

RULE REVIEW

DEPARTMENT OF STATE

As required by section 207 of the State Administrative Procedure Act (SAPA), the following is a list of rules which were adopted by the Department of State in calendar year 2000 which must be reviewed in calendar year 2005. Pursuant to SAPA section 207(5), the list does not include rules which were adopted as consensus rules, or rules which have been repealed. Public comment on the continuation or modification of these rules is invited and will be accepted until June 30, 2005. Comments may be directed to: Nathan A. Hamm, Office of Counsel, The Department of State, 41 State Street, Albany, New York 12231.

(1) DOS-09-99-00001 Cosmetology License

Added section 162.4 to Title 19 NYCRR to establish qualifying education requirements for a cosmetology license

Analysis of the need for the rule: Article 27 of the General Business Law requires cosmetologists to meet certain minimum standards of training and competence in order to ensure the health, safety, and welfare of the public. This rule addressed this requirement by requiring new applicants to complete a 1000 hour curriculum in order to qualify for a cosmetology license. The rule was promulgated by the Secretary of State after consultation with the Appearance Enhancement Advisory Committee and the State Education Department.

Legal basis for the rule: General Business Law, section 404

(2) DOS-15-99-00005 Games of Chance

Repealed sections 132.1 and 132.2, and added sections 132.1, 132.2, 132.4, and 132.5 to Title 19 NYCRR to clarify and modernize the rules dealing with the use of games of chance to sell commodities

Analysis of the need for the rule: General Business Law section 369-e requires that persons, firms, and corporations which use games of chance to sell commodities must make a filing with the Department of State if the total announced value of prizes offered is in excess of five thousand dollars. The legislative objective of this section was to decrease the likelihood of prizes not being awarded when games of chance are used to sell commodities. The rule is necessary to clarify when a filing must be made with the Department and to preserve the protections for prizewinners contained in General Business Law section 369-e.

Legal basis for the rule: General Business Law, section 369-e; Executive Law, section 91

(3) DOS-05-00-00007 Boxer-Promoter Contracts, Special Rules for Professional Boxing Championship Bouts, and the Standing Eight Count

Amended Parts 205, 208, 212, 215, and 216 of Title 19 NYCRR concerning boxer-promoter contracts, special rules for professional boxing championship bouts, and the standing eight count

Analysis of the need for the rule: The rule reformed the process for selection, licensing, and compensation of judges in professional boxing championship bouts; protects boxers by imposing additional requirements on boxer-promoter contracts; established new disclosure rules

for organizations sanctioning professional boxing championships; and protects the health and safety of boxers.

Legal basis for the rule: Unconsolidated Laws, section 8901
(4) DOS-07-00-00013 Information Posting by Public Not-for-Profit Cemeteries

Repealed the existing section 201.7 and added a new section 201.7 to Title 19 NYCRR concerning information required to be posted by public not-for-profit cemeteries regulated by the State Cemetery Board

Analysis of the need for the rule: The rule requires each public not-for-profit cemetery which does not have its main office on or adjacent to the cemetery premises to post a notice at the main entrance to the cemetery which states the name, title, and office telephone number of the superintendent or other person with primary responsibility for the operation of the cemetery. The rule is necessary to ensure that the public has a means of making those individuals responsible for the operation of these cemeteries (many of which are small and run by volunteers) aware of instances of vandalism and other issues affecting the operation of these cemeteries.

Legal basis for the rule: Not-for-Profit Corporation Law, section 1504(c)(1)

(5) DOS-12-00-00008 Cease and Desist Zones

Amended section 175.17(c)(2) of Title 19 NYCRR to establish a cease and desist zone in the community districts 9, 10, 11, and 12 of the Bronx

Analysis of the need for the rule: Certain homeowners in the above mentioned Bronx communities requested relief from intense pressure and repeated solicitations from real estate brokers and salespersons to list their homes for sale. These homeowners had no practical means of stopping these unwanted and intrusive solicitations other than establishment of a cease-and-desist zone. This rule authorizes homeowners in the designated communities to file an "owner's statement" with the Department of State which indicates a desire not be solicited. These filings, which were published by the Department of State in cease-and-desist lists, provide those homeowners who did not wish to be solicited with an effective and practical means of notifying real estate brokers and salespersons that they do not wish to be contacted.

Legal basis for the rule: Real Property Law, section 442-h(3)

(6) DOS-12-00-00011 Cease and Desist Zones

Amended section 175.17(c)(2) of Title 19 NYCRR to establish a cease and desist zone in the County of Queens

Analysis of the need for the rule: Certain homeowners in the County of Queens requested relief from intense pressure and repeated solicitations from real estate brokers and salespersons to list their homes for sale. These homeowners had no practical means of stopping these unwanted and intrusive solicitations other than establishment of a cease-and-desist zone. This rule authorizes homeowners in the designated communities to file an "owner's statement" with the Department of State which indicates a desire not be solicited. These filings, which were published by the Department of State in cease-and-desist lists,

provide those homeowners who did not wish to be solicited with an effective and practical means of notifying real estate brokers and salespersons that they do not wish to be contacted.

Legal basis for the rule: Real Property Law, section 442-h(3)

(7) DOS-20-00-00003 Definitions in Relation to Security and Fire Alarm Systems

Amended section 195.1 of Title 19 NYCRR to clarify the meaning of terms in relation to security and fire alarm systems and add a new definition

Analysis of the need for the rule: Article 6-D of the General Business Law concerns security and fire alarm systems. Article 6-D contains several terms that are vague and not precise. The rule is needed to clarify the definitions of these terms and thereby ensure proper understanding and compliance with the provisions of Article 6-D by regulated parties.

Legal basis for the rule: General Business Law, section 69-n(5)

(8) DOS-22-00-00008 State Cemetery and Restoration Fund

Repealed section 200.11 and added a new section 200.11 to Title 19 NYCRR to simplify and clarify regulatory provisions concerning the State Cemetery Vandalism Restoration and Administration Fund

Analysis of need for the rule: The rule was needed to bring section 200.11 of Title 19 NYCRR closer to the intent of Not-for-Profit Corporation Law section 1507(h). This was accomplished by adopting a new section 200.11 which established procedures for making payments into a cemetery vandalism fund, submitting initial reports of vandalism, making applications for payment for repair of vandalism damage applications and for maintenance of abandoned cemeteries, using disbursements from the fund for making repairs to vandalized property and repair or removal of dilapidated monuments, and submission of reports concerning these matters.

Legal basis for the rule: Not-for-Profit Corporation Law, section 1507(h)