

RULE REVIEW

Department of State

REVIEW PURSUANT TO STATE ADMINISTRATIVE PROCEDURE ACT SECTION 207 OF RULES ADOPTED BY THE DEPARTMENT OF STATE IN CALENDAR YEAR 2003 AND CALENDAR YEAR 1998

Pursuant to Section 207(4) of the State Administrative Procedure Act (SAPA), the Department of State hereby gives notice that it has reviewed the following regulations which were adopted during 2003 and 1998. A summary of each of these rules was published in the Rule Review section of the January 2, 2008 edition of the State Register. The Department of State did not receive any comment from the public regarding any of these rules.

For further information about any of these rules, contact: Nathan A. Hamm, Office of Counsel, Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231-0001, (518) 474-6740.

RULES ADOPTED IN 2003

DOS-53-02-00019 Continuing Education for Real Estate Brokers and Salespersons

Amended Part 177 of Title 19 NYCRR to update then existing rules for continuing education and provide for computer-based and distance learning

Analysis of the need for the rule: The rule was needed to provide standards for computer-based and distance learning courses. It also repealed several obsolete provisions of Part 177 of Title 19 NYCRR.

This rule will be continued without modification because standards for computer-based and distance learning courses are still needed, and the obsolete provisions which were repealed remain unnecessary.

Statutory authority for the rule: Real Property Law, section 441(3)(c)

DOS-16-03-00003 Single-Door, Card-Access Entry Systems

Amended section 195.2(c) of Title 19 NYCRR to clarify when an alarm installer's license is not needed

Analysis of the need for the rule: The rule was needed to clarify for the alarm industry, local officials, and consumers that the installation, service, and maintenance of a single-door, card-access entry system does not require an alarm installer's license if the system does not detect and/or provide notification of intrusion, break-in, theft, movement, sound or fire.

This rule will be continued without modification because it provides required clarification to the alarm industry, local officials, and consumers.

Statutory authority for the rule: General Business Law, section 69-n(5)

RULES ADOPTED IN 1998

DOS-46-97-00004 State Academy of Fire Science

Amended section 452.1 of Title 19 NYCRR to bring the fees charged by the State Academy of

Fire Science closer to the State's actual costs for operating the Academy

Analysis of the need for the rule: The rule was needed because the Legislature intended the State Academy of Fire Science to be self-sustaining. The rule was intended to increase the amount of income generated by the Academy and thereby take a step toward making it self-sustaining.

This rule will be continued without modification because the State Academy of Fire Science must generate income to meet its operating costs.

Legal basis for the rule: Executive Law, section 91.

DOS-48-97-00008 Approval of instructors for real estate courses
Amended section 176.11(b)(5) of Title 19 NYCRR to increase the points given to instructors for certain college degrees

Analysis of the need for the rule: The rule was needed because the Real Estate Board believed that the existing qualifying standards for instructors gave too little weight to academic achievements.

The rule will be continued without modification so that appropriate weight may be given to the academic achievements of instructors of real estate courses.

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

DOS-06-98-00001 On-line access

Added a new section 155.5 to Title 19 NYCRR which authorized on-line access to records relating to corporations and other business entities

Analysis of the need for the rule: The rule authorized on-line access to information concerning corporations and other business entities contained in the computerized information systems of the Division of Corporations of the Department of State. The rule made it possible to complete business transactions requiring this information more quickly than ever before, resulting in immediate and substantial savings of time and expense to regulated parties.

The rule will be continued without modification so that the substantial savings of time and expense which resulted from its implementation may continue to be recognized.

Legal basis for the rule: Executive Law, sections 91 and 96(16).

DOS-09-98-00002 Qualifying education for certified residential real estate appraisers

Amended section 1103.8 of Title 19 NYCRR to conform New York Standards to Federal Standards

Analysis of the need for the rule: The rule was necessary to conform New York State standards for qualifying education for certified residential real estate appraisers to the Federal standards recommended by the Appraisal Qualification Board of the Appraisal Foundation.

The rule will be continued without modification so that New York State standards for qualifying education for certified residential real estate appraisers will conform to Federal standards.

Legal basis for the rule: Executive Law, section 160-d(1)(a)

DOS-11-98-00002 Corporation names

Repealed Parts 146, 147, 148, and 152 and added Part 156 to Title 19 NYCRR to modernize the current naming rules for business organizations

Analysis of the need for the rule: The rule was needed to reflect practices in the Division of Corporations of the Department of State concerning the naming rules for corporations, limited liability companies, and other business organizations.

The rule will be continued without modification so that modern naming rules may continue to be used for corporations, limited liability companies, and other business organizations.

Legal basis for the rule: Executive Law, section 91.

DOS-11-98-00003 Filing rule technical amendments

Repealed Parts 149, 151, and 153 and amended Parts 145, 150, 154, and 155 of Title 19 NYCRR to eliminate references to particular technologies, and to reflect statutory changes and contemporary practices with respect to filings in the Division of Corporations of the Department of State

Analysis of the need for the rule: The rule was needed to reflect practices in the Division of Corporations of the Department of State concerning technologies employed to file and maintain records, and to amend existing regulations to reflect statutory changes and contemporary practices.

The rule will be continued without modification so that technological advances implemented by the Division of Corporations when it files and maintains records may continue to be utilized, and that statutory changes and current Division practices will continue to be recognized and authorized, respectively.

Legal basis for the rule: Executive Law, section 91.

DOS-14-98-00004 Continuing education for real estate appraisers

Added a new Part 1107 to Title 19 NYCRR which implemented requirements of Executive Law, section 160-t

Analysis of the need for the rule: The rule was necessary because Executive Law section 160-t mandates that the Secretary of State adopt rules implementing the continuing education requirements which it establishes.

The rule will be continued without modification because Executive Law section 160-t mandates that rules be adopted by the Secretary of State to implement the continuing education requirements established pursuant to this section.

Legal basis for the rule: Executive Law, section 160-t(4).

DOS-29-98-00007 Continuing education for real estate appraisers

Amended Part 1107 of Title 19 NYCRR to increase the required hours from 20 hours to 28 hours biennially

Analysis of the need for the rule: The rule was needed to conform the continuing education requirement for State licensed and State certified real estate appraisers to a Federal standard which raised the required hours of instruction from 20 hours to 28 hours biennially.

The rule will be continued without modification so that State conformity with the federal standard may be maintained.

Legal basis for the rule: Executive Law, section 160-d(1)(a).

DOS-41-98-00001 Trademarks and service marks

Repealed Parts 140, 141, and 142 and added a new Part 140 to Title 19 NYCRR to provide information and instruction on registering trademarks and service marks

Analysis of the need for the rule: The rule was needed to comply with those provisions of Article 24 of the General Business Law dealing with trademarks and service marks which require that the

Department of State establish a classification of goods and services, and otherwise aid filers registering trademarks and service marks.

The rule will be continued without modification because it has provided a workable classification system for filers registering trademarks and service marks.

Legal basis for the rule: Executive Law, section 91; General Business Law, sections 360-i and 360-q.