

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 2011. 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 2011 Regulatory Agenda.

OFFICE OF P-12 EDUCATION

Amendment of Part 100 of the Commissioner's Regulations relating to implementation of a growth model. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2 of the Commissioner's Regulations relating to general school requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 100.2 of the Commissioner's Regulations relating to accountability determinations and the school report card. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(h) of the Commissioner's Regulations relating to availability of career and technical education and arts sequences. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(j) of the Commissioner's Regulations relating to guidance programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(m) of the Commissioner's Regulations relating to Public Reporting Requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(n) of the Commissioner's Regulations relating to Variances for programs and special focus schools. 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 revise the method for determining Adequate Yearly Progress for graduation rate in order 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 section 100.4(b) of the Commissioner's Regulations relating to program requirements in grades five and six. A regulatory

flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(c) of the Commissioner's Regulations relating to unit of study requirements in grades seven and eight. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(d) of the Commissioner's Regulations relating to grade eight acceleration for diploma credit. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(h) of the Commissioner's Regulations relating to models for Middle Level Education. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(a), (b) and (c) of the Commissioner's Regulations relating to graduation and diploma requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(a)(5)(i) of the Commissioner's Regulations relating to the State Assessment System. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(d) of the Commissioner's Regulations relating to Career and Technical Education programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 120.5 of the Commissioner's Regulations relating to persistently dangerous schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Commissioner's Regulations relating to the instructional reporting and improvement system. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Commissioner's Regulations relating to Joint Intervention Teams and access to the Data Portal. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Commissioner's Regulations relating to the Early Warning System and the use of standardized student-level attendance rules. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations to conform to and implement Chapter 101 of the Laws of 2010, relating to 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 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 pur-

suant 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) of the Commissioner's Regulations relating to financing of charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Parts 100 and 200 of the Commissioner's Regulations to make certain technical amendments, including corrections to cross citations, as may be appropriate and to conform to possible changes made to federal regulations this year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.2(g) of the Commissioner's Regulations relating to special education space requirements plans, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.4(i) of the Commissioner's Regulations relating to written notice upon graduation or aging out, as may be necessary to conform to changes to State statute. 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 section 200.5(b) of the Commissioner's Regulations relating to parental consent for initial provision of special education services in a 12-month special service and/or program, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 200.5(j) of the Commissioner's Regulations relating to the timeline for requesting an impartial hearing as may be necessary to conform to changes to State statute. 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 a school district's responsibilities for a student with disability placed 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 to section 200.7(d) of the Commissioner's Regulations relating to the approval of the Commissioner of Education in granting appointment of a student with a disability to a State-supported or State-operated school. 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 the provision of services to preschool students with disabilities in an approved program as close as possible to the student's home, as may be necessary to conform to changes to State statute. 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

New York State Education Department

State Education Building, Room 125

89 Washington Avenue

Albany, New York 12234

(518) 474-3862

nysedp12@mail.nysed.gov

OFFICE OF HIGHER EDUCATION

Amendment of Parts 52 and Part 80 of the Regulations of the Commissioner, regarding expedited certification pathway for applicants in Science, Technology, English and Mathematics (STEM). A rural flexibility analysis may be required.

Amendment of Parts 80 and 83 of the Regulations of the Commissioner of Education regarding moral character hearings and regarding the applicability to coaches of moral character and background check requirements. A rural flexibility analysis may be required.

Amendment of section 80-1.6 of the Regulations of the Commissioner of Education regarding extension of the time validity of an expired teaching certificate. A rural flexibility analysis may be required.

Amendment of section 100.2 of the Regulations of the Commissioner of Education regarding applicability of student growth and other criteria to the annual professional performance review of teachers and school leaders. A rural flexibility analysis may be required.

Amendment of Part 144 of the Regulations of the Commissioner of Education regarding transfer fund grants to school districts and regarding innovative compensation incentive funds to school districts. A rural flexibility analysis may be required.

Amendment of section 145-2.1 of the Regulations of the Commissioner of Education 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 145-2.4 of the Regulations of the Commissioner of Education 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

Deputy Commissioner for Higher Education

New York State Education Department

Office of Higher Education

Room 978, Education Building Annex

89 Washington Avenue

Albany, New York 12234

(518) 486-3633

sroberson@nysed.mail.gov

OFFICE OF THE PROFESSIONS

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 60 of the Commissioner's Regulations relating to the professional study of medicine. A rural area flexibility analysis may be required.

Amendment of Part 61 of the Commissioner's Regulations relating to dental anesthesia certification. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 62 of the Commissioner's Regulations relating to the requirements for continuing education for veterinarians and veterinary technicians. 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 Part 78 of the Regents Rules relating to the requirements for continuing education for massage therapists. A rural area flexibility analysis may be required.

Amendment of Subpart 79-5 of the Commissioner's Regulations relating to licensure requirements in midwifery. 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:

Frank Muñoz

Deputy Commissioner for the Professions

New York State Education Department

Office of the Professions

89 Washington Avenue

West Wing, Second Floor - Education Building

Albany, NY 12234

(518) 486-1765

opopr@mail.nysed.gov

OFFICE OF CULTURAL EDUCATION

Amendments to 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 ten (10) criteria under which items in a collection may be deaccessioned; provides requirements for designation by a board of trustees of historic structures and buildings to be part of a museum's 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; corrects a drafting error by replacing the phrase "broad representation" with the phrase "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.

Agency representative:

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

Clifford A. Siegfried

Assistant Commissioner

New York State Education Department

3023 Cultural Education Center

Albany, New York 12230

(518) 474-5812

csiegfri@mail.nysed.gov

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 amendment by contacting:

Bernard A. Margolis

State Librarian and Assistant Commissioner for Libraries

New York State Education Department

New York State Library

Room 10C34

Albany, NY 12230

(518) 474-5930

bmargolis@mail.nysed.gov

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.

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.

Amendment to Part 188 of the Commissioner's Regulations related to state government archives and records management to update the agency fee list to match the current organizational structure of executive branch agencies and, in anticipation of passage of the Governors' Records Bill, to update and establish records and archival management policies and procedures relating to records of the governor, executive chamber, legislature, and the civil departments of state government. 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

Assistant Commissioner for the State Archives

9A49 Cultural Education Center

Albany, New York 12230

(518) 473-7091

cward@mail.nysed.gov

ADULT EDUCATION AND WORKFORCE DEVELOPMENT
REG. AGENDA

Amendment of section 126 of the Commissioner's Regulations, relating to definition of a proprietary school, to eliminate categories of licensed private, registered business, and computer training facility, and replace with licensed private school. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to include candidacy status for pending schools to allow operation while in licensing process without protections for students or representation of oversight by SED. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to change requirements for financial reporting, with all but smallest schools being required to submit an annual audited financial statement. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to increase license application and renewal fees. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to expand Commissioner's to deny, revoke, suspend, or decline a school license. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to require a new school application when a 25 percent change of ownership occurs. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to redefine method of determining the rate of tuition assessment. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to require specific loan disbursement schedules for tuition payments. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to add other entrance requirement options. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to require school inspections every four years. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to increase to \$75 the amount a student may receive for a student referral. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to increase agent application fee and duration of certification. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to increase and expand student's status as current student in event of school closure. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to require a bi-annual audit of the Tuition Reimbursement Account by the State Comptroller, an increase from yearly. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations requiring that schools add refund charts in the school catalog for student disclosure. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations adding a fee to reimburse the department for curriculum processing and review. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to change teacher licensing process to independent status, no longer being restricted to specific school. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to define parameters of complaints for students of candidate schools. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to amend maximum fines which may be levied through administrative hearings. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to permit school director to receive agent certification and director license with one fee. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to permit the State Education Department to arrange for a teach-out agreement in absence of cooperation from closing school. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to more clearly define what conditions trigger special assessment. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to permit the Bureau of Proprietary School Services to access the Tuition Reimbursement Account for records processing. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 126 of the Commissioner's Regulations to change the regulations regarding the Advisory Council. 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:

Carole W. Yates, Director

Bureau of Proprietary School Supervision

One Commerce Plaza, Room 1613

Albany, NY 12234

(518) 474-3969

OFFICE OF STATE REVIEW

Amendment of section 279.1 of the Commissioner's Regulations, relating to the incorporation and clarification of definitions and other provisions, as relevant to state-level review of hearings for students with disabilities, that are currently referenced in Parts 275 and 276; deletion of references to parts 275 and 276; clarification of the jurisdiction of a state review officer; and clarification regarding the authority of a state review officer to review manifestation determinations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.2 of the Commissioner's Regulations, relating to timelines for serving and filing a Notice of Intention to Seek Review; clarification of purpose of Notice of Intention to Seek review; clarification of timeframe in which to serve upon another party and file a Notice of Intention to Seek review; and addition of a notice of certification requirement. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.3 of the Commissioner's Regulations, relating to service of an answer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.4 of the Commissioner's Regulations, relating to the initiation and scope of a review and the timeliness of an appeal, clarify sufficiency of content and time in which to serve the petition for review and memorandum of law upon the opposing party; procedures for filing a petition for review with the Office of State Review; and add disclosure of whether a related action or proceeding is pending in another forum. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.5 of the Commissioner's Regulations, relating to the content and service of an answer and supporting papers upon the opposing party and filing with the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.6 of the Commissioner's Regulations, relating to additional pleadings and new matters raised in an answer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.7 of the Commissioner's Regulations, relating to verification of pleadings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.8 of the Commissioner's Regulations,

relating to the table of authorities, clarification of the requirement that pleadings be signed consistent with 22 NYCRR 130-1.1a(a); and submission of electronic copies of pleadings and memoranda of law. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.9 of the Commissioner's Regulations, relating to content of record; certification of record and clarification that 279.9 (b) refers to complete record. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.10 of the Commissioner's Regulations, relating to requests for extensions of time and length of extensions permitted; submission of additional evidence; clarification of effect of agreements to extend the time in which to initiate a review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.11 of the Commissioner's Regulations, relating to calculating date of mailing and type of mail. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.12 of the Commissioner's Regulations, clarifying provisions relating to the finality of state review officer decisions. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.13 of the Commissioner's Regulations, relating to service of petition for review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of 279.15 of the Commissioner's Regulations, relating to definitions of terms in Part 279. 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:

Justyn Bates

Assistant Counsel and State Review Officer

Office of State Review

80 Wolf Road, 2nd Floor

Albany New York 12203

(518) 485-9373

OFFICE OF MANAGEMENT SERVICES

Amendment of Parts 275 and 276 of the Commissioner's Regulations to conform and implement Chapter 101 of the Laws of 2010, relating to expedited appeals to the Commissioner regarding charter schools and building usage plans. 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:

Erin M. O'Grady-Parent

Acting Counsel and Deputy Commissioner for Legal Affairs

State Education Department

89 Washington Avenue

Room 148 EB

Albany, NY 12234

(518) 474-6400

legal@mail.nysed.gov

Amendment of 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

Director of Education Finance
New York State Education Department
89 Washington Avenue
Room 139 EB
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 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 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 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 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 217, Motor Vehicle Emissions. The regulation will 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. The regulation will be amended to include clarifications to the idling prohibition for heavy duty vehicles. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Joseph Iannotti, P.E., 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 low emission vehicle standards; adopt new aftermarket and used catalytic converter requirements; adopt new 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, P.E., 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 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 life cycle carbon emissions associated with the combustion of various fuels. Carbon emissions associated with the production, distribution, and combustion of fossil fuels and biofuels will be included in these limits. 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 227-3, 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. EPA issued six CTGs between 2006 and 2008 that apply to surface coating operations. The existing rule will be amended to include new volatile organic compounds emissions standards for the surface coating operations addressed in the CTG documents. 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 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 231, New Source Review for New and Modified Facilities, and 6 NYCRR Part 201, Permits and Registrations. The existing rules will be amended to comply with the 2008 and 2010 final federal New Source Review rules for emissions of PM_{2.5} and Greenhouse Gases (GHGs), respectively. Some of EPA's final PM_{2.5} requirements are already included in the current Part 231 as a result of the 2009 revision to Part 231. This rulemaking will incorporate the remaining provisions of the 2008 federal NSR rule. Existing Parts 201 and 231 will also be amended to incorporate conforming provisions of EPA's June 3, 2010 NSR final rule for the regulation of GHGs, referred to as the GHG Tailoring Rule. This rulemaking will require a Regulatory Flexibility Analysis for Small Business and Local Governments and a Rural Area Flexibility Analysis. Contact: Steven 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 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: Eric Wade, 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: Ronald Stannard, 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 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 248, Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology for Heavy Duty Vehicles. The existing regulation will be revised to clarify some implementation issues that have arisen since it was adopted in 2009. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Joseph Iannotti, 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 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: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when emailing.

DIVISION OF ENVIRONMENTAL REMEDIATION

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) facilities; (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, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9543. E-mail: derweb@gw.dec.state.ny.us. Please include the Part numbers in the subject line 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, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9543. E-mail: derweb@gw.dec.state.ny.us. Please include the Part numbers in the subject line 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, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7020. Telephone: 518-402-9543. E-mail: derweb@gw.dec.state.ny.us. Please include the Part number in the subject line 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, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625

Broadway, Albany, New York 12233-7020. Telephone: 518-402-9543. E-mail: derweb@gw.dec.state.ny.us. Please include the Part number in the subject line when e-mailing.

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: Deborah Aldrich, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7252. Telephone: 518-402-8730. E-mail: hwregs@gw.dec.state.ny.us.

6 NYCRR Part 380, Prevention and Control of Environmental Pollution by Radioactive Materials. 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, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7255. Telephone: 518-402-8579. E-mail: radregs@gw.dec.state.ny.us.

6 NYCRR Part 384, Cleanup of Radioactively Contaminated Sites. This rule is being developed to adopt applicable sections of the federal Nuclear Regulatory Commission's (NRC) license termination rule (LTR), which establishes cleanup criteria for radiologically contaminated sites. Program staff are coordinating adoption of the LTR with the New York State 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, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7255. Telephone: 518-402-8579. E-mail: radregs@gw.dec.state.ny.us.

DIVISION OF FISH, WILDLIFE AND MARINE RESOURCES

6 NYCRR Part 10 Sportfishing Regulations. Every two years the department makes needed adjustments to the freshwater sportfishing regulations for the purposes of keeping the regulations up to date and current with management needs (including individual waters) and to provide for angling opportunity. This amendment will not require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Shaun Keeler, New York State Department of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518 402 8928. E mail: sxkeeler@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. Each State, tribe, or territory that wishes to allow the practice of falconry must work with the Service to ensure correct operation of electronic reporting of take of raptors from the wild, and must then certify to the Director Service that it is in compliance with the new Federal regulations. Any State certified to allow falconry under the Federal falconry regulations in § 21.28, 21.29, and 22.24 of 50 CFR prior to the effective date may continue to allow falconry under those provisions until the US Fish and Wildlife Service approves that States recertification, or until January 1, 2014. Falconry shall not be permitted in a State or territory or by a Tribe after January 1, 2014, until that State, tribe, or territory develops a permitting program that the Director has certified

to be in compliance with these regulations. This amendment will not require a Regulatory Flexibility Analysis for Small Business or a Rural Area Flexibility Analysis. Contact: Joseph Therrien, New York State 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. We need to include provisions for additional statutory amendments that have occurred since the regulations were last amended, and to clarify standards and criteria for agency actions on applications and licenses. This amendment may require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Patrick Martin, New York State 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). The statutory language in ECL 11-0512 and 11-0103(6)(e)(5) provides the opportunity for the private possession of animals that are or should be considered too dangerous for possession outside bona fide zoological gardens. In addition, the proposed amendments to Part 180.1 will provide a list of species that have been found to be too dangerous to the public or to the fish and wildlife resources of the state to be possessed in any facility except a bona fide zoological garden certified by the American Zoological Association. This amendment may require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Patrick Martin, New York State 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 - 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). The statute authorizes exhibition of venomous reptiles and these regulations are needed to provide for the issuance of permits. This amendment may require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Patrick Martin, New York State 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 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: rajacobson@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, New York State 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 statewide (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, New York State 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, New York State 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 food fish 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 re-issuance 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 statewide; 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, New York State 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, New York State 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. The proposed regulations will modify the descriptions of allowable activities under each category of shellfish shipper permit consistent with the NSSP and the Environmental Conservation Law and amend and clarify descriptions of shellfish harvest areas to clearly delineate geographical sites where shellfish are harvested. Contact: Susan Ritchie, New York State 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. Please include the Part number when emailing.

6 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, New York State 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 - Lobsters and Crabs. 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, New York State 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, New York State 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, New York State 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 50 - Miscellaneous Marine Species. The department seeks to adopt new regulations for the protection and management of other marine species. The immediate need is for the adoption of new regulations for the protection and management of whelks (also known as conch, Busycon spp). These regulations will include size limits, reporting requirements for harvesters and dealers, and the authorization for whelk harvest closures because of the presence of marine biotoxins in areas where whelks may be harvested (Whelks are carnivorous gastropods that may feed on bivalve mollusks contaminated by marine biotoxins.). Other marine organisms that may be included in this part include corals, squid, echinoderms (sea stars, sea urchins, sea cucumbers) and sea weeds. 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, New York State Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead 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 1, Deer. A new section will be added to comply with recently adopted legislation to allow the use of crossbows for hunting deer. Amendments to this part will also be necessary to fully implement regulatory aspects of the Department's Statewide Deer Management Plan. This amendment will not require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Mary E. Bailey, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754, Telephone: 518-402-8879. E-mail: mebailey@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Section 1.31, Bear. Amendment of this section is necessary to comply with recently adopted legislation to allow the use of crossbows for hunting black bear. The department also intends to propose amendments to bear hunting regulations affecting hunting in eastern New York, and to adjust bear season opening dates in central and western New York. This amendment will not require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Mary E. Bailey, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754, Telephone: 518-402-8879. E-mail: mebailey@gw.dec.state.ny.us Please include the Part number when emailing.

6 NYCRR Part 182.5, Endangered species, threatened species and species of special concern. Amendment of this section is necessary to

update the list of protected species. The last update was completed in 1999. Since that time, projects such as the completion of the 2nd New York Breeding Bird Atlas have provided new information on the distribution and abundance of fish and wildlife in New York. These updates are necessary so that the appropriate species are protected under this regulation, and the regulated public can be relieved of any regulatory burdens posed by species that have recovered since 1999. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Mary E. Bailey, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754, Telephone: 518-402-8879. E-mail: mebailey@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, New York State 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 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: James T. McClymonds, Chief Administrative Law Judge, New York State 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 interim appeals to the Commissioner from issues rulings by the administrative law judges. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses, and a Rural Regulatory Flexibility Analysis. Contact: Louis A. Alexander, New York State 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: Helene G. Goldberger, Administrative Law Judge, New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, New York 12233-1550. E-mail, hggoldbe@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 190.36, 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, 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

6 NYCRR Part 190, Use of State Lands. Adopt a new section to 6 NYCRR 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: Robert Messenger, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9428 E-mail: rwmessen@gw.dec.state.ny.us

6 NYCRR, Use of State Lands. Amend existing sections 190.0(14),

190.1(c) and 190.8(g). These amendments will clarify the intent of the existing regulation for the public and for those responsible for enforcement. Contact: Robert Messenger, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9428 E-mail: rwmessen@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: Robert Messenger, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9428 E-mail: rwmessen@gw.dec.state.ny.us

6 NYCRR 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: Robert Messenger, NYS Department of Environmental Conservation, Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255 Telephone: (518) 402-9428 E-mail: rwmessen@gw.dec.state.ny.us

6 NYCRR Part 192, Forest Insect and Disease Control. Amend Section 192.5, Firewood Restrictions to Protect Forests from Invasive Species. Amend Section 192.5 and adopt a new Section 192.6, Quarantine Orders. These regulations are needed to clarify the existing regulation and to provide more effective enforcement of the firewood regulations and quarantine orders issued pursuant to Environmental Conservation Law, Section 9-1303. A Rural Area Flexibility Analysis is not required for this rulemaking. Contact: Bruce Williamson, NYS Department of Environmental Conservation, Bureau of Private Land Services, 625 Broadway, Albany, NY 12233-4253 Telephone: (518) 402-9425 E-mail: bewillia@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.us

DIVISION OF MATERIALS MANAGEMENT

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 adds 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 prohibits 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 Materials Management, 625 Broadway, Albany, New York 12233-7254. Telephone: 518-402-8768. E-mail: ppr@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 manner 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: Kathy Prather, NYS Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, New York 12233-7253. Telephone: 518-402-8678. E-mail: swreg@gw.dec.state.ny.us.

6 NYCRR Part 360 series, 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 Materials Management, 625 Broadway, Albany, New York 12233-7253. Telephone: 518-402-8678. E-mail: swreg@gw.dec.state.ny.us.

6 NYCRR Part 360 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 Materials Management, 625 Broadway, Albany, New York 12233-7253. Telephone: 518-402-8705. E-mail: pmpettit@gw.dec.state.ny.us.

6 NYCRR Part 360 series, Management of Used Electronics. These regulations will incorporate solid waste management activities for used electronics that are not currently addressed within Part 360, and implement Article 27, 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: Mark Moroukian, NYS Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, NY 12233-7251. Telephone: 518-402-8633. E-mail: mmmorouk@gw.dec.state.ny.us.

DIVISION OF WATER

6 NYCRR Part 505, Coastal Erosion Management Regulations. Part 505 of 6 NYCRR was last amended in March 1988. Since that date, through the implementation of the program there have been a number of areas identified which should be amended. These areas include clarifying definitions, providing new defined terms, and clarifying regulatory language regarding natural protective features areas. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, Director, Bureau of Water Permits, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8185. E-mail: aafuchs@gw.dec.state.ny.us

6 NYCRR Part TBD, Water Well Registration and Reporting. A new Part will be developed in conjunction with ECL 15-1525 to es-

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, 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: Koon Tang, Director, Bureau of Water Permits, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: kstang@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 ECL Article 36 in 1992 removed this requirement from law. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, Director, Bureau of Flood Protection and Dam Safety, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: aafuchs@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. Due to a lack of appropriations for this program for several years, 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: Koon Tang, Director, Bureau of Water Permits, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: kstang@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: Koon Tang, Director, Bureau of Water Permits, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: kstang@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, 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, 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 <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 2011:

DESCRIPTION OF THE RULE SUBJECT MATTER

Title 10 NYCRR (Health)

Family Health Care Decisions Act - Promulgate regulations as required under Public Health Law section 2994-t (L. 2010, Ch. 8).

Statewide Health Information Network for New York (SHIN-NY) - Promulgate regulations as required under Public Health Law section 206(18-a)(b) (L. 2010, Ch. 58, Part A, § 11).

1.31 Disclosure of Confidential Cancer Information for Research Purposes - Amend the existing regulation which specifies that confidential cancer data can only be disclosed for governmental or government-sponsored research projects to be more consistent with current cancer research needs and sponsorship practices. The regulations will provide clearer definitions of the circumstances under which confidential cancer information can be released for research and non-research purposes.

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). The regulations will provide definitions and requirements for reporting human exposures, confinement of animals exposing people to rabies, quarantine of animals exposed to rabies, and county responsibility for establishing provisions for animal control related to rabies.

5-1 Public Water Systems - Amend the regulation to incorporate mandatory federal regulations to improve control of microbial pathogens (federal LT2SWTR) while limiting risks associated with the formation of and exposure to disinfection byproducts (federal Stage 2 D/DBPR). This subpart will also be amended to incorporate mandatory federal regulations to improve the control of lead and copper in public water supply systems (federal LCR).

5-1 Public Water Systems - Amend the regulation to update provisions pertaining to backflow device tester certification requirements; revise the provisions applicable to variances and exceptions 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.

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.

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.

19 Clinical Laboratory Directors - Revise qualifications for directors of clinical laboratories to recognize professional boards accepted as qualifying under the federal Clinical Laboratory Improvement Amendments (CLIA); and codify the definition of assistant director; and establish qualifications for directors of forensic identity and other categories not currently specified in the regulation.

22.3 Supplementary Reports of Certain Congenital Anomalies for Epidemiological Surveillance; Filing - Amend the regulation by requiring the reporting of children up to 10 years of age with certain 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.

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.

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

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.

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.

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, and is proposed for deletion.

58-1 Clinical Laboratories - Revise laboratory personnel requirements to reflect industry standards; consolidate existing requirements for clarity; codify quality systems, performance testing and other requirements as necessary to align with federal CLIA standards; clarify assistant director responsibilities; establish standards for tracking and referral of critical agent and communicable disease specimens; and establish standards for demonstrating the 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 (DAT) - Amend the regulation to establish record keeping and reporting standards for DAT, codify circumstances for DAT for drugs-of-abuse.

58-8-Human Immunodeficiency Virus (HIV) Testing - Amend the regulation to update requirements to conform to statutory amendments for HIV testing effective September 1, 2010.

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 process for approving modified ignition interlock devices and delete references to expired pilot program; and codify the National Highway Traffic Safety Administration model specifications for device certification.

63 HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information - Amend relevant sections of Part 63 to be consistent with Chapter 308 of the Laws of 2010, the HIV Testing Law.

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 address 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. Redefine "in process" for students receiving mandated vaccinations and establish time limits for completion of needed immunizations.

66-3 Immunization - Amend the regulations to add Subpart 66-3 to Title 10 to require all health care personnel employed or affiliated with a health care facility, document as a precondition of employment and annually, immunizations for influenza virus. 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.

69-1 Newborn Screening - Amend the regulations to update the list of conditions for which screening is offered.

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 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.

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 as well as changes that have occurred in the industry that should be reflected in the training programs.

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 treat-

ment 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.

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 for electronic transmission, documentation, recordkeeping and endorsement of controlled substance and hypodermic needle and syringe prescriptions to allow for transfer of needle and hypodermic syringe prescriptions and eliminate the requirement for a written follow-up prescription for oral prescriptions (authorizations) for needles and syringes. Amend regulations to permit prescribing of needles and syringes pursuant to a patient specific order form, as defined in State Education Law Section 6810 (7)(b). Amend Part 80 to update reporting requirements for Methadone Maintenance Treatment Programs enacted by Public Health Law Section 3352 statutory changes. Outline the training requirements associated with certification of Euthanasia Technicians (for animals) as required by Section 374 (3)(b) of the Agriculture and Markets Law.

80.131 and 80.137 Expanded Syringe Access Demonstration Program - Sale and possession of hypodermic syringes and hypodermic needles without a prescription under the Expanded Syringe Access Demonstration Project (ESAP) - Amend Section 3381 by removing "Demonstration" from the title of the program and formally adopt "Expanded Syringe Access Program" as the name of the program since the program has now been made permanent pursuant to Chapter 58 of the Laws of 2009.

85.40 and 86-4.36 Prenatal Care Assistance Program Policy and Payment - Repeal the regulation. This program has been replaced by new prenatal care standards with reimbursement occurring pursuant to new methodology.

86-1 Inpatient Hospital Reform - Amend the regulations to establish a new methodology to address potentially preventable readmissions and complications. Amend regulations to implement revised APR-DRGs, Service Intensity Weights, cost outlier thresholds and average length of stay effective January 1, 2011. Amend the regulations to establish a new payment methodology for hospital inpatient psychiatric services.

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

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.

86-8.7 APGs and Relative Rates - Amend the regulation to revise the January 2010 weights and add new hospital peer groups.

89 Practice of Radiologic Technology - Amend the regulation to update scope of practice descriptions and to clarify continuing education requirements.

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 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(q), 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 to reflect that the rule applies prospectively.

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)(vii)(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: 1) require that managed care organizations (MCOs) ensure each member has selected a primary care provider from which the member receives all primary care services; 2) address requirements related to subdivision 5-d to Section 4406-c which imposes a "cooling off" period after termination or non renewal of a contract between an MCO and a hospital; 3) amend regulations to clarify that certain out-of-network service denial notices must include internal MCO and external appeal rights afforded by Section 4904(1-a); and 4) promote consistency of initial adverse determination notices issued in accordance with Section 4903(5) by clarifying notice content requirements.

98-1.16(c) Preparation and Filing of Audited Financial Statements - Amend this part and new section 98-3 to establish standards for the preparation and filing of audited financial statements by PHSPs, HIV SNPs, and managed long term care plans that are consistent with the National Association of Insurance Commissioners (NAIC) model audit rules already adopted by the New York State Insurance Department for other insurers.

98-1.18(a) MCO Agreements - Amend the regulation to add this section as it applies to MCO agreements with licensed pharmacies and laboratories acting as benefit managers arranging for services, equipment and supplies.

98-2 External Appeals of Adverse Determinations - Amend the regulation to reflect changes to Article 49 of the Public Health Law made by Chapter 237 of the Laws of 2009 and Chapter 451 of the Laws of 2007 and the Patient Protection and Affordable Care Act (PPACA).

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

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.

400.15 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 clinic data not presently being collected by SPARCS from general hospitals and diagnostic and treatment centers licensed under Article 28 of the Public Health Law. As a result of the changes to Section 400.18, the following will be repealed: Appendix C-2, Appendix C-3, Appendix C-5, Section 755.10, and

Section 405.27. Section 407.5 and Section 400.14 will be amended to coordinate to the revised Section 400.18.

400.25 Disclosure of Nursing Quality Indicators - Amend the regulations to create a new section 400.25 in response to Chapter 422 of the Laws of 2009, the Nursing Care Quality Protection Act, signed into law on September 16, 2009. The law requires Article 28 facilities to disclose identified nursing quality indicator information upon request to any member of the public, any state agency licensing the facility or responsible for overseeing the delivery of services by the facility, or any organization accrediting the facility. The law requires promulgation of regulations to enable disclosure of this information to requestors.

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 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.

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.

405.19 Emergency Services - Amend the regulation to authorize and provide operating standards for observation units.

405.21(b) Perinatal Services Rooming-in Definitions - Update the existing regulation which defines rooming-in to be consistent with the definition provided in Public Health Law § 2505-a, Breastfeeding Mothers' Bill of Rights.

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.

413.1 Consumer Information - Amend the regulations requiring the Department to issue to each nursing home consumer, information based on the findings from any onsite regulatory visit. This information includes, an Inspection Summary Report which summarizes the results of the regulatory visit. This information is now available electronically on the Department's Nursing Home Profile website. The facility shall make the Inspection Summary Report readily available to consumers with the Statement of Deficiencies.

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. The proposed amendment outlines the Department's interim policy in effect since December 1, 2004.

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.

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.

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.

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.

800 Emergency Medical Services (EMS) - General - Amend the regulations to conform with federal requirements/recommendations, current medical practice standards, and national safety standards. 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.

Title 18 NYCRR (Social Services)

300.12 Monroe County Medicap Plan - Repeal section 300.12 since the Medicap program no longer exists. Medicap 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.

360-10 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.

460 and 461 Adult Homes, Enriched Housing Programs and Residences for Adults - Amend the regulations to improve the health and safety of New York residents living in adult care facilities by

expanding current DOH authority regarding penalties and suspensions of operating licenses, timeframes for inspections of facilities and written plan of corrections and requiring plans for quality assurance activities; amend the regulations regarding reporting to appropriate law enforcement authorities felony crimes committed against a resident; amend the regulations by providing for additional rights of residents of ACFs choosing their own health care providers and to be fully informed by the physicians; and clarifying rules regarding rental fees based on fair market value and charitable contribution of state monies, medical assistance payments or social security or supplemental security income.

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.

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

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.

505.9(d) Reserved Bed Day Payment - Amend the regulation to comply with Chapter 109 of the Laws of 2010, regarding changes to the reserved bed day reimbursement policy for Medicaid-eligible residents of residential health care facilities (nursing homes) aged twenty-one and older. Specifically, Chapter 109 changed the Medicaid reimbursement rate for reserved bed days and limited the number of reserved bed days for which a facility will be reimbursed while a resident is temporarily hospitalized or on a therapeutic leave of absence.

Contact person: Katherine Ceroalo, Department of Health, Bureau of House Counsel, Regulatory Affairs Unit, Empire State Plaza, Corning Tower Bldg., 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 2011. Many of these items were previously published in the June 2010 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 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 brokers and agents to use the internet and out-of-state banks with respect to 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 the supervision of title insurers authorized to write title insurance in this state. Agency Contact: Sapna Maloor, Senior Attorney, Office of General Counsel (212) 480-4668.

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 as 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: Adoption of a new part to 11 NYCRR to exercise the Superintendent's authority under Section 316 of the Insurance Law to require an insurer or other person or entity making a filing or submission with the Superintendent to submit the filing or submission by electronic means, unless the insurer or other person or entity applies for, and the Superintendent grants, an exemption from the electronic filing requirement. Agency Contact: Barbara Kluger, Principal Attorney, Office of General Counsel (212) 480-7211.

5. Summary 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 15(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.

6. 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.

7. 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.

8. 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, Deputy Superintendent for Accounting and International Affairs (212) 480-2299.

9. Summary description of proposal: Amendment of 11 NYCRR 16 (Special Risk Insurance) (Regulation 86) to add and revise various risks to the Class 2 Special Risk category, and reduce the minimum premium requirements for the Class 1 Special Risk category and the net premium written limitations requirements for special risk insurance (Free Trade Zone). Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

10. 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 make 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.

11. 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.

12. 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.

13. Summary 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.

14. 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, among other things, provide notice and time frame requirements for third party claims. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

15. Summary 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.

16. 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.

17. 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.

18. Summary 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.

19. Summary description of proposal: Amendment of 11 NYCRR 74 (Homeowner's Insurance Disclosure Information) (Regulation 159) to provide minimum standards for the uniform use of mandatory hurricane deductibles in homeowner and dwelling fire (personal lines) policies. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

20. Summary description of proposal: Amendment of 11 NYCRR 19 (Homeowner's Insurance; Application for Withdrawal from Marketplace) (Regulation 154) to revise the definition of "material reduction of volume of policies" to include a reduction of the net number of homeowner policies within a county. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

21. Summary description of proposal: Amendment of 11 NYCRR 27 (Excess Line Placements Governing Standards) (Regulation 41) to add coverages to the export list. 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) and 11 NYCRR 301 (Purchasing Groups) (Regulation 134) to revise the various sections of Regulation 41 and 134 to conform with the requirements of the Non-Admitted Reinsurance and Reform Act of 2010 (NRA). Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

23. Summary description of proposal: Amendment of 11 NYCRR 65-1 & 65-2 (Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparations Act) (Regulations 68-A & 68-B) to comply with Chapter 303 of the Laws of 2010, which prohibits insurers from excluding from coverage a driver who is injured while operating a motor vehicle in an intoxicated condition or while the ability to operate such a vehicle is impaired by the use of a drug and who receives necessary emergency health services rendered in a hospital, including ambulance services attendant thereto and related medical screening. Agency Contact: Buffy Cheung, Supervising Insurance Examiner, Property Bureau (212) 480-5587.

24. Summary description of proposal: Adoption of a new part to 11 NYCRR to specify additional types of groups made eligible for group travel insurance pursuant to Section 3452 of the Insurance Law. 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 annuities to ensure that annuities are suitable for the insurance needs and financial objectives of consumers. Agency Contact: Michael Maffei, Chief, Life Bureau (212) 480-5027.

26. Summary description of proposal: Adoption of a new part to 11 NYCRR to set forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, a life insurance policy or annuity contract. Agency Contact: Michael Maffei, Chief, Life Bureau (212) 480-5027.

27. 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, Chief, Life Bureau (212) 480-5027.

28. 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.

29. 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.

30. Summary description of proposal: Amendment of 11 NYCRR 94 (Valuation of Individual and Group Accident and Health Insurance Reserves) (Regulation 56) to reduce the lapse rate used to calculate reserves on long-term care policies. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau (518) 474-7929.

31. 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 and make technical corrections to 42-2.11 dealing with nonforfeiture values for policies where the terms are affected by an index. Agency Contact: Thomas Hartman, Principal Actuary, Life Bureau (518) 486-2126.

32. 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.

33. 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: Peter Dumar, Associate Insurance Attorney, Life Bureau (518) 474-4552.

34. Summary description of proposal: Adoption of a new 11 NYCRR 48 (Key Person Company-Owned Life Insurance) (Regulation 180) to provide guidance to insurers in defining key persons for the purpose of complying with section 3205(a)(1)(B) and (d) of the Insurance Law. Agency Contact: James Hulme, Senior Insurance Attorney, Life Bureau (518) 474-4552.

35. 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: Deborah Kahn, Associate Insurance Attorney, Life Bureau (518) 474-4552.

36. Summary description of proposal: Amendment of 11 NYCRR 54 (Variable Life Insurance) (Regulation 77) to provide for exceptional treatment of private placement variable life insurance, especially with respect to the deferral of payments for death benefits, surrender benefits, partial withdrawals and policy loans. Agency Contact: Deborah Kahn, Associate Insurance Attorney, Life Bureau (518) 474-4552.

37. 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; to extend the sunset provision to January 1, 2014 for the use of lapse rates; 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.

38. 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.

39. Summary description of proposal: Amendment of 11 NYCRR 57 (Smoker/Non-smoker Mortality Tables For Use In Determining Minimum Nonforfeiture Benefits And Minimum Reserve Liabilities) (Regulation 113) to update requirements regarding smoker/non-smoker classifications and mortality tables and to reflect the use of newer mortality tables. Agency Contact: Dennis Lauzon, Assistant Chief Actuary, Life Bureau (518) 474-7929.

40. 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.

41. 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.

42. 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 insurers make available for purchase a long term care insurance form in New York State or when 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.

43. 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.

44. 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.

45. 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.

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 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.

47. 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.

48. 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.

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) 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.

50. 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.

51. 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.

52. 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.

53. 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.

54. 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.

55. 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.

56. 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 the ordinary course of business. Agency Contact: Kalo Daisy Wong, Principal Insurance Examiner, Health Bureau (212) 480-5062.

57. 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.

58. 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 accident and health insurance policy forms and rate submissions, including the electronic filing of such submissions. Agency Contact: Doris Kullman, Supervising Insurance Attorney, Health Bureau (518) 486-7815.

59. Summary description of proposal: Adoption of a new part to 11 NYCRR to establish requirements for evaluating, approving and

regulating matters related to premium rates, enrollee contracts and fiscal solvency of Managed Long Term Care Plans, including reserves, surplus and provider contracts to the extent that such contracts relate to fiscal solvency matters. Agency Contact: Jose Joseph, Associate Insurance Examiner, Health Bureau (212) 480-3345.

60. 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.

61. 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.

62. Summary description of proposal: Adoption of a new part to 11 NYCRR or amendment of existing parts of 11 NYCRR to implement changes required by the federal Patient Protection and Affordable Care Act of 2010. Agency Contact: Eileen Hayes, Assistant Chief, Health Bureau (518) 486-7815.

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) to adopt requirements for maintaining and monitoring experience data for group and blanket insurance. Agency Contact: K. Gloria Dee, Supervising Actuary, Health Bureau (518) 473-7716.

64. 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 extension of benefits requirements for individual, group and group remittance health insurance contracts. Agency Contact: Stephen Rings, Associate Insurance Attorney, Health Bureau (518) 486-7815.

65. 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: Joan Riddell, Supervising Examiner, Consumer Services Bureau (212) 480-4691.

66. 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 of Medicare Supplemental policies. Agency Contact: Laura Dillon, Principal Examiner, Consumer Services Bureau (518) 486-9105.

67. 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.

68. 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.

69. Summary description of proposal: Adoption of a new part to 11 NYCRR to provide rules and guidelines to assure full disclosure of all relevant information in advertisements that describe or solicit the purchase of property/casualty insurance coverage, which are published, issued or distributed through various advertising media.

Agency Contact: Barry Bistreich, Principal Insurance Examiner, Consumer Services Bureau (212) 480-4693.

70. Summary description of proposal: Amendment of 11 NYCRR 26 (Independent Adjusters) (Regulation 25) to establish a crop adjuster's license and examination for that license. New York will tailor the license and exam to comply with federal requirements that necessitate the state to continue licensing supervision of adjusters who adjust claims for damages to crops insured under the federal insurance program for crop multi-peril. Agency Contact: Stephen Welsh, Senior Insurance Examiner, Consumer Services and Licensing Bureau (518) 474-4556.

71. Summary description of proposal: Adoption of a new part to 11 NYCRR to provide rules and guidelines to assure full disclosure of all relevant information in advertisements that describe or solicit the purchase of limited medical benefit plans; to restrict the sale of these plans by decoupling association enrollment from the sale of a plan; and to require all groups, including those located outside of New York, to meet the definition of a group in accordance with Section 4235 of the Insurance Law. Agency Contact: Janet Davignon, Associate Insurance Examiner, Consumer Services Bureau (518) 474-5154.

72. 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 had 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.

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. 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.

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

3. 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.

4. 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.

5. 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.

6. 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.

7. Amend Title 12 NYCRR to add a new Part 198 to allow assurance organizations to satisfy the registration requirements of Article 31 of the Labor Law for the professional employer organizations who have retained the services of the assurance organization.

8. Amend Title 12 NYCRR Part 470, Part 472 (specifically, Sections 472.1 - 472.5 and 472.7 - 472.10), Part 473, Part 480 (specifically, Section 480.1 and 480.10), and Part 481 to bring those parts into

conformity with changes in the Labor Law and/or federal law, as well as to clarify the terminology being used; conform to current practices and to repeal obsolete provisions.

9. Amend Title 12 NYCRR Section 471.1 to allow blanket elections of specified groups of employees for liability purposes and to amend regulations consistent with the purposes set forth in Executive Order 25.

10. Amend Title 12 NYCRR Section 472.6 to strengthen the notice requirements for transfers of business and to amend regulations consistent with the purposes set forth in Executive Order 25.

11. Amend Title 12 NYCRR Part 480 (specifically, Sections 480.2 - 480.9, 480.11, and 480.12) to make them consistent with the purposes set forth in Executive Order 25.

12. Amend Title 12 NYCRR Part 482 to broaden the Department's interpretations with regard to approvable training programs and providers for programs under Section 599 of the Labor Law.

13. Add a new Part 551 to Title 12 NYCRR to implement regulations required by Chapter 601 of the Laws of 2002 that provide for the Department to promulgate regulations describing the form and content of the financial records required by Section 211-a of the Labor Law as well as advisory regulations to State entities relating to the implementation of contractual and administrative measures to enforce Section 211-a.

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

15. 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.

16. 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.

17. Amend Title 12 NYCRR 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, Department of Labor, Bldg. 12, State Office Campus, Counsel's Office, Rm. 508, Albany, NY 12240, e-mail: Maria.Colavito@labor.state.ny.us, (518) 457-4380

Office of Medicaid Inspector General

This is a continuing Regulatory Agenda. Updated Regulatory Agendas may be found at the website of the Office of the Medicaid Inspector General at <http://www.omig.state.ny.us>.

The following regulations are under consideration by the OMIG for submission as a Notice of Proposed Rulemaking during the calendar year 2011, but for which a rulemaking proceeding has not yet been commenced.

Below is a brief description of the regulations, by subject matter, that are under review by the OMIG.

Title 18 NYCRR (Social Services)

515.1 Scope and Definitions - Amend regulation in relation to new and existing definitions.

515.2 Unacceptable Practices - Revise regulation in relation to identifying new and clarify existing unacceptable practices under the medical assistance program.

515.4 Guidelines for Sanctions - Amend regulations pertaining to sanction guidelines and procedures.

515.5 Sanctions; Effect - Amend regulation in relation to the effect of sanctions.

515.6 Notification - Amend regulation to clarify notification procedures.

515.7 Immediate Sanctions - Revise regulation in relation to new and existing guidelines for Immediate sanctions.

515.8 Mandatory Exclusions - Revise regulation in relation to new and existing guidelines for mandatory sanctions.

515.10 Reinstatement - Revise regulation in relation to new and existing guidelines and procedures for reinstatement.

517.3 Audit and Record Retention- Revise regulation in relation to audit and retention requirements.

518.7 Withholding of Payments - Amend regulation to clarify guidelines and procedures for withholding payments.

519.1 Scope - Amend regulation to clarify the scope of the hearing process for providers of medical assistance.

519.5 Notice - Amend regulation to change mailing address and procedures for department notices.

519.7 Request for a Hearing - Amend regulation to clarify mailing address and procedures for hearing requests.

519.11 Scheduling and Adjourning Hearings - Amend regulation to clarify hearing procedures.

519.13 Examination of File Before Hearing - Amend regulation in relation to procedures for examination of a file before hearing.

Part 520- Tax Refund Offset for Overpayments of Medical Assistance-Revise regulations in relation to establishing and enforcing the tax refund offset program.

Part 521- Provider Compliance Programs- Amend regulations in relation to provider compliance programs.

Contact person: Erin C. Morigerato, Esq., Senior Attorney, 800 N. Pearl St., Albany, NY 12204, (518) 408-0508, Fax (518) 408-0536, e-mail: ecm03@omig.state.ny.us or Michael T. D'Allaird, Legal Assistant, 800 N. Pearl St., Albany, NY 12204, (518) 402-1394, Fax (518) 408-0536, e-mail: mtd03@omig.state.ny.us

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 2011. 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 3, which authorizes the motorcycle road test waiver, to make technical amendments conforming to Vehicle and Traffic Law Section 410(a).

2. Amend Part 6 to: reflect systems changes that allow bus carriers to have electronic access to the 19-A system and the fingerprint scanning of school bus drivers; incorporate by reference the federal medical standards for bus drivers who are hired or rehired after the effective date of the regulation.

3. Amend Part 7 to: remove outdated content and provide clarity for pre-licensing course providers; establish a process by which high schools, BOCES and community colleges may offer a standalone pre-licensing course.

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

5. Amend Part 41 to conform regulations regarding brake efficiency to the appropriate federal standards.

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

7. Amend Part 76 which governs the regulations for commercial drivers' schools in relation to the following provisions: stagger the expiration dates of driving school licenses and instructor licenses; make the renewal application fee non-refundable; revise and update the section on the Self-Certification Program, and include provisions whereby the department may suspend, revoke, or rescind the authority for a school to participate in such program; establish grounds for

denial of a drivers' school license if the applicant (including owner, partner, officer, manager, shareholder, or other person signing the license) has had its authority/permission to conduct any other department program suspended or revoked; strengthen/clarify penalties for a drivers' school moving from an approved location without prior approval by the commissioner; establish a requirement that a drivers' school must have at least one instructor to remain licensed; update regulation to include electronic record-keeping, and require that these records be available for inspection by the department during normal business hours; correct references to the "three-hour pre-licensing course" to "five-hour pre-licensing course"; require that drivers' schools must collect, review, and retain a current abstract for all instructors that have an MV-524 Driving School Instructor Certificate with said school. The abstracts would be part of the records the school must maintain for DMV auditing purposes. The amendments would also require that an instructor have at least two years of consecutive licensed driving experience immediately preceding the application date with no period of suspensions, revocations, or lapses.

8. A separate set of amendments to Part 76 would revise criteria for driving schools operating under the New York State Motorcycle Safety Program.

9. Amend Part 78, which governs the regulation of dealers, in relation to the following provisions: 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).

10. Amend Part 79, which governs the regulation of inspection stations and inspectors, in relation to: consistency with Part 78 regarding inspection requirements; increasing the fees that a station may charge a customer; clarifying provisions related to heavy duty vehicle inspections; clarifying and simplifying procedures related to obtaining an appointment at an inspection station; establishing additional requirements for the emissions inspection equipment; clarifying procedures for returning inspection certificates to DMV and for properly indicating a voided certificate; clarifying requirements related to inspection procedures and rejection criteria; revising procedures in relation to the On Board Diagnostic II emissions inspection; providing guidance about emissions waivers; making the remaining necessary changes related to the termination of the NYTEST program; establishing OBDII diesel emissions inspection procedures.

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

12. Establish a new Part 142 to enable more efficient oversight, administration and expansion of the New York State Motorcycle Safety Program. Establish a new regulation to specifically govern the Motorcycle Safety Program.

Department of State

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

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.

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 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.

Chapter XXXII

Consider adding new Part(s) and/or amended existing Parts to establish rules, regulations, standards and procedures relating to (a) the approval of code enforcement training programs for code enforcement personnel charged with enforcement of the Uniform Fire Prevention and Building Code and/or the State Energy Conservation Construction Code and for certified code technicians (CCTs), and the revocation of such approvals; (b) minimum courses of study, attendance requirements, and equipment and facilities to be required for approved code enforcement training programs for code enforcement personnel and CCTs; (c) minimum qualifications for instructors for approved code enforcement training programs for code enforcement personnel and CCTs; (d) the requirements of minimum basic training which code enforcement personnel and CCTs shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment; (e) the requirements for in-service training programs designed to assist code enforcement personnel and CCTs in maintaining skills and being informed of technological advances; (f) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications; (g) granting exemptions from some or all of the foregoing provisions with respect to a county, city, town or village, and the revocation in whole or in part of such any exemption; (h) approval of code enforcement training programs for code enforcement personnel and CCTs, the issuance of certificates of approval to such programs, and the revocation of such approvals and certificates; (i) certification, as qualified, instructors for approved code enforcement training programs for code enforcement personnel and CCTs and the issuance of appropriate certificates to such instructors, and the revocation of such approvals and certificates; (j) certification of code enforcement personnel and CCTs who have satisfactorily completed basic training programs and in-service training programs, the issuance of appropriate certificates to such code

enforcement personnel and CCTs, and the revocation of such certificates; and (k) measurement of the rate of compliance with the State Energy Conservation Construction Code, and requirements that such rate of compliance be measured on an annual basis; and otherwise to implement Chapter 560 of the Laws of 2010 and section 376-a of the Executive Law.

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 to (1) establish more appropriate inspection intervals for normally unoccupied buildings; (2) clarify the language found in this Part; (3) make such changes to this Part as may be required or appropriate to reflect the applicability of this Part to enforcement of the State Energy Conservation Construction Code; and (4) make such other changes to this Part as may be required or appropriate to implement Chapter 560 of the Laws of 2010 and Section 376-a of the Executive Law.

Part 1204

Considering amending this Part to make the provisions relating to the administration of the Uniform Fire Prevention and Building Code by State Agencies substantially similar to the corresponding provisions in revised Part 1203 (which became effective on January 1, 2007).

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 Construction Code, add new provisions relating to variances under the State Energy Conservation Construction Code, revise procedures for appeals on variance matters, address reopening and rehearing of variance hearings, and 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.

Part 1210

Considering updating and amending this Part concerning manufactured homes and the certification and training of manufacturers, retailers, installers and mechanics of manufactured homes.

Parts 1219-1228

Considering amending the Uniform Fire Prevention and Building Code (Uniform Code) to amend provisions applicable to abandoned buildings, make technical corrections to the updated version of the Uniform Code adopted in 2010, and otherwise update the provisions of the Uniform Code.

Part 1240

Considering amending the State Energy Conservation Construction Code (Energy Code) to make technical corrections to the updated version of the Energy Code adopted in 2010, make such changes as may be necessary or appropriate to implement Chapter 560 of the Laws of 2010, and otherwise update the provisions of the Energy Code.

Part 1260

Considering amending or repealing the provisions relating to Certificates of Acceptability.

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 the 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, Department of State, One Commerce Plaza, 99 Washington Ave., Suite 1120, Albany, NY 12231-0001

Office of Temporary and Disability Assistance

Pursuant to State Administrative Procedure Act (SAPA) § 202-d, 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 2011. SAPA § 202-d 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.

All references are to Title 18 of the New York Codes, Rules and Regulations (NYCRR) unless otherwise noted. The agenda items are organized pursuant to the Part or the Subchapter of Title 18 NYCRR that most likely would be amended. However, the agenda items eventually could require amendments to different Parts or Subchapters than those listed below and/or to more than one Part or Subchapter of Title 18 NYCRR.

Part 340 - Public Access to Department Records under Freedom of Information Law

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

Part 346 - Support Collection

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.*

Revise existing regulation concerning process for applying for child support services to clarify process and require written application and provision of necessary family information by use of State application form.*

Part 347 - Establishment of Paternity and Enforcement of Child Support

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

Revise regulation pertaining to federal incentive payments.*

Address annual service fee for never assistance cases and revise legal services section clarifying the responsibilities of an attorney who provides child support services on behalf of a local district child support enforcement unit.*

Promulgate regulations for establishing and enforcing medical support obligations.*

Revise regulation concerning confidentiality of information based on September 26, 2008 federal final rule.*

Revise regulation concerning case closure to add new criterion based on July 2, 2010 federal final rule.*

Part 349 - General Provisions

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

Part 351 - Investigation and Eligibility

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

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

Delete the regulatory provisions relating to the Learnfare program.

Require local districts to make all applicants for and recipients of public assistance aware of their option to receive information appropriate for victims of sexual assault consistent with Chapter 427 of the Laws of 2009.*

Require applicants and recipients to utilize available fee waivers when seeking information or verification from a third party.*

Part 352 - Standards of Assistance

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

Amend regulations to establish new schedules for the standard of monthly need for determining eligibility for all categories of public assistance.

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.*

Amend regulations governing Emergency Shelter Allowances to reflect Chapters 53 of the Laws of 2008 and 2009 and Chapters 58 and 110 of the Laws of 2010.*

Part 358 - Fair Hearings

Eliminate the requirement that a fair hearing request concerning the Home Energy Assistance Program (HEAP) must be made within 105 days of the social services district's termination of the receipt of HEAP applications for the program year.*

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

Amend fair hearings 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.*

Amend fair hearings regulations to remove the time frames within which an Appellant or Appellant's authorized representative must request that a defaulted fair hearing be rescheduled.*

Part 366 - Child Assistance Program

Clarify that the poverty level for Child Assistance Program purposes is reported by the federal Department of Health and Human Services.

Part 385 - Public Assistance and Food Stamp Employment Program Requirements

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 incorporate 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.*

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.

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 as required by federal regulations.*

Part 387 - Food Stamps 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.*

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 Benefits Alternative Program.*

Part 388 - Food Assistance Program

Repeal provisions relating to the Food Assistance Program.

Part 393 - Home Energy Assistance Program

Amend HEAP regulations to reflect current practices and the provisions of the federally accepted HEAP State Plan.*

Subchapter F - Finance; Claims for Reimbursement by Social Services Districts

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.*

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, Office of Temporary and Disability Assistance, 40 N. Pearl St., 16C, Albany, NY 12243, (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 Work-

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

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

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

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

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

7. 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.

8. 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 claimant representatives and address applications, duties, standards of conduct and licensure.

9. Add Part 318 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).

10. 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.

11. 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.

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

13. 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.

14. 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.

15. Repeal Part 431 and add new Section 316.4 regarding the Workplace Safety and Loss Prevention Incentive Program to set the qualifications for and the amount of a security deposit reduction for individual self-insured employers who implement a safety incentive program, return to work program, and/or drug and alcohol prevention program that conform(s) to regulations promulgated by the Commissioner of Labor.

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

To obtain information about or submit written comments concerning any item in this Regulatory Agenda, contact: Heather M. MacMaster, Senior Attorney, Workers' Compensation Board, 20 Park St., Rm. 401-A, Albany, NY 12207, (518) 486-9564, e-mail: regulations@wcb.state.ny.us

