investments in community development entities or projects to achieve parity with OCC regulations.
- Contact Person: Christine M. Tomczak, Secretary to the Banking Board, Banking Department, One State St., 6th Fl., New York, NY 10004-1417, (212) 709-1642, e-mail: christine.tomczak@banking.state.ny.us

OFFICE OF CHILDREN AND FAMILY SERVICES REGULATORY AGENDA

January 1, 2004 – June 30, 2004

Regulatory Proposals

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act (SAPA), notice is hereby provided of the following rules, which the Office of Children and Family Services (OCFS) is considering proposing but for which a rulemaking proceeding has not been commenced. The public is welcome to send written comments on the OCFS Regulatory Agenda to the contact person at the end of this list.

Below is a brief description of the regulations, by subject matter, that are under consideration by OCFS:

Child Welfare Services

Amending the regulations to implement the Child Welfare Financing legislation including: revising the standards for independent living services; allowing flexibility for innovative child welfare managed care programs in counties; adding provisions authorizing OCFS to award incentives to, and impose fiscal penalties against, social services districts based on their compliance with federal performance outcomes and standards; adding provisions authorizing OCFS to impose fiscal penalties against voluntary child care agencies operating residential foster care programs for the failure to comply with licensing and operating standards; amending the Uniform Case Recording (UCR) regulations in 18 NYCRR Parts 428 and 429 and the Service Plan requirements in 18 NYCRR Part 428 to improve the usefulness of the documents and to make them consistent with the requirements of the Adoption and Safe Families Act and the Family

Court forms promulgated by Office of Court Administration; and revising the provisions governing reimbursement for and the purchase of child welfare services.

Amending the regulations regarding foster family boarding homes to require safety plans for the safe evacuation of children and adults in the case of fire or other emergencies.

Amending the regulations regarding residential care for children to achieve greater consistency among the operational standards for programs directly operated by OCFS and programs licensed by OCFS, to clarify and streamline requirements, and to authorize the dual use of certain programs.

Amending the regulations regarding residential foster care programs concerning overnight supervision.

Amending the regulations regarding residential foster care programs for adolescents regarding operational standards, including banning smoking by adolescents in such residences.

Amending 18 NYCRR Part 426 regarding eligibility for Title IV-E foster care and adoption assistance to reflect changes in the federal requirements.

Amending the adoption subsidy regulations to exempt adoption subsidy payments made on behalf of a child who is later placed in foster care from child support enforcement collection when such an exemption is in the best interests of the child.

Amending the regulations to require the continuation of adoption facilitation activities while a foster child is in an Office of Mental Retardation and Developmental Disabilities (OMRDD) or Office of Mental Health (OMH) facility.

Amending the regulations regarding discharge to adoption to expedite permanent placements for children.

Child Care Services

Amending the regulations regarding child care services to modify the market rates for child care subsidies based on the most recent biennial survey in accordance with federal requirements.

Juvenile Justice Residential Services

Amending the regulations to clarify the status of, and procedures necessary for, youth who are away without leave from a facility operated by OCFS.

Amending the regulations to eliminate the Independent Review Board (IRB), so that this function may be performed by a committee of the OCFS Advisory Board.

Amending the regulations regarding visitation to residents of facilities operated by OCFS.

Amending the regulations regarding resident rules to define more clearly prohibitions against gang-related behavior.

Amending the regulations regarding telephone calls to and from residents of facilities operated by OCFS.

Amending the regulations regarding the sending and receiving of mail by residents of OCFS facilities.

Amending the regulations on personnel searches to expand the scope beyond secure facilities to limited secure and non-secure OCFS facilities.

Amending the regulations governing Good Behavior Allowances for juvenile offenders.

Amending the regulations regarding disciplinary actions in OCFS-operated secure facilities to modify the penalty structure and time in which a resident may appeal his or her penalty.

Detention Services

Amending the regulations regarding juvenile detention facilities to provide for a methodology to assess the need for new juvenile detention capacity as a criterion for issuing operating certificates.

Amending the regulations regarding juvenile detention facilities to establish cost standards and reporting requirements for secure and non-secure detention programs.

Amending the regulations regarding secure and non-secure juvenile detention facilities pertaining to the implementation of fiscal sanctions for non-compliance with juvenile detention regulations and the provision of administrative hearings to challenge enforcement actions taken by OCFS.

Positive Youth Development

Amending the regulations concerning runaway and homeless youth (9 NYCRR Part 182) to strengthen standards regarding health and safety.

Child Protective Services/State Central Register

Amending the regulations regarding child welfare practice and its relationship to CONNECTIONS, the Statewide automated child welfare information system.

Protective Services for Adults

Amending 18 NYCRR Part 489 regarding Family Type Homes for Adults concerning admission standards, supervision, furnishings and equipment, safety procedures, personnel and special needs functions.

Amending 18 NYCRR Part 457 regarding Protective Services for Adults to clarify that social services district staff are authorized under law to have access to financial information from banks concerning adult protective services clients without the need of consent from the client for the purpose of determining if the client is the victim of financial exploitation.

Health Screening of Service Employees

Amending the regulations regarding health screening for prospective and current employees having regular and substantial contact with children in programs directly operated by OCFS and programs licensed or supervised by OCFS.

EDUCATION DEPARTMENT

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for the calendar year 2004. All section and part references are to Title 8 of the New York Code of Rules and Regulations. The State Education Department reserves the right to add, delete or modify, without further notice, except as required by the State Administrative Procedure Act, any item or information presented herein as relating to the 2004 Regulatory Agenda.

OFFICE OF ELEMENTARY, MIDDLE, SECONDARY AND CONTINUING EDUCATION

Amendment to the Commissioner's Regulations relating to the program and assessment requirements for middle-level education and schools with middle-level grades to implement Regents policy.

Amendment to the Commissioner's Regulations relating to maintenance of effort for early grade class size reduction grants.

Amendment to the Commissioner's Regulations relating to nondiscrimination in curricular and extracurricular activities.

Amendment to the Commissioner's Regulations to implement Chapter 270 of the Laws of 2003, relating to applying the safety regulations presently applicable to public school district school bus drivers to private school bus drivers.

Amendment to sections 100.7 and 100.10 of the Commissioner's Regulations, relating to revising the requirement that evidence of a high school diploma or the equivalent be presented before beginning college study, by expanding the ways in which a student may satisfy such requirement.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

James A. Kadamus

Deputy Commissioner

New York State Education Department

Office of Elementary, Middle, Secondary and Continuing Education

Room 875
EBA Albany, New York 12234
(518) 474-5915

Amendment to the Commissioner's Regulations to conform to Chapter 91 of the Laws of 2002 and Chapter 123 of the Laws of 2003, relating to New York City School District governance.

Amendment to Part 113 of the Commissioner's Regulations relating to the powers and duties of the New York City Board of Education in determining certain appeals.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

Kathy A. Ahearn
Counsel and Deputy Commissioner for Legal Affairs
New York State Education Department
State Education Building, Room 148
Albany, New York 12234
(518) 474-6400 legal@mail.nysed.gov

OFFICE OF HIGHER EDUCATION

Amendment to section 3.47 of the Rules of the Board of Regents, relating to revising the requirement that evidence of a high school diploma or the equivalent be presented before beginning college study, by expanding the ways in which a student may satisfy such requirement.

Amendment to section 52.21 and Part 80-3 of the Commissioner's Regulations relating to the preparation, certification and assessment requirements for school leaders.

Amendment to section 52.21 of the Commissioner's Regulations to clarify requirements for education programs.

Amendment to the Commissioner's Regulations to implement Chapter 219 of the Laws of 2003 which requires that instructional materials in colleges be made available in electronic format.

Amendment to Part 80 of the Commissioner's Regulations to remove the February 2004 sunset provision for the renewal of expired provisional certificates and limited certificates.

Amendment to Part 30 of the Commissioner's Regulations to align Part 30 tenure areas with the Part 80 certificate titles.

Amendments to Part 80 of the Commissioner's Regulations relating to technical amendments intended to "clean-up" and align various aspects of this part.

Amendment to section 52.21 of the Commissioner's Regulations to add program admission requirements for programs leading to the Transitional C teaching certificate.

Amendment to section 52.21 of the Commissioner's Regulations to amend the list of special subjects to make it consistent with Part 80 titles.

Amendment to section 52.21 of the Commissioner's Regulations to change the language in the career and technical program requirements from "career exploration" to "career awareness."

Amendment to section 52.21 of the Commissioner's Regulations relating to the preparation, certification and assessment requirements for teachers of Licensed Practical Nurse programs.

Amendment to Part 126 of the Commissioner's Regulations relating to the requirements for licensed private schools, registered business schools and computer training facilities.

Amendment to Subpart 80-3 of the Commissioner's Regulations to establish certification requirements for school educational interpreters.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

Johanna Duncan-Poitier
Deputy Commissioner
Office of Higher Education and Office of the Professions
New York State Education Department

West Wing, Second Floor Mezzanine
Albany, New York 12234
(518) 474-3862

OFFICE OF PROFESSIONAL EDUCATION

Amendment to section 3.57(b) of the Rules of the Board of Regents, conferring the Doctor of Medicine degree, to eliminate the requirement of three years of licensed practice.

Amendment to Part 17 of the Rules of the Board of Regents to conform to the new 3-member panel law.

Amendment to Part 18 of the Rules of the Board of Regents, relating to the provision of services to nurses with substance abuse problems.

Amendment to Part 24 of the Rules of the Board of Regents, relating to the application period for the restoration of professional licenses.

Amendment to Part 24 of the Rules of the Board of Regents, relating to the waiver of citizenship requirement for licensure in veterinary medicine, dentistry, dental hygiene and pharmacy.

Amendment to Part 28 of the Rules of the Board of Regents, relating to the determination of good moral character to streamline current procedures and processes.

Amendment to Part 59 of the Commissioner's Regulations, relating to the general licensing provisions for the professions.

Amendment to Part 64 of the Commissioner's Regulations, relating to the provision of services by nurse practitioners (elimination of alternate criteria for nurse practitioners).

Amendment to Part 65 of the Commissioner's Regulations, relating to the scope of supervision provided by a podiatrist relating to x-ray services.

Amendment to Part 68 of the Commissioner's Regulations, relating to mandatory continuing education for land surveyors.

Amendment to Part 70 of the Commissioner's Regulations, relating to auditor independence and practice quality controls in public accountability.

Amendment to Part 73 of the Commissioner's Regulations, relating to education and examination requirements for licensure in chiropractic.

Amendment to Part 74 of the Commissioner's Regulations relating to the implementation of the newly created professions of Licensed Master Social Worker, Licensed Clinical Social Worker, Licensed Marriage and Family Therapist, Licensed Mental Health Counselor, Licensed Psychoanalyst and Licensed Creative Arts Therapist.

Amendment to Part 76 of the Commissioner's Regulations, relating to the supervision of occupational therapy assistants.

Amendment to Part 78 of the Commissioner's Regulations, relating to licensure by endorsement in the profession of massage therapy.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above-proposed amendments by contacting:

Johanna Duncan-Poitier
Deputy Commissioner
Office of Higher Education and Office of the Professions
New York State Education Department
State Education Building
West Wing, Second Floor Mezzanine
Albany, NY 12234 (518) 474-3862

OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES
FOR INDIVIDUALS WITH DISABILITIES

Amendment to section 200.4 of the Commissioner's Regulations relating to transition services.

Amendment to sections 200.1-200.16 and Part 201 relating to definitions, board of education responsibilities, committees on special education, evaluations, development and implementation of the individualized education program (IEP), procedural due process, continuum of services and preschool students with disabilities as may be required to conform to amendments to the Individuals with Disabilities Education Act.

Amendment to section 200.5(j)(3) relating to the right of a party to seek judicial review of a decision of the State review officer to require that such proceeding be pursuant to article 4 of the Civil Practice Law and Rules, consistent with section 4404 as amended by Chapter 492 of the Laws of 2003.

Amendment to sections 200.1 and 200.6(d) through (h) relating to the continuum of services for students with disabilities.

Amendment to sections 200.2(d) and 200.6(i) relating to a school district placement of a student with a disability in an in-state or out-of-state school.

Amendment to section 200.7(a)(2)(i) and (ii) relating to the approval process for private schools to be reimbursed with public funds, eliminating conditional approval and revising the site visit requirements.

Amendment to section 200.21 relating to impartial hearing officer rates.

Amendment to Part 200 to add a new section 200.22 relating to State monitoring, enforcement and technical assistance to school districts.

Amendment to Part 247 of the Regulations of the Commissioner of Education, relating to the vocational rehabilitation program operated pursuant to Title I of the Rehabilitation Act, as may be appropriate in order to conform to possible changes made when Congress reauthorizes that act this year.

Agency representative:

Information may be obtained, and written comments may be submitted, concerning any of the above-proposed amendments by contacting:

Rebecca Cort

Interim Deputy Commissioner

Office of Vocational and Educational Services for Individuals with Disabilities

New York State Education Department

One Commerce Plaza, Room 1606

Albany, New York 12234

(518) 474-2714

rcort@mail.nysed.gov

OFFICE OF CULTURAL EDUCATION

Amendment to sections 3.27(f) and 3.30(e) of the Rules of the Board of Regents, relating to the chartering and registration of museums and historical societies, to clarify the standards that museums and historical societies must meet to obtain an absolute charter; provide that all-volunteer-run historical societies without a collection may be incorporated by the Regents rather than chartered; provide a process every 5 years to certify that institutions holding an absolute charter continue to meet Regents standards; and provide a peer review process in which institutions are visited, advised and assisted by qualified professionals from neighboring institutions.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above-proposed amendments by contacting:

Clifford A. Siegfried, Assistant Commissioner and Director

New York State Museum

Room 3140 Cultural Education Center

Albany, NY 12230

(518) 474-5812

Amendment to sections 185.5 and 185.12 of the Commissioner's Regulations relating to Local Government Records Management, to make necessary changes and additions to update Records Retention and Disposition Schedule ED-1.

Amendment to section 188.21 of the Commissioner's Regulations relating to fees for records management services to State agencies, to make necessary changes and updates to the list of annual fixed fees paid by State agencies and to the charges for storage of records in the records center facility operated by the State Archives.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

Christine Ward

Assistant Commissioner for the State Archives

New York State Education Department

State Archives

Room 9C35

Cultural Education Center

Empire State Plaza

Albany, New York 12230

(518) 474-6926

Amendment to Part 90 of the Commissioner's Regulations relating to library and library system programs and services.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendment by contacting:

Janet M. Welch

State Librarian and Assistant Commissioner for Libraries

New York State Education Department

Office of Cultural Education

New York State Library, Room 10C34

Empire State Plaza

Albany, New York 12230

(518) 474-5930

e-mail: jwelch2@mail.nysed.gov

OFFICE OF MANAGEMENT SERVICES

Amendment to sections 3.2 and 4-1.5 of the Rules of the Board of Regents relating to the Standing Committees of the Board of Regents.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendment by contacting:

Kathy A. Ahearn

Counsel and Deputy Commissioner for Legal Affairs

New York State Education Department

State Education Building, Room 148

Albany, New York 12234

(518) 474-6400

e-mail: legal@mail.nysed.gov

Amendment to the Commissioner's Regulations pursuant to the Electronic Signatures in Global and National Commerce Act (P.L. 106-229) relating to performance standards to assure accuracy, record integrity and accessibility of records that are required to be retained.

Amendment to Part 187 of the Commissioner's Regulations relating to the inspection and copying of State Education Department records, including requests for the Department's records under the Freedom of Information Law (FOIL).

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendment by contacting:

David Walsh

Chief Information Officer

New York State Education Department

Office of Management Services

State Education Building, Room 121

Albany, New York 12234

(518) 486-1702

Amendment to the Commissioner's Regulations relating to school district payments to charter schools for educational costs, pursuant to section 102 of Part H of Chapter 83 of the Laws of 2002.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendment by contacting:

Burt Porter
 New York State Education Department
 State Education Building, Room 139
 Albany, New York 12234
 (518) 486-2422

DEPARTMENT OF HEALTH

The following rules are under consideration for submission as a Notice of Proposed Rulemaking during the calendar year January 2004:

DESCRIPTION OF THE RULE SUBJECT MATTER Title 10 NYCRR

2.1 and 2.5 Reportable Communicable Diseases - Addition of Monkeypox and Arboviral Infection as reportable diseases.

2.14 Communicable Diseases - Rabies regulations to be reviewed and updated to be consistent with recently enacted changes to the Public Health Law. The regulations will provide definitions and requirements for cat vaccination, confinement and quarantine of animals exposed to rabies, confinement of animals exposing people to rabies, and county responsibility for managing human post-exposure treatments.

2.19 Reporting Cases or Suspect Cases of Communicable Disease by Laboratories -

Utilization of the Electronic Clinical Laboratory Reporting System (ECLRS) by laboratories to meet their public health reporting requirements for Communicable Disease reporting.

2.58 Communicable Diseases - Current regulations place restrictions on the sale of turtles by size to prevent transmission of salmonellosis and other diseases, and have requirements for public posting of warnings. Due to recognition of many disease outbreaks from other reptiles, the regulation will be updated by including all reptiles in the requirement for posting of warnings, and includes a new requirement to provide warnings at the point of sale. Section 2.58 will be revised to remove veterinarians and pediatricians from the requirement to provide disease information to owners and potential purchasers of reptiles. It is the intent of the Department of Health to regulate sellers of reptiles and not physicians.

5-1 Public Water Systems - Amend to incorporate mandatory federal regulations pertaining to control of lead and copper in public water supply systems.

5-1 Public Water Systems - Revise to incorporate mandatory federal regulations revising the maximum contaminant level for arsenic and requirements for new source contaminant monitoring and update and clarify specific code provisions and references to make it more understandable to the regulated parties.

5-1 Public Water Systems - Amend to incorporate mandatory federal regulations revising the provisions applicable to variances and exceptions from drinking water.

5-1 Public Water Systems - Revise to incorporate mandatory federal regulations revising the maximum contaminant level for radionuclides.

5-1 Public Water Systems - Amend to incorporate mandatory federal regulations to improve control of microbial pathogens (LT2ESWTR) while limiting risks associated with the formation of and exposure to disinfection byproducts (Stage 2 D/DBP).

5-6 Bottled and Bulk Water Standards - Modify to be consistent with FDA standards.

Appendix 5-B Water Well Construction - Rescind Appendix 5-B and create regulations in response to legislative mandate to reflect specific standards for well water quality, construction, location and development.

6-1 Swimming Pools - Update pool design standards reflecting new technologies and processes.

6-2 Bathing Beaches - Revise Subpart 6-2 to clarify that surfing and fishing are not intended to be regulated as swimming or bathing

activities and add certain bacteriological monitoring standards for coastal bathing waters.

7-1 Temporary Residences - Amend to remove campground specific requirements contained in Section 7-1.60, which are now contained in a separate Subpart 7-3. Amend and update fire safety requirements to reflect statewide applicability since 1984, of the Uniform Fire Prevention and Building Code to new construction.

7-2 Children's Camps - Amend to include recommendations of the State Camp Safety Advisory Council for non-swimming entry of water, water supply standards for non-public water systems, standards for camp trip swimming and on-site activities. Additionally, obsolete wording and standards are updated and clarified to reflect current uses and laws.

7-4 Mass Gatherings - Create new Subpart to include the provisions for mass gatherings currently included as part of Subpart 7-1. Revise various sections to better address crowd control, camping and installation and maintenance of services and facilities.

8 Nuisances - Modify to address current needs/concerns of local health departments.

14-1, 14-2, 14-4, 14-5 Food Protection - Modify requirements and create a more user-friendly document; exempt certain operators and rescind certain provisions.

16 Radiation Equipment - Revise to eliminate obsolete language and conflicts with the Federal Mammography Quality Standards Act, to require information showing the efficacy of the proposed screening program prior to department approval.

16 Radiation Therapy - Reduce the required frequency for external audits from annual to biennial. Change the requirements to eliminate reports of certain misadministration (fractional doses). Revise reporting requirements to be consistent with NYPORTS. **16 Compatibility/Updates** - Add/amend requirements for standards for decommissioning, reporting, transportation, waste disposal, definitions and human research to be compatible with federal regulations and replace outdated requirements.

16 Dental Radiographic - Revisions to bring up to date equipment requirements and to codify long-standing standards for basic quality control for dental x-ray facilities. Includes basic quality control requirements for dental x-ray films, patient radiation exposure limits for intra-oral dental equipment, requirements for computed tomography unit used for maxillofacial and/or dental examinations and an exemption for a positive pressure timer requirement for computed tomography (CT) units.

17 Mobile Home Parks - Update regulations and consider revision.

19 Limited Testing Site Directors - Establish qualifications for directors of limited service laboratories.

34 Health Care Practitioner Referrals and Laboratory Business Practices - Technical amendments to align with federal compensation arrangement exceptions.

52-11 Non-Transplant Anatomic Banks - Establish standards for acquisition and use of whole bodies for educational purposes.

53 State Revolving Fund Scoring Criteria - Revise existing regulations to amend the scoring criteria to 1) accommodate priority ranking to residential housing served by private wells into agreement with criteria for existing water supply systems and 2) promote projects intended to improve PWS security against terrorism/vandalism.

55-2 Environmental Laboratory Approval Program - Technical amendments to address new technology and practices. Establish criteria for recognition of certain regulatory activities of other states' programs; clarify criteria for enforcement activities.

55-2 Environmental Laboratory Approval Program - Establish technical standards, record-keeping requisites and personnel qualifications for a new specialty of environmental laboratory testing to be known as "critical agent testing."

57 Rabies - Regulations will be reviewed and updated to clarify the status of cats and ferrets in relation to dogs for requirements, and the requirement for counties to develop rabies control protocols and reporting and reimbursement procedures consistent with recently enacted changes to the Public Health Law. Obsolete sections of Part 57 will be eliminated.

58-1 Clinical Laboratories - Reorganize and consolidate existing requirements for clarity, codify QA, PT and other requirements to align with CLIA; and establish standards for a multiple-site permit.

58-1 Clinical Laboratories - Codify policy for Department assessment of technical and clinical validity of laboratories' analytical methods.

58-1 Clinical Laboratories - Establish permit qualifications and record keeping standards for clinical laboratories that limit their services to CLIA-designated waived tests and provider-performed microscopic procedures.

58-1 Clinical Laboratories - Establish standards for tracking clinical specimens and isolates testing presumptively positive for a critical agent; establish requirement for referral of such samples to the Department's public health laboratory or another designated facility for confirmatory testing.

58-4 Direct Access Testing - Establish record keeping and reporting standards for direct access testing, a business model for clinical laboratories authorized by Chapter 572 of the Laws of 2002.

59 Chemical Analyses Of Blood, Urine, Breath Or Saliva For Alcoholic Content - Technical amendments to simplify enforcement of Vehicle and Traffic Law.

60-1.11 WIC Vendor Management - Modify provisions related to WIC (retail food and pharmacy) vendor violations and money penalties. These changes are required to conform with federal changes in 7 CFR 246 establishing nationally uniform vendor sanctions for the WIC program.

66-1.1 thru 66-1.10 and 66-2.1 through 66-2.9 Immunizations - Various regulatory changes are proposed to delete obsolete technical information, update immunization recommendations, revise language related to medical exemptions and to the annual school immunization survey requirements, and ensure consistency in regulations.

67-2 Lead Poisoning Control - Revise and update regulation to be consistent with federal regulations and guidelines on environmental assessment and abatement.

67-3 Laboratory Reporting of Blood Lead Levels - Revise and update regulation to be consistent with technological advances in electronic reporting and to include additional information to facilitate follow-up of elevated individuals.

69 Standardized Autopsy Protocols for Unanticipated Infant Deaths - The examination of infant deaths is currently performed with a lack of uniformity. The amendment will standardize the requirements and protocols for examining infants who die unexpectedly.

69 Early Intervention Services - Include a reimbursement methodology for paraprofessionals that deliver behavioral therapies to children with autism.

69-1 Expedited HIV Testing of Women and Newborns - Modify the timeframe from specimen draw to result reporting for expedited HIV test specimens from 48 hours to 12 hours. Modify Section 69-1.3 Responsibilities of the chief executive officer by amending the existing paragraph (2): "if no HIV test result obtained during the current pregnancy is available for the mother not known to be HIV infected, arrange an immediate screening test of the mother with her consent or of her newborn for HIV antibody with results available as soon as practicable, but in no event longer than 12 hours after specimen draw." This modification in timeliness is recommended as a consequence of the FDA's approval of a new rapid test for HIV antibody that allows same-day results to be reported within the critical time frame to maximize efficacy of treatment prophylaxis to reduce the risk of perinatal HIV transmission.

69-4 Early Intervention Program - Regulations need to be reviewed and updated to be consistent with recently enacted changes to the Public Health Law. Conforming regulations will address new requirements related to transition procedures for children aging-out of the Early Intervention Program; procedures for IFSP amendments; collection of insurance information and social security numbers from parents for eligible children; establishment of standards for evaluators, service coordinators, and providers of early intervention services; approval and periodic re-approval of evaluators, service coordinators, and providers of early intervention services who meet Department standards; Department auditing procedures; and, fiscal management and claiming standards.

69-4 Early Intervention Program - Include standards for behavioral aids, approval of providers, and reimbursement methodology to deliver for delivery of behavioral therapies to children with autism.

69-4 Early Intervention Program - Amend regulations to include or clarify the following: criteria and procedures for sanctioning and disqualification of evaluators, service coordinators, and providers of early intervention services; ongoing eligibility procedures; evaluation procedures; requirements/standards for service delivery; requirements for documentation of records and record retention; systems complaint procedures; and, mediation and impartial hearing procedures.

70 Management of Regulated Medical Waste - An amendment is being proposed to the Department's regulation for the management of regulated medical waste in clinical laboratories and hospitals. This amendment involves technical changes necessary to address new technologies and practices; establishes requirements for handling critical/select agents as part of the waste stream; aligns regulatory provisions with Public Health Law Article 13, Title XII as amended in 1993; and reorganizes existing provisions to facilitate compliance.

74 Approval of Realty Subdivisions - Revise and update to reflect current standards.

Appendix 75A Wastewater Treatment Standards - Individual Household Systems - Revise/update design standards to address clarification and new technology.

77.3 Funeral Directing, Undertaking and Embalming - Registered residents - Responsibilities of sponsor.

80 Controlled Substances - Regulations regarding the treatment of narcotic addiction, use of controlled substances in animal shelters, prevention of controlled substance diversion through prescription fraud and regulations requiring pharmacies to transfer hydrocodone data to DOH.

80.47 and 80.50 Controlled Substances - Amendment to authorize the administration a controlled substances from a sealed emergency medication kit in a class 3a health care facility in an emergency situation and amend 80.50 to authorize possession of limited supplies of controlled substances in such an emergency medication kit in a class 3a facility for use in such situations.

85.20 through 85.27 Nonprescription and Prescription Drugs in the Medicaid Program - Eliminate obsolete and duplicative language from Medicaid drug regulations.

86 Hospital Reimbursement - Modify existing reimbursement regulations concerning (1) the statutory distribution of funds from the Professional Education Pool; and (2) service intensity weights, trimpoints, and average lengths of stay.

86-2.9 Adult Day Health Care Program Reimbursement - Modify the existing regulations and provide more specifics on the implementation of existing reimbursement regulations. Transportation costs will be reimbursed on a fee for service basis only.

86-4.9 Units of Service, Social Workers - Revise to allow Medicaid payment for the provision of certain clinical services by certified social workers with specific licensure to constitute a billable threshold visit for services provided in Federally Qualified Health Centers (FQHCs).

86-4.9(c) Units of Service, Podiatry - Adds podiatry to the list of

services that are not considered a threshold visit when provided in an Article 28 certified clinic.

86-8 Limited Home Care Services Agency - Establish a payment methodology for Level II personal care and nursing services delivered to eligible residents of adult homes or enriched housing programs.

87.22 and 400.22 Increase Department of Health Fees for the Operational Period - Increase the annual fee charged during the operational period from .2% to .3% for hospital and nursing home mortgages financed under Article 28A and 28B of the Public Health Law.

88-2.2 New York State Veteran's Homes - A technical correction of the regulation to include the State Veterans Homes in Batavia, St. Albans and Montrose along with Oxford.

89 Practice of X-Ray Technology - Proposed revisions to Article 35 of the Public Health Law, when passed, will require DOH to license nuclear medicine technologists, and to make many changes to the existing Part 89 for compatibility.

89.50 Intravascular Contrast Media Injections - Proposed revisions to Article 35 of the Public Health Law, when passed, will require DOH to certify radiologic technologists who inject contrast media. Section 89.50 will be revised to reflect this expansion of the practice and to establish requirements for certification.

96 License and Practice of Nursing Home Administration - Amend existing regulations for nursing home administrator licensure to reflect current practice established by the Board of Examiners of Nursing Home Administrators under New York Public Health Law Article 28-D

98-1 Managed Care - Clarify the application of the regulations to newly developed forms of managed care organizations, including primary care partial capitation providers, HIV special needs plans and managed long term care plans. The regulations will serve to clarify the applicability of Subpart 98-1 to newly legislated and newly evolved forms of managed health care, amend obsolete provisions and provide clearer guidance to the health care industry concerning certification and operational requirements for managed care organizations.

98-2 Managed Care - The regulation will be revised to comply with a court ruling.

128 New York City Watershed Rules - Amend to incorporate extensive regulations intended to protect NYC's Watersheds including the various reservoirs and tributaries by providing various limitations on activities and construction.

400 All Facilities - General Requirements - Update SPARCS regulations to address Emergency Service Data.

400.22 - Statewide Perinatal Data System - New regulations designed to implement a Statewide Perinatal Data System (SPDS). These regulations respond to the Department's need for timely data about birth outcomes and to recent State statute, requiring prompt enrollment of newborns into the Medicaid program. The SPDS will simplify data collection for hospitals by supporting multiple data functions, including vital records, Medicaid eligibility, newborn screening, birth logs and internal quality improvement.

400.23, 763.13(b)(ii) and 766.11(f)(ii) of Title 10 NYCRR and 505.14(d)(4) of Title 18 NYCRR - Require criminal background checks for non-licensed direct care employees working in nursing homes, home care service agencies and hospices. Regulations will build on the 1998 federal statute contained in Section 124 of Public Law 105-277 enabling nursing homes and home care services agencies to request from the FBI fingerprint-based criminal history information for employees or job applicants for positions involving direct patient care.

405 Hospitals - Minimum Standards - Update to address Perinatal Regionalization System. Update for Rape Crisis Centers. Update Standards for Animals in Hospitals. Update NYPORTS requirements.

405.9, 405.19 (revised) and new Part 722 - Standards for Hospital-based Sexual Assault Forensic Examiner (SAFE) Programs - Public Health Law 2805-i 4-b requires the Commissioner to designate qualified hospitals as sites of Sexual Assault Forensic Examiner (SAFE) Pro-

grams. On October 1, 2003, legislation was signed that requires hospitals to provide to sexual assault patients, upon request, prophylaxis against pregnancy. The regulatory proposal will include: Requirements of hospitals providing services to patients who have been sexually assaulted; operating standards for SAFE programs; new standards for patient care at all hospitals consistent with statute; and appropriate cross-references with existing hospital admission and discharge as well as emergency service standards.

405.21 (revised) and Part 721 - Perinatal Regionalization - These regulations are designed to: enhance quality of maternal and newborn care through regional organization and oversight; clarify and update relationships between regional perinatal centers and other hospitals to accommodate changes in health care system; revise requirements for affiliation agreements between regional perinatal centers and other hospitals; and,

update terminology related to perinatal care.

405.22 and 709.14 - Cardiac Care - Technical update of cross reference.

415 Nursing Homes - Minimum Standards - Update Standards for Animals in Nursing Homes. Amend regulations pertaining to discharge and transfer of nursing home residents.

415.18 Pharmacy Services in Nursing Homes - Modify language to allow facilities greater flexibility in maintaining emergency medication kits. Modify the language as to who could accept verbal orders and revise the prohibition on the return of medications to the vendor pharmacy for credit to the nursing home under certain conditions.

431 Treatment Centers and Diagnostic Centers - Repeal obsolete requirements.

703.6 and 710.1 Part-time Clinics - Revise Approval and Operating Standards.

708.5(a) Need Methodology for Therapeutic Radiology - Revision of the review criteria for therapeutic radiology devices.

709.17 - Need Methodology for Long-Term Ventilator Beds

709.18 - Need Methodology for Comprehensive Inpatient Physical Medicine and Rehabilitation Beds

711, 712, 713, 715 and 716 Medical Facility Construction - Revision of the Medical Facilities Construction Code.

750-759 Treatment Center and Diagnostic Center Operation - Update to reflect changes since last major review.

767 Home Medical Equipment - Create new Part to include provisions for licensing and oversight of Home Medical Equipment providers, pursuant to newly enacted statute.

800 Emergency Medical Services - General - Use and application by members of the public of automatic external defibrillators. Use and application of epinephrine auto-injectors in an emergency situation. Give EMS Agencies added flexibility in managing EMS service needs. Other initiatives to enhance program effectiveness. Codify regulatory requirements for Advanced Life Support (ALS) First Response Agencies. Make updates to EMS certification and training. Establish a new section on the mobilization and/or sharing of resources in the event of a declared disaster.

801 Resuscitation Equipment in Public Places - Implement Chapter 349 of the Laws of 2001 which requires that operators of "public places" provider emergency resuscitation equipment in a readily accessible location for use in the event of an emergency.

N/A PHL 461 Tattoo and Body Piercing - Chapter 562 of the laws of 2001 amends Section 461. The law requires permits to perform body piercing and tattooing and establishes a tattoo and body piercing regulation and permit fund. The regulations developed will include guidance on infection control practices to prevent the transmission of diseases, especially blood-borne pathogens. The guidelines set forth on sterilization and disinfection will be consistent with the Association for the Advancement of Medical Instrumentation guidelines as well.

Title 18 NYCRR

311.3(a)(2) District of Fiscal Responsibility for Medicaid - Revise the regulation to conform with Chapter 150 of the Laws of 2001 which requires that when a recipient of Medical Assistance moves from one district to another within the State and continues to be eligible, the "from" district remains responsible for providing Medicaid for the month in which the move takes place and for the month following the month of move.

311.4 (a) Residency Rules for Residents of Adult Care Facilities - Provides that residents of certain Adult Care Facilities do not gain residence.

358-2 and 358-3 Fair Hearings - Revise the current regulations to add definitions and fair hearing rights and requirements specific to Medicaid managed care/Family Health Plus.

360 Medicaid Buy-In Program for Working People with Disabilities - Medicaid eligibility requirements for working people with disabilities.

360 Breast and Cervical Cancer Treatment Program - Medicaid eligibility requirements for the Breast and Cervical Cancer program.

360 Family Health Plus (FHP) Program - Implements the FHP program.

360 Medicaid Managed Care Program - Revise the current regulations to conform with changes authorized by Chapter 165 of the Laws of 1991, Chapter 649 of the Laws of 1996 and Chapters 433 and 436 of the Laws of 1997. The proposed regulations will clarify provisions of law, amend obsolete regulatory provisions and provide clearer guidance regarding authority to implement waivers to the federal Social Security Act.

360-2.3(c) Attestation of Resources for Medicaid - Revise regulation to conform with HCRA 2001 allowing Medicaid applicants/recipients to attest to resources if they do not need long term care services.

360-3.2(j) Conditions of Eligibility - Implements citizenship/alien status requirements of eligibility for Medicaid.

360-3.2(m) Finger Imaging Requirements - Eliminates finger imaging requirements for Medicaid-only.

360-3.3, 3.7, 4.1, 4.7, 4.8 Eligibility Requirements for PCAP, Infants and Children Ages 6 through 18 - Updates the Medicaid levels and poverty levels for pregnant women and infants to be covered up to 200% FPL.

360-3.3, 4.1, 4.7, 4.8 (a) & 4.8(c) Children 133% expansion - Expansion to 133% of FPL for older children 6-19.

360-4.10(a)(7), and 360-4(b)(4) Higher Personal Needs Allowance (PNA) for Persons Receiving Home and Community-Based Services and for Non-Institutional PACE Participants - Changes the personal needs allowance (PNA) amount that is given to spousal cases where the "institutionalized spouse" is receiving waiver or PACE services in the community.

360-4.10(a)(9) Treatment of Income and Resources of Institutionalized Spouses - Clarifies that a community spouse's pension fund or individual retirement account is an includable resource for purposes of determining the institutionalized spouse's Medicaid eligibility.

360-5.5 Examination - This is a technical correction involving an incorrect reference to 18 NYCRR 595.3(b). 360-5.5 relates to payment of the costs by the local social service districts for examinations, consultations, completion of medical forms, and tests required by Medicaid only disability review teams. It states that reimbursement for these services is an administrative expense under 595.3 (b). The fiscal regulations were changed in 1988. This proposal would change the reference from 595.3(b) to 609.5 (b).

360-5.9 (a) Trial Work Period - Revises the threshold amounts for counting a month toward a 9-month trial work period.

360-6.7 Managed Care - This section will be repealed and its provisions will be modified and consolidated with a new Part 360. The provisions describe the standards and processes by which managed care enrollees may disenroll from a managed care organization and will be

revised to reflect Chapter 649 of the Laws of 1996 and Chapter 433 of the Laws of 1997.

360-7.2 Medicaid Program as Payment of Last Resort - Clarification of the definition of third party by adding the words "or entity".

360-7.3(c)(1) of Title 18 NYCRR and Part 85.13 of Title 10 NYCRR Use of Health, Hospital or Accident Insurance & Physically Handicapped Children Program - Eliminates the dual prior approval for certain services for Medicaid eligible children. **360-7.5 Reimbursement of Paid Medical Expenses** - Amendments required as a result of litigation concerning reimbursement to Medicaid recipients for expenses that should have been paid by the Medicaid program.

360-7.7 Payment of Coinsurance and Deductibles - Amend the regulation to indicate that Medicaid will reimburse providers 20% of the Medicare Part B coinsurance for dually eligible Medicare/Medicaid recipients in instances where what Medicare pays exceeds the Medicaid fee.

360-7.11 Revision to Medicaid Recoveries - Lowers the age for estate recoveries and includes the category of undue hardship as required by federal regulations.

360-11 Medicaid Managed Care - This section describes the standards and processes by which special needs populations may obtain specialty care services with the Medicaid managed care program. It will be repealed because it was made obsolete by passage of Chapter 649 of the Laws of 1996 which authorized the development of Special Needs Plans (SNPs) for these populations.

485, 487, and 488 Adult Care Facility Capacity Limitation - Establishes limitation on the capacity of all future adult homes, enriched housing programs, and residences for adults at 120 beds.

485, 487 and 488 Medications Management in Adult Care Facilities - To assure resident health and safety in ACFs by clarifying current regulatory authority for medication assistance, through focused initiatives relating to the procurement, storage, assistance/recording, and disposal of pharmaceuticals.

486 Adult Care Facility Inspection Reports - Conforming regulations to statute, requiring the Department's inspection reports to find whether each area of an ACF operation is or is not in compliance with regulations, pursuant to recent State Supreme Court decision.

486.5 Non-Rectifiable Offenses in Adult Care Facilities - A consensus rule to comply with a recent State Supreme Court decision stating that the Department's statutory authority provides that in seeking to penalize ACFs for violations of non-rectifiable offenses, the burden of proof shall be on the Department.

487.11 Environmental Standards for Adult Homes - Revision of the construction and physical plant standards for adult homes, to ensure the health and safety of residents.

488.11 Environmental Standards for Enriched Housing - Revision of the physical plant standards for enriched housing facilities, to ensure the health and safety of residents.

495 Quality Incentive Payment Program - The regulations would authorize the Department to provide quality incentive payments to operators of adult homes, residences for adults and enriched housing programs that are in compliance with applicable statutes and regulations.

501 Consumer Directed Personal Assistance Program - New regulations for operation of the Consumer Directed Personal Assistance Program (CDPAP) under the State Medicaid Program.

501.23 Home Health Services - Prior Approval - Regulations will be developed to require prior approval of home health services for persons defined as long term users, pursuant to an initiative enacted into law in the 2003-04 budget.

504 Medicaid Enrollment of Providers - This section will be revised to add definitions specific to Medicaid managed care/Family Health Plus and to require providers to accept payment from a managed care plan as payment in full.

505 Enteral Products - Amend regulations to define the term "acquisition costs" as it relates to enteral nutrition products which was addressed in prior State legislation.

505.3, Drugs - Eliminate obsolete and duplicative language from Medicaid drug regulations.

505.8 of Title 18 NYCRR and 85.33 of Title 10 NYCRR Private Duty Nursing Services - The regulations pertaining to private duty nursing services to Medicaid recipients will be amended.

505.11 Speech Pathologists - Amend regulations to conform with State Education requirement allowing equivalently certified and educated individuals to provide speech services in schools.

505.14 Personal Care - The regulation must be updated to remove content which is no longer supported in statute or was successfully challenged in litigation and to move it from Title 18 to Title 10.

505.31(d)(1) of Title 18 NYCRR and Part 85.39 of Title 10 NYCRR Audiology, Hearing Aid Services and Products - Eliminates the designation of the Physically Handicapped Children's Program speech and hearing centers as only providers of hearing assessments to Medicaid eligible children.

506.4 of Title 18 NYCRR and Part 85.45 of Title 10 NYCRR Orthodontic Care - Eliminates the Physically Handicapped Children's Program sole review role in the area of orthodontia; removes the reference to panel orthodontists; and updates the qualifications for orthodontists and eligibility criteria for these services.

507 Health Supervision and Medical Care for Children - Places in regulation Medicaid payment standards for foster care agencies' Medicaid per diems.

508 Child Teen Health Program - Updates the medical standards and periodicity schedule for examinations to coincide with those recently issued by the American Academy of Pediatrics and revises the activities to be performed by the local departments of social services in light of managed care.

511 Utilization Thresholds - Amends the utilization threshold levels for physician and clinic services, pharmacy services, laboratory services, and mental health clinic programs.

515 Medicaid Provider Sanctions - This section will be revised to add provider prohibitions specific to the Medicaid managed care/Family Health Plus programs.

522.1 Medicaid Billing for Pre-School Services - Payment for medical care, service and supplies provided to pre-school children with handicapping conditions.

540 Authorization of Medical Care - Provisions will be added to this section applying the Medicaid billing timeframes to providers who treat a Medicaid managed care enrollee but who do not have a contract with the enrollee's Medicaid managed care plan.

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INSURANCE DEPARTMENT

Pursuant to Section 202-d of the State Administrative Procedure Act (SAPA), the following Regulatory Agenda is a list of the regulatory additions and amendments to Title 11 of the NYCRR which the Insurance Department is presently considering proposing during the first half of 2004. Many of these items were previously published in the June, 2003

Regulatory Agenda. Proposed items that have been published in the State Register are not included on the list. The Insurance Department's regulatory plans are subject to change and the Department reserves the right to add to, delete from, or modify items on the Agenda without further notice.

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.

For inquiries pertaining to a specific item, contact the agency contact person following the item. For general inquiries regarding the Insurance Department's Regulatory Agenda, contact:

Sam Wachtel
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New York State Insurance Department
25 Beaver Street
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Copies of current regulations may be obtained from the Department's Public Affairs Bureau at the New York City address. The telephone number is 212-480-2283.

Number 1: Agency Contact person: Susan Donnellan, Deputy General Counsel (212-480-2290):

1. Summary description of proposal: Amendment to 11 NYCRR 83 (Financial Statement Filings and Accounting Practices and Procedures) (Regulation 172), in response to amendments to the Accounting Practices and Procedures Manual, including Statements of Statutory Accounting Principles (published by the National Association of Insurance Commissioners), which is incorporated by reference in the regulation.

Numbers 2 through 7: Agency Contact person: Benita Hirsch, Supervising Insurance Examiner, Property Bureau (212-480-5595):

2. Summary description of proposal: Amendment to 11 NYCRR 67 (Mandatory Underwriting Inspection Requirements for Private Passenger Automobiles)(Regulation 79) to include additional circumstances under which an insurer may voluntarily waive mandatory inspection of a motor vehicle for physical damage coverage and to permit the use of digital photography and electronic access to inspection report data.

3. Summary description of proposal: Amendment to 11 NYCRR 68 (Charges for Professional Health Services) (Regulation 83) to adopt any changes to the Workers' Compensation Fee Schedule, as required by Section 5108 of the Insurance Law, amend existing reimbursement rules, and, if deemed necessary, to establish new fee schedules promulgated by the Insurance Department.

4. Summary description of proposal: Adoption of a new part to 11 NYCRR to set forth requirements applicable to the withdrawal or limitation of installment payment options.

5. Summary description of proposal: Amendment to 11 NYCRR 70 (Medical Malpractice Insurance Rate Modifications, Provisional Rates, Required Policy Provisions and Availability of Additional Coverages) (Regulation 101) to establish primary and excess physicians and surgeons liability insurance rates. Consideration is also being given to amendment of Sections 70.8(h), 70.9(l) and 70.9(m) which contain the instructions and forms used to report segregated and surcharge account information to the Insurance Department; and to amendment of Section 70.13 which currently requires that medical malpractice insurers offer both occurrence and claims-made policies.

6. Summary description of proposal: Amendment to 11 NYCRR 153 (Property/Casualty Insurance Group and Quasi-Group Standards) (Regulation 135) and repeal of 11 NYCRR 13 (Mass Merchandising of Personal Property-Liability Insurance)(Regulation 58) to incorporate provisions of Regulation 58 into Regulation 135 and to modify restrictions on certain types of group insurance purchases.

7. Summary description of proposal: Amendment of 11 NYCRR 152 (Physicians and Surgeons Professional Insurance Merit Rating Plan) (Regulation 124) to provide requirements for internet-based risk management course which are submitted to the Superintendent for approval and to provide requirements for risk management courses in which insureds must participate in order to be eligible for the excess medical malpractice insurance program.

8. Summary description of proposal: Adoption of a new part to 11 NYCRR to set forth requirements applicable to insurance companies' custodial accounts for securities.

Number 9: Agency Contact person: Linda Connolly, Supervising Examiner, Life Bureau (212-480-5018):

9. Summary description of proposal: Amendment to 11 NYCRR 51 (Replacement of Life Insurance Policies and Annuity Contracts) (Regulation 60) to allow the agents some flexibility in completing the disclosure statement, in order to allow the completion of the application without waiting twenty days for a response from the replaced insurer.

Numbers 10 and 11: Agency Contact person: William Carmello, Chief Life Actuary 3, Life Bureau (518-474-7929):

10. Summary description of proposal: Amendment to 11 NYCRR 94 (Minimum Reserves for Individual Accident and Health Policies) (Regulation 56) to update reserve standards for individual accident and health products and to establish reserve standards for group accident and health products as mandated by section 4217(d) of the insurance law.

11. Summary description of proposal: Amendment to 11 NYCRR 97 (Market Value Separate Accounts Funding Guaranteed Benefits) (Regulation 128) to update the reserve standards for group separate account products with guaranteed benefits and to establish reserve standards for individual separate accounts with guaranteed benefits.

Number 12: Agency Contact Person: Dennis Lauzon, Supervising Actuary, Life Bureau (518-474-7929)

12. Summary description of proposal: Amendment to 11 NYCRR 42 (Term Life Renewal Restrictions; Cash Surrender Values for Certain Life Insurance Plans) (Regulation 149) to eliminate the age 80 renewal limitation and to substantially modify the nonforfeiture requirements for certain life insurance plans.

Numbers 13 through 14: Agency Contact person: Michael Cebula, Supervising Actuary, Life Bureau (518-474-7929):

13. Summary description of proposal: Amendment to 11 NYCRR 95 (Actuarial Opinion and Memorandum Regulation) (Regulation 126) to revise existing standards for actuarial opinions on the adequacy of reserves for life insurers to be consistent with a recently adopted NAIC model regulation.

14. Summary description of proposal: Adoption of a new part to 11 NYCRR to approve the 2001 Commissioners' Standard Ordinary (2001 CSO) Mortality Table for use by life insurers in determining reserves and nonforfeiture benefits for life insurance policies. The 2001 CSO table was adopted by the National Association of Insurance Commissioners on December 8, 2002.

Number 15: Agency Contact person: Deborah Kahn, Associate Insurance Attorney, Life Bureau (518-474-4552):

15. Summary description of proposal: Amendment to 11 NYCRR 41 (Accelerated Payment of the Death Benefit under a Life Insurance Policy) (Regulation 143) to establish additional standards for accelerated payments of life insurance benefits in the event that the insured is confined in a long term care facility and/or qualifies for long term care benefits as defined by law.

Numbers 16 through 17: Agency Contact person: Ralph D. Spaulding, Supervising Insurance Attorney, Life Bureau (518-486-5258):

16. Summary description of proposal: Amendment to 11 NYCRR 50 (Separate Account and Separate Account Annuities) (Regulation 47) to establish revised standards for the operation of separate accounts, contract provisions and actuarial requirements to reflect statutory changes

and recent innovations in product design and changes in contract administration of separate account and variable annuity products.

17. Summary description of proposal: Amendment to 11 NYCRR 53 (Life and Annuity Cost Disclosure and Sales Illustration) (Regulation 74) to set forth the information mandated by Section 3209 of the Insurance Law including the standards governing the content, format and use of sales illustrations and other disclosure requirements for fixed annuity products and funding agreements. Also to include changes that provide for enhanced disclosure to buyers of life insurance and annuity products.

Number 18: Agency Contact person: Robert Solomon, Principal Insurance Examiner, Health Bureau (212-480-5246):

18. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, including Standards of Full and Fair Disclosure) (Regulation 62) and 11 NYCRR 360 (Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145) to clarify, for Article 43 Corporations, HMOs, and commercial insurers that write accident and health insurance, requirements for prior approval of forms and rates, including the establishing of rules for determining the rating methodology to be used for rating point-of-service products sold by large groups, to clarify the application and effect of rolling rates and annual level subscriber rates, and to implement Sections 4308(g) and (h) and 3231(e)(2) of the Insurance Law relating to the alternate methodology for submissions of rates by Article 43 Corporations and Health Maintenance Organizations, and submissions of loss ratios for contracts subject to the alternate methodology.

Number 19: Agency Contact person: Austin J. Rinella, Supervising Insurance Attorney, Health Bureau (518-474-4098):

19. Summary description of proposal: Amendments to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62), 11 NYCRR 360 (Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145), 11 NYCRR 361 (Market Stabilization Mechanisms) (Regulation 146), 11 NYCRR 59 (Minimum Standards for Certificates Deemed to Have Been Delivered in New York) (Regulation 123), 11 NYCRR 39 (Minimum Standards for the Partnership for Long Term Care Program Established Under Chapter 454 of the Laws of 1989 as amended by Chapter 659 of the Laws of 1997) (Regulation 144) and adoption of new Part to 11 NYCRR to: 1) establish minimum standards for such products as managed care and point of service arrangements as well as other health insurance products as ongoing changes occur in the health insurance field; 2) make changes to state regulations which may be required due to implementation of the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), Chapter 661 of the Laws of 1997 and other federal and state enactments; 3) establish minimum standards and requirements for specified disease coverage, 4) make changes to minimum standards for partnership coverages.

Numbers 20 through 22: Agency Contact person: Deborah A. Kozemko, Supervising Insurance Attorney, Health Bureau (518-486-7815):

20. Summary description of proposal: Amendments to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62), 11 NYCRR 410 (External Appeals of Adverse Determinations of Health Care Plans) (Regulation 166) and adoption of a new Part to 11 NYCRR to establish standards for coverage determinations and benefit determinations, including standards for utilization review.

21. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to establish maximum permissible copayments for group HMO coverage.

22. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance,

including Standards of Full and Fair Disclosure) (Regulation 62) and 11 NYCRR 360 (Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145) to implement Chapter 557 of the Laws of 2002 relating to health insurance coverage for individual proprietors.

Number 23: Agency Contact person: Carol Leith, Principal Actuary, Health Bureau (518-474-4562):

23. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to provide instructions and format for calculating and reporting loss ratios and issuing dividends or credits as required in section 3231 (e)(2)(B), in instances where the alternate filing procedure as defined in section 3231(e)(2)(A) has been utilized.

Numbers 24 through 25: Agency Contact person: Lisette Johnson, Supervising Insurance Attorney, Health Bureau (518-474-4098):

24. Summary description of proposal: Amendment to 11 NYCRR 361 (Establishment and Operation of Market Stabilization Mechanisms for Individual and Small Group Health Insurance and Medicare Supplement Insurance) (Regulation 146) to revise certain market stabilization mechanism requirements as required by Chapter 504 of the Laws of 1995.

25. Summary description of proposal: Amendment to 11 NYCRR 410 (External Appeals of Adverse Determinations of Health Care Plans) (Regulation 166) to establish new and revised standards and procedures for the external appeal process.

Number 26: Agency Contact person: Gary Teitel, Supervising Actuary, Health Bureau (212-480-7709):

26. Summary description of proposal: Amendment to 11 NYCRR 350 (Life Care Communities) (Regulation 140) to modify and clarify the actuarial reserve calculation, solvency testing, distribution allowances, fee adequacy, and to better define needed filing requirements, all recognizing marketplace expansion in both the number and types of Life Care Communities.

Number 27: Agency Contact person: Stephen Rings, Senior Insurance Attorney, Health Bureau (518-474-4899):

27. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to clarify extension of benefits and "no loss, no gain" requirements for individual, group and group remittance health insurance contracts.

Number 28: Agency Contact person: Patricia Swolak, Associate Insurance Attorney, Health Bureau (518-486-7815):

28. Summary description of proposal: Amendment to 11 NYCRR 362 (The Healthy New York Program & The Direct Payment Stop Loss Relief Program) (Regulation 171) to require acceptance by health plans of standardized Healthy NY applications in forms prescribed by the superintendent, and to clarify household income and household members for the purpose of determining eligibility.

Number 29: Agency Contact person: Michele Klinkbeil, Senior Insurance Attorney, Health Bureau (518-474-4899):

29. Summary description of proposal: Amendment to 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to implement Chapter 82 of the Laws of 2002 relating to standards for the determination of infertility, the identification of experimental procedures and treatments not covered in the diagnosis and treatment of infertility, the identification of the required training, experience and other standards for health care providers for the provision of procedures and treatments for the diagnosis and treatment of infertility, and the determination of appropriate medical candidates by the treating physician.

Number 30: Agency Contact person: Doris Kullman, Senior Insurance Attorney, Health Bureau (518) 474-4899:

30. Summary description of proposal: Amendment to 11 NYCRR

362 (The Healthy New York Program and the Direct Payment Stop Loss Relief Program) (Regulation 171) to adjust the stop loss reimbursement corridors for Healthy NY, simplify Healthy NY eligibility and re-certification, improve and provide options with respect to Healthy NY benefits, clarify employer contribution requirements, and qualify Healthy NY as coverage eligible for a federal tax credit (available to certain individuals as defined in federal law).

Number 31: Agency contact person: John Chaskey, Principal Examiner, Consumer Services Bureau (518-474-9845)

31. Summary Description of proposal: Amendment to 11 NYCRR 28 (Bail Bond Agents) (Regulation 42) to establish minimum record keeping requirements and identify prohibited charges in conjunction with (1) the issuance of a bail bond and (2) requiring collateral in order to certain individuals as defined in federal law.

Number 32: Agency Contact Person: Merline Smith, Principal Examiner, Consumer Services Bureau (518-473-7894)

32. Summary description of proposal: Adoption of a new part to 11 NYCRR to define what is considered a clean claim for health care services under Section 3224-a of the Insurance Law, when such claim is submitted on paper by a non-institutional health care provider.

Number 33: Agency Contact person: Jim Everett, Associate Counsel, Capital Markets Bureau (518-408-1593):

33. Summary description of proposal: Amendment to 11 NYCRR 125 (Credit for Reinsurance from Unauthorized Insurers) (Regulation 20) to permit cash flows from highly qualified alien insurers to fund short term marketable securities that comprise no more than 20% of a trust fund under Regulation 20, if the cashflows behind those securities derive from a number of diverse sources, and the alien insurer has informed the Superintendent of the use of these securities.

DEPARTMENT OF LABOR

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act, as amended by chapter 635 of the laws of 1995, notice is hereby provided of the following rules that the Department of Labor is considering proposing, but for which a rulemaking proceeding has not been commenced.

1. Amendment to Title 12 NYCRR Part 800 to incorporate by reference into New York Occupational Safety and Health standards those safety and health standards adopted by the United States Department of Labor Occupational Safety and Health Administration.
2. Amendment to Title 12 NYCRR Part 38 to conform the present version of the Part to new provisions contained in the 10 CFR Parts 20, 30, 34, 36, 40, 70 & 71, to correct errors in the existing Part, and to correctly reference the applicable section of the federal regulations.
3. Amendments to Title 12 NYCRR Parts 600 & 601 which will (a) add provisions which permit the Department to suspend and terminate programs for non-compliance; (b) permit sponsors in larger programs to charge application fees in limited circumstances; and (c) include technical amendments to both parts updating terminology now applicable.
4. Amendments to Title 12 NYCRR Parts 461 and 463 to address the issue of the timely filing of requests for hearings and notices of appeal in view of the Matter of Levine. The amendments would provide that requests for hearings and notices of appeal are timely as long as they are mailed or telefaxed to the Department within the statutory time limits.
5. Amendments to Title 12 NYCRR Part 56 to modify and clarify the requirements and procedures for the licensing and certification of asbestos workers and contractors and the notification of and procedures for asbestos projects.
6. Amendment to Title 12 NYCRR Part 4 and Part 14 to modify the frequency of inspection of certain boilers.
7. Addition of Part 551 to Title 12 NYCRR to implement regulations required by Chapter 601 of the Laws of 2002 that provide for the Department to promulgate regulations describing the form and content

of the financial records required by Section 211-a of the Labor Law as well as advisory regulations to State entities relating to the implementation of contractual and administrative measures to enforce Section 211-a. The regulations would require employers that received funds appropriated by the State to establish and maintain financial records that demonstrate State funds were not spent on activities that either encouraged or discouraged union organization. The regulation also requires employers to certify compliance with Section 211-a as part of every State contract.

8. Amendment to Title 12 NYCRR Part 1300 to conform the present version of the Part to new provisions contained in Sections 335-b, 336 and 336-c of the Social Services Law to require social service districts to consider certain non-graduate work study programs as approved work activities for public assistance recipients and to make reasonable efforts to avoid assigning certain students to public assistance work activities during hours that conflict with the student's academic schedule.

9. Amendment to Title 12 NYCRR Part 82 to increase several fee categories to ensure efficient administration, on-site inspections and issuances of certificates and licenses and to more accurately cover the current processing and inspection costs and expenses.

10. Addition to Title 12 NYCRR, Chapter II, Subchapter E, regarding the Child Performer Education & Trust Act as required by Chapter 630 of the Laws of 2003.

To obtain information or submit written comments regarding this regulatory agenda, contact Diane Wallace Wehner, Legal Assistant II, New York State Department of Labor, Building 12, State Office Campus, Counsel's Office, Room 509, Albany, New York 12240, (518) 457-4380. The last day for submission of comments regarding the above-mentioned rules is February 21, 2004.

This regulatory agenda was prepared and submitted by Diane Wallace Wehner, Legal Assistant II, New York State Department of Labor, Building 12, State Campus, Counsel's Office, Room 509, Albany, New York 12240, (518) 457-4380.

OFFICE OF REAL PROPERTY SERVICES REGULATORY PROPOSALS

The New York State Office of Real Property Services will conduct a review of Parts 190 and 192 of Title 9 concerning Inventory Standards of Property Characteristics, which are also the subject of a five-year review pursuant to section 207 of SAPA. In addition, there will also be a review of regulations concerning complaints against tentative State equalization products (9 NYCRR 186-15), training requirements for local assessment administration personnel (9 NYCRR 188), special franchise assessments (9 NYCRR 197) and Railroad Ceilings (9 NYCRR 200). These reviews may lead to proposed modifications to these regulations. Finally, all of the agency's rules will be reviewed for compliance with Chapter 403 of the Laws of 2003 concerning the protection of critical infrastructure. At this time, there has been no rulemaking procedure undertaken in regard to any of these matters.

To obtain information or submit written comments regarding this regulatory agenda, contact James J. O'Keefe, Associate Attorney, New York State Office of Real Property Services, 16 Sheridan Avenue, Albany, 12210-2714, (518) 474-8821