

REGULATORY AGENDA

Education Department

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for calendar year 2010. 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 2010 Regulatory Agenda.

OFFICE OF ELEMENTARY, MIDDLE, SECONDARY AND CONTINUING EDUCATION

Amendment of the Commissioner's Regulations relating to Distinguished Educators. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to pupils with limited English proficiency. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to the creation of a Virtual High School Initiative.

Amendment of 91.2 of the Commissioner's Regulations to revise and update provisions on the employment of a school library media specialist. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 100 of the Commissioner's Regulations relating to implementation of a growth model.

Amendment of Part 100 of the Commissioner's Regulations relating to graduation and diploma requirements.

Amendment of section 100.5 of the Commissioner's Regulations, relating to credit make-up and independent studies. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2.(p) of the Commissioner's Regulations to establish a graduation rate and targets to conform with regulations promulgated by the United States Department of Education in October 2008. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(x), relating to the education of homeless children. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2 (gg) of the Commissioner's Regulations to revise and update provisions on Violent and Disruptive Incident Reporting (VADIR). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 100.7 of the Commissioner's Regulation to clarify eligibility to take the GED. Currently Job Corp residents and home schooled students are not referenced to their eligibility. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 119 of the Commissioner's regulations to add a section pertaining to residency determinations of students attending charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 119 of the Commissioner's regulations to add a section pertaining to procedures relating to complaints brought pursuant to Education Law section 2855. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 119.1(e) relating to financing of charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 125 of the Commissioner's Regulations relating to nonpublic nursery schools and kindergartens.

Amendment of Part 140 of the Commissioner's Regulations, relating to County Vocational Education and Extension Boards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Subpart 151-1 of the Commissioner's Regulations to allow teachers employed by eligible agencies in collaboration with a school district to provide prekindergarten services to be employed without a bachelor's degree in early childhood education or a related field, or a teaching license or certificate valid for services in the childhood grades pursuant to 8 NYCRR Part 80, so long as the teacher has a written plan to obtain certification valid for service in the early childhood grades within 5 years of commencement of employment. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Part 154 of the Commissioner's Regulations to require that the Comprehensive Plan be reviewed/updated every two years and submitted to the bilingual office when requested as part of a compliance review process of the Department. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.22 of the Commissioner's Regulations, relating to procedures for the allocation of the State limitation amount to issuers of Qualified School Construction Bonds pursuant to 26 USC section 54F. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 156 of the Commissioner's Regulations to conform to Chapter 181 of the Laws of 2007 ("P.J.'s Law"), by promulgating regulations requiring school bus drivers and attendants on a bus transporting children with disabilities to complete training, at least once a year, on the special needs of children with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 156 of the Commissioner's Regulations, regarding transportation, to revise and update the regulations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 164.2(2)(g) of the Commissioner's Regulations to align the regulation with the requirements of the National Reporting System (NRS). The NRS requires that final student information be submitted by October 31st following the July 31st closing of the school year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations, relating to

absentee ballots for boards of cooperative educational services (BOCES). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations, relating to school district and BOCES name changes. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations, relating to school district financial management. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations regarding BOCES installment purchase contracts and leases. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations, relating to certified athletic trainers. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations relating to persistently dangerous schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

John B. King, Jr.

Senior Deputy Commissioner P-12

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OFFICE OF HIGHER EDUCATION

Amendment of Part 30 of the Commissioner's Regulations to designate a tenure area for each of the several teacher certificate titles that did not exist prior to February 2, 2004. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Amendment of Part 30 of the Rules of the Board of Regents and Part 80 of the Regulations of the Commissioner of Education relating to certification requirements and tenure rights for individuals teaching the Native American language. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Amendment of Part 52 of the Commissioner's Regulations relating to the registration requirements for teacher education programs and to create standards for teachers. A rural flexibility analysis may be required.

Amendment of Part 52 and Part 80 of the Commissioner's Regulations to restructure certification for teachers of special education. A rural flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations relating to the certification requirements for teachers, including the teacher certification examinations and the creation alternative preparation pathways for certification as a teacher. A rural flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations relating to the certification requirements for school building leaders. A rural flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations to establish requirements for a certificate in educational interpreting. A rural flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations to expand the scope of practice for holders of the School District Leader certificate and to establish a transitional certificate for School District Business Leaders. A rural flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations to add enhancements to the individual evaluation pathway for first teaching certificates. A rural flexibility analysis may be required.

Amendment of Part 80 and 100.2(dd) of the Commissioner's Regulations, relating to changes in district professional development plans to account for changes in regulations related to the professional certification of school leaders. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of Part 83 of the Commissioner's Regulations to: define a process relating to revocation of teachers' certificates for sex offenders pursuant to Chapter 296 of the Laws of 2008; to make improvements to the existing hearing process; and expand the Commissioner's ability to review hearing decisions. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of section 100.2 of the Commissioner's Regulations relating to the annual performance review requirements for teachers. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of section 100.2 of the Commissioner's Regulations to identify elements of a performance evaluation system for school leaders. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of section 145-2.1 of the Commissioner's Regulations to clarify the definitions of terms such as the length of a semester, the delineation of full-time, and the need for courses to be in support of a registered academic program. These definitions are used in the determinations of eligibility and awarding of funds under the Tuition Assistance Program. A rural flexibility analysis may be required.

Amendment of section 145-2.2 of the Commissioner's Regulations to clarify the criteria used to ensure that students receiving financial aid support maintain satisfactory academic progress in a registered academic program.

Amendment of section 145-2.4 of the Commissioner's Regulations to clarify the criteria and processes needed to determine a student's matriculation status and the need for the declaration of a major which is a registered academic program. A rural flexibility analysis may be required.

Agency Representative

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

Joseph Frey

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Office of Higher Education

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OFFICE OF THE PROFESSIONS

Amendment of section 3.57(b) of the Regents Rules, conferring the Doctor of Medicine degree, to eliminate the requirement of three years of licensed practice. A rural area flexibility analysis may be required.

Amendment of Part 17 of the Regents Rules to conform to the three member panel law. A rural area flexibility analysis may be required.

Amendment of Part 17 of the Regents Rules relating to the summary suspension procedure. A rural area flexibility analysis may be required.

Amendment of Part 18 of the Regents Rules relating to the provision of services to nurses with substance abuse problems. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 24 of the Regents Rules relating to the approval by the committee on the professions of three-year limited licenses in Dentistry, Dental Hygiene, Veterinary Medicine, Veterinary Technology, and Pharmacy. A rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to the packaging and dispensing of certain pharmaceuticals. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to the use of identification badges for certain professionals. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to the reporting of convictions and disciplinary actions by licensed professionals. A rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the public accountancy and certified public accountancy professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Parts 52 and 77 of the Commissioner's Regulations relating to the educational standards necessary for licensure in Physical Therapy. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 59 of the Commissioner's Regulations relating to the use of ID cards in lieu of registration certificates. A rural area flexibility analysis may be required.

Amendment of Part 59 of the Commissioner's Regulations relating to English language proficiency. A rural area flexibility analysis may be required.

Amendment to Part 61 of the Commissioner's Regulations relating to the continuing education requirement in ethics and jurisprudence for dentists and to the registration of dental residents. A rural area flexibility analysis may be required.

Amendment of Part 63 of the Commissioner's Regulations relating to continuing education for pharmacists. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 63 of the Commissioner's Regulations relating to examination requirements for pharmacists. A rural area flexibility analysis may be required.

Amendment of Part 64 of the Commissioner's Regulations relating to professional study for licensure as a nurse. A rural area flexibility analysis may be required.

Amendment of Part 64 of the Commissioner's Regulations relating to the orders required for administering immunizations. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 69 of the Commissioner's Regulations relating to the retention of examination credit in architecture. A rural area flexibility analysis may be required.

Amendment of Part 70 of the Commissioner's Regulations relating to the mandatory quality review program for public accountancy firms. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 74 and Subparts 79-9 through 79-12 of the Commissioner's Regulations relating to experience requirements for licensure as a social worker or as a mental health practitioner. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 76 of the Commissioner's Regulations relating to the supervision of occupational therapy assistants. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Subpart 79-5 relating to licensure requirements in midwifery. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Subparts 79-9 through 79-12 of the Commissioner's Regulations relating to supervision requirements in the Mental Health professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Agency Representative:

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

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**OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES
FOR INDIVIDUALS WITH DISABILITIES**

Amendment of section 100.5 of the Commissioner's Regulations relating to high school diploma requirements for students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 100.9 and 200.5 of the Commissioner's Regulations relating to high school individualized education program (IEP) diplomas. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.5(c) and (d) relating to meetings of the Committee on Special Education and Committee on Preschool Special Education and written notice to parents regarding such meetings to conform to federal regulations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.6 of the Commissioner's Regulations relating to placement of a student with a disability in an in-state or out-of-state private school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.7 and 200.20(a) of the Commissioner's Regulations relating to the program standards for private schools approved to serve students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.9 of the Commissioner's Regulations relating to rate-setting and tuition rates for approved programs for students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.16 of the Commissioner's Regulations relating to timelines for individual evaluations and provision of services for preschool students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Part 246 of the Commissioner's Regulations, including standards for personnel and services for contractual vocational rehabilitation and supported employment services through community rehabilitation programs and other community providers or as may be necessary to conform with new contractual and quality assurance requirements. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Agency representative:

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

Rebecca Cort

Deputy Commissioner

New York State Education Department

Office of Vocational and Educational Services for Individuals with Disabilities

One Commerce Plaza, Room 1606

Albany, New York 12234

(518) 474-2714

OFFICE OF CULTURAL EDUCATION

Amendment of section 3.27 relating to Chartering and Registration of Museums and Historical Societies with Collections, and section 3.30 relating to Incorporation and Registration of Historical Societies without Collections and Cultural Agencies, specifies criteria under which items in a collection may be deaccessioned; provides requirements for designation by a board of trustees of a structure to be part of the collection; specifies the circumstances under which an institution

may use deaccession proceeds to preserve, protect or care for such designated structure; clarifies that deaccession proceeds may not be used for payment of outstanding debt or for capital expenses other than expenses incurred to preserve, protect or care for a designated structure; adds "planetarium" to the definition of "museum"; makes clear that the requirement for larger institutions to be open to the public 1,000 hours a year applies to a museum or exhibit facility; limits collecting to those institutions having collecting as a stated purpose in their charter; replaces the phrase "broad representation" to "board representation" in the requirements for geographically descriptive terms in a corporate name; eliminates reference to "associations of teachers, students [and] graduates of educational institutions" from the definition of "cultural agency"; and adds additional definitions. . A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency representative:

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

Clifford A. Siegfried
Assistant Commissioner
New York State Education Department
3023 Cultural Education Center
Albany, New York 12230
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Amendment of Part 90 of the Commissioner's Regulations, relating to the library and library system programs and services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative

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

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State Librarian and Assistant Commissioner for Libraries
New York State Education Department
New York State Library
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Amendment of section 185.10 of the Commissioner's regulations relating to local government records management improvement fund grants, to establish criteria and procedures for the award of formula grants for records management improvement to county clerks and, in the city of New York, to the New York register or other officer or agency having custody of real property records and any officer or agency having custody of supreme court records. A regulatory flexibility analysis for local government may be required.

Agency Representative:

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

Christine Ward
Assistant Commissioner for the State Archives
9A49 Cultural Education Center
Albany, New York 12230
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cward@mail.nysed.gov

Amendment of section 189.3 of the Commissioner's regulations, relating to the Documentary Heritage program, to revise procedures for the award of grants and for the provision of field services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

Christine Ward
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OFFICE OF MANAGEMENT SERVICES

A proposed amendment to section 119.1 of the Commissioner's regulations relating to school district payments to charter schools and procedures for requests for a State aid deduction upon nonpayment. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

Burt Porter
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New York State Education Department
89 Washington Avenue
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Albany, New York 12234
(518) 486-2422

Department of Environmental Conservation

DIVISION OF AIR RESOURCES

6 NYCRR Part 200, General Provisions. Part 200 will be amended to incorporate the national emission standards for hazardous air pollutants (NESHAPS) adopted by the US EPA as of July 1, 2009. This rulemaking will not require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact (NESHAPS): Steve Yarrington, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 200, General Provisions. Part 200 will be amended to add new non-attainment areas as designated by the United States Environmental Protection Agency for areas in New York State that do not meet new National Ambient Air Quality Standards. Contact: Robert Bielawa, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 200, General Provisions. Part 200 will be amended to add compounds to the list of exempt compounds in definition of volatile organic compounds (VOC) and remove a chemical from the list of hazardous air pollutants (HAP). These revisions are being made to be consistent with federal definitions. Contact: Ken Newkirk, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 201, Permits and Registrations. Part 201 contains the basic application and permitting requirements for the construction, operation and modification of air contamination sources within the state. It is expected that Part 201 will be revised in the coming year. The purpose of the revisions will be to improve implementation by removing outdated requirements, clarifying permitting and application requirements, including those dealing with exemptions and capping, adding and/or amending definitions, enhancing permit requirements for minor sources, and correcting typographical errors. In addition, Part 201 will be modified in connection with the Prevention of Significant Deterioration (PSD) and New Source Review (NSR) rulemaking (Part 231) to ensure consistency between the regulations. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Michael Styk, NYS Department of Environmental

Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 202, Emissions Verification. The Department is proposing to revise 6 NYCRR Subpart 202-2, Emission Statements to include the reporting of Greenhouse Gases (GHGs) as part of the annual emission statement process. The six GHGs include; Carbon Dioxide (CO₂), Methane (CH₄), nitrous oxide (N₂O), chlorofluorocarbons (CFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆). This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Michael Miliani, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3258. Telephone: 518-402-8401. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 205, Architectural and Industrial Maintenance (AIM) Coatings. The existing regulation will be revised to include additional and more restrictive volatile organic compound (VOC) limits. The existing regulation will also be updated to clarify some implementation issues that have arisen since it was adopted in 2003. This includes adding a category and VOC limit for driveway sealers and foundation coatings, removing the "most restrictive limit exception" for impacted immersion coatings, revising language to eliminate a loophole in the "default" limit provision, providing flexibility on labeling requirements for non-standard reusable containers, and revising the reporting requirements to include products that are sold out of state and sold in containers of one liter or less. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Ona Papageorgiou, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 211, General Prohibitions. The existing regulation is being revised to remove the volatile organic compound prohibitions and limitations and corresponding definitions for asphalt paving materials. These provisions are being revised and placed in 6 NYCRR Part 241, Asphalt Pavement and Asphalt Based Surface Coatings. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Ken Newkirk, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. Email: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 212, General Process Emission Sources. The existing regulation will be amended to set forth a new procedure for evaluating and reducing community air toxic impacts from stationary sources of air pollution. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Thomas Gentile, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3259. Telephone: 518-402-8402. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 212, General Process Emission Sources. A new Subpart, Asphalt Paving Production, will be added to regulate NO_x emissions and establish fuel sulfur limits for the production of asphalt paving. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Scott Griffin, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 217, Motor Vehicle Emissions. The existing regulation will be amended to eliminate Inspection and Maintenance (I&M) requirements for 1995 and older model year light duty vehicles, and to provide other I&M program enhancements, including the addition of onboard diagnostic testing requirements for model year 1997 and newer light duty diesel vehicles statewide. The regulation will also be amended to include revisions to the heavy duty diesel vehicle I&M

test procedures to allow diesel particulate filter equipped vehicles, owned or operated by a fleet, to be exempt from annual opacity testing upon approval by the Department. The existing opacity standards will also be revised to become more stringent, and other recordkeeping and reporting provisions will be modified to provide better program enforceability. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Gregory English (light duty) or Joseph Iannotti (heavy duty), NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3255, Telephone: 518-402-8292. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 218, Emission Standards for Motor Vehicles and Motor Vehicle Engines. The existing regulation will be amended to incorporate revisions California has made to its new aftermarket and used catalytic converter requirements; adopt vehicle emissions warranty and recall requirements; and to otherwise update various incorporation by reference citations included in the Low Emission Vehicle program. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Jeff Marshall, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3255. Telephone: 518-402-8292. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 218, Emission Standards for Motor Vehicles and Motor Vehicle Engines. The existing regulation will be amended to incorporate revisions California has made to its emission control program to amend the greenhouse gas emission standards; and to otherwise update various incorporation by reference citations included in the Low Emission Vehicle program. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Jeff Marshall, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3255, Telephone: 518-402-8292. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 219, Incinerators. Subparts 219-1, 219-2, 219-3, 219-4, 219-5, 219-6, 219-7 and 219-8 will be updated as necessary to clarify the operator training and certification requirements. Language and terminology will be revised to clarify and update the regulatory requirements. Subparts 219-5 and 219-6 will be phased out and applicable sources will be regulated under Subparts 219-2, 219-3 and 219-4. Lastly, combustion gas temperature and other operational issues will be re-evaluated. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mark Lanzafame, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 220, Portland Cement Plants. Part 220 is being revised to require updated NO_x RACT requirements for cement manufacturing and to add new NO_x RACT requirements for Glass manufacturing. Part 220 is also being revised to include federal best available retrofit technology provisions for affected sources. Part 220 will be renamed and split into two Subparts: Portland Cement Plants, and Glass Manufacturing Plants. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Rick Leone, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. Email: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 222, Distributed Generation. This is a new regulation to establish emission standards for distributed generation. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: John Barnes, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Subpart 225-1, Fuel Composition and Use, Sulfur Limitations. The existing regulation will be modified to lower the sulfur content of distillate fuel oil for all stationary sources (including home heating) and stationary internal combustion engines. In addition to sulfur content, this regulation will be updated to conform with the requirements of 6 NYCRR Part 201 Permits and Registrations. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mike Jennings, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Subpart number when emailing.

6 NYCRR Subpart 225-3, Fuel Composition and Use, Gasoline. The existing regulation will be amended to lower the maximum allowable summertime gasoline volatility as a control measure for complying with the federal 8 hour ozone National Ambient Air Quality Standards. Regulation of other gasoline properties that affect emissions of ozone precursors, and opting upstate counties into the federal reformulated gasoline program may also be considered. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: David Barnes, NYS Department of Environmental Conservation, 625 Broadway, Albany NY 12233-3255, Telephone: 518-402-8292, E-mail: airregs@gw.dec.state.ny.us Please include the Subpart number when emailing.

6 NYCRR Part 225, Fuel Composition and Use. Part 225 will be amended to add a new Subpart 225-5 to establish standards limiting the embodied carbon content of various fuels. Carbon emissions associated with the production, distribution, and combustion of fossil fuels and biofuels will be regulated. Provisions allowing appropriate credit for production and distribution emissions reductions as well as fuel composition changes are contemplated. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: David Barnes, NYS Department of Environmental Conservation, 625 Broadway, Albany NY 12233-3255, Telephone: 518-402-8292, E-mail: airregs@gw.dec.state.ny.us Please include the Subpart number when emailing.

6 NYCRR Subpart 227-2, NOx RACT. Subpart 227-2 is being revised to include new emission limitations for coal, oil and gas fired boilers at major facilities throughout the State. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Michael Jennings, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Subpart number when emailing.

6 NYCRR Subpart 227-3, Pre-2003 Nitrogen Oxides Emissions Budget And Allowance Program. The existing rule will be repealed as it has been superseded by Part 204. Contact: Michael Jennings, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Subpart number when emailing.

6 NYCRR Part 228, Surface Coating Processes. The existing rule will be amended to include new volatile organic compounds emissions standards for industrial adhesives and sealants. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Ralph Itzo, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 230, Gasoline Dispensing Sites and Transport Vehicles. The existing rule will be amended to update and clarify testing requirements for gasoline dispensing sites (gas stations) and to conform more closely with new federal requirements and guidance. The regulation will also require prior notification to the department for each test. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural

Area Flexibility Analysis. Contact: Denise Prunier, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 232, Dry Cleaning. The existing regulation that became effective May 15, 1997 will be updated to provide for administrative streamlining and consistency with any new federal requirements. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Stephen Johnson, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 234, Graphic Arts. The existing rule will be amended to include revised volatile organic compound emission standards for flexible packaging, offset lithographic and letterpress printing. These revisions are being made to comport with the 2006 EPA Control Technique Guidelines. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: John Henkes, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 235, Consumer Products. The existing regulation will be updated to implement additional Volatile Organic Compound (VOC) product content limits. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Arthur Robinson, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 240, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved under Title 23 U.S.C. or the Federal Transit Laws. The existing regulation will be revised to address the January 24, 2008 amendments to 40 CFR Parts 51 and 93, the Federal Transportation Conformity rule. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Michael Sheehan, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 241, Asphalt Pavement and Asphalt Based Surface Coatings. This regulation will be amended to prohibit the use of cutback asphalt and to limit emulsified asphalts containing VOCs from May through September. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Ken Newkirk, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. Email: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 247, Outdoor Wood-Fired Hydronic Heaters. This is a new regulation to establish siting and stack height criteria and emission standards for outdoor wood-fired hydronic heat systems. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: John Barnes, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 251, CO2 Emission Limitations for Combustion Installations and Gasification Sources. This is a new rule intended to require "eligible sources" to meet specific carbon dioxide emission limits. This is the first regulation in a series to require GHG emissions to be controlled. This rulemaking will require a Regulatory Flexibility

Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Michael Jennings, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us. Please include the Part number when emailing.

DIVISION OF ENVIRONMENTAL PERMITS

6 NYCRR, Part 617, State Environmental Quality Review Act (SEQR). The Division of Environmental Permits proposes to amend this Part to make changes to the Environmental Assessment Forms (EAF's). The EAF's are "model" forms which are used by almost all state and local agencies in the conduct of an environmental review under SEQR, and appear as appendices to Part 617. Experience has shown that the forms have provided good service, but they could be improved by updating some topic areas, clarifying instructions, and addressing newly-emerging issues. In particular, the forms need to be revised to provide a better basis for addressing administrative actions such as land use planning and the promulgation of regulations. Additionally, some of the information critical to making a proper environmental analysis of a physical project could be better organized. Questions need to be added to these forms to address emerging issues such as environmental justice, climate change (including both greenhouse gas generation and project adaptation to climate effects already occurring), and smart growth. Also, the Division of Environmental Permits expects that the proposed amendment will revise the forms to eliminate the need for a separate form for a determination of significance. The Division does not at this time propose any amendments to the main text of Part 617. Contact: Jack Nasca, NYS Department of Environmental Conservation, 625 Broadway, 4th Floor, Albany NY 12233-1750. Telephone: 518-402-9172. E-mail: janasca@gw.dec.state.ny.us

DIVISION OF ENVIRONMENTAL REMEDIATION

6 NYCRR Part 375, Environmental Remediation Programs (subparts 375-1 to 375-4, and 375-6). DEC proposes to amend subparts 375-1 to 375-4, and 375-6 to: (1) provide additional direction for issues that have been encountered since the rule was promulgated in December 2006; (2) provide additional guidance on processes so as to promote uniformity and consistency; (3) provide clarification of the definition of "brownfield," most specifically as it pertains to eligibility criteria; (4) add or revise multiple provisions to clarify issues that have arisen in the Brownfield Cleanup Program (BCP) in the course of implementing the program since 2006; (5) create a regulatory program to provide parties the opportunity for obtaining DEC oversight of remedial activities outside the BCP (i.e., a regulatory Voluntary Cleanup Program); (6) review of the provisions applicable to the State Superfund Program, including, but not limited to, considering the need to make revisions to clarify the definition of "significant threat;" (7) consider opportunities to encourage the incorporation of sustainable remediation and development techniques into cleanup projects covered by this rule; and (8) correct scrivener's errors that have caused inconsistencies and created confusion, replace accidental omissions, and insert clarifications required for amendments to this regulation. This rulemaking requires a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Robert Schick, NYS Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7014. Telephone: 518-402-9662. E-mail: rxschick@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Parts 612, 613, and 614, Petroleum Bulk Storage Regulation. DEC proposes to amend Parts 612-614 to: (1) achieve equivalency with 40 CFR Part 280 (Underground Storage Tank regulations), which is needed in order for the State to receive delegation and to be able to apply the requirements of the regulations to the same universe of tanks as the United States Environmental Protection Agency; (2) comply with the federal Energy Policy Act of 2005 (a.k.a. federal Underground Storage Tank Compliance Act of 2005), which amends Subtitle I of the Resource Conservation and Recovery Act; (3) make explicit certain enforcement authority of DEC to prevent contamination of surface and ground waters, public drinking water supplies, and natural resources by petroleum bulk storage (PBS) facil-

ities; (4) improve the consistency and clarity of language directing the administration of the PBS program; (5) enhance monitoring, maintenance and equipment requirements to prevent leaks and spills; and (6) adjust the definitions of petroleum and facility pursuant to recent changes in ECL § 17-1003. This rulemaking requires a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Russ Brauksieck, NYS Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9543. E-mail: rxbrauks@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Parts 595, 596, 597, 598, and 599, Chemical Bulk Storage Regulation. DEC proposes to amend Parts 595-599 to: (1) achieve equivalency with 40 CFR Part 280 (Underground Storage Tank regulations), which is needed in order for the State to receive delegation and to be able to apply the requirements of the regulations to the same universe of tanks as the United States Environmental Protection Agency; (2) comply with the federal Energy Policy Act of 2005 (a.k.a. federal Underground Storage Tank Compliance Act of 2005), which amends Subtitle I of the Resource Conservation and Recovery Act; (3) make explicit certain enforcement authority of DEC to prevent contamination of surface and ground waters, public drinking water supplies, and natural resources by chemical bulk storage (CBS) facilities; (4) improve the consistency and clarity of language directing the administration of the CBS program; (5) enhance monitoring, maintenance and equipment requirements to prevent leaks and spills; and (6) revise the Part 597 List of Hazardous Substances to reflect changes and updates on the State and federal levels. This rulemaking requires a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Russ Brauksieck, NYS Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9543. E-mail: rxbrauks@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Part 570, Permitting of Liquefied Natural Gas (LNG) Facilities. DEC proposes to develop and promulgate regulations covering the safe siting, construction, operation, and inspection of LNG facilities, as required by Article 23, Title 17 of the Environmental Conservation Law; and recommends incorporation by reference of existing nationally recognized standards (National Fire Protection Association --- NFPA 52 and 59A). This rulemaking requires a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Russ Brauksieck, NYS Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7020. Telephone: 518-402-9543. E-mail: rxbrauks@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Part 610, Major Oil Storage Facility (MOSF) Regulation. DEC proposes to amend Part 610 to: (1) incorporate appropriate language from the New York State Department of Transportation regulations, 17 NYCRR Parts 30, 31 and 32, that pertains to the administration of the MOSF program, which has been solely handled by DEC since 1985; (2) repeal 17 NYCRR Parts 30, 31 and 32; (3) improve the consistency and clarity of language directing the administration of the MOSF program, which includes updating the references to 6 NYCRR Parts 613 and 614 of the Petroleum Bulk Storage regulations and make explicit in regulation the procedures set forth in DEC Program Policy DER-11, Procedures for Licensing Onshore Major Oil Storage Facilities; and (4) enhance monitoring, maintenance and equipment requirements to prevent leaks and spills by virtue of the proposed revisions to 6 NYCRR Parts 612-614, which are currently being revised through the formal rulemaking process necessitated by statutory amendments in Chapter 334 of the laws of 2008. This rulemaking requires a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Russ Brauksieck, NYS Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9543. E-mail: rxbrauks@gw.dec.state.ny.us. Please include the Part number when e-mailing.

DIVISION OF FISH, WILDLIFE AND MARINE RESOURCES

6 NYCRR, New Regulation, Venomous Reptile Exhibition. Promulgation of new regulation is necessary to address statutory requirements of Environmental Conservation Law 11-0512(2)(b) and 11-0103(6)(e)(5). This amendment may require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Patrick Martin, NYS Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4752. Telephone: 518-402-8993. E-mail: pxmartin@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 2, Migratory Game Birds. Amendment of this regulation is necessary to conform with Federal regulations for hunting migratory game birds. This regulation will be done as an emergency/proposed. This amendment will not require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Gordon R. Batcheller, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8885. E-mail: grbatche@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 6.3, Trapping. Amendment of these regulations are necessary to repeal several archaic provisions, to make several technical corrections to existing regulations, and to reform trapping methods to reflect state-of-the-art technology and practices. This amendment will not require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Gordon R. Batcheller, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8885. E-mail: grbatche@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR, Part 10, Sportfishing Regulations. These amendments pertain to the management of diadromous fishes in the Hudson and Delaware Rivers and are needed to remain in compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission or as directed in the Federal Sustainable Fisheries Act for such species. They also comply with the requirements of Environmental Conservation Law regarding the management of anadromous species. The purpose of these regulations is to protect and to maintain the health of these fish stocks. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, NYS Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: swheins@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR, Part 35, Licenses. The department will propose to establish new reporting requirements for certain inland commercial fishery license holders, consistent with those in Part 40 for the same regulated species. Additional regulations will establish a commercial eel permit with reporting requirements state-wide (Parts 40 and 35). This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, NYS Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: swheins@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR, Part 36, Gear and Operation of Gear. These amendments pertain to the management of diadromous fishes in the Hudson River and are needed to maintain compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission or as directed in the Federal Sustainable Fisheries Act for such species. They also comply with the requirements of Environmental Conservation Law regarding the management of anadromous species. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural

Area Flexibility Analysis. Contact: Stephen W. Heins, NYS Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: swheins@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 40, Marine Fish. The department proposes to amend regulations pertaining to the management of marine and diadromous fishes, including sharks, to maintain compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission (ASMFC), with the requirements of Environmental Conservation Law or pursuant to the Federal Sustainable Fisheries Act for such species. Proposed amendments will also provide compliance with National Marine Fisheries Service requirements and other federal laws. The department proposes to amend regulations to specify reporting and record keeping requirements for foodfish license holders; and to create a definition for proof of residency and establish the requirement for providing such proof of residency when obtaining marine license and permits. The department will seek to make changes in the striped bass and summer flounder commercial fishing special regulations to replace qualifications for permits with an acceptable substitute for 50 percent of earned income and tax records and make changes to striped bass commercial fishing permit reissuance and/or striped bass commercial permit tag provisions. New regulations will be proposed to make changes in the summer flounder commercial fishing special regulations to add language for re-qualification similar to that in the striped bass commercial fishing special regulations. The department seeks to amend regulations to make reporting requirement language consistent for managed marine species; establish regulations setting up a commercial eel permit with reporting requirements state-wide; and adopt regulations to extend coverage by the general provisions of this part to include Rockland and Putnam Counties and ensure that commercial possession is covered statewide. The proposed amendments will make changes to the shipping, labeling and packing requirements to require harvester's fishing vessel trip report numbers on labels for quota managed species and adopt regulations to clarify provision for records retention by food fish shippers and dealers. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, NYS Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: swheins@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 41, Sanitary Condition of Shellfish Lands. As necessary, the department will amend regulations that specify the classification (certified or uncertified) of shellfish lands. This is necessary to protect public health by designating lands that do not meet bacteriological water quality criteria as uncertified or closed to shellfish harvesting. Shellfish lands that meet the water quality criteria are designated as certified for the taking of shellfish (open). This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: William Hastback, NYS Department of Environmental Conservation, Bureau of Marine Resources, Shellfisheries Section, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0475. E-mail: wghastba@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 42, Sanitary Control over Shellfish. The department proposes to amend regulations pertaining to the sanitary, record keeping, and reporting requirements for shellfish harvesters and shippers needed to comply with the guidelines of the National Shellfish Sanitation Program (NSSP), the federal regulations regarding interstate shipment of shellfish, and the Environmental Conservation Law (ECL). The proposed regulations will modify the descriptions of allowable activities under each category of shellfish shipper permit consistent with the NSSP and the ECL and amend and clarify descriptions of shellfish harvest areas to clearly delineate geographical sites where shellfish are harvested. Contact: Susan Ritchie, NYS Department of

Environmental Conservation, Bureau of Marine Resources, Shellfisheries Section, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0494. E-mail: sxritchi@gw.dec.state.ny.us.

NYCRR Part 43, Surfclam/Ocean Quahog Fishery Management. The department seeks to amend regulations pertaining to the management of surfclams and ocean quahogs that are consistent with the provisions of fishery management plans adopted by the department. All amendments may describe changes to permit requirements and eligibility, harvest limits, gear restrictions, record keeping, and reporting requirements. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Debra Barnes, NYS Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0496. E-mail: dabarnes@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 44, Crustaceans. The department proposes to amend regulations pertaining to the management of lobsters, decapod crabs and horseshoe crabs to maintain the health of such species and to prevent the introduction of exotic crustacean species. These proposed regulations will comply with fishery management plans developed by the Atlantic State Marine Fisheries Commission (ASMFC) for the species and with requirements of the Environmental Conservation Law. The proposed regulations will include general provisions consistent with those found in Part 40. The proposed amendments will also increase the size of the escape vent on lobster traps and allow for flexibility in the type of vent used in crab traps. Rule makings will be proposed to clarify current language and remove unnecessary regulations. Horseshoe crabs regulations will be proposed to allow more control over the harvest and storage of horseshoe crabs. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, NYS Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0435. E-mail: swheins@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 48, Marine Hatcheries, On-Bottom and Off-Bottom Culture of Marine Plant and Animal Life. The department proposes to amend regulations to update this part and ensure it remains consistent with Part 49. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Debra Barnes, NYS Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0483. E-mail: dabarnes@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 49, Shellfish Management. The department seeks to adopt regulations for the management of hard clams, soft or steamer clams and razor clams as provided for in recently enacted legislation (Chapter 394, Laws of 2006). The management measures include provision for size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility, record keeping and identification requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Debra Barnes, NYS Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0483. E-mail: dabarnes@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 173, Falconry. Amendment of Part 173 is necessary because the US Fish and Wildlife Service amended the Federal Falconry Rule, 50 CFR Parts 21 and 22, and the State regulation no longer conforms with the federal regulation for falconry. This amendment will not require a Regulatory Flexibility Analysis for Small Business or a Rural Area Flexibility Analysis. Contact: Joseph Therrien,

NYS Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4752. Telephone: 518-402-8987. E-mail: jetherri@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 175, Special Licenses and Permits, Definitions and Uniform Procedures. This amendment is necessary to update and enhance the regulation for administrative and enforcement procedures. This amendment may require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Patrick Martin, NYS Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4752. Telephone: 518-402-8993. E-mail: pxmartin@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 180.1, Wildlife Dangerous to Health or Welfare. Amendment of Part 180.1 or promulgation of a new regulation is necessary to address statutory requirements of Environmental Conservation Law 11-0512 and 11-0103(6)(e)(5). This amendment may require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Patrick Martin, NYS Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4752. Telephone: 518-402-8993. E-mail: pxmartin@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 182, Endangered and Threatened Species of Fish and Wildlife; Species of Special Concern. Amend regulation to address the requirements of Environmental Conservation Law section 11-0535, which establishes protection for both Federally listed and State listed species. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Daniel Rosenblatt, NYS Department of Environmental Conservation, Bureau of Wildlife, 625 Broadway, Albany, NY 12233. Telephone: 518-402-8884. E-mail: dlrosenb@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 187, Miscellaneous Black Bear Regulations. Amendment of this regulation is necessary to protect public health and safety by prohibiting feeding of black bears, and to provide for the training of hounds used to control black bear damage to farms. This amendment will not require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Gordon R. Batcheller, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8885. E-mail: grbatche@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 189, Chronic Wasting Disease. Amendment of this regulation is necessary to update the requirements for hunters who harvest deer within the chronic wasting disease containment area in Oneida and Madison Counties. The proposed amendments will ease the regulatory burden on hunters who take deer in the containment area without jeopardizing the department's capacity to monitor and contain Chronic Wasting Disease. This amendment will not require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Gordon R. Batcheller, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8885. E-mail: grbatche@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 608, Use and Protection of Waters Regulations. This rule making will update and clarify the department's regulatory authority over activities in protected waterbodies and navigable waters of the State. The existing regulations have not been amended in 14 years and changes will be made to correct outdated information, and to make definitions and provisions more explicit. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Roy Jacobson, NYS Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY, 12233. Telephone 518-402-8853. E-mail:

rajacobs@gw.dec.state.ny.us. Please include the Part number when emailing.

6 NYCRR Part 664, Freshwater Wetlands Mapping and Classification Regulations. This rule making will make changes to how wetlands are mapped and classified, to reflect greater understanding of the science of wetlands and of the State's resources, and to update this rule, which is over 25 years old. In addition, there will be changes to facilitate more efficient map amendments where errors are detected on the maps. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Roy Jacobson, NYS Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY, 12233. Telephone 518-402-8853. E-mail: rajacobs@gw.dec.state.ny.us. Please include the Part number when emailing.

OFFICE OF HEARINGS AND MEDIATION SERVICES

6 NYCRR Part 622, Uniform Enforcement Hearing Procedures. The Office of Hearings and Mediation Services proposes to clarify procedures governing default procedures and motions for order without hearing, and make various typographical, technical and related corrections throughout. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses, and a Rural Regulatory Flexibility Analysis. Contact: James T. McClymonds, Chief Administrative Law Judge, NYS Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, First Floor, Albany, New York 12233-1550. E-mail, jtmcclym@gw.dec.state.ny.us

6 NYCRR Part 624, Permit Hearing Procedures. The Office of Hearings and Mediation Services proposes to amend the procedures governing appeals of administrative law judge rulings, clarify the procedures governing motion practice, establish procedures governing trade secrets and other confidential information in adjudicatory hearings, revise certain definitions and make various typographical, technical and related corrections. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses, and a Rural Regulatory Flexibility Analysis. Contact: Louis A. Alexander, NYS Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, 14th Floor, Albany, New York 12233-1010. E-mail, laalexan@gw.dec.state.ny.us

6 NYCRR Part 620, Procedures for Issuance of Summary Abatement Orders. The Office of Hearings and Mediation Services proposes to amend the regulations governing administrative hearings on summary abatement orders to make technical clarifications. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses, and a Rural Regulatory Flexibility Analysis. Contact: James T. McClymonds, Chief Administrative Law Judge, NYS Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, First Floor, Albany, New York 12233-1550. E-mail, jtmcclym@gw.dec.state.ny.us

DIVISION OF LANDS AND FORESTS

6 NYCRR Part 190, Use of State Lands. Amend Section 190.13, Wilderness Areas in the Adirondack Park. These regulations will protect the natural resources in the Dix Mountain Wilderness Area from overuse by applying restrictions to camping and rock climbing. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Peter J. Frank, NYS Department of Environmental Conservation, Bureau of Forest Preserve Management, 625 Broadway, Albany, NY 12233-4254. Telephone: (518) 473-9518 E-mail: pjfrank@gw.dec.state.ny.us

6 NYCRR Part 190, Use of State Lands. Amend Section 190.13, Wilderness Areas in the Adirondack Park. These regulations will protect the natural resources in the Giant Mountain Wilderness Area from overuse by applying restrictions to camping. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Peter J. Frank, NYS Department of Environmental Conservation, Bureau of Forest Preserve Management, 625 Broadway, Albany, NY 12233-4254 Telephone: (518) 473-9518, e-mail: pjfrank@gw.dec.state.ny.us

6 NYCRR Part 190, Use of State Lands. Amend Section 190.13, Wilderness Areas in the Adirondack Park. These regulations will

protect the natural resources in the Saint Regis Canoe Area from overuse by applying restrictions to group size, camping, camp fires and other activities. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Peter J. Frank, NYS Department of Environmental Conservation, Bureau of Forest Preserve Management, 625 Broadway, Albany, NY 12233-4254 Telephone: (518) 473-9518 E-mail: pjfrank@gw.dec.state.ny.us

6 NYCRR Part 190, Use of State Lands. Adoption of a new Section 190.34, Pine Lake Area, Shaker Mountain Wild Forest. These regulations will be used to manage this area and provide for public safety. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Peter J. Frank, NYS Department of Environmental Conservation, Bureau of Forest Preserve Management, 625 Broadway, Albany, NY 12233-4254 Telephone: (518) 473-9518 E-mail: pjfrank@gw.dec.state.ny.us

6 NYCRR Part 196, Operation of Motorized Vehicles, Vessels and Aircraft in the Forest Preserve. Amend Section 196.7, Operation of Bicycles in the Adirondack Forest Preserve. This regulation will implement Adirondack Park State Land Master Plan guidelines for bicycle use. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Peter J. Frank, NYS Department of Environmental Conservation, Bureau of Forest Preserve Management, 625 Broadway, Albany, NY 12233-4254 Telephone: (518) 473-9518 E-mail: pjfrank@gw.dec.state.ny.us

6 NYCRR Part 196, Operation of Mechanically Propelled Vessels and Aircraft in the Forest Preserve. Adopt a new section to 6 NYCRR Part 196 to limit boat use to electric motors and motorless craft on Thirteenth Lake. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Peter J. Frank, NYS Department of Environmental Conservation, Bureau of Forest Preserve Management, 625 Broadway, Albany, NY 12233-4254 Telephone: (518) 473-9518 E-mail: pjfrank@gw.dec.state.ny.us

6 NYCRR Part 190, Use of State Lands. Adoption of a new Section 190.15, Public Use of Camp Santononi Historic Area. These regulations will protect historic structures and the landscape of the Camp Santononi Historic Area through management of public use. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Charles Vandrei, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9428 E-Mail: cevandrei@gw.dec.state.ny.us

6 NYCRR Part 190, Use of State Lands. Adoption of a new Section 190.36, Submerged Heritage Preserves in Lake George and Lake Champlain. These regulations are needed to protect underwater resources, such as shipwrecks and other submerged archaeological sites that are of recreational, aesthetic, and educational value, as well as regulate access to these sites, and create safe diving conditions. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Charles Vandrei, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9428 E-mail: cevandrei@gw.dec.state.ny.us

6 NYCRR Part 190, Protection of Archaeological Resources on State Land. Adoption of a new section to 6 NYCRR Part 190 to protect archaeological resources on state land by defining permit issuance procedures, defining violations and creation of a mechanism for reporting, investigating and prosecution of violations. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Charles Vandrei, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany NY 12233-4254 Telephone: (518) 402-9428 E-mail: cevandre@gw.dec.state.ny.us

6 NYCRR Part 190, Conservation Easements. Amendment of 6 NYCRR section 190.12, East Branch of Fish Creek. These regulations will control public use to be in compliance with the terms of the conservation easement. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Frank Dunstan, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9405 E-Mail: fmdunsta@gw.dec.state.ny.us

6NYCRR Part 190, Use of State Lands. Adopt a new section to 6NYCRR Part 190 to Facilitate the Management of the Otter Creek Trail System Assembly Area. These regulations will be used to effectively manage this area. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: David Forness, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9428 E-mail: dmforne@gw.dec.state.ny.us

6 NYCRR Part 190, Use of State Lands. Adoption of a new section 190.10(d), Salmon River Falls Unique Area. These regulations are needed for the purpose of public protection. They will prohibit public use of the area from dusk to dawn, seasonally close the gorge trail, and prohibit hunting from this 112 acre parcel. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: David Forness, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9428 E-mail: dmforne@gw.dec.state.ny.us

6 NYCRR Part 190, Use of State Lands. Adoption of a new section 190.10(e), Henderson Shores Unique Area. These regulations are needed to control public use to prevent overuse and inappropriate use of state lands. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: David Forness, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9428 E-mail: dmforne@gw.dec.state.ny.us

6NYCRR Part 194, Forest Practices. Amend Section 194.3 and adopt a new Section 194.4. These regulations will formalize existing guidelines for prescribed fire management activities. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: David Forness, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9428 E-mail: dmforne@gw.dec.state.ny.us

6 NYCRR Part 193, Trees and Plants. Amend Section 193.3, Protected Native Plants. These regulations are needed to update the current list by adding, deleting, re-naming and/or re-categorizing several listed plant species in accordance with more up-to-date taxonomy and knowledge of the population status of rare plants in the State. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Doug Schmid, NYS Department of Environmental Conservation, Bureau of Private Land Services, 625 Broadway, Albany, NY 12233-4253 Telephone: (518) 402-9425 E-mail: daschmid@gw.dec.state.ny

DIVISION OF SOLID AND HAZARDOUS MATERIALS

6 NYCRR, Parts 320, 325, 330, 360 and 370 Series, Pesticide Residue Removal and Management of Unwanted Pesticides and Pesticide Containers. This rulemaking establishes new Part 330 to include, in a consolidated fashion, federal requirements (40 CFR Parts 156 and 165) regarding removal of residues from pesticides containers prior to disposal or refilling, as well as the management of unwanted pesticides and containers. The rulemaking also amends existing State regulations for pesticides, solid waste, and hazardous waste management to repeal provisions dealing with these subjects and add language to mesh with the federal rule and new Part 330. This includes language requiring disposal of unwanted pesticides and disposal or recycling of containers in accordance, as appropriate, with 6 NYCRR Part 360 or 6 NYCRR Part 370 Series, and prohibit land burial of such materials. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Mary A. Roy, NYS Department of Environmental Conservation, Division of Solid & Hazardous Materials, 625 Broadway, Albany, New York 12233 7254. Telephone: 518 402 8788. E mail: pestcomp@gw.dec.state.ny.us.

6 NYCRR Part 360, Coal Combustion Fly Ash (CCFA). This rulemaking removes the State's pre determined beneficial use determination (BUD) which allows the use of coal combustion fly ash as a raw feed source of alumina in cement manufacturing. The rulemaking requires cement manufacturers who want to utilize CCFA in this man-

ner to petition the Department for a case specific BUD according to the requirements of 6 NYCRR subdivision 360 1.15(d), but does not directly ban the use of CCFA in cement manufacturing. The rulemaking also includes new language in 6 NYCRR paragraph 360 1.15(d)(2) specifying that the mercury loading from CCFA used as raw feed in cement manufacture must be comparable to virgin raw feed, as determined by the Department. Finally, the rulemaking creates a five year sunset provision on all determinations granted for this use, guaranteeing that, while annual reports will be required for each granted BUD, such use will be fully reassessed at least every five years. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Richard Clarkson, NYS Department of Environmental Conservation, Division of Solid & Hazardous Materials, 625 Broadway, Albany, New York 12233 7253. Telephone: 518 402 8678. E mail: swreg@gw.dec.state.ny.us.

6 NYCRR Part 360, Solid Waste Management Facilities. This rulemaking will include technical amendments and clarifications, as well as legal and policy developments. Changes to all portions of the Part 360 series are expected, including Parts 364 and 369. The rulemaking will also incorporate solid waste management activities or waste streams that are not currently addressed within Part 360, including automobile dismantlers, dredge materials, biohazard incident waste, and flowable fill. The information contained in the current Part 360 will be subdivided into different parts to better organize solid waste topics, and will make future revisions to specific topics less burdensome. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Melissa Treers, NYS Department of Environmental Conservation, Division of Solid & Hazardous Materials, 625 Broadway, Albany, New York 12233-7253. Telephone: 518 402 8678. E mail: swreg@gw.dec.state.ny.us.

6 NYCRR Part 360 or 370 series, Labeling of Mercury-Added Consumer Products. These regulations will implement Section 27-2103 of the Environmental Conservation Law, adopted by the State Legislature pursuant to Chapter 145, Laws of 2004. The law requires that mercury-added consumer products sold or offered for sale in this State by a distributor or retailer shall be labeled by the manufacturer for mercury content and proper disposal. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Peter M. Pettit, P.E, NYS Department of Environmental Conservation, Division of Solid & Hazardous Materials, 625 Broadway, Albany, New York 12233-7253. Telephone: 518-402-8705. E-mail: dshmwrr@gw.dec.state.ny.us.

6 NYCRR Part 360 and 370 Series, Management of Used Electronics. These regulations will adopt changes to the federal hazardous waste regulations concerning cathode ray tubes, incorporate solid waste management activities for used electronics that are not currently addressed within Part 360, and implement Title 23 of the Environmental Conservation Law, Wireless Telephone Recycling Act, by providing appropriate standards for collection of wireless telephones. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Michelle Ching, NYS Department of Environmental Conservation, Division of Solid & Hazardous Materials, 625 Broadway, Albany, NY 12233 7251. Telephone: 518 402 8633. E mail: hwregs@gw.dec.state.ny.us.

6 NYCRR Parts 370, 371, 372, 373, 374, and 376, Update of the Hazardous Waste Management Regulations. This rulemaking will incorporate, as appropriate, federal rules from January 2002 to December 2008; changes related to Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (MACT rules) from September 1999 to present; and State initiated changes, including clarifying language and corrections of errors found in the regulations. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Antoinette Norfleet, NYS Department of Environmental Conservation, Division of Solid & Hazardous Materials, 625 Broadway, Albany, NY 12233-7252. Telephone: 518-402-8730. E-mail: hwregs@gw.dec.state.ny.us.

6 NYCRR Parts 372 and 373, Hazardous Waste Storage Incidental to Transport at Ten-Day Transfer Stations. 6 NYCRR Part 373 regulations for managing hazardous waste provide an exemption for transporters to store hazardous waste incidental to transport for up to ten days without obtaining a hazardous waste management permit (Part 373 permit). The Department is proposing to establish limited regulatory requirements for ten-day transfer facilities where wastes are offloaded from the transport vehicles and stored, consolidated or commingled at the transfer facilities. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Isaac Natarajan, NYS Department of Environmental Conservation, Division of Solid & Hazardous Materials, 625 Broadway, Albany, NY 12233-7251. Telephone: 518-402-8610. E-mail: hwregs@gw.dec.state.ny.us.

6 NYCRR Part 380, Radioactive Materials Regulations. This rulemaking will amend the Part 380 regulations to incorporate federal rule changes. In addition, several corrections and revisions not related to the federal rules will be done, including: clarifying the regulations in a number of areas such as standards for issuance of a Part 380 permit and language in the variance provision, elimination of redundant provisions, and deletion of obsolete provisions. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Sandra Hinkel, NYS Department of Environmental Conservation, Division of Solid & Hazardous Materials, 625 Broadway, Albany, New York 12233 7255. Telephone: 518 402 8579. E mail: radregs@gw.dec.state.ny.us.

6 NYCRR Part 384, Radioactive Materials Regulations. This rule is being developed to adopt applicable sections of the federal NRC's license termination rule (LTR), which establishes cleanup criteria for radiologically contaminated sites. Program staff are coordinating adoption of the LTR with the Department of Health to ensure compatibility, as they also have to adopt applicable sections of this federal rule. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Timothy Rice, NYS Department of Environmental Conservation, Division of Solid & Hazardous Materials, 625 Broadway, Albany, NY 12233 7255. Telephone: 518 402 8579. E mail: radregs@gw.dec.state.ny.us.

DIVISION OF WATER

6 NYCRR Part TBD, Water Well Registration and Reporting. New Part to be developed in conjunction with ECL 15-1525 to establish registration, reporting, certification, and enforcement provisions. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Mike Holt, NYS Department of Environmental Conservation, Section Chief, Bureau of Water Resource Management, , Division of Water, 625 Broadway, Albany, New York 12233. Telephone: 518-402-8099. E-mail: mdholt@gw.dec.state.ny.us

6 NYCRR Part 485, State Pollutant Discharge Elimination System (SPDES) Program Fees. The SPDES program fees were recently changed through amendments to ECL Part 72-0602. Part 485 will be amended to conform the SPDES fees in regulation to the fees in statute. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, NYS Department of Environmental Conservation, Director, Bureau of Water Permits, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: aafuchs@gw.dec.state.ny.us

6 NYCRR Part 500, Flood Plain Management Regulations Development Permits (BFP&DS). This Part of 6 NYCRR will be repealed. Changes made to state law in 1992 removed this requirement. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, NYS Department of Environmental Conservation, Director, Bureau of Water Permits, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402- 8111. E-mail: aafuchs@gw.dec.state.ny.us

6 NYCRR Part 649, Clean Water State Revolving Fund. Revise Part 649 to add a linked deposit program and revised project selection

criteria. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Robert Simson, NYS Department of Environmental Conservation Regulatory Coordinator, Division of Water, 625 Broadway, Albany, New York 12233. Telephone: 518-402-8271. E-mail: rjsimson@gw.dec.state.ny.us

6 NYCRR Part 651, State Aid for Collection, Treatment and Disposal of Sewage, Cost of Operation and Maintenance of Sewage Treatment Plants. This Part of 6 NYCRR will be repealed. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, NYS Department of Environmental Conservation, Director, Bureau of Water Permits, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402- 8111. E-mail: aafuchs@gw.dec.state.ny.us

6 NYCRR Part 658, Hearing Procedures, Water Pollution Control. This Part of 6 NYCRR will be repealed. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Joseph DiMura, NYS Department of Environmental Conservation, Director, Bureau of Water Compliance, Division of Water, 625 Broadway, Albany, NY 12233. Telephone: 518-402- 8117. E-mail: jxdimura@gw.dec.state.ny.us

6 NYCRR Part 750, State Pollutant Discharge Elimination System (SPDES) Permits. Revisions are necessary to add definitions, update references, incorporate new federal criteria and standards, and correct typographical errors. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, NYS Department of Environmental Conservation, Director, Bureau of Water Permits, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402- 8111. E-mail: aafuchs@gw.dec.state.ny.us

6 NYCRR Part 830, Lake Champlain Drainage Basin. Revisions will reclassify surface waters as needed to provide water quality protection consistent with designated best usages, as well as the Clean Water Act (CWA) Section 101(a)(2) goals. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Scott Stoner, NYS Department of Environmental Conservation, Chief, Standards and Analytical Support Section, Bureau of Water Quality Management, Division of Water, NYSDEC, Albany, NY 12233-3502. Telephone 518-402-8193. E-mail: sxstoner@gw.dec.state.ny.us

6 NYCRR Part 910, St. Lawrence River Drainage Basin. Revisions will reclassify surface waters as needed to provide water quality protection consistent with designated best usages, as well as the Clean Water Act (CWA) Section 101(a)(2) goals. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Scott Stoner, NYS Department of Environmental Conservation Chief, Standards and Analytical Support Section, Bureau of Water Quality Management, Division of Water, NYSDEC, Albany, NY 12233-3502. Telephone 518-402-8193. E-mail: sxstoner@gw.dec.state.ny.us

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

Department of Health

The following regulatory actions are under consideration for submission as a Notice of Proposed Rulemaking from January through June 2010:

DESCRIPTION OF THE RULE SUBJECT MATTER

Title 10 NYCRR (Health)

2.1 and 2.5 Communicable Diseases - Revise the list of reportable diseases in 10 NYCRR, section 2.1 to be consistent with those listed in section 2.5 (list of diseases for which physicians have a duty to submit specimens).

2.10(b) Communicable Diseases - Repeal the subdivision to make reporting for cases of chlamydia, gonorrhea and syphilis consistent with the reporting requirements for other communicable diseases or in Section 2.10, which require cases of syphilis, gonorrhea, chlamydia,

lymphogranuloma venereum, and chancroid to be reported individually and by name.

2.14 Communicable Diseases - Update the rabies regulations to be consistent with changes enacted to the Public Health Law (PHL) in December 2002. The regulations will provide new definitions, clarification of requirements for reporting, exposure, vaccination, confinement and observation, quarantines, venues where public contact is encouraged or permitted, and animal capture.

2.19 Reporting Cases or Suspect Cases of Communicable Disease by Laboratories - Amend the regulations to require the utilization of the Electronic Clinical Laboratory Reporting System (ECLRS) by laboratories to meet their public health reporting requirements for communicable disease reporting.

5-1 Public Water Systems - Amend the regulation to incorporate mandatory federal regulations to improve control of microbial pathogens (federal LT2ESWTR) while limiting risks associated with the formation of and exposure to disinfection byproducts (federal Stage 2 D/DBP); revise the provisions applicable to variances and exceptions; update provisions pertaining to control of lead and copper in public water supply systems; and update and clarify specific code references.

5-1 Public Water Systems - Amend the regulation to incorporate mandatory regulations (federal Groundwater Rule) to protect against microbial pathogens occurring in ground water sources.

6-1 Swimming Pools - Amend the regulation to revise the design standards regarding main drain covers and starting blocks. Update Aquatic Supervisory Skill requirements.

6-2 Bathing Beaches - Amend the regulation in response to changes in the Public Health Law, add requirements for automatic external defibrillator (AED) equipment and surf lifeguards at all regulated ocean surf beaches. Amend the regulation's applicability to include homeowners association operated surf beaches in Suffolk County and New York City as those required to comply with Subpart 6-2.

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

7-2 Children's Camp - Amend the regulations relating to Camp Aquatic Director and Camp Health Director qualifications; incorporate PHL requirements for screening of camp employees through the State Sex Offender Registry, include a requirement that parents be provided with meningococcal meningitis information, implement new chapter law and provisions pertaining to day camps and also to sleeping cabins in overnight camps, and include reflective triangles as an acceptable alternative to flares.

7-4 Mass Gatherings - Create a 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.

14-1, 14-2, 14-4, 14-5 Food Protection - Modify the requirements to meet changing food service issues; exempt certain operators and rescind certain provisions, address the legislative mandate regarding food worker training courses.

17 Mobile Home Parks - Update regulations and consider revisions to include a change to the applicability of the regulation so that the regulations would only apply where adopted by county health departments.

19 Clinical Laboratory Directors - Revise qualifications for directors of comprehensive clinical laboratories to recognize professional boards accepted as qualifying under the federal Clinical Laboratory Improvement Amendments (CLIA); and codify the definition of assistant director; establish qualifications for directors of forensic identity testing.

22.3 Bureau of Environmental and Occupational Epidemiology Environmental Diseases - Amend the regulations by requiring the reporting of children up to 10 years of age with birth defects to the Congenital Malformations Registry. This change will support an improved ability to accurately document prevalence rates for certain

birth defects, such as fetal alcohol syndrome and Duchenne muscular dystrophy, which are often not diagnosed until a child is older. Improved surveillance will also help monitor the impact of any preventive measures.

22.7 Reportable levels of heavy metals in blood and urine - Amend the regulation to remove the threshold levels for reporting cadmium, mercury and arsenic. All laboratory tests for cadmium, mercury and arsenic will be submitted to enable case monitoring to assist in assessing interventions and education to reduce elevated exposures.

22.11 Reporting of pesticide poisoning - Amend the regulation to incorporate Poison Control Centers as a reporting entity to assist in identifying and intervening in pesticide poisoning cases who do not go to an emergency department or a physician.

23.1 Sexually Transmitted Diseases - Amend the regulation to update the list of sexually transmitted diseases to change archaic terminology, to add Human Papilloma Virus and Hepatitis B Virus to the list; and to remove Genital Herpes Simplex from the list of conditions which require free treatment.

23.2 (d) Sexually Transmitted Diseases - Amend the regulation to modify the treatment requirements for Pelvic Inflammatory Disease to include permission for out-patient management through immediate referral.

23.2 (e) Sexually Transmitted Diseases - Amend the regulatory list of conditions which may be treated with a written prescription to include Yeast (Candida) Vaginitis, Bacterial Vaginosis, Pediculosis Pubis, and Scabies.

23.2 (f) Sexually Transmitted Diseases - Add a new subsection providing for management and treatment of Genital Herpes Simplex and Human Papilloma Virus infection by either prescription or referral.

23.3 Sexually Transmitted Diseases - Amend the regulation to eliminate the section to be consistent with the reporting requirements of communicable diseases as written in Section 2.10, which requires cases of syphilis, gonorrhea, chlamydia, lymphogranuloma venereum, and chancroid to be reported individually and by name.

23.5 Sexually Transmissible Diseases - Create a new Section 23.5 to build a regulatory structure for the recently signed legislation allowing expedited partner therapy. This regulation will provide definitions of terms, create criteria for providers to determine when EPT should be used, protects providers from charges of unprofessional conduct when they employ EPT, and creates a mechanism to perform quality assurance activities to assess the efficiency of the EPT system.

34 Health Care Practitioner Referrals and Laboratory Business Practices - Amend the regulation to consider federal compensation arrangement exceptions.

43-2 AIDS Drug Assistance Program - Amend the regulation to address the interrelated components of the HIV Uninsured Care Programs (ADAP, ADAP Plus, Home Care and ADAP Plus Insurance Continuation), tie income eligibility requirements to federal Poverty Levels; and eliminate the inclusion of federally recognized retirement accounts as a viable resource for access to ongoing health care.

44 State Aid for Approved Vector Surveillance and Control Programs - Amend the regulations to update State aid provisions to be consistent with changes enacted to PHL in January 2007. The regulations will provide new and updated definitions, add new vector borne diseases, and clarify eligible local health department activities for arthropod-borne disease surveillance, control and prevention.

46-1-46.11 State Aid for Physically Handicapped Children - Amend the regulations to replace outdated terms and organizational references, and to streamline requirements for specialty centers and local program administration.

48 Palliative Care - Establish provisions that set forth the standards for Palliative Care Certified Medical Schools and Palliative Care Certified Residency Programs.

52 Tissue Banks and Nontransplant Anatomic Banks - Revise requirements for procurement of tissue from deceased donors, including setting restrictions on banks' ownership and business relationships with funeral directors and funeral firms, and limiting recovery of tissue to hospitals and appropriately licensed banks.

55-2 Environmental Laboratories - Revise technical ELAP stan-

dards; establish qualifications for technical directors of laboratories conducting critical agent testing using technologies other than conventional microbiologic methods; and to establish certification requirements for laboratories that conduct critical agent testing using autonomous detection systems deployed in the field.

57 Rabies - Dogs at large in rabies areas - Delete this provision. It is outdated since rabies is endemic in wildlife in New York. Important provisions are being included in Section 2.14. This Part is no longer needed.

58-1 Clinical Laboratories - Revise laboratory personnel requirements; consolidate existing requirements for clarity; codify quality systems, performance testing and other requirements as necessary to align with federal CLIA standards; distinguish between director of record and assistant director; establish standards for tracking and referral of critical agent and communicable disease specimens; and establish standards for laboratory verification of technical and clinical validity of test methods.

58-2 Blood Banks - Amend the regulation to permit emergency medical technicians, with additional training, to administer transfusions during inter-facility transport; enhance donor and patient safeguards; update technical requirements; eliminate obsolete requirements; clarify regulatory intent; meet federal requirements as directed by the Centers for Medicare and Medicaid Services; provide regulated parties with greater flexibility in complying with regulations regarding emergency transfusions, qualifying donors over 75 and apheresis donors, and provide options for equivalent electronic records.

58-4 Direct Access Testing - Amend the regulation to establish record keeping and reporting standards for direct access testing, codify circumstances for direct access drugs-of-abuse testing, which is authorized by PHL Article V.

59 Chemical Analyses Of Blood, Urine, Breath Or Saliva For Alcoholic Content - Revise technical amendments to provisions for breath alcohol testing to simplify enforcement of Vehicle and Traffic Law; codify list of approved ignition interlock devices and delete references to expired pilot program; and codify the National Highway Traffic Safety Administration model specifications for device certification.

60-1.13 Vendor applicant enrollment criteria - Amend WIC regulations to remove specific vendor minimum stock quantity requirements and replace with regulations designating the application process and current vendor application form as the source for identifying mandatory stock items and quantities. This will support the implementation of new federal regulations and allow for the prompt modification of enforceable requirements reflecting policy changes dictated by changes in the marketplace, new information in nutrition science or new federal/state policies without the need to amend the regulations. The Program is pursuing consensus rulemaking to expedite the modification of this rule.

63.8(j) HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information - Remove the restriction on retention for more than one year of contact information collected in the course of public health contact notification activities. Keeping information beyond one year would allow individuals to be located, learn of their exposure, receive HIV counseling and testing and, if infected, access care more quickly, thereby achieving better treatment outcomes.

63.8(m) HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information - Remove barriers to disclosure of a source patient's HIV status when an occupationally exposed emergency responder or health care worker is HIV-infected.

63.10 HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information - Amend Section 63.10's definition of "significant risk" in order for Section 63.10 to be consistent with proposed amendments of Section 63.8(m) and to recognize the issues raised by exposure of an HIV-infected person to an HIV-infected source patient. At present, Section 63.10 includes exposures of non-infected persons, only, as a significant risk.

66-1.1 thru 66-1.10 and 66-2.1 through 66-2.9 Immunization - Update the regulations to be consistent with changes enacted to the PHL. The regulations will add pertussis, tetanus and pneumococcal disease to the list of required pre-school immunizations and also ad-

dress the requirement that children receive a booster for varicella and tetanus, diphtheria and pertussis, by the time they enter sixth grade. Various regulatory changes are also proposed to update immunization recommendations to reflect current recommendations, including the requirement of a second dose of varicella and mumps vaccine. Language will also be added to clarify medical exemptions and annual school immunization survey requirements, and change physician diagnosis standards for measles and mumps to reflect the rarity of these diseases.

66-3 Immunization - Amend the regulations to add Subpart 66-3 to Title 10 to require certain regulated facilities to document as a precondition of employment and annually, immunizations for influenza virus for specified health care personnel employed or affiliated with a health care facility. The requirement is subject to the availability of an adequate supply of the necessary vaccine and exemptions for medical contraindications. In addition, parallel regulatory changes are proposed to Sections 405.3 (hospitals), 751.6 (diagnostic and treatment facilities), 763.13 and 766.11 (home health agencies and programs), and 793.5 (hospices) of Title 10. Any facility defined as a hospital or diagnostic and treatment centers pursuant to PHL Article 28, home care agency within PHL Article 36, or hospice within PHL Article 40 will be required to comply with the referenced requirements detailed in Subpart 66-3.

67-2 Lead Poisoning Control - Amend the regulations regarding environmental assessment and lead paint hazard control to be consistent with federal requirements and improve public health response when children are identified with an elevated blood lead level.

69-4 Early Intervention Program - Review and update regulations to be consistent with changes to the PHL. Conforming regulations will address new requirements related to transition procedures for children aging-out of the Early Intervention Program; procedures for individualized family service plan 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 - Add regulations to establish standards for behavioral aides, approval of providers, and paraprofessional reimbursement rates for delivery of intensive behavioral intervention services to children with autism spectrum disorders.

69-4 Early Intervention Program - Amend the regulations to include or clarify programmatic and reimbursement requirements for the program, including at a minimum the following: criteria for eligibility and ongoing eligibility; criteria and procedures for sanctioning and disqualification of evaluators, service coordinators, and providers of early intervention services; health and safety standards to be maintained by service providers; requirements for documentation of records and record retention; mediation and impartial hearing procedures; service taxonomy definitions; and, billing rules for early intervention services.

69-4 Early Intervention Program - Amendments may be needed to conform current state regulations to final federal regulations under the Individuals with Disabilities Education Improvement Act of 2004, when issued (a notice of proposed rulemaking was issued on May 9, 2007, by the U.S. Department of Education).

69-4 Early Intervention Program - Amend the regulations to comply with the federal opt-out policy requirements for notification of local school districts of children who are potentially eligible for the preschool special education program.

69-4 Early Intervention Program - Amend the regulations in order to implement changes to the reimbursement methodology or related policies that may result from recommendations made to the Department by the Reimbursement Advisory Panel.

69-8 Newborn Hearing Screening - Amend the regulation to specify follow-up where conditions of the screening are considered to contribute to invalid results; require reporting of individualized, identifiable data to the department; require staff involved in newborn hearing screenings to complete training; require that infants who fail an initial

screening receive at least one additional screening prior to discharge; require that a re-screening post discharge from a facility occur within 8 weeks of discharge; require that an infant be referred to the early intervention program as an at-risk child, unless the parent objects, if the results of a follow-up outpatient screening are not returned to the facility within 45 days post discharge; require reporting to an electronic data system.

72-2 Tattooing and Body Piercing - Amend the regulations to be consistent with Public Health Law Article 4-A regarding body piercing and tattooing. The regulations will provide definitions and requirements for permit, inspection, and operation of tattooing facilities and the licensing of tattoo artists.

73 Asbestos Safety Training Program Requirements - Amend the regulations to incorporate changes made by the New York State Department of Labor to Code Rule 56 and changes in the industry to reflect training practices.

Part 75 - Standards for Individual Water Supplies and Individual Sewage Treatment Systems and Appendix 75C - Individual Water Well Quality Standards - Amend the individual water supplies and sewage treatment system regulations to clarify design submittal and approval procedures; add new regulations for individual water wells in order to establish water quality reference standards for individual household wells.

75A Wastewater Appendix Treatment Standards - Individual Household Systems - Amend the regulations to revise or update design standards to address clarification and new technology.

77 Funeral Establishments, Registrations, Funeral Directing, and Misconduct - Amend the regulations to prohibit the recovery of tissue within a funeral establishment and not allow non-transplant anatomical banks to operate within such establishments or the requesting of consent for an anatomical donation by a funeral director or employees of a funeral firm.

77.3 Registered Residents - Amend the regulations to clarify the responsibilities of a sponsor.

80 Controlled Substances - Amend the regulations to allow pharmacies to maintain electronic records of controlled substance prescriptions and to allow a pharmacist to endorse those records with an electronic signature or equivalent when refilling a controlled substance prescription. Also amend regulations to allow pharmacists to reduce an oral prescription for a controlled substance to an electronic record and to endorse such electronic record with an electronic signature or equivalent when dispensing the prescription.

86-1 Inpatient Hospital Reform - Amend regulations to establish a new methodology for distribution of payments to hospitals that incorporates a statewide base price, a more refined weighting system (APRs), an updated computation for Graduation Medical Education, and disproportionate share payments to non-public high Medicaid hospitals that incurred losses as a result of the State budget. In addition, regulations will be added to update the methodology for distribution of payments to hospitals that are exempt from case payment, excluding psychiatric services.

86-1 Language Assistance Translation Services - Amend regulations to create a distribution methodology that allocates funding to qualifying hospitals to ensure and enhance access for Medicaid patients requiring language assistance.

86-2 Nursing Home Reform - Amend regulations to establish a regional pricing model for nursing homes.

86-2 Behavioral Intervention Services - Add regulations to establish a distinct Medicaid payment rate for nursing facilities that operate a discrete unit to care for individuals with neurobehavioral challenges (identified as behavioral intervention step-down units) that no longer require the intensity of the secure specialized behavioral units already in regulation.

86-4 Ambulatory Care Data Collection (SPARCS) - Amend the regulations to authorize collection of medical record information for all patients in an ambulatory care setting.

86-8 Outpatient Services Ambulatory Patient Groups - Amend the regulations in the following regard: (1) amend the effective date for implementation of the Ambulatory Patient Groups (APGs) reimburse-

ment methodology to September 1, 2009, for freestanding diagnostic and treatment center clinics and freestanding ambulatory surgery services (2) amend various APG definitions (3) amend the time-frames for the transition of new facilities into APGs (4) add three new APGs to the existing regulatory list (5) revise the list of services excluded from APG payments (6) specify the reimbursement methodology for out-of-state providers and (7) establish rates for certain services excluded from APG reimbursement.

86-8.7 APGs and Relative Rates- Amend the regulation to update the weights that dictate the reimbursement for each APG.

94.2 Physician Assistants - Amend the regulation to allow a Registered Physician Assistant to prescribe controlled substances, including Schedule II substances, for patient's under the care of the supervising physician in conformance with Public Health Law Section 3703 (3).

98-1.5 Application for a Certificate of Authority - Revise the regulations to require electronic submission of the managed care organization's provider network, consistent with the filing requirements in 98-1.16(j). Modify Section (b)(6)(e)(2) to specify that an independent provider association (IPA) performing management functions should have requirements detailed in a contract separate and apart from the IPA provider agreement.

98-1.6 Issuance of the Certificate of Authority - Revise regulations to add a provision requiring managed care organizations (MCOs) to maintain a complete file on each request for health care services or benefits and associated appeals pursuant to Article 49 of the Public Health Law and federal law and regulations.

98-1.8 Continuance of a Certificate of Authority - Amend the regulations to clarify that managed care organizations must maintain compliance with the requirements of PHL Articles 44 and 49 and 10 NYCRR Part 98, including provisions related to initial application and certification standards, in order to maintain their certificate of authority.

98-1.13 Assurance of Access to Care - Amend the regulations to require that each member select a primary care provider from which the member receives all primary care services; to require that MCOs contracting with a medical group have a process whereby a new provider joining the group can receive payment for services rendered to enrollees until the credentialing process is completed for the new provider; to ensure an enrollee who is referred by an out-of-network provider to in-network services incurs no additional financial liability than they would normally incur had the services been referred by a participating provider; and to be consistent with changes to the PHL. Conforming regulations will address new requirements related to subdivision 5-c to Section 4406-c which imposes a "cooling off" period after the termination or non renewal of a contract between an Article 44 managed care organization and a hospital.

98-1.14 Enrollee Services and Grievance Procedures - Amend the regulation to require MCOs to issue notice to enrollees upon approval, denial or failure to pay for a request for a covered benefit or referral when the determination is not subject to the provisions of PHL Article 49.

98-1.21 Fraud and Abuse Prevention Plans and Special Investigation Units - Amend the regulations to delete a requirement for MCOs to develop procedures for detecting repetitive fraud across plans; to expand and clarify requirements for a fraud and abuse awareness program to include a confidential toll free telephone number to report suspected cases of fraud and abuse; and, to expand and clarify the required content of the fraud and abuse detection manual to include all available guidance on identification and referral of suspected cases of fraud and abuse.

98-1 Various Technical Amendments - Revise regulations, making technical corrections to: 1) 98-1.2(oo), clarify the definition of "transitional period" such that it extends for at least 90 days; 2) 98-1.9(b)(3), require MCOs to provide assurances of continuing compliance with Article 49 of the Public Health Law, in addition to Article 44 and Part 98; 3) 98-1.11(h), restore language that prohibits HMOs from discriminating in enrollments and services provision (this language was inadvertently deleted when the regulation was revised); 4) 98-1.11(k)(4), clarify that the MCO is responsible for monitoring

contractors' fiscal stability; 5) 98-1.11(p), clarify that MCOs must comply with Article 49 of the Public Health Law, in addition to Article 44 and Part 98; and, 6) 98-1.13(c)(iii), correct a 2005 change which inadvertently limited provider contract assignments to within one year of promulgation of the rule.

123 Conesus Lake Watershed Rules - Amend the regulations to incorporate rules to protect the public water supplies of the Villages of Avon and Geneseo and the Town of Livonia.

128 New York City Watershed Rules - Amend the regulations to incorporate regulations intended to protect NYC's Watersheds and preserve NYC's Filtration Avoidance Determination by providing various limitations on watershed activities and construction.

132 Canandaigua Lake Watershed Rules - Amend the regulations to incorporate rules intended to protect the public water supplies of the City of Canandaigua, Villages of Rushville, Palmyra and Newark, and the Town of Gorham.

400 All Facilities - General Requirements - Amend the regulations to require that Article 28 facilities make available to the public and others information regarding nurse staffing and patient outcomes.

400.14 Request for Patient Review Instrument (PRI) Data - Amend section 400.14 which regulates the distribution of the patient review instrument (PRI) data. Due to changes in Section 400.18, language in Section 400.14 (b) will be changed from "400.18 (e)" to "400.18 (d)."

400.15 and 700.4 The Role of the Licensed Practical Nurse (LPN) in Intravenous Therapy Procedures - Amend the regulations to be consistent with the LPN scope of practice.

400.18 Statewide Planning and Research Cooperative System (SPARCS) - Repeal Section 400.18 and add a new Section 400.18 to reflect current practices of SPARCS. New Section 400.18 will permit SPARCS to collect all other outpatient data not presently being collected by SPARCS from general hospitals and diagnostic and treatment centers licensed under Article 28 of the Public Health Law. Changes to Section 407.5, Section 405.27, and Section 400.14 will be submitted as companions to the new Section 400.18. The changes to Section 407.5, Section 405.27, and Section 400.14 will be required with the promulgation of the new Section 400.18.

403 Home Care Worker Registry - Amend the regulations to add a new section to develop and maintain a home care services worker registry of home care services workers.

405.3 Administration - Amend the regulations to add certain requirements for immunizations and TB testing for healthcare workers and to exempt telemedicine personnel from immunization requirements as a condition of employment.

405.7 Patients' Rights - Amend the regulations to specify that patients have the right to treatment without discrimination regardless of age. Amend the requirements limiting the use of physical restraints to be consistent with federal guidelines.

405.8 Incident Reporting - Amend the regulations to update the Department's New York Patient Occurrence Reporting and Tracking System (NYPORTS) provisions for hospitals to reflect current practice.

405.9 Admission/Discharge - Revise regulations to clarify that all donor and procurement responsibilities must be carried out before a dead body is removed from a hospital and to ensure that history and physical requirements for admitted patients in accordance with revised federal regulations.

405.10 Medical Records - Amend the regulations to allow verbal orders to be authenticated by not only the ordering practitioner, but also by other practitioners responsible for the care of the patient within 48 hours rather than "as soon as possible," consistent with new federal requirements.

405.11 Infection Control - Amend the regulations to conform to PHL Section 2819(2). The proposed regulation would define requirements for hospitals to report select hospital acquired infections using methods, definitions and protocols defined by the Department, ensures patient privacy in collection and release of data and creates standards for publication and release of the data reported.

405.12 Surgical Services - Amend the regulations to specify that a

registered professional nurse qualified in operating room nursing shall be present as the circulating nurse in each separate operating room where surgery is being performed for the duration of the surgical procedure.

405.19 Emergency Services - Amend the regulation requiring one year of experience for Emergency Department Nurses.

405.20 Outpatient Services - Amend the regulations to review the possibility of cross referencing 752.2 for hospital based free standing emergency facilities.

405.22 Critical Care and Special Care Services - Update the regulations regarding the organ transplant center provisions; and provide specific minimum standards for pediatric intensive care units (ICUs) similar to adult ICUs, recognizing differences between adult and pediatric ICUs beyond just the size and weight of the patients.

405.27 Information, Policy and Other Reporting Requirements - Repeal this section since the authority for the reporting requirements are detailed in either Section 400.18 (SPARCS data), or section 86-1.3 and 86-1.4 (Uniform financial report and uniform statistical reports).

407.5 Administrative Requirements - Repeal Section 405.27 due to changes in Section 400.18, which requires a modification to Section 407.5. Section 407.5 regulates Primary Care Hospital (PCH) and Critical Access Hospital (CAH) administration. Section 407.5 (g) will be changed to the following language: "PCHs/CAHs shall comply with the provision of Sections 86-1.2, 86-1.3, and 400.18 of this Title regarding information policy and other reporting requirements."

415 Nurse Aide Registry - Amend the regulations to allow the Department to remove from the State's Nurse Aide Registry any individual found to have acquired nurse aide certification through fraudulent means.

415 and 1001 Respite Availability - Amend the regulations to increase the availability and promote the use of nursing home and assisted living settings for respite use (companion piece for Title 18 - adult care facilities).

415.3(h) Resident Rights - Amend the regulations to require nursing home providers to issue a valid written transfer/discharge notice to the resident and his or her designated representative. Such notice shall include date of notice, resident's identity, effective date of proposed transfer/discharge, reason for proposed discharge or transfer, notice of the resident's right to an evidentiary hearing to appeal the proposed discharge, contact information for the NYS Long Term Care Ombudsman, contact information for the agency responsible for the protection and advocacy of individuals with mental illness or development disabilities, and notice of the resident's right to remain in the facility (except in cases of imminent danger), pending the appeal hearing decision.

415.27(b) Quality Assessment and Assurance - Amend the regulations to require a nursing facility's medical director to serve on the quality assurance committee.

415.41 Neurobehavioral Step Down Unit Program - Amend the regulations to provide a new level of appropriate behavioral intervention care in skilled nursing facilities facilitating individual transition to least restrictive settings. This all inclusive regulatory package will include amendments and updates of Life Safety and Architectural Standards for Neurobehavioral and Neurobehavioral Step Down Units pursuant to section 713-2.5 of Title 10 NYCRR and a new subdivision (x) of section 86-2.10 establishing a separate and distinct payment rate for residents meeting the criteria for section 415.41.

425 Adult Day Health Care - Amend "homebound" definition to conform to federal guidelines.

600.2, 600.3, 610.3, 620.2, 620.3 Establishment of Hospitals - Amend the regulations to revise the criteria for review of the character and competence of proposed owners/operators of Article 28 facilities. This will include criteria relating to the establishment of dialysis facilities pursuant to PHL Section 2801(a)(15).

708 Appropriateness Review - Revise regulations regarding the Trauma Center Designation Standards for consistency with the current practice of trauma care in New York State.

709 Determination of Public Need for Medical Facility Construction - Amend the regulations related to the liver and human heart transplantation services provisions.

709.3 Residential Health Care Facility Beds - Revise the regulations concerning the need methodology for residential health care facilities (nursing homes) beds.

709.13 Adult Day Health Care Program Needs Methodology - Amend the regulations to clarify the existing methodology for determining unmet need for adult day health care programs.

709.15 Lithotripters - Repeal of the need methodology for lithotripters.

709.17 Long-term Ventilator Beds - Revise the regulations concerning the need methodology for ventilator beds in residential health care facilities (nursing homes).

710.1 Approval of Medical Facility Construction - Amend the regulation to revise the cost thresholds for administrative Certificate of Need (CON) and full CON review; and for limited architectural review and prior review to reduce current review levels for MRI's and CT scanners operated by general hospitals to limited architectural review; and to repeal review requirements for lithotripters.

710.5 Amendment of CON Applications - Amend the regulation to revise the cost thresholds for amendments to CON applications, for consistency with changes in cost thresholds in 710.1.

711, 712, 713, 715 and 716 Medical Facility Construction - Revise the regulations concerning the Medical Facilities Construction Code.

732 Worker's Compensation - Amend the regulation to reflect 2007 changes in the Worker's Compensation Law Sections 351 and 354 which allow the State Insurance Fund to contract with certified PPOs, by reducing network adequacy requirements, and by granting the Commissioner waiver authority if a plan cannot meet such requirements.

750-759 Treatment Center and Diagnostic Center Operation - Update the regulations addressing the Department's New York Patient Occurrence Reporting and Tracking System (NYPORTS) provisions for Diagnostic and Treatment Centers to reflect current practice. Amend the regulations to add certain immunization requirements for healthcare workers. Consistent with federal provisions, allow individuals qualified to administer anesthesia, and not just physicians, to evaluate patients for proper anesthesia recovery. Amend the Free-Standing Ambulatory Surgery Services provisions to be consistent with recent federal requirements.

752-2 Up-Graded Diagnostic and Treatment Center Services - Revise the regulations, if necessary, which address freestanding emergency department classification.

757 Chronic Renal Dialysis Services - Revise the regulations to be consistent with federal changes to 42 CFR regarding Medicare and Medicaid Programs; Conditions for Coverage for End-Stage Renal Disease Facilities.

760 and 761 Home Health Services - Amend the regulations to update the current need methodology for establishment of certified home health agencies and to reflect statutory modification of Certified Home Health Agency Charity Care program requirements.

760.2 Establishment of Certified Home Health Agencies (CHHA) - Amend the regulation to revise the criteria for review of the character and competence of proposed owners/operators of CHHA's established under Article 36.

766 Licensed Home Care Services Agencies - Amend the regulations to update and modernize provisions to improve service delivery, training and surveillance activities.

790 Hospices - Add regulations implementing changes in the federal Conditions of Participation.

790.1, 790.2, 790.11 Establishment of Hospices - Amend the regulation to revise the criteria for review of the character and competence of proposed owners/operators of hospices established under Article 40.

800 Emergency Medical Services (EMS) - General - Add regulations related to the use and application by members of the public of automatic external defibrillators; codify regulatory requirements for Advance Life support First Response Agencies; codify regulatory requirements for Basic Life Support Providers; make updates to EMS certification and training regulations; and establish a new section on

the mobilization and/or sharing of resources in the event of a declared disaster.

900.2 Establishment of Life Care Communities - Amend the regulation to revise the criteria for review of the character and competence of proposed owners/operators of life care communities.

Title 18 NYCRR (Social Services)

300.12 Monroe County Medicaid Plan - Repeal section 300.12 since the Medicaid program no longer exists. Medicaid was an early Medicaid managed care program. All Medicaid managed care regulations will be codified in 360-10.

360-6.7 Managed Care - Repeal the regulations to modify and consolidate 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.

360-7.3(c)(1) of Title 18 NYCRR and Part 85.13 of Title 10 NYCRR Use of Health, Hospital or Accident Insurance & Physically Handicapped Children's Program - Amend the regulations to eliminate the dual prior approval for certain services for Medicaid eligible children.

360-7.7 Payments of deductibles and coinsurance under title XVIII of the Social Security Act (Medicare) - Amend the regulations to reinforce the policy that Medicaid prior approval is not necessary if the item or service is covered by Medicare. If Medicare denies payment based on lack of medical necessity, Medicaid prior approval and/or reimbursement will not be considered. Services that are statutorily excluded from Medicare payment but covered by Medicaid would be payable if medically necessary.

360-7.12 Co-Payments by Recipients - Revise the regulation to conform with recently enacted statutory changes to Medicaid co-payments that eliminate the pharmacy co-payment exemption for managed care recipients, and increase the pharmacy co-payment from \$.50 to \$1.00 for generic drugs, from \$2.00 to \$3.00 for brand name drugs, reduces preferred brand co-payments for preferred brand drugs and brand drugs dispensed as a generic and the annual cap from \$100 to \$200.

360-10 Medicaid Managed Care Program - Replace the existing regulations to conform to changes authorized by 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, provide clearer guidance regarding marketing and enrollment in the Medicaid managed care/Family Health Plus programs, add fair hearing rights and requirements specific to Medicaid managed care/Family Health Plus, and add provider prohibitions specific to the Medicaid managed care/Family Health Plus programs.

360-11 Medicaid Managed Care - Repeal the regulations describing 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 for these populations.

485, 486, 487, 488 and 490 Adult Homes, Enriched Housing Programs and Residences for Adults - Amend the regulations to consolidate and streamline provisions relating to adult homes, enriched housing programs and residences for adults, to reflect recent past legislative and regulatory initiatives and the changing environments of these types of facilities. Amendments will provide clarification and consistency to residents, operators and the public with regards to adult care facilities.

486 Inspection Review Process for Adult Care Facilities - Revise the regulations to formalize the currently informal inspection review process, whereby operators can request an inspection review meeting after issuance of an inspection report but prior to the posting of the report on the Department's website.

487 and 488 Respite Availability - Amend the regulations to increase the availability and promote the use of adult home and enriched housing program settings for respite use (companion piece for Title 10 - nursing homes and assisted living residences).

494 Retention Standards for Assisted Living Programs - Amend the

regulations to allow individuals of such programs to “age-in-place,” under certain conditions.

504.3 (j) through (m) Medicaid Provider Responsibilities - Add three new sections to Part 504.3 (j) through (l) defining the responsibility of Medicaid enrolled providers to treat Medicaid patients during federal or State declared emergencies. A fourth section (m) is added to clarify that Title XVIII Medicare enrollment is required for all providers eligible to participate in Medicare as a condition of enrollment in the New York State Medicaid Program.

505 Personal Emergency Response Services (PERS) - Amend the regulations to allow for annual authorizations and to delete the requirement that authorization of PERS be contingent upon a reduction/elimination of personal care aide/home health aide hours.

505 Consumer Directed Personal Assistance Program (CDPAP) - Amend the regulations to establish discrete CDPAP rules.

505.5 Fiscal Orders - Change the fiscal order requirements for medical surgical supplies to allow filling within 60 days, rather than 14 days of the date written, in concurrence with current policy; add fiscal order requirements for durable medical equipment, orthotics, prosthetics and prescription footwear requiring that the order must be filled within 180 days unless otherwise stated by the Department in concurrence with current policy; specifically define acceptable paper and electronic formats for fiscal orders which are acceptable.

505.5 Durable Medical Equipment (DME) - Amend the regulations to define the procedures for pursuing Medicaid Waiver reimbursement for Assistive Technology (AT) devices that do not meet the definition of DME and, therefore not covered by the Medicaid State Plan, including those AT devices that would be covered under federal EPSDT statute; also specify that exclusive utilization of HIPAA-compliant HCPCS codes and proper use of miscellaneous codes is required for prior approval and claims submission.

505.8 of Title 18 NYCRR and 85.33 of Title 10 NYCRR Private Duty Nursing Services - Amend the regulations to replace and update the current language controlling the amount, duration, and scope for the provision of private duty nursing services under the Medicaid Program.

505.9 Reserved Bed Day Payment - Amend the regulation to reduce bed reservation payments to nursing homes for resident hospitalization and to remove preapproval language.

505.16 Case Management - Amend the regulation to reflect a change in the frequency of program monitoring by the Office of Mental Health.

505.23 Home Health Services - Consensus regulation to amend this section to reflect statutory changes and/or court ordered mandates that have been implemented.

505.25 Personalized Recovery Oriented Services (PROS) - Amend the regulations to reflect approved Title 14 OMH regulations for PROS, a comprehensive outpatient recovery oriented program for persons with severe and persistent mental illness.

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

506.2 and 506.6 Dental Vans - Amend the regulations, in light of increasing interest in Medicaid reimbursement for services provided in dental vans used as private offices, to define a mobile setting and allow a mobile setting as a valid dental place of service, and to specify what provider qualifications are necessary for use of dental vans.

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

533.6(b)(1)iii Radiology - Repeal the entire regulation since the regulation is outdated and reimbursement to radiologists has changed as of January 2009. Physicians will no longer be paid 40% of the global fee. The reimbursement to physicians will be a percent of the Medicare rate.

540.6 Billing for Medical Assistance - Revise the regulations to specifically state that Medicare enrollment, whenever possible, is a requirement for participation in the Medicaid program.

Contact Person: Katherine Ceroalo, Department of Health, Bureau of House Counsel, Regulatory Affairs Unit, Empire State Plaza, Corning Tower Building, Rm. 2438, Albany, NY 12237, (518) 473-7488, (518) 473-2019 FAX, e-mail: REGSQNA@health.state.ny.us

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 that the Insurance Department is presently considering proposing during the first half of 2010. Many of these items were previously published in the June 2009 Regulatory Agenda. Items that have been published in the State Register as “Proposed” actions 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 also is 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 by sections 202-b and 202-bb of SAPA.

For inquiries pertaining to a specific item, please contact the agency contact person identified in the item. For general inquiries about the Insurance Department's Regulatory Agenda, please contact:

Sam Wachtel
Supervising Attorney
Office of General Counsel
New York State Insurance Department
25 Beaver Street
New York, N.Y. 10004
Telephone Number: 212-480-5269

Copies of current regulations may be obtained from the Department's Public Affairs Bureau by writing to the New York City address above, or by calling 212-480-2283.

1. Summary description of proposal: Amendment of 11 NYCRR 20 (Brokers and Agents- General) (Regulation 29) to permit the use of internet and out-of-state banks for producer premium accounts. Agency Contact: Paul Zuckerman, Assistant Deputy Superintendent & Counsel, Office of General Counsel (212) 480-5286.

2. Summary Description of Proposal: Adoption of a new part to 11 NYCRR to address certain business practices in the title insurance industry and supervision of title insurers authorized to write title insurance in this state. Agency Contact: D. Monica Marsh, Associate Attorney, Office of General Counsel (212) 480-5298.

3. Summary description of proposal: Adoption of a new part to 11 NYCRR to incorporate and implement the “best practices” procedures for financial guaranty insurers set forth in Department Circular Letter 19 (2008). Agency Contact: Ann Logan, Associate Tax Counsel, Office of General Counsel (212) 480-6297.

4. Summary description of proposal: Amendment of 11 NYCRR 151 (Regulation 119) to implement Chapter 6 of the Laws of 2007, which reformed the workers' compensation system. Chapter 6 amended Workers' Compensation Law § 134(6) to provide that most employers shall be eligible for a credit in workers' compensation insurance premiums if the employer implements any of the following: (1) a safety incentive plan; (2) a drug and alcohol prevention program; and (3) a return to work program. Workers Compensation Law § 134(6)(c) requires the Superintendent to promulgate a regulation establishing premium credits for such programs, and include provisions for recertification on an annual basis. The proposed amendment would implement the statutory mandates. Agency Contact: Michael Rasnick, Senior Policy Advisor and Counsel (212) 480-7474.

5. Summary description of proposal: Amendment of 11 NYCRR 151 (Regulation 119) to implement Chapter 6 of the Laws of 2007, which amended section 15(8)(h) of the Workers' Compensation Law,

in order to close the Special Disability Fund and contract, pursuant to WCL section 32, with carriers, self insured employers, or the State Insurance Fund to assume the liability for claims. The law mandates the Superintendent to set a reserve standard specific to transactions authorized by WCL section 32. This regulation would establish the required reserve standards. Agency Contact: Sam Wachtel, Supervising Attorney, Office of General Counsel (212) 480-5269.

6. Summary of description of proposal: Amendment of 11 NYCRR 151 (Regulation 119) to implement Chapter 392 of the Laws of 2008, which authorizes the creation of a new Independent Livery Driver Benefit Fund (the "Fund") to provide coverage to livery drivers dispatched by independent livery bases that are members of the Fund. The law also confers the Superintendent with authority to authorize insurers licensed to write workers' compensation and employers' liability to issue policies to provide coverage as authorized pursuant to Executive Law Article 6-G. This regulation would authorize workers' compensation and employers' liability insurers to provide coverage as afforded under Executive Law Article 6-G. Agency Contact: Alex Tisch, Associate Counsel, Office of General Counsel (212) 480-5288.

7. Summary of description of proposal: Amendment of 11 NYCRR 151 (Regulation 119) to implement Chapter 56 of the Laws of 2009 ("Part QQ"), which amended Workers' Compensation Law sections 15(8)(h)(4), and 151(2)(b) to change the basis upon which the New York workers' compensation board collects the portion of the allocation from each insurer. Agency Contact: Sapna Maloor, Senior Attorney, Office of General Counsel (212) 480-4668.

8. Summary description of proposal: Amendment of 11 NYCRR 216.6 (Unfair Claims Settlement Practices and Claim Cost Control Measures - Standards for prompt, fair and equitable settlements) (Regulation 64) to codify the Insurance Department's current interpretation with regard to releases of liability. Agency Contact: Joana Lucashuk, Senior Attorney, Office of General Counsel (212) 480-2125.

9. Summary description of proposal: Amendment of 11 NYCRR 71 (Legal Defense Costs in Liability Policies) (Regulation 107) and 11 NYCRR 72 (Indemnification of Directors And Officers) (Regulation 110) to permit non-duty to defend liability policies for directors and officers insurance. Agency Contact: Brenda Gibbs, Senior Attorney, Office of General Counsel (518) 408-3451.

10. Summary description of proposal: Amendment of 11 NYCRR 136 (Standards for the management of the New York State Employees' Retirement System and the New York State and Local Police and Fire Retirement System, and the New York State Common Retirement Fund) (Regulation 85) to ban the use of placement agents by investment advisors engaged by the New York State Common Retirement Fund. Agency Contact: Michael Campanelli, Supervising Attorney, Office of General Counsel (212) 480-5290.

11. Summary description of proposal: Amendment of 11 NYCRR 89 (Audited Financial Statements) (Regulation 118) to improve the Department's surveillance of the financial condition of insurers by requiring an annual audit of financial statements by independent certified public accountants, and the filing of audit reports and other related documents. Agency Contact: Joseph Fritsch, Director of Insurance Accounting Policy (212) 480-2299.

12. Summary description of proposal: Amendment of 11 NYCRR 16 (Special Risk Insurance) (Regulation 86) to add certain risks that are on the 11 NYCRR 27 (Regulation 41) excess line "export" list to the Class 2 Special Risk category of Regulation 86. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

13. Summary description of proposal: Amendment of 11 NYCRR 60-2 (Supplementary Uninsured/Underinsured Motorists Insurance) (Regulation 35-D) to revise all references in sections 60-2.3 and 60-2.4 from "AAA/American Arbitration Association" to "designated organization", amend rules related to the manner in which the organization designated by the Superintendent to administer the SUM arbitration program assesses the cost of the program to the insurance industry, and various editorial revisions to the prescribed endorsement and other portions of the regulation to clarify the intent and application of the coverage. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

14. Summary description of proposal: Amendment of 11 NYCRR 301 (Purchasing Groups) (Regulation 134) to eliminate provisions referencing Affidavit Part B, which was originally required by 11 NYCRR 27 (Regulation 41) but has since been deleted from Regulation 41. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

15. Summary description of proposal: Amendment of 11 NYCRR 65-1, 65-2, 65-3, 65-4 (Regulations Implementing the Comprehensive Motor Vehicle Insurance Repairs Act) (Regulations 68-A, 68-B, 68-C & 68-D) to revise No-Fault endorsements and requirements for insurer claim practices and to amend rules related to both the manner in which the organization designated by the Superintendent administers the first party motor vehicle insurance arbitration programs and assesses the costs of these programs to the insurance industry. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

16. Summary description of proposal: Amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Regulation 83) to adopt a fee schedule for health services rendered by licensed acupuncturists. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

17. Summary of description of proposal: Adoption of a new part to 11 NYCRR to provide clarification and rules regarding inland and ocean marine insurance. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

18. Summary description of proposal: Amendment of 11 NYCRR 216 (Unfair Claims Settlement Practices and Claim Cost Control Measures) (Regulation 64) to update the entire regulation to, inter alia, provide notice and time frame requirements for third party claims. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

19. Summary of description of proposal: Amendment of 11 NYCRR 80-1 (Holding Companies) (Regulation 52) to increase property/casualty insurers' required threshold necessary to provide prior notice to the Superintendent concerning related party transactions; to establish that the Annual Holding Company Registration Statements may be filed electronically; and to allow the Superintendent to permit, at his discretion, alternatives to the audited financial statements when making filings pursuant to this Regulation. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

20. Summary description of proposal: Amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Regulation 83) to adopt the fee schedule implemented by the Workers' Compensation Board for health services rendered by licensed dentists. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

21. Summary description of proposal: Amendment of 11 NYCRR 152 (Physicians and Surgeons Professional Insurance Merit Rating Plan) (Regulation No. 124) to permit credits for successful completion of additional risk management programs (supplementary risk management programs). Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

22. Summary description of proposal: Amendment of 11 NYCRR 27 (Excess Line Placements Governing Standards) (Regulation 41) to increase the minimum capital and surplus requirements of excess line insurers. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

23. Summary description of proposal: Amendment of 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 clarify that the use of digital photography and electronic access to inspection report data are permitted. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

24. Summary of description of proposal: Adoption of a new part to 11 NYCRR to provide requirements regarding policies written to cover owner-controlled and contractor-controlled insurance programs (wrap-ups). Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

25. Summary description of proposal: Adoption of a new part to 11 NYCRR to set forth standards and procedures for the sale and purchase of life insurance and annuities to ensure that life insurance and annuities are suitable for the insurance needs and financial objectives of consumers, and to prohibit the sale of unsuitable life insurance and annuities to consumers. Agency Contact: Michael Maffei, Assistant Chief, Life Bureau (212) 480-5023.

26. Summary description of proposal: Amendments of 11 NYCRR 136 (Standards for the Management of the New York City and New York State Retirement Systems) (Regulation 85) to establish high ethical standards, strengthen internal controls and governance, and enhance the operational transparency of the city and state retirement systems. Agency Contact: Michael Maffei, Assistant Chief, Life Bureau (212) 480-5023.

27. Summary description of proposal: Adoption of a new part to 11 NYCRR to adopt minimum surplus and disclosure requirements for fraternal benefit societies. Agency Contact: Ruth Gumaer, Supervising Insurance Examiner, Life Bureau (212) 480-4763.

28. Summary description of proposal: Repeal of 11 NYCRR 380 (Viatical Settlements) (Regulation 148) and adoption of a new part to 11 NYCRR to implement Article 78 (Life Settlements) of the Insurance Law. Agency Contact: Ruth Gumaer, Supervising Insurance Examiner, Life Bureau (212) 480-4763.

29. Summary description of proposal: Amendment of 11 NYCRR 95 (Regulations Governing an Actuarial Opinion and Memorandum) (Regulation 126) to add guidance regarding sensitivity tests, disclosure items, and other requirements related to asset adequacy analysis and to revise aspects of existing standards in consideration of adopted NAIC standards. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau (518) 474-7929.

30. Summary description of proposal: Amendment of 11 NYCRR 42 (Term Life Issuance and Renewal Restrictions; Nonforfeiture Values for Certain Life Insurance Policies) (Regulation 149) to provide requirements for life policies with intermediate endowment values. Agency Contact: Thomas Hartman, Principal Actuary, Life Bureau (518) 486-2126.

31. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish minimum standards for non-guaranteed elements of life and annuity insurance policies and to establish minimum standards for written criteria set by the board of directors or a committee thereof for determining non-guaranteed elements. Agency Contact: Dennis Lauzon, Assistant Chief Actuary, Life Bureau (518) 474-7929.

32. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish minimum standards for form, content and sale of life insurance, annuities and funding agreements, including standards for full and fair disclosure. Agency Contact: Dennis Lauzon, Assistant Chief Actuary, Life Bureau (518) 474-7929.

33. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish standards for self-support requirements for life insurance, annuities and funding agreements issued on an individual or group basis. Agency Contact: Dennis Lauzon, Assistant Chief Actuary, Life Bureau (518) 474-7929.

34. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish standards for corporate governance for risk management, including requirements for board of directors' oversight of business and exposure limits. Agency Contact: Dennis Lauzon, Assistant Chief Actuary, Life Bureau (518) 474-7929.

35. Summary description of proposal: Amendment of 11 NYCRR 50 (Separate Accounts 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. Agency Contact: Ralph D. Spaulding, Supervising Insurance Attorney, Life Bureau (518) 486-5258.

36. Summary description of proposal: Adoption of a new part to 11 NYCRR 48 (Key Person Company-Owned Life Insurance) (Regulation 180) to provide guidance to insurers in defining key persons for purpose of complying with section 3205(a)(1)(B) and (d) of the Insur-

ance Law. Agency Contact: Ralph D. Spaulding, Supervising Insurance Attorney, Life Bureau (518) 486-5258.

37. Summary description of proposal: Amendment of 11 NYCRR 53 (Life and Annuity 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 and/or variable annuity products, equity index products and funding agreements. Agency Contact: Peter Dumar, Associate Insurance Attorney, Life Bureau (518) 474-4552.

38. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Regulation 147) to allow the use of preferred mortality tables for the contract segmentation method and to remove some constraints from the X factors when calculating deficiency reserves; additionally, to revise existing standards for term life insurance and universal life insurance products with secondary guarantees for life insurers in consideration of possible changes to NAIC standards, and to establish reserve standards for equity indexed life insurance. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau (518) 474-7929.

39. Summary description of proposal: Amendment of 11 NYCRR 100 (Recognition Of The 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and Recognition and Application of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities) (Regulation 179) to expand the use of the preferred tables for policies issued on or after January 1, 2004 with the approval of the superintendent and to adopt potential new mortality tables. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau (518) 474-7929.

40. Summary description of proposal: Amendment of 11 NYCRR 97 (Market Value Separate Accounts Funding Guaranteed Benefits; Separate Account Operations and Reserve Requirements) (Regulation 128) to update the reserve standards for group separate account products with guaranteed benefits, and to establish reserve standards for individual separate account products with guaranteed benefits. Agency Contact: Michael Cebula, Deputy Chief Actuary, Life Bureau (518) 474-7929.

41. Summary description of proposal: Amendment of 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 the requirements for prior approval of forms and rates, including the establishment of rules for determining the rating methodology to be used for rating point-of-service products sold to large groups, and to clarify the application and effect of rolling rates and annual level subscriber rates. Agency Contact: Robert Solomon, Supervising Insurance Examiner, Health Bureau (212) 480-5246.

42. Summary description of proposal: Amendments of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62), 11 NYCRR 39 (Minimum Standards for the New York State Partnership for Long-Term Care Program) (Regulation 144) and adoption of a new Part to 11 NYCRR to: 1) update minimum standards for Partnership and non-Partnership long term care coverages; and 2) establish minimum standards and/or requirements for long term care insurance products as new long term care financing options are enacted. Agency Contact: Austin J. Rinella, Supervising Insurance Attorney, Health Bureau (518) 486-7815.

43. Summary description of proposal: Adoption of a new part to 11 NYCRR or amendment of existing parts of 11 NYCRR to: 1) establish standards so the internal appeal procedures of long term care insurers are stated in the form language of long term care insurance products; 2) establish requirements and standards for long term care insurers to notify the Insurance Department when the insurers make available for purchase a long term care insurance form in New York State or when the insurers discontinue selling a long term care insurance form in New York State; 3) state by amendment an update on the annual rescission report due date and to state the requirements of federal law for annual long term care reports on claims denials and

lapse/replacements and their due dates; 4) establish rules and targeted penalties regarding deceptive advertising and/or deceptive marketing practices targeting senior citizens; 5) establish targeted penalties regarding untimely payment of long term care insurance claims; 6) establish procedures regarding external appeals of long term care insurance claims. Agency Contact: Austin J. Rinella, Supervising Insurance Attorney, Health Bureau (518) 486-7815.

44. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for the Form, Content, and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to: 1) establish criteria to require long term care insurers to blend the experience of closed blocks of long term care insurance with the experience of open blocks of long term care insurance to lessen or avoid premium rate spirals on closed blocks of long term care insurance; 2) require notification and acknowledgement at the point of sale of potential rate increases for long term care insurance; 3) expand the large group long term care insurance market by requiring group long term care insurers to: offer long term care coverage during a limited "open enrollment" period for certain large groups, offer spousal coverage under certain circumstances, and offer long term care insurance coverage at retirement. Agency Contact: Colleen M. Rumsey, Associate Insurance Attorney, Health Bureau (518) 486-7815.

45. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for the Form Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) and 11 NYCRR 360 (Rules to Assure an Orderly Implementation and Ongoing Operation of Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145) to set forth requirements regarding the payment of commissions, fees and other compensation to agents and brokers. Agency Contact: Jeffrey Pohl, Associate Insurance Attorney, Health Bureau (518) 473-7470.

46. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to describe the circumstances under which a health insurance policy may impose a cost-sharing differential between x-rays and high-tech radiology services. Agency Contact: Thomas Fusco, Supervising Insurance Attorney, Health Bureau (518) 473-7470.

47. Summary description of proposal: Amendment of 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 (Rules to Assure an Orderly Implementation and Ongoing Operation of Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145) to conform to the final regulations promulgated under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). Agency Contact: Jeffrey Pohl, Associate Insurance Attorney, Health Bureau (518) 473-7470.

48. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to clarify coverage of emergency services under health insurance policies that provide coverage for inpatient hospital care. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

49. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to establish minimum standards for prescription drug coverage written by Article 43 corporations, HMOs and commercial insurers. Agency Contact: Thomas Fusco, Supervising Insurance Attorney, Health Bureau (518) 473-7470.

50. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to establish requirements for insurance policies that use a usual and customary or reasonable form of reimbursement. Agency Contact: Thomas Fusco, Supervising Insurance Attorney, Health Bureau (518) 473-7470.

51. Summary description of proposal: Adoption of a new part to 11 NYCRR to provide for enhanced disclosure of terms, conditions and parameters of health insurance coverage. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

52. Summary description of proposal: Amendment of 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 410 (External Appeals of Adverse Determinations of Health Care Plans) (Regulation 166), and adoption of a new part to 11 NYCRR to: (1) establish standards for coverage determinations and appeals for conformance with federal requirements and (2) implement the requirements of Chapter 451 of the Laws of 2007 and Chapter 237 of the Laws of 2009 regarding contract terminations, pre-authorization requirements, and external appeals. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

53. Summary description of proposal: Adoption of a new part to 11 NYCRR to require accident and health insurers and HMOs to file annually with the Superintendent or designated statistical agent a statistical report showing a classification schedule of premiums, losses and related expenses, as well as a list of the most frequently used current procedure terminology (CPT) codes on accident and health insurance business subject to the Insurance Law, and such other information as the Superintendent may deem necessary. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

54. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) and/or adoption of a new part to 11 NYCRR to establish an appeals process for disability claims. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

55. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish requirements for contracts between insurers and providers and to establish network adequacy requirements for EPO and PPO products. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

56. Summary description of proposal: Adoption of a new part to 11 NYCRR to standardize the forms and claims processes used by insurers and HMOs. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

57. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to clarify to insurers and HMOs the requirements of the alternate procedure for submission of rate increases or decreases set forth in Insurance Law sections 3231(e)(2)(A) or 4308(g), and to provide further clarification as to calculating and reporting loss ratios and issuing dividends or credits when using the alternate filing procedure as required by Insurance Law sections 3231(e)(2)(B) or 4308(h). Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

58. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish standards for insurer and HMO provider ranking programs. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau (518) 486-7815.

59. Summary description of proposal: Amendment of 11 NYCRR 350 (Continuing Care Retirement Communities) (Regulation 140) to modify and clarify the actuarial reserve calculation, solvency testing, distribution allowances, fee adequacy, allowable investments, and needed filing requirements, in view of marketplace expansion in both the number and types of Continuing Care Retirement Communities. Agency Contact: Gary Teitel, Assistant Chief Actuary, Health Bureau (212) 480-7709.

60. Summary description of proposal: Adoption of a new part to 11 NYCRR to prohibit discretionary clauses in accident and health insurance policy forms and life insurance and annuity policy forms. Agency Contact: Stephen Rings, Associate Insurance Attorney, Health Bureau (518) 486-7815.

61. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation

62) to amend section 52.70(e)(2) to conform with Insurance Law section 3234(b) and permit individual underwriting in determining a person's eligibility for coverage under a group disability policy. Agency Contact: Stephen Rings, Associate Insurance Attorney, Health Bureau (518) 486-7815.

62. Summary description of proposal: Amendment of 11 NYCRR 83 (Financial Statement Filings and Accounting Practices and Procedures) (Regulation No. 172) to develop standards and guidelines for real estate appraisals and accounting methodologies under which Insurance Law Article 43 corporations and Public Health Law Article 44 Health Maintenance Organizations may evaluate real estate in ordinary course of business. Agency Contact: Kalo Daisy Wong, Principal Insurance Examiner, Health Bureau (212) 480-5062.

63. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62), 11 NYCRR 215 (Advertisements of Accident and Health Insurance) (Regulation 34), 11 NYCRR 360 (Open Enrollment and Community Rating of Individual and Small Group Health Insurance) (Regulation 145), 11 NYCRR 361 (Establishment and Operation of Market Stabilization Mechanisms for Individual and Small Group Health Insurance and Medicare Supplement Insurance) (Regulation 146), and the addition of a new Part to 11 NYCRR to adopt changes to federal regulation relating to the modernization of Medicare supplement insurance. Agency Contact: Sarah L. Allen, Associate Insurance Attorney, Health Bureau (518) 486-7815.

64. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for the Form, Content, and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to prohibit cold call sales of Medicare supplement insurance, including door-to-door solicitation, direct in-person contact, and direct telephone calls without the prospective applicant initiating the contact. Agency Contact: Sarah L. Allen, Associate Insurance Attorney, Health Bureau (518) 486-7815.

65. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, including Standards of Full and Fair Disclosure) (Regulation 62) to clarify the procedures and requirements for filing of accident and health insurance policy forms and rate submissions, including electronic filing of such submissions. Agency Contact: Doris Kullman, Supervising Insurance Attorney, Health Bureau (518) 486-7815.

66. Summary Description of Proposal: Adoption of a new part to 11 NYCRR to establish requirements for evaluating, approving and regulating matters relating to premium rates, enrollee contracts and fiscal solvency of Managed Long Term Care Plans, including reserves, surplus and provider contracts to the extent such contracts relate to fiscal solvency matters. Agency Contact: Jose Joseph, Associate Insurance Examiner, Health Bureau (212) 480-3345.

67. Summary Description of Proposal: Amendment of 11 NYCRR 105 and 109 (Operating Expense Classification for Annual Statement Purposes / Allocation of Salaries and Other Expenses) (Regulation 30) to include Article 42 accident and health Insurers, Article 43 corporations and health maintenance organizations. Agency Contact: Charles Lovejoy, Supervising Insurance Examiner, Health Bureau (212) 480-5045.

68. Summary Description of Proposal: Amendment of 11 NYCRR 94 (Valuation of Individual and Group Accident and Health Insurance Reserves) (Regulation 56) to extend the requirements to Article 42 accident and health Insurers, Article 43 corporations and health maintenance organizations, and to clarify the minimum solvency requirements for accident and health Insurers. Agency Contact: Yvonne Rowser, Principal Insurance Examiner, Health Bureau (212) 480-3883.

69. Summary description of proposal: Amendment of 11 NYCRR 362 (The Healthy New York Program and the Direct Payment Stop Loss Relief Program) (Regulation 171) to adjust and update the available benefit packages and/or cost sharing to make the products more marketable. Agency Contact: Leigha Basini, Associate Insurance Attorney, Health Bureau (518) 486-7815.

70. Summary Description of proposal: Amendment of 11 NYCRR

28 (Professional Bail Bond Agents) (Regulation 42) to establish minimum recordkeeping requirements and identify prohibited charges in conjunction with (1) the issuance of a bail bond and (2) requiring collateral in order to secure the issuance of a bail bond. Agency Contact: John Chaskey, Supervising Examiner, Consumer Services Bureau (518) 474-4556.

71. Summary Description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) to prohibit the use of door-to-door sales for Medicare Supplemental policies. Agency Contact: Laura Dillon, Principal Examiner, Consumer Services Bureau (518) 486-9105.

72. Summary Description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) and/or adoption of a new part to 11 NYCRR to establish an appeals process for long term care claims. Agency Contact: Laura Dillon, Principal Examiner, Consumer Services Bureau (518) 486-9105.

73. Summary Description of proposal: Adoption of a new part to 11 NYCRR to provide that cancellation notices subject to section 3425 of the Insurance Law should include the date and hour of cancellation, the date of the notice, and, for nonpayment of premium cancellations, a statement informing the consumer that cancellation will not take place if the consumer makes timely payment of the premium. Agency Contact: John Capuano, Associate Examiner, Consumer Services Bureau (518) 486-9107.

74. Summary of description of proposal: Adoption of a new part to 11 NYCRR to provide rules and guidelines to assure full disclosure of all relevant information within advertisements which describe or solicit the purchase of property and casualty insurance coverage that are published, issued or distributed through various advertising media. Agency Contact: Barry Bistreich, Principal Insurance Examiner, Consumer Services Bureau (212) 480-4693.

75. Summary description of proposal: Amendment of 11 NYCRR 86.6 (Fraud Prevention Plans and Special Investigations Unit) (Regulation 95) to establish a requirement that any amendment to a fraud prevention plan that the Frauds Bureau has previously approved must be submitted to the Frauds Bureau within thirty days of its implementation. Agency Contact: Edward Ferrity, Insurance Frauds Bureau Counsel, (212) 480-5683.

76. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish requirements regarding the submission of disaster preparedness related data, questionnaires and plans from property/casualty, life and health insurers. Agency Contact: Merline Smith, Supervising Insurance Examiner, Disaster Preparedness and Response Bureau (518) 408-3330.

77. Summary description of proposal: Adoption of a new part to 11 NYCRR to set forth standards for banks, trust companies and security broker/dealers qualified to act as custodians for insurance company assets. Agency Contact: Jim Everett, Capital Markets Counsel (518) 408-1593.

78. Summary description of proposal: Amendment of 11 NYCRR 79 (Letters Of Credit) (Regulation 133) to recognize Letters of Credit issued pursuant to International Chamber of Commerce Uniform Customs and Practice for Documentary Credits (ICC Publication No. 600) for various accounting purposes. Agency Contact: Jim Everett, Associate Counsel, Capital Markets Counsel (518) 408-1593.

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. Amend 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. Add language to Title 12 NYCRR, Chapter II, Subchapter E,

regarding the Child Performer Advisory Board to Prevent Eating Disorders, as established by Chapter 675 of the Laws of 2007; and to establish regulations regarding the hours and conditions of work necessary to safeguard the health, education, morals and general welfare of child performers, as required by Chapter 89 of the Laws of 2008.

3. Amend Title 12 NYCRR § 470.2, § 470.4, § 472.2 § 472.5, § 472.8, § 480.1, and § 481.1 to bring those sections into conformity with changes in the Labor Law and/or federal law, as well as to clarify the terminology being used; and to repeal Title 12 NYCRR § 480.10, to remove specific monetary provision related to tips for “pinboys.”

4. Amend Title 12 NYCRR Part 45 to implement regulations required by Chapter 368 of the Laws of 2006 requiring the Commissioner, in consultation with the Amusement Safety Advisory Board, to establish rules and regulations providing standards for the design, manufacture, testing, inspection, quality assurance and terminology of amusement devices. The rules and regulations will be consistent with the national standards for amusement devices, as established by the American Society of Testing and Materials.

5. Add a new Section to 12 NYCRR to establish an Advisory Council to gather information and advice from interested parties in assisting the Commissioner in developing unemployment insurance policies and legislation.

6. Amend Title 12 NYCRR Section 472.4 to remove the requirement that an employer who plans to shut down his business on a temporary, seasonal or permanent basis, and who wishes to be relieved of the reporting requirements specified in subdivision 2 of section 575 of the Unemployment Insurance Law, provide notice prior to the date on which he seeks to be so relieved and report for the week in which such shutdown occurs, and for the 52 preceding weeks, separately for each week.

7. Amend Title 12 NYCRR Section 23-8.5, which sets forth special provisions for crane operators, to revise the procedures regarding the administration of the practical examination and the conduct of hearings regarding the suspension, revocation, refusal to renew, or denial of a crane operator’s certificate of competence.

8. Amend Title 12 NYCRR Part 39 “Possession, Handling, Storage and Transportation of Explosives to provide for additional security measures for storage sites.

9. Amend title 12 NYCRR Part 601 to promulgate permanent changes to the Apprentice Training Process to better clarify who can be a sponsor, what their role is, and the consequences of failing in that role.

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

11. Amend Title 12 NYCRR Part 701 to revise the procedures for adjudicatory proceedings held by the Commissioner of Labor in those situations where no specific rule or regulation is applicable to the subject matter of the hearing. This Part does not apply to orders, determinations or rulings within the jurisdiction of the Industrial Board of Appeals, the Unemployment Insurance Appeal Board or any other board within the Department of Labor.

12. Amend Title 12 NYCRR to address the procedures for granting, renewing and revoking the occupational licenses listed in Article 28-D of the General Business Law. This includes crane operators, blasters, laser operators, and pyrotechnicians.

13. Amend Title 12 NYCRR Part 482 to clarify the procedures and expand the criteria for reviewing applications for career and related training.

14. Amend Title 12 NYCRR Parts 137 and 138 to consolidate the Restaurant and Hotel Wage Orders into one Hospitality Wage Order, and various other amendments to these provisions. Some of these amendments were included in a November 2009 Report and Recommendation made by a Wage Board to the Commissioner of Labor.

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

16. Amend Title 12 NYCRR to add a new Part 177 relating to

mandatory overtime, staffing plans, and on-call responsibilities for nurses.

17. Amend Title 12 NYCRR Part 82 to increase the processing fees for Certificates of Competence for Blasters, Crane Operators, Laser Operators and Pyrotechnicians, as well as the fees charged for the certification of explosive magazines storage facilities.

18. Repeal Title 12 NYCRR Part 127 to remove procedures for the Special September Eleventh Bidders Registry. The statutory authority for this rule was deemed repealed September 1, 2008, pursuant to L. 2002 c. 350, § 12. The statute has not been extended.

19. Amend Title 12 Part 800 to include provisions for operational safety for firefighters.

To obtain information or submit written comments regarding this regulatory agenda, contact Maria L. Colavito, Esq., Counsel, New York State Department of Labor, Building 12, State Office Campus, Counsel’s Office, Room 508, Albany, New York 12240, Maria.Colavito@labor.state.ny.us, (518) 457-4380.

Department of Motor Vehicles

Pursuant to section 202-d of the State Administrative Procedure Act, the Department of Motor Vehicles presents its regulatory agenda for 2010. All references are to Title 15 of the New York Code of Rules and Regulations. The Department reserves the right to add, delete or modify any item presented in this agenda.

1. Amend Part 2 in relation to driver education courses, including requirements related to instructors, the issuance of the MV-285 form, the use of instruction vehicles and applications for summer school courses.

2. Amend Part 3 to provide that the “F” restriction (full view mirror/hearing aid) on the driver’s license is separated into two distinction restrictions, in order to comply with federal law.

3. Amend Part 6 to incorporate changes related to driver’s physical qualifications; address the issue of carriers using the Article 19-A system electronically; and establish requirements for live scan fingerprinting of school bus drivers.

4. Amend Part 28, the International Registration Plan, in relation to: conforming Part 28 to Vehicle and Traffic Law provisions; updating references to forms and schedules; clarifying proof of ownership requirements; updating requirements related to the federal Heavy Vehicle Use Tax and the NYS Highway Use Tax; updating refund procedures; updating terminology to reflect current practices.

5. Amend Part 56 to allow more flexibility in relation to the mounting and use of strobe lights on school buses.

6. Amend Part 41 to conform New York State regulations to federal standards for brake efficiency, as set forth in 49 CFR 393.52 (commercial vehicle brake performance standards).

7. Amend Part 43 to conform New York State regulations to federal regulations for motor vehicle lighting, as set forth in 49 CFR 571.108.

8. Amend Part 76 or create a new Part under Title 15 to provide for the administration of the Motorcycle Safety Program, including but not limited to, the regulation of training sites, establishing standards for advertising, and establishing qualifications for instructors.

9. Amend Part 77 to require private service bureaus to post a notice on their websites that the motor vehicle transactions for which they charge a fee are performed at no charge by the Department of Motor Vehicles.

10. Amend Part 78, which governs the regulation of dealers, to: define certain terms related to dealers and transporters; set forth the requirements for a “place of business”; set forth dealer bond requirements; clarify the requirements for a “courtesy delivery”; require additional information on the bill of sale, including a complete description of the vehicle sold and the vehicle traded-in with the vehicle selling price and vehicle trade-in allowance; clarify provisions related to vehicle equipment requirements for vehicles sold; clarify salvage vehicle disclosure requirements; provide for consistency with Part 79 regarding inspection requirements; strengthen requirements related to temporary certificates of registration; clarify the permissible uses of a transporter plate; clarify dealer recordkeeping requirements; clarify

the specifications related to signs posted by dealers; revise procedures used to obtain a salvage certificate (MV-907A).

11. Amend Part 79, which governs the regulation of inspection stations and inspectors, to: provide for consistency with Part 78 regarding inspection requirements; consider increasing the fees that a station may charge a customer; clarify provisions related to heavy duty vehicle inspections; clarify and simplify procedures related to obtaining an appointment at an inspection station; establish additional requirements for the emissions inspection equipment; clarify procedures for returning inspection certificates to DMV and for properly indicating a voided certificate; clarify requirements related to official inspection station signs; clarify requirements related to inspection procedures and rejection criteria; revise procedures in relation to the On Board Diagnostic II emissions inspection; provide guidance about emissions waivers; make the necessary changes related to the termination of the NYTEST program.

12. Amend Part 81 to permit junk and salvage dealers to electronically report data to the Department of Motor Vehicles regarding the acquisition of certain motor vehicles.

13. Amend Part 82, which governs the regulation of repair shops, to: repair shop registration fees; the replacement of air bags; charging a customer for storage of a vehicle in a repair shop.

14. Amend Part 136 to revise the criteria for re-licensing problem drivers who pose a serious highway risk.

15. Amend Part 140 to make technical amendments in relation to the issuance of the post-revocation conditional license in order to conform to Chapter 496 of the Laws of 2009.

Office of Real Property Services

The New York State Office of Real Property Services is developing proposals to amend the following rules:

Revisions to the equalization complaint process contained in Part 186 of Title 9;

Revisions to the minimum qualification standards and continuing education requirements for appointed assessors and county directors contained in Part 188 of Title 9;

Revisions to the basic course of training for assessors contained in Part 188 of Title 9;

Revisions to the form of assessment rolls requiring entry of condominium properties contained in Part 190 of Title 9;

Revisions to the annual license fees for users of the Real Property System (RPS) contained in Part 190 of Title 9;

Revisions to form RP-5217 for reporting real property transfers contained in section 191-2.1 of Title 9;

Revisions to the real property transfer reporting requirements for villages contained in subdivision 191-2.4(a) of Title 9;

Revisions to the assessor reporting requirements related to modifications in assessments resulting from court orders, administrative correction of errors or small claims court contained in Part 193 of Title 9;

Revisions to the reporting requirements for cable television companies found in Part 197 of Title 9;

Revisions to the provisions for the transmission of information concerning taxable state land contained in Part 199 of Title 9; and

Revisions to the annual charges for special franchise owners and railroad companies contained in Parts 197 and 200 of Title 9.

To obtain information or submit written comments regarding this regulatory agenda, contact: Gayle Everitt, New York State Office of Real Property Services, 16 Sheridan Avenue, Albany, 12210-2714, (518) 474-8821. An updated regulatory agenda for the New York State Office of Real Property Services is available at <http://www.orps.state.ny.us/>. All comments should be submitted by April 1, 2010.

Department of State

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act (SAPA), notice is hereby provided of the follow-

ing rules which the Department of State is considering proposing but for which a rule making proceeding has not been commenced. All references are to Title 19 of the New York Code of Rules and Regulations unless otherwise noted. The Department of State's regulatory plans are subject to change and the Department reserves the right to add, delete, or modify any item herein. The Department is not required to propose for adoption any rule summarized in this regulatory agenda. In addition, the Department may propose a rule for adoption which was not under consideration at the time that this regulatory agenda was submitted for publication.

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

As required by SAPA 102-a, it is anticipated that small business guides will be developed for each rule being considered by the Division of Licensing Services. It is not anticipated that small business guides will be developed for rules being considered by any other division of the Department of State.

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

DIVISION OF CEMETERIES

Part 200

Considering amending provisions concerning financial reporting by cemeteries.

Section 201.17

Considering amending section 201.17 dealing with lawn crypts.

Part 203

Considering repealing those regulations which have been codified under Not-for-Profit Corporation Law section 1517, and adding several new regulations concerning crematory maintenance and operations.

DIVISION OF COASTAL RESOURCES

Parts 600 - 603

Considering making various amendments to New York State Coastal and Inland Waterway Regulations affecting federal, state, local, and individual actions concerned with Article 42 of the New York State Executive Law ("Waterfront Revitalization of Coastal Areas and Inland Waterways") and implementation of the Federal Coastal Zone Management Act in New York as described in the New York Coastal Management Program.

DIVISION OF CODE ENFORCEMENT AND ADMINISTRATION

Parts 910 and 911

Considering adding a new Chapter XXX comprised of Parts 910 and 911 containing provisions relating to energy efficiency standards for appliances and equipment. Certain such provisions have been adopted as emergency measures from time to time, commencing in December, 2006.

Part 1202

Considering amending this Part to make the provisions relating to the administration of the Uniform Fire Prevention and Building Code by the Department of State in certain local governments and counties substantially similar to the corresponding provisions in revised Part 1203 (which became effective on January 1, 2007), and to update the fee schedule currently contained in section 1202.7.

Part 1203

Considering amending this Part concerning normally unoccupied buildings to establish more appropriate inspection intervals for these buildings and to clarify the language found in this Part.

Part 1205

Considering amending this Part to make the procedures for variances under the State Uniform Fire Prevention and Building Code applicable to variances under the State Energy Conservation Construc-

tion Code, to add new provisions relating to variances under the State Energy Conservation Construction Code, to revise procedures for appeals on variance matters, to address reopening and rehearing of variance hearings, and to establish procedures for decisions to be made on a written record.

Part 1208

Considering amending provisions relating to the minimum qualifications of code enforcement personnel.

Part 1209

Considering amending this Part concerning factory manufactured housing to update it and increase fees for plan review and Insignias of Approval.

Parts 1219-1228

Considering amending the Uniform Fire Prevention and Building Code to update its provisions.

Part 1240

Considering amending the State Energy Conservation Construction Code to update its provisions.

Part 1240

Considering adding provisions relating to the procedures for variances under the State Energy Conservation Construction Code.

DIVISION OF LICENSING SERVICES

Part 198

Considering adding a new Part 198 pertaining to bedding labeling and sanitation.

Part 199

Considering adding a new Part 199 pertaining to document destruction contractors.

Parts 1103, 1105, and 1107

Considering amending Parts 1103, 1105 and 1107 pertaining to qualifying education for real estate appraisers.

Considering adding a new Part relating to a Code of Ethics and Standards of Practice for home inspectors.

OFFICE OF ADMINISTRATIVE HEARINGS

Part 400

Considering amending the Department's hearing rules of procedure.

OFFICE OF FIRE PREVENTION AND CONTROL

Part 429

Considering amending existing rule pertaining to fire safety standards for cigarettes to implement the provisions of Chapter 583 of the Laws of 2006.

Part 452

Considering amending the schedule of fees imposed for courses offered by and the use of the Academy of Fire Science.

Considering adding a new Part to implement the provisions of section 156-f of the General Municipal Law (added by Chapter 21 of the Laws of 2006) pertaining to evacuation drills in buildings owned or leased in whole by the state or any agency thereof.

Considering adding a new Part to implement the provision of section 156-g of the General Municipal Law (added by Chapter 303 of the Law of 2007) pertaining to the creation of urban search and rescue teams and a technical rescue resource accreditation program.

Part 205 of Title 9 NYCRR

Considering amending/updating the Fire Mobilization and Mutual Aid Plan and moving Part 205 from Title 9 NYCRR to Title 19 NYCRR.

STATE ATHLETIC COMMISSION

Part 218

Considering adding a new Part 218 concerning special rules for review, addition, and removal of single-discipline martial arts sanctioning organizations in New York State.

Considering repealing obsolete sections of Part 217 regarding professional wrestling to achieve consistency with Title 25 of the Unconsolidated Laws.

The Department of State maintains a continuously updated regulatory agenda on its website. The address of this website is: www.dos.state.ny.us.

To obtain information about or submit written comments concerning any item in this Regulatory Agenda, contact: David Treacy, Office of General Counsel, New York State Department of State, One Commerce Plaza, 99 Washington Avenue, Suite 1120, Albany, New York 12231-0001.

Office of Temporary and Disability Assistance

Pursuant to section 202-d of the State Administrative Procedure Act (SAPA), the Office of Temporary and Disability Assistance (OTDA) is required to publish a regulatory agenda for those regulations that it is considering for publication in the *State Register*. Set forth below is an agenda for the first half of 2010. Section 202-d of SAPA does not preclude OTDA from proposing for adoption a regulation that is not described in the agenda, nor does it require OTDA to propose for adoption a regulation that is described in the agenda.

Child Well Being

Establish guidelines for the local child support enforcement units to follow in determining whether and under what circumstances a passport, which has been revoked, denied or suspended by the US Department of State due to non-payment of child support, may be released.*

Amend location definition and procedures concerning the financial investigation of a putative father to facilitate the establishment of a child support order.*

Update regulation pertaining to the calculation of basic child support obligations and repeal the child support standards chart.*

Revise regulations for the distribution and assignment of child support collections to reflect the requirements of Chapter 57 of the Laws of 2008 and federal law and to conform with the Personal Responsibility Work Opportunity Reconciliation Act's elimination of excess current support.*

Revise regulation pertaining to federal incentive payments.*

Address annual service fee for never assistance cases and revise legal services section.*

Revise desk review procedures addressing the accounting and disbursement of child support for certain current and former recipients of Public Assistance.*

Promulgate regulations for establishing and enforcing medical support obligations.*

Amend regulations to clarify that when an attorney for a local district child support enforcement unit provides child support services, that attorney represents the interests of the local support collection unit in carrying out its duties under the child support program.*

Employment and Economic Supports

Clarify provisions concerning the submission of a social security number as a condition of eligibility for Public Assistance.*

Extend the deeming of an alien sponsor's income and resources to federally funded Safety Net Assistance.*

Provide consistency between the Family Assistance program and the Safety Net Assistance program concerning the treatment of bona fide loans, income and resources.*

Simplify the Public Assistance budgeting methodology for certain three generation households.*

Amend regulations to add timeliness provisions for reporting changes in income for Public Assistance.*

Extend the repayment term of utility repayment agreements from one year to two years to meet the requirements of Chapter 318 of the Laws of 2009.*

Amend Home Energy Assistance Program (HEAP) regulations to reflect current practices and the provisions of the federally accepted HEAP State Plan.*

Amend regulations to meet the requirements of Chapter 57 of the Laws of 2009 to establish three new schedules for the standard of

monthly need for determining eligibility for all categories of public assistance that become effective July 1, 2009, July 1, 2010 and July 1, 2011 consecutively.

Amend regulations to meet the requirements of Chapter 53 of the Laws of 2009 to authorize social services districts to provide shelter allowance supplements at local option to all Public Assistance households in order to prevent eviction and address homelessness.*

Update provisions regarding fair hearing requests for HEAP benefits.*

Revise assessment regulations to clarify that the requirements for exempt individuals in households without dependent children are consistent with those for exempt individuals in households with dependent children.*

Amend employment program provisions for notices of conciliation and notices of discontinuance or reduction to implement plain language requirements.*

Establish additional guidelines regarding work activity definitions and work documentation and verification procedures to make them consistent with standards required by federal regulations implementing the Deficit Reduction Act of 2005.*

Implement changes to participation rate regulations to conform to amendments to the Social Services Law which require social services districts to expand the countable work activities available to Safety Net Assistance participants without children to include community service programs, the provision of child care services to an individual participating in community service and time limited vocational education training, job search and job readiness assistance.*

Revise regulations for employment to comply with final federal regulations.*

Revise Food Stamp employment and training regulations to conform with federal regulations.*

Clarify how participation rates are calculated based on federal reporting requirements and clarify the calculation of two distinct Safety Net Assistance work participation rates.*

Correct a technical error in regulation related to good cause for failing to comply with work requirements.

Identify cases that may be excluded from participation rates pursuant to federal Temporary Assistance for Needy Families (TANF) regulations.*

Repeal provisions which permit foster care parents and individuals who are caring for a disabled household member to be deemed as community service participants as required by federal regulations implementing the Deficit Reduction Act of 2005.

Authorize shift of certain cases to non-TANF Family Assistance or to non-MOE (non-Maintenance of Effort) Safety Net Assistance to facilitate implementation of changes made by the Deficit Reduction Act of 2005.*

Remove quarterly reporting as a district optional requirement for Public Assistance programs.*

Amend regulations which govern Emergency Shelter Allowances to reflect Chapters 53 of the Laws of 2008 and 2009.*

Update provisions regarding persons who are permanently residing in the United States under the color of law (PRUCOL).*

Delete the regulatory provisions relating to the Learnfare program.

Revise Food Stamp regulations concerning the special definition of the "head of the household."*

Update the determination of Food Stamp eligibility regulations to include Supplemental Security Income (SSI) live-alone New York State Nutrition Improvement Program provisions and education grant exclusions.*

Delete Food Stamp monthly reporting/retrospective budgeting references and add provisions for change reporting.*

Delete provisions relating to Food Assistance Program.

Conform regulations concerning in-office interviews for Food Stamp applicants to federal requirements.*

Clarify the policy regarding claims establishment and the collection process for Food Stamp overpayments.*

Generally update Food Stamp regulations to conform to the Food, Conservation, and Energy Act of 2008 and to recent changes in the federal regulations.*

Amend regulations to accommodate the Statewide implementation of the Working Families Food Stamp Initiative.*

Amend regulations to reflect expanded categorical eligibility for the Food Stamp program.*

Amend Food Stamp reporting requirements for elderly and disabled persons.*

Update regulations for the food stamp transitional benefit alternative program.*

Audit and Quality Improvement

Amend regulations governing intentional program violations to make the State's requirements for a ten year disqualification from the Food Stamp program consistent with the federal requirements set forth in the Code of Federal Regulations.*

Reimbursement and Claims

Amend regulations concerning reimbursement claiming to reflect current Federal and State requirements and current State and local district practices.*

Amend maintenance assistance sections to reflect new program categories under Welfare Reform.*

Add a section on fiscal penalties/sanctions that may be applied to social services districts resulting from Welfare Reform requirements.*

Remove administrative cost cap section as this process is no longer in existence.*

Amend employment section to reflect new program categories under Welfare Reform.*

Technical Amendments

Update regulations concerning public access to records under the Freedom of Information Law to reflect statutory amendments.*

Revise fair hearings regulation to clarify the distinction between the standard of proof required at the hearing and the standard required for judicial review.*

Amend fair hearing regulations to add provisions concerning a telephone hearings process.*

Amend the definition of the fair hearing record as it pertains to decisions without a hearing.*

It is not anticipated that small business regulation guides will need to be developed for the proposals set forth in this agenda.

* The asterisks identify rules for which a regulatory flexibility analysis or a rural area flexibility analysis may be required.

Any questions or comments concerning the items listed in this agenda can be referred to Jeanine Stander Behuniak, New York State Office of Temporary and Disability Assistance, 40 North Pearl Street 16C, Albany, New York 12243. Telephone: (518) 474-9779. E-mail: Jeanine.Behuniak@OTDA.state.ny.us. The regulatory agenda may be accessed on OTDA's website at www.otda.state.ny.us.

Workers' Compensation Board

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

This notice is also intended to provide small businesses, local governments, and public and private interests in rural areas with the opportunity to participate in the rule making process, as provided for in State Administrative Procedures Act sections 202-b and 202-bb.

All of the rules described below may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis pursuant to State Administrative Procedures Act sections 202-b and 202-bb, respectively.

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

The Workers' Compensation Board is considering proposing the following rules:

1. Addition of Parts 440 and 442 to provide fee schedules to govern the cost of prescription medicines and durable medical equipment in order to control the cost of workers' compensation insurance. Additionally, such proposal would provide process and guidance for claimants, employers, insurance carriers, third party administrators and self-insured employers regarding the operation of pharmacy networks and the payment of prescription bills and durable medical equipment bills according to a uniform standard so that delays in reimbursement or payment to claimants or pharmacies are reduced or eliminated.

2. Addition of section 325-2.11 regarding the introduction of Diagnostic Networks, which shall include definitions of specified terms such as "reasonable distance from the claimant's residence or place of employment," descriptions of the notices that must be provided to employees and treating providers, and establish necessary processes. This rule will also amend any existing rules that would contradict this regulation.

3. Amend Section 300.2 regarding independent medical examinations regarding the time period within which reports of such examinations must be filed with the Board and served on all others, procedures for review of records without an examination of a claimant, process to revoke the authorization of an independent medical examiner whose medical license has been restricted or Board Certification revoked, and process to impose a penalty not to exceed \$10,000 and revoke the registration of an Independent Medical Examination (IME) Entity which has engaged in misconduct or upon a finding that an IME Entity has materially altered or caused to be altered an IME report.

4. Amend Part 326 to implement procedures to temporarily suspend or revoke the authorization of a physician who is guilty of professional or other misconduct or incompetence or practice outside his/her scope with regard to rendering medical services.

5. Add provisions that establish an independent review and appeal by an outside agent or entity of the Board's choosing of any administrative law judge's determination to discontinue or suspend medical services for a claimant who has surpassed his/her number of maximum benefit weeks before a final determination of the Board.

6. Add a new Part 308 to establish the method of calculating the cost of a workers' compensation policy for purposes of Workers' Compensation Law § 52(5) and § 131, to identify the business records that employers must keep and maintain in accordance with Workers' Compensation Law § 131 and § 141-a, and establish the process for an application for redetermination of the issuance of a stop-work order.

7. Add a new Part 309 to establish requirements to be eligible to join the Independent Livery Driver's Benefit Fund and the calculation of an independent driver's average weekly wage.

8. Add provisions that establish the use of medical treatment guidelines for the low back, cervical spine, shoulder and knee. The treatment guidelines are those recommended in the report of the Superintendent of Insurance dated December 3, 2007, and how they are to be used will be based upon the implementation standards set forth in the report from the Superintendent of Insurance from June 2007.

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

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

11. Repeal and readopt Part 302 regarding the rules governing licensed representatives. The amendments will separate the provisions that apply to third-party administrators from those of licensed claim-

ant representatives and address applications, duties, standards of conduct and licensure.

12. Amend Part 317 to establish rules for the licensing and conduct of group administrators of group self-insured trusts pursuant to Workers' Compensation Law § 50(3-a)(5).

13. Repeal and readopt Part 317 regarding group self-insured trusts to establish application procedures, qualifications, and responsibilities for any group of employers who wish to become, or have been approved to operate as, a group self-insurer.

14. Amend Section 310.2 regarding the process for imposing the penalty pursuant to Workers' Compensation Law § 110(4) on employers who fail or refuse to file the prescribed form for reporting a work related accident or exposure resulting injury or illness to the Board.

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

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

17. Add a new section 300.40 to require all legal representatives appearing before the Board to be prepared and either have authority to settle an issue or claim or have the means of contacting a person with such authority, and the penalties for failing to comply.

18. Add a new section 300.41 to establish rules regarding penalties for instituting or continuing proceedings before the Board without reasonable grounds pursuant to Workers' Compensation Law § 114-a(3).

19. Amend Parts 390 and 393 regarding the Aggregate Trust Fund to conform to the amendments to Workers' Compensation Law § 27, the decisions of the Board and the recent decision by the 2nd Circuit Court of Appeals.

20. The Board will continue to review its rules in an effort to provide for clearer and more accurate references to Board policies and procedures, while also eliminating typographical errors and obsolete forms/practices, etc. *To obtain information about or submit written comments concerning any item in this Regulatory Agenda, contact: Cheryl M. Wood, Special Counsel to the Chair, Workers' Compensation Board, 20 Park Street, Rm. 400, Albany, NY 12207, e-mail: regulations@wcb.state.ny.us*

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