

# REGULATORY AGENDA

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## Department of Agriculture and Markets

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

### DIVISION OF ANIMAL INDUSTRY

Part 45: Consider amending avian influenza testing requirements to correspond to practices in other states.

Part 46: Consider amending the program for the control and eradication of brucellosis to remove obsolete provisions and adopt updated federal standards.

Part 53: Consider amending the tuberculosis requirement to require a negative test for cattle imported from other states in order to address the increasing threat of this disease in cattle, and repeal anaplasmosis testing.

Part 57: Consider amending the salmonella enteritidis testing program to conform to federal requirements.

Part 58: Consider amendments to incorporate by reference the USDA cattle tuberculosis program.

Part 59: Consider amending the vaccine requirements to define the criteria for use of the rabies vaccine in New York, and remove restrictions on the use of the equine encephalitis vaccine.

Part 60: Consider amending requirements governing the intrastate movement of deer in light of amendments to health requirements for captive cervids (Part 68).

Part 61: Consider adopting recordkeeping requirements for swine, cervid, camelid, goat and sheep dealers.

Part 63: Consider amendments to add certain tests for feral and transitional swine.

Part 64: Consider amendments to clarify requirements for veterinarians when submitting equine infectious anemia test samples.

Part 68: Consider amending animal health requirements to require tuberculosis surveillance on all captive cervid herds and to provide owners of herds of chronic wasting disease (CWD) susceptible species with a one-time option to move such animals to a special purpose herd.

Part 77: Consider amending the standards of care for seized dogs to clarify the definition of a dog dealer, and to conform the definition of euthanasia to State law.

Name of agency contact: Dr. David C. Smith

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Telephone number: (518) 457-3502

### DIVISION OF FOOD SAFETY AND INSPECTION

Part 165: Consider amending regulations regarding the grading of potatoes and the definition of culls.

Part 175: Consider amending regulations regarding the grading of maple products.

Part 185: Consider amending regulations to incorporate USDA standards for grades of apples.

Part 192: Consider adopting regulations to implement Chapter 668 of the Laws of 2006, relative to disposal methods for the dumping of sub-standard or below grade agricultural products.

Part 245: Consider amending regulations concerning structural and sanitary requirements for slaughterhouses.

Part 262: Consider amending regulations regarding fish processing and smoking establishments.

Part 271: Consider amending sanitation requirements for retail food stores to correspond with changes to the 2009 FDA Food Code.

Part 276: Consider amendments relating to the criteria for establishing a \$900.00 food processing establishment license fee.

Name of agency contact: Stephen D. Stich

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### DIVISION OF MILK CONTROL AND DAIRY SERVICES

Part 2: Consider amendments which would incorporate by reference the 2011 Pasteurized Milk Ordinance (PMO).

Section 2.8: Consider repealing the standards for sediment in prepasteurized milk and raw milk.

Part 12: Consider repealing this Part which pertains to requirements and methods for testing prepasteurized milk and raw milk for sediment.

Name of agency contact: Casey McCue

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Telephone number: (518) 457-1772

### DIVISION OF PLANT INDUSTRY

Part 131: Consider repealing the pine shoot beetle quarantine.

Part 140: Consider amending the plum pox virus quarantine to deregulate an area in Wayne County.

Section 141.2: Consider amending the emerald ash borer quarantine to extend the quarantine to Dutchess County.

Part 153: Consider amendments to reporting and labeling requirements governing the sale and analysis of commercial fertilizer.

Name of Agency Contact: Kevin King

Office Address: 10B Airline Drive, Albany, New York 12235

Telephone number: (518) 457-2087

### BUREAU OF WEIGHTS AND MEASURES

Part 220: Consider increasing the maximum fees that municipal directors of weights and measures can charge for inspections and adopting maximum fees for pricing accuracy inspections.

Section 220.2: Consider adopting national standards for the specifications, tolerances and regulations for commercial weighing and measuring devices as published in the 2012 edition of NIST Handbook 44.

Part 221: Consider adopting national standards, based on "NIST Handbook 130," for commodity labeling and methods of sale for foods and consumer commodities under the Department's jurisdiction.

Section 224.3: Consider adopting standards for alternative fuels produced from biological sources such as biodiesel, blend stock ethanol, and alternative fuels such as E85 and E75.

Name of agency contact: Michael Sikula  
 Office Address: 10B Airline Drive, Albany, New York 12235  
 Telephone number: (518) 457-3146  
 COUNSEL'S OFFICE

Parts 360 & 365: Consider amending regulations governing public access to records of the Department pursuant to the Freedom of Information Law and the Personal Privacy Protection Act.

Name of agency contact: Rick Arnold, Esq.  
 Office Address: 10B Airline Drive, Albany, New York 12235  
 Telephone number: (518) 457-2449

## Education Department

### 2012 Regulatory Agenda

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for the remainder of calendar year 2012. 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 June 2012 Regulatory Agenda.

#### OFFICE OF P-12 EDUCATION

Amendment of section 100.1(a) of the Commissioner's Regulations relating to the definition of a unit of study. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.1(b) of the Commissioner's Regulations relating to the definition of a unit of credit. 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.

Addition of section 100.2(jj) of the Commissioner's Regulations relating to School Employee Training and the Dignity Act. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of section 100.2(kk) of the Commissioner's Regulations relating to Reporting Requirements under the Dignity for All Students Act. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 125 of the Commissioner's Regulations relating to the requirements for the voluntary registration of nonpublic nursery schools and kindergartens. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 151-1.3(e)(1) of the Commissioner's Regulations relating to the Universal Pre-Kindergarten program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 100.2(m) of the Commissioner's Regulations to revise the public reporting requirements to reflect any changes required as a result of New York's approved Elementary and Secondary Education Act waiver request. A job impact statement, regulatory impact statement, assessment of public comment, regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 100.2(p) of the Commissioner's Regulations to revise the accountability determinations and the school report card to reflect any changes required as a result of New York's approved Elementary and Secondary Education Act waiver request. A job impact statement, regulatory impact statement, assessment of public comment, 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 procedure for registration of public schools. A job impact

statement, regulatory impact statement, assessment of public comment, regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(x) of the Commissioner's Regulations, relating to the education of homeless children. A job impact statement, regulatory impact statement, assessment of public comment, 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 100.18 relating to the registration of public schools and identification of, support for and/or intervention in Reward Schools, Priority Schools, and Focus Schools and Districts in order to conform to New York's ESEA waiver request. A job impact statement, regulatory impact statement, assessment of public comment, regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Repeal of sections 100.14 and 100.15 of the Commissioner's Regulations relating to Excelsior Scholars Program and Grants for Summer Institutes for Mathematics and Science Teachers.

Amendment of section 117 of the Commissioner's Regulations relating to diagnostic screening for students who are new entrants or who have low test scores in reading or mathematics. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations relating to the Concussion Management Awareness Act (L. 2011, Ch. 496). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 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 of 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 relating 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 relating to procedures regarding complaints brought pursuant to Education Law section 2855. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 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 section 3.16 of the Rules of the Board of Regents relating to the delegation to the Commissioner of Education of the Board of Regents' authority to conduct certain charter school public hearings required by Article 56 of the Education Law. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 120.3 of the Commissioner's Regulations to revise the public school choice requirements to reflect any changes required as a result of New York's approved Elementary and Secondary Education Act waiver request. A job impact statement, regulatory impact statement, assessment of public comment, regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 120.4 of the Commissioner's Regulations to revise the Supplemental Educational Services (SES) requirements to reflect any changes required as a result of New York's approved Elementary and Secondary Education Act waiver request. A job impact statement, regulatory impact statement, assessment of public comment, 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 136.3(b) to conform to Education Law section 901, as amended by Laws of 2006, Ch. 58, pt. A-1, § 57, which removed exemption of the city school districts of Rochester and Buffalo from requirement to provide school health services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 144.11 of the Commissioner's Regulations to eliminate requirement that school districts have an Early Grade Class Size Reduction Plan. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 154 of Commissioner's Regulations regarding the identification of and provision of services to Limited English Proficient students. A job impact statement, regulatory impact statement, assessment of public comment, regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5 of the Commissioner's Regulations relating to high school diploma requirements for students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required. Amendment of section 200.2(b) of the Commissioner's Regulations relating to written policies for the declassification of students with disabilities, 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 200.2(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 200.3(a) and (c) of the Commissioner's

Regulations relating to the membership of the Committee on Special Education (CSE), Subcommittee on Special Education, and Committee on Preschool Special Education, 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 200.4(i) and 200.5(a) of the Commissioner's Regulations relating to written notice upon graduation or aging out and the development of adult service recommendations for students with disabilities placed in residential schools, 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 200.5(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 section 200.5(b)(1)(iii) of the Commissioner's Regulations relating to parental consent to access a parent's public benefits or insurance, as may be necessary to conform to federal regulations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.5(c) of the Commissioner's Regulations relating to written notice to parents regarding CSE and Subcommittee meetings, 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 to sections 200.5(h) and (j) of the Commissioner's Regulations relating to mediation and impartial due process hearings for students with disabilities parentally placed in private schools, 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 a 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 and preschool programs 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 on an appointment of a student with a disability to a State-supported school and evaluations conducted by State-supported schools, 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 200.16 of the Commissioner's Regulations relating to parent selection of a preschool evaluator, 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 200.20(a) of the Commissioner's Regulations relating to public school districts as preschool evaluators and the approval of preschool programs, 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 any of the above proposed amendments by contacting:

Ken Slentz

Deputy Commissioner P-12

New York State Education Department

State Education Building, Room 2M West  
89 Washington Avenue  
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nysedp12@mail.nysed.gov

OFFICE OF HIGHER EDUCATION

Amendment of Part 30 of the Regents Rules relating to alignment of tenure areas to certain certification areas. A rural area flexibility analysis may be required.

Amendment of section 80-1.8 of the Commissioner's Regulations to correct the language regarding the Reissuance of an initial certificate.

Amendment of Part 80 of the Commissioner's Regulations relating to changes to the requirements for certification examinations for teachers. A rural area flexibility analysis may be required.

Amendment of section 80-3.10 of the Commissioner's Regulations to clarify that the School District Leader certificate is the only certificate required for a Superintendent also performing the roles of principal or business official in small school districts. A rural area flexibility analysis may be required.

Amendment of Part 83 of the Commissioner's regulations to streamline moral character hearings.

Amendment of Part 135 of the Commissioner's regulations to clarify the due process procedures relative to coaching licenses.

Amendment of Part 82 of the Commissioner's regulations relating to tenured teacher hearings to implement changes set forth in Chapter 57 of the Laws of 2012.

Amendment of section 100.2 of the Commissioner's Regulations and Subpart 30-2 of the Regents Rules to clarify and make technical amendments to regulations relating to teacher and principal evaluation system and possible amendments to these sections in light of pending litigation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations to implement the teacher and principal career ladders. A rural area flexibility analysis may be required.

Amendment of Part 52 of the Commissioner's Regulations, relating to registration of curricula. A rural area flexibility analysis may be required.

Amendment of section 80-5.6 of the Commission Regulations regarding clarification of acceptable experience for the Teaching Assistant Level III certificate.

Amendment of section 80-5.4 of the Commission Regulations regarding clarification of the length of employment for substitute teachers.

Amendment of section 80-1.2 of the Commission Regulations regarding clarification of what a year of experience is.

Amendment of section 80-1.6 of the Commission Regulations regarding automatic issuance of a third year time extension.

Repeal of section 80-5.8 of the Commission Regulations regarding a regional credential.

Amendment of section 80-5.13 of the Commission Regulations to remove the requirement for the Initial certificate to be pre-dated to the effective date of the Transitional B.

Amendment of section 80-3.3 of the Commission Regulations regarding the ability to hold an equivalent regular certificate from another jurisdiction and have three years of the past seven years of employment under that certificate.

Amendment of section 80-5.17 of the Commission Regulations for the Conditional Initial certificate. Remove the requirement for the completion of the exams at least 60 days prior to the expiration of the Conditional Initial certificate.

Amendment of section 80-3.6 of the Commission Regulations for the Professional Development requirement.

Agency Representative

Information may be obtained, and written comments may be

submitted, concerning any of the above proposed amendments by contacting:

John D'Agati

Deputy Commissioner for the Office of Higher Education

New York State Education Department

Office of Higher Education

Room 977, Education Building Annex

89 Washington Avenue

Albany, New York 12234

(518) 486-3633

sroberso@nysed.mail.gov

OFFICE OF THE PROFESSIONS

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 Parts 52 and 79 of the Commissioner's Regulations relating to authorization for the practice of polysomnographic technology. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 52 and Subpart 79-8 of the Commissioner's Regulations relating to educational requirements for licensure in medical physics. 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 63 of the Commissioner's Regulations relating to interpretation and translation requirements for prescription drugs and standardized medication labeling and to standardized patient-centered data elements with regard to prescription medications. 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 any of the above proposed amendments by contacting:

Douglas E. Lentivech

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

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OFFICE OF CULTURAL EDUCATION

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

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Albany, NY 12230

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Amendment of sections 189.1 and 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 of 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. 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 any of the above proposed amendments 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](mailto:cward@mail.nysed.gov)

OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

BUREAU OF PROPRIETARY SCHOOL SUPERVISION

A series of Amendments of Part 126 of the Commissioner's Regulations would be proposed if enabling legislation amending Article 101 of the Education Law is enacted. Those amendments would include the following:

Amendment of Part 126 of the Commissioner's Regulations to change the title of schools supervised from "Private Trade and Correspondence Schools" to "Licensed Private Career Schools and Certified English as a Second Language Schools." It removes the distinction between licensed private schools, registered business schools, and computer training facilities. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to remove the subjects taught in a registered business school or computer training facility as they no longer apply. ESL schools and requirements for licensing are added. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to specifically include that schools teaching personal training as schools requiring licensing. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to clarify the parameters for offering of workshops or trade shows without licensure. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to reflect the new school application fee of \$5,000 and the increased fees for renewal application fees. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to add the new category of candidacy schools and the requirements for being a candidacy school. This will offer institutions the ability to continue operation while seeking licensure. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to raise the requirement to submit audited financial statements to schools with \$500,000 gross tuition income or above. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations adds an additional condition under which the Commissioner might deny, suspend, revoke, or decline to renew a license. This permits the Commissioner to review financial viability of the school in order to reduce the threat to student tuition funds, school closure, and the Tuition

Reimbursement Account (TRA). A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations permits the Commissioner to review a school report on its financial health and to identify methods of restoring viability while the school has been placed on probation. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to eliminate the transfer of ownership for schools. Rather, a new school application will be required for any ownership transfer of 25 percent or more to prevent 'flipping'. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to redefine the calculation of tuition assessment based on length of licensure to clarify the current guidelines. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to prescribe loan disbursement based on cost of program to protect both the student and the TRA. Excluded are credit card payments or personal payment by another party. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to add additional entrance requirements for shorter courses to inform higher-end certification courses where students already have specific prerequisites. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to require that all catalogs include a weekly tuition liability chart to show students what liability they have if they drop out. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to institute a fee for curriculum review to reflect the resources dedicated to this function. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to lift the restrictions on teacher licensure so that a licensed teacher may teach at any school. This will reduce the number of unlicensed teachers and improve their employability. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to define under what circumstances a student at a candidate school may file a complaint. Students at candidate schools must receive disclosure that the protections afforded students at licensed schools do not apply to them. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to increase fines for civil penalties and administrative sanctions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to permit the director to apply for an agent license at no additional cost as part of the licensing process. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to increase the cost of an agent certification, while adding another year to the length of the certification. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to permit the Department to effect teach out agreements in the event that the closing school has not done so. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to expand the items that are reimbursable through the TRA at the time of school closure to include reimbursement for fees and book charges. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to clarify what action is taken if the TRA falls below a certain amount and rises above a certain amount. It defines the suspension and the resumption of tuition assessment, and to what schools this pertains. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to provide for the Commissioner to use up to \$200,000 for the purpose of securing and scanning of closed school records to provide better student access to the records. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to require the Office of the State Comptroller (OSC) to perform its audit of the TRA on a bi-annual basis, rather than yearly basis. An audited statement will be required. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to install term limits for the Advisory Council members, with the provision that they may be re-elected. 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 amendment by contacting:

Carole W. Yates, Director  
ACCES-Proprietary School Supervision  
99 Washington Avenue  
One Commerce Plaza, Room 1613  
Albany, NY 12234  
Vocational Rehabilitation

Amendment of Parts 246, 247 and 248 of the Commissioner's Regulations relating to the State vocational rehabilitation and independent living programs, as necessary, to eliminate references to the former Office of Vocational and Educational Services for Individuals with Disabilities. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Amendment of Parts 246 and 247 of the Commissioner's Regulations relating to the State vocational rehabilitation program operated pursuant to Title I of the Rehabilitation Act, as may be appropriate in order to conform to possible changes made if Congress reauthorizes that act this year. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Agency representative:

Information may be obtained, and written comments may be submitted, concerning the modification or continuation of any of the above rules by contacting:

Frank Coco, CRC  
Manager, VR Policy and Partnerships  
Office of Adult Career and Continuing Education Services  
Room 1603, One Commerce Plaza  
Albany, New York 12234  
(518) 474-3946  
fcoco@mail.nysed.gov  
Adult Education Programs and Policy

Amendment of Section 100.7 of the Commissioner's Regulations to update and revise outdated provisions and to provide the National External Diploma Program as a third pathway to a New York State High School Equivalency Diploma beginning July 1, 2013.

Agency Representative:

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

Mark Leinung,  
Director - Adult Education Programs and Policy  
Adult Career and Continuing Education Services  
New York State Education Department

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Albany, NY 12234  
(518) 474-8892  
mleinung@mail.nysed.gov  
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 procedures regarding state review proceedings; 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 and submission 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 any of the above proposed amendments by contacting:

Justyn P. Bates  
Office of State Review  
80 Wolf Road, 2nd Floor  
Albany New York 12203  
(518) 485-9373

## Department of Financial Services

### I. Insurance Regulations

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 New York State Department of Financial Services ("Department") is presently considering proposing during the second half of 2012. Many of these items were previously published in the January 2012 Regulatory Agenda. Items that have already been published in the State Register as "proposed" actions are not included on the list. The 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(s) identified in the item. For general inquiries about the Insurance Regulations included in this Regulatory Agenda, please contact:

Sally Geisel, Associate Attorney  
Camielle Barclay, Senior Attorney  
New York State Department of Financial Services  
25 Beaver Street  
New York, NY 10004

Telephone Numbers: Sally Geisel - (212) 480-5287 and Camielle Barclay - (212) 480-5299

Copies of current regulations may be obtained from the Department's Public Affairs Bureau by writing to: Public Affairs Bureau, New York State Department of Financial Services, One State Street, New York, NY 10004, or by calling (212) 709-1691.

1. Summary description of proposal: Amendment to 11 NYCRR 83 (Financial Statement Filings and Accounting Practices and Procedures) (Insurance Regulation 172), in response to amendments to the Accounting Practices and Procedures Manual, including Statements of Statutory Accounting Principles (published by the National Association of Insurance Commissioners), which is incorporated by reference in the regulation. Agency Contacts: Sally Geisel, Associate Attorney and Camielle Barclay, Senior Attorney, Office of General Counsel - (212) 480-5287 and (212) 480-5299.

2. Summary description of proposal: Amendment of 11 NYCRR 20 (Brokers and Agents - General) (Insurance Regulation 29) to permit brokers and agents to use internet and other 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.

3. 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.

4. Summary description of proposal: Adoption of a new part to 11 NYCRR (Insurance Regulation 195) 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: Amendments to Title 11 to correct out-of-date references to the "Superintendent of Insurance", "Superintendent of Banks", "Insurance Department", "Banking Department", and "Banking Board" as a result of Part A of Chapter 62 of the Laws of 2011, which consolidated the Insurance and Banking Departments and created the Department of Financial Services. Agency Contact: Sally Geisel, Associate Attorney, Office of General Counsel - (212) 480-5287.

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) (Insurance Regulation 64) to codify the 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 80-1 (Holding Companies) (Insurance Regulation 52) to update Insurance Regulation 52 to reflect changes in technology and to adopt certain amendments made to the NAIC's model Insurance Holding Company System Regulatory Act. Agency Contact: Joana Lucashuk, Senior Attorney, Office of General Counsel - (212) 480-2125.

8. Summary description of proposal: Amendment of 11 NYCRR 71 (Legal Defense Costs in Liability Policies) (Insurance Regulation 107) to permit the inclusion of non-duty-to-defend provisions in directors and officers liability insurance policies under certain circumstances. Agency Contact: Brenda Gibbs, Senior Attorney, Office of General Counsel - (518) 408-3451.

9. Summary description of proposal: Amendment of 11 NYCRR 72 (Indemnification of Directors and Officers) (Insurance Regulation 110) to specify co-insurance and retention amounts for state credit unions and make technical corrections. Agency Contact: Brenda Gibbs, Senior Attorney, Office of General Counsel - (518) 408-3451.

10. Summary description of proposal: Amendment of 11 NYCRR 89 (Audited Financial Statements) (Insurance 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.

11. Summary description of proposal: Amendment of 11 NYCRR 27 (Excess Line Placements Governing Standards) (Insurance Regulation 41) to add coverages to the export list. Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

12. Summary description of proposal: Amendment of 11 NYCRR 27 (Excess Line Placements Governing Standards) (Insurance Regulation 41) to revise the various sections of Insurance Regulation 41 to conform with the requirements of the Non-Admitted Reinsurance and Reform Act of 2010 ("NRRA"). Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

13. Summary description of proposal: Amendment of 11 NYCRR 67 (Mandatory Underwriting Inspection Requirements for Private Passenger Automobiles) (Insurance Regulation 79) to include additional circumstances under which an insurer may voluntarily waive mandatory inspection of a motor vehicle for physical damage cover-

age and to clarify that the use of digital photography and electronic access to inspection report data are permitted. Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

14. Summary description of proposal: Amendment of 11 NYCRR 80-1 (Holding Companies) (Insurance Regulation 52) to revise holding company filing requirements. Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

15. Summary description of proposal: Amendment of 11 NYCRR 125 (Credit for Reinsurance) (Insurance Regulation 20) to revise the introduction and provide clarification regarding certain provisions in the regulation. Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

16. Summary description of proposal: Amendment of 11 NYCRR 301 (Purchasing Groups) (Insurance Regulation 134) to conform the rule with the requirements of the Non-Admitted Reinsurance and Reform Act of 2010 ("NRA") and as a technical fix, to eliminate provisions referencing Affidavit Part B, which was originally required by 11 NYCRR 27 (Insurance Regulation 41) but has since been deleted from that regulation. Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

17. Summary description of proposal: Adoption of a new part to 11 NYCRR 224 (Insurance Regulation 187) 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.

18. Summary description of proposal: Adoption of a new part to 11 NYCRR 225 (Insurance Regulation 199) 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.

19. Summary description of proposal: Amendment of 11 NYCRR 136 (Standards for the Management of the New York City and New York State Retirement Systems) (Insurance Regulation 85) to address ethical standards, internal controls and governance, and operational transparency of the city and state retirement systems. Agency Contact: Michael Maffei, Chief, Life Bureau - (212) 480-5027.

20. Summary description of proposal: Adoption of a new part to 11 NYCRR 226 (Insurance Regulation 200) to require the performance of regular cross-checks of an insurer's life insurance policies, annuity contracts and retained asset accounts with the United States Social Security's Death Master File or another database or service approved by the Superintendent of Financial Services to identify any death benefit payments that may be due under life insurance policies, annuity contracts, or retained asset accounts as a result of the death of an insured or contract or account holder; require insurers to request more detailed beneficiary information to facilitate locating and making payments to beneficiaries; and require insurers to respond to consumer requests submitted through the Department of Financial Services' Lost Policy Finder application. Agency Contact: Ruth Gumaer, Supervising Insurance Examiner, Life Bureau - (212) 480-4763.

21. Summary description of proposal: Adoption of a new part to 11 NYCRR to set forth standards relating to retained asset accounts by life insurers and fraternal benefit societies. Agency Contact: Dennis Fernz, Assistant Chief, Life Bureau - (212) 480-5032.

22. Summary description of proposal: Repeal of 11 NYCRR 380 (Insurance Regulation 148) (Viatical Settlements) 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.

23. 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) (Insurance 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.

24. Summary description of proposal: Amendment of 11 NYCRR 97 (Market Value Separate Accounts Funding Guaranteed Benefits; Separate Accounts Operations and Reserve Requirements) (Insurance Regulation 128) to change the discount rate used to determine the value of guaranteed contract liabilities. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau (518) 474-7929.

25. 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.

26. 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) or adoption of a new part to 11 NYCRR to establish, in consultation with the commissioners of the Departments of Health and Education, standards of professionalism, supervision and relevant experience for those individuals providing behavioral health treatment for Autism Spectrum Disorder under the supervision of a certified behavior analyst. Agency Contact: Abby Nash, Senior Insurance Attorney, Health Bureau - (518) 473-7470.

27. 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) or adoption of a new part to 11 NYCRR to establish minimum standards in order to protect consumers from unexpected medical bills, including requirements for a usual and customary or reasonable form of reimbursement. Agency Contact: Lisette Johnson, Assistant Chief, Health Bureau - (518) 486-7815.

28. 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 amendment of 11 NYCRR 59 (Minimum Standards for the Form, Content and Sale of Group and Blanket Insurance Certificates Deemed to Have Been Delivered in this State Pursuant to Section 3201(b) of the Insurance Law) (Regulation 123) to adopt requirements for maintaining and monitoring experience data for student blanket accident and health insurance. Agency Contact: Sarah L. Allen, Associate Insurance Attorney, Health Bureau - (518) 486-7815.

29. 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: Thomas Fusco, Supervising Insurance Attorney, Health Bureau - (518) 473-7470.

30. Summary description of proposal: Amendment of 11 NYCRR 350 (Continuing Care Retirement Communities) (Regulation 140) to clarify and modify the actuarial reserve calculation, solvency testing, distribution allowances, fee adequacy, allowable investments, and necessary 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.

31. Summary description of proposal: Adoption of a new part to 11 NYCRR (Insurance Regulation 34-B) to provide rules and guidelines to ensure 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: Joan Riddell, Supervising Insurance Examiner, Consumer Assistance Unit - (212) 480-4691.

32. Summary description of proposal: Amendment of 11 NYCRR 86.6 (Fraud Prevention Plans and Special Investigations Unit) (Insurance 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, Counsel, Insurance Frauds Bureau - (212) 480-5683.

## II. Banking Regulations

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 3 of the NYCRR that the Department is presently considering proposing during the second half of 2012. Many of these items were previously published in the January 2012 Regulatory Agenda. Items that have been published in the State Register as “proposed” actions are not included on the list. The 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 about the Banking Regulations included in this Regulatory Agenda, please contact:

Sam L. Abram  
 Assistant Counsel  
 New York State Department of Financial Services  
 One State Street  
 New York, NY 10004  
 Telephone Number: (212) 709-1658

Copies of current regulations may be obtained from the Department’s Public Affairs Bureau by writing to: Public Affairs Bureau, New York State Department of Financial Services, One State Street, New York, NY 10004, or by calling (212) 709-1691.

1. Summary description of proposal: Adoption of new rules to implement the provisions of legislation addressing the mortgage foreclosure crisis in the state, including:

(a) Rules governing the business conduct of mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on April 17, 2012); and

(b) Rules determining the applicability of those mortgage loan servicer regulations to loans secured by interests in manufactured housing.

2. Summary description of proposal: Amendment of various aspects of the regulation of mortgage brokers and mortgage bankers, including regulations on advertising, misleading business conduct, disclosures for new mortgage loans and loan modifications, table funding and participation in the Federal Housing Administration’s correspondent lender program, including revisions to implement provisions of state legislation addressing the mortgage crisis and to take account of changes in federal laws and regulations.

3. Summary description of proposal: Amendment of the Banking Regulations regarding the Banking Development District (“BDD”) program to implement amendments to the BDD legislation.

4. Summary description of proposal: Amendment of the Banking Regulations to:

(a) codify the net worth requirements for check cashers;

(b) codify the net worth requirements and establish liquidity requirements for premium finance agencies;

(c) establish net worth and line of credit requirements for licensed lenders; and

(d) establish net worth requirements for sales finance companies.

5. Summary description of proposal: Amendment of Part 41 of the General Regulations of the Banking Board to address threshold limits, the impact of lender paid fees, and otherwise to conform to the requirements of Section 6-1 of the Banking Law.

6. Summary description of proposal: Amendment of Part 79 of the General Regulations of the Banking Board to incorporate advertising requirements for reverse mortgage loans and clarify the applicability of disclosure and filing requirements for HUD-HECMS.

7. Summary description of proposal: Amendment of Part 410 of the Superintendent’s Regulations to clarify language on required notifications to the Department.

8. Summary description of proposal: Amendment of Part 82 of the General Regulations of the Banking Board to effectuate amendments to Section 6-f of the Banking Law with respect to shared appreciation mortgages.

9. Summary description of proposal: Adoption of new rules providing that when financial statements submitted to the Department are required by law or regulation to be audited, the external auditors who provide the audit opinion on the statements may not also perform bookkeeping services for the audited entity.

10. Summary description of proposal: Amendment of the Banking Regulations to reflect changes in references to the former Superintendent of Banks, Banking Board and Banking Department effected by Part A of Chapter 62 of the Laws of 2011, which created the Department of Financial Services.

11. Summary description of proposal: Amendment of Supervisory Procedure CB 117 in connection with the Department’s consideration of adopting the interagency change of control application used by the federal financial institutions regulatory agencies.

12. Summary description of proposal: Amendment of 3 NYCRR 28 (Implementation of Banking Law, Section 103) to set forth the manner and extent to which credit exposure resulting from derivative transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions and securities borrowing transactions are to be taken into account for purposes of the lending limits applicable to banks, trust companies, savings banks and savings and loan associations.

13. Summary description of proposal: Adoption of a new regulation formalizing the assessment process for persons regulated under the Banking Law.

## Department of Health

The following regulatory actions are under consideration for submission as a Notice of Proposed Rulemaking from June through December 2012:

### 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).

2.14 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 reflect changes to Public Health Law section 1125 pertaining to water supply emergency plans.

5-1 Public Water Systems - Amend the regulations 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).

5-1 Public Water Systems - Amend the regulations to incorporate mandatory federal regulations to improve the control of lead and copper in public water supply systems. This will include the federal minor revisions and short-term revisions to the Lead and Copper Rule (LCR). To be included will be a restructuring of 5-1 Appendix C to update

and simplify listings of analytical methods approved for drinking water, including lead and copper analyses.

5-1 Public Water Systems - Amend the regulations to update provisions pertaining to backflow device tester certification requirements; revise the provisions applicable to variances and exemptions and update and clarify specific code references.

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.

16 Ionizing Radiation - Amend the regulations to reflect consistency with federal regulations and mandates applicable to medical and industrial use of radioactive material, radiation protection standards and license termination/decommissioning standards. Update and revise the quality assurance requirements for radiation therapy to align with current treatment delivery system technology to ensure patient safety and add a requirement for facility certification. Update the quality assurance requirements for diagnostic x-ray equipment, including computed tomography, to align with current equipment and imaging modalities to ensure patient safety. Consolidate current requirements in 12 NYCRR Part 38 (NYS DOL Ionizing Radiation) into 10 NYCRR 16, consistent with the merger of the NYS DOL Radiological Health unit into the DOH/CEH/BERP program in 2006.

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.

40-2 State Aid for Public Health Services: Counties and Cities - Amend the regulations to amend Subpart 40-2 to clarify eligible technical assistance activities pertaining to delivery of the Realty Subdivision program and Individual Water and Sewer programs.

40-2 and 40-3 State Aid for Public Health Services: Counties and Cities - Amend the regulations to repeal Subpart 40-3 and amend Subpart 40-2 to add new Subparts 40-2.240, 40-2.241, 40-2.250 and 40-2.251 to allow certified counties and New York City, when authorized by the Department to receive aid to implement Part 16 of the State Sanitary Code to inspect x-ray installations; and also to authorize New York City to license and inspect radioactive materials facilities.

Part 46 Physically Handicapped Children - Amend the existing regulation to update and clarify current policy regarding coverage of medical and orthodontic services to children under the age of 21 years under the Physically Handicapped Children's Program. The proposed amendments will allow the inclusion of specific orthodontic procedures and criteria in the Department's Medicaid Dental Provider Manual.

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, and enhancing monitoring and enforcement of restrictions on the sale of human tissue for transplant. In addition, update technical requirements to reflect advances in technology and changes in industry standards.

52-12 Therapeutic Cell Banks - Promulgate a new subpart addressing technical standards for the collection, processing, storage, and distribution of stem cells and other therapeutic cells, including, but not limited to, mesenchymal cells, embryonic stem cells, dendritic cells, and stromal cells, intended for a therapeutic purpose other than hematopoietic reconstitution or reproduction.

55-2 Approval of Laboratories Performing Environmental Analysis - Amend the regulation to accommodate for a tiered level of certification pertaining to types of analysis performed, application requirements, requirements for on-site assessment and proficiency testing as well as requisite qualification of technical directors.

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 regulations 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.

58-5 Hematopoietic Progenitor Cell Banks - Update requirements for donor suitability determination, infectious disease testing, and record keeping related to hematopoietic progenitor cell (HPC) donation and transplantation. Amend the regulations to require the HPC bank medical director to establish a policy regarding testing allogeneic donors for West Nile virus, Trypanosoma cruzi, and hemoglobinopathies.

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 codify ACIP recommendations and incorporate by reference the recommended vaccination schedule, as well as the catch-up schedule. Language will also be added to clarify medical exemptions, acceptable serology, what it means to be "in process", annual school immunization survey requirements, and change physician diagnosis standards for measles and mumps to reflect the rarity of these diseases. The regulations will also seek to 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.

69-4 Early Intervention Program - Amendments will be needed to conform current state regulations to final federal regulations recently promulgated under Part C of the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Improvement Act of 2004. Amendments to Part 69-4 will also be needed to conform current state regulations to reforms made to the Early Intervention Program in the SFY 2012-13 enacted state budget, and to ensure quality and consistency of EI service delivery.

69-8 Newborn Hearing Screening - Amend the regulation to specify follow-up where conditions of the screening are considered to contribute to invalid results; require reporting of individualized, identifiable data to the department; require staff involved in newborn hearing screenings to complete training; require that infants who fail an initial screening receive at least one additional screening prior to discharge; require that a re-screening post discharge from a facility occur within 8 weeks of discharge; require that an infant be referred to the early intervention program as an at-risk child, unless the parent objects, if the results of a follow-up outpatient screening are not returned to the facility within 45 days post discharge; require reporting to an electronic data system.

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

73 Asbestos Safety Training Program Requirements - Amend the regulations to incorporate changes made by the New York State Department of Labor to Code Rule 56 as well as changes that have occurred in the industry that should be reflected in the training programs.

74 Approval of Realty Subdivisions - Amend the regulations to update and clarify requirements for plan submittals and approvals of realty subdivisions.

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

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.

80 Controlled Substances - Amend the regulations to allow for electronic transmission, documentation, record keeping 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 the 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. Amend the regulations to allow for interstate sharing of prescription monitoring program information.

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 been permanent pursuant to Chapter 58 of the Laws of 2009.

80.138 Opioid Overdose Prevention Programs - Public Health Law section 3309(1) authorizes the Commissioner "to establish standards for approval of any opioid overdose prevention programs which may include, but not be limited to, standards for program directors, appropriate clinical oversight, training, record keeping and reporting." Revision is needed with respect to language pertaining to the definitions of "person," "affiliated prescriber" and "registered provider" in 10 NYCRR 80.138(a); the responsibilities of the program director in 10 NYCRR 80.138(c)(1); and the supplies which must be maintained and provided by opioid overdose prevention programs in 10 NYCRR 80.138(c)(5).

85.13 Physically Handicapped Children - Rescind the regulation thus allowing providers outside of the Physically Handicapped Children's Program to provide hearing assessments and order hearing aids for Medicaid eligible children.

86-1.16 Statewide Base Price - Amend the regulations to continue a statewide base price reduction. The amount of the reduction will be \$19,200,000 for the period May 1, 2012, through March 31, 2013, and for state fiscal year periods on and after April 1, 2013.

86-1.31 Merged Rates - Amend the regulations to eliminate the requirement that a merger, acquisition or consolidation needs to occur on or after the year the rate is based upon in the case of a hospital receiving a temporary rate adjustment as a result of such merger, acquisition or consolidation. Amend the regulations to expand the temporary rate adjustment to hospital closures or hospitals affected by the closure, merger, acquisition or consolidation of another hospital.

86-1.38 Redirect Inpatient Reform Transition II Funds to the Safety Net/VAP Pool - Amend the regulations relating to Transition II funds that were to be returned to the base rate for distribution to all hospitals. Such funds will now be dedicated toward establishing a \$100M Safety Net/VAP Pool instead.

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

86-2.41 Nursing Home Sprinkler Systems - Add a regulation to assist financially distressed nursing homes with the capital costs related to installing automatic sprinkler systems that comply with applicable federal regulations.

86-8.15 Outpatient Reform - Amend the regulations to establish a regional pricing model for outpatient services; grant approval of temporary adjustment to rates for hospital outpatient facilities, diagnostic and treatments centers and ambulatory surgery centers subject to mergers, acquisitions or consolidations.

94.2 Physician Assistants - Amend the regulations 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 the regulations, making technical corrections: 1) 98-1.9(b)(3), requiring managed care organizations (MCOs) to provide assurances of continuing compliance with Article 49 of the Public Health Law, in addition to Article 44 and Part 98; 2) 98-1.11(h), restoring language that prohibits health maintenance organizations (HMOs) from discriminating in enrollments and services provisions; 3) 98-1.11(k)(4), clarifying that the MCO is responsible for monitoring contractors' fiscal stability; 4) 98-1.11(q), clarifying that MCOs must comply with Article 49 of the Public Health Law, in addition to Article 44 and Part 98; 5) 98-1.13(c)(iii), correcting 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; and 6) amending 98-1.5(6)(e)(2) the MCO management functions to reflect that if an independent practice association (IPA) is delegated MCO management functions, then a separate management contract is required and it must be separate from the delivery of service contract.

98-1.5 Application for a Certificate of Authority - Amend 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 - Amend the 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.

98-1.11(e) Operational and Financial Requirements for MCOs - Section 98-1.11(e) would be amended to extend the lower contingent reserve requirement applied to revenues from the Medicaid managed care, Family Health Plus and HIV SNP programs.

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 regulations 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 regulations to reflect changes to Article 49 of the Public Health Law made by Chapter 237 of the Laws of 2009, Chapter 451 of the Laws of 2007, Chapter 219 of the Laws of 2011 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.

400.15 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.

400.21 Advance Directives - Amend the regulations as required under Public Health Law section 2994-t within Article 29-CC - Family Health Care Decisions Act. REPEAL identical provisions in 700.5.

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. 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 Pediatric Amendments - Amend the regulations to incorporate various pediatric amendments into the Hospital Minimum Standards provisions.

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.

405.20 Outpatient Services - Amend the regulations to cross reference 752.2 for hospital based free standing emergency facilities.

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

405.27 Information, Policy and Other Reporting Requirements - Amend the regulations to repeal this section because the authority for the reporting requirements are detailed in either section 400.18 (SPARCS data) or section 86-1.2 and 86-1.3 (Uniform financial report and uniform statistical reports).

405.43 Orders Not to Resuscitate - Amend the regulations to repeal provisions which are no longer current as a result of the adoption of PHL Article 29-CC - Family Health Care Decisions Act. Section 400.21 Advance Directives provisions will be updated consistent with PHL Article 29-CC.

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.

425.18 Adult Day Health Care (Services for Registrants with Acquired Immune Deficiency Syndrome) - Amend the regulations to create a more flexible model appropriate to the clinical state of the HIV/AIDS epidemic and for inclusion into the Medicaid Managed Care benefit package.

600.1 - 600.7; 610.1 - 610.2; 620.1 - 620.3; 630.1; 640.2 - 640.3; 650.1 - 650.2; 670.1 - 670.6; 680.2; 680.4 - 680.6; 680.8 - 680.10, 705.9 - Amend the regulations to change references to the Public Health Council to the Public Health and Health Planning Council; and to delete references to the State Hospital Review and Planning Council.

700.5 Advance Directives - Amend the regulations to repeal this section because it is identical to the Advance Directives section in section 400.21. As a result of the adoption of PHL Article 29-CC - Family Health Care Decisions Act, section 400.21 Advance Directive provisions will be updated consistent with PHL Article 29-CC.

705.7, 708.1, 710.1, 710.2, 710.5 - Amend the regulations to change references to the State Hospital Review and Planning Council to the Public Health and Health Planning Council.

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

709 Determination of Public Need for Medical Facility Construc-

tion - Amend the regulations related to the liver and human heart transplantation services provisions.

710.1 Medical Facility Construction - Amend the regulations to reflect amendments to PHL 2802 that substitute written notice for limited review, CON administrative review and CON full review for projects confined to non-clinical infrastructure, repair and maintenance, and one-for-one equipment replacement and further amend to allow greater flexibility in the relocation of extension clinics in rural areas.

722 Sexual Assault Forensic Examiner (SAFE) Program - Amend existing regulations related to the review and approval of licensed Article 28 hospitals as Sexual Assault Forensic Examiner (SAFE) programs. This includes the standards for approving SAFE hospital programs, approving programs that train individual SAFE examiners, and certifying individual SAFE examiners and criteria for continuous quality improvement program activities. The SAFE program provides a specialized standard of medical care and evidence collection to victims of sexual assault.

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.

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

757 Chronic Renal Dialysis Services - Amend 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.

759 Adult Day Health Care (Services for Registrants with AIDS) - Amend the regulations to create a more flexible model appropriate to the clinical state of the HIV/AIDS epidemic and for inclusion into the Medicaid Managed Care benefit package.

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.

763 Certified Home Health Agencies and 766 Licensed Home Health Services Agencies - Amend the regulations to require the plans of care and medical orders for patients of CHHAs or LHCSAs address the patient's need for palliative care.

766 Licensed Home Care Services Agencies - Amend the regulations to update and modernize provisions to improve service delivery, training and surveillance activities and to eliminate the requirement for a physician to serve on the quality improvement committee of LHCSAs.

790 Hospices - Add regulations implementing changes in the federal Conditions of Participation; expand the definition of terminal illness as a result of Chapter 441 of the Laws of 2011.

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)

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.

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 legislative changes 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, including role of nurse practitioners and physician assistants.

505.3 Drugs - Amend existing regulations to incorporate changes in Social Service Law that authorize the Commissioner to establish payments and dispensing fees for prescription drugs. The definition of estimated acquisition cost for the Medicaid fee-for-service pharmacy program will be added to regulation and prescription drug dispensing fees will be identified.

505.3(i) Drugs - Amend the regulations to allow the Department to require each enrolled pharmacy to report actual acquisition cost of a prescription drug to the Department in a manner specified by the Department. This will enable the Department to include Average Acquisition Cost (AAC), when available, in the Medicaid drug payment methodology, as required by SSL section 367-a 9(g)(b)(i).

505.11 Rehabilitation Services - Amend the regulations to align with State Education law, federal guidelines, and current standards of practice; clarify who can order rehabilitation services, particularly speech-language pathology services provided to Medicaid recipients; clarify supervision requirements for services provided "under the direction of" speech-language pathologists, occupational therapists, and physical therapists.

505.12 - Podiatry Services - Amend the regulation to expand podiatry coverage to Medicaid eligible adults with a diagnosis of Diabetes Mellitus. This will align regulation with 2012 changes made to state social service laws.

505.14 Personal Care Services Program - Amend the regulations to reflect statutory changes regarding limitations and definitions of services and recent federal audit findings.

505.15 Psychiatric Care - Amend Medicaid regulations to align with federal requirements regarding who may provide school supportive health services.

505.18 Clinical Psychological Services - Amend the regulations to align with federal guidelines and current standards of practice and clarify which practitioners are qualified to provide services in the Preschool/School Supportive Health Services Program to Medicaid recipients.

505.23 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.

505.28 Consumer Directed Personal Assistance Program (CDPAP) - Amend the regulations to reflect the statutory change regarding the limitation of housekeeping services to 8 hours weekly.

505.31(d)(e)(1) Audiology, Hearing Aid Services and Products - Amend the regulations to align Medicaid regulations with federal guidelines, State Education Law and current standards of practice and clarify who can order audiology services.

*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

#### Department of Labor

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act (SAPA), notice is hereby provided of the following rules that the Department of Labor is considering proposing but for which a rule making proceeding has not been commenced. The Department of Labor's regulatory plans are subject to change and the Department reserves the right to add, delete, or modify any item herein. 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 Labor's Regulatory Agenda to the contact person at the end of this list.

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

2. Amend Title 12 NYCRR Part 45 to implement regulations required by Labor Law § 807-e(6) 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.

3. 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.

4. Amend Title 12 NYCRR Part 146 to conform the notice requirements to the Wage Theft Prevention Act.

5. Amend Title 12 NYCRR Part 470, Part 472, Part 473, Part 480 and Part 481 to conform those parts to changes in state and federal law, and to clarify the terms used, to align the parts to current practices and to repeal obsolete provisions.

6. Amend Title 12 NYCRR Section 471.1 to allow blanket elections of specified groups of employees for liability purposes and to amend regulations in accordance with Executive Order 25.

7. Amend Title 12 NYCRR Section 472.6 to strengthen the notice requirements for transfers of business and to amend regulations in accordance with Executive Order 25.

8. Amend Title 12 NYCRR Part 480 in accordance with Executive Order 25.

9. 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.

10. Amend Title 12 NYCRR Part 601 to address Federal conformity issues raised by United States Department of Labor; to make minor corrections to various sections to change formatting and grammatical errors; to address a number of other issues including: requiring all sponsors to complete an Affirmative Action Plan, addressing inconsistent language regarding apprenticeship complaints, providing a consistent appeal process for probationary programs which fail probation and those which are canceled during probation, allowing sponsors or programs currently on probation, in other than the building and construction trades, to submit additional new program applications during the probationary period, correcting a reference in section 601.10(b) to add a reference to section 601.4(h) to being deemed deregistered after failing to enroll an apprentice after six months of program approval, clarifying language regarding reciprocity, expanding the definition of sponsor in order to permit State agencies that confine individuals to apply for an Apprenticeship Program, and providing for the suspension of an Apprentice's active status in an apprenticeship training program due to military service, health issues, lack of work, etc.

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

12. 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.

13. Amend Title 12 NYCRR Part 800.3 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.

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

15. Amend Title 12 NYCRR Part 32 to adopt the 2010 edition of ANSI B77-1 "Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors-Safety Requirements".

16. Amend Title 12 NYCRR to add a new Part 186 to implement regulations as provided by Labor Law Section 154-a to safeguard the health, working hours and conditions, education, general welfare, and earnings of child performers.

17. Amend various provisions within 12 NYCRR that are obsolete, have been superseded or where the Commissioner no longer has authority regarding the subject matter of the regulation.

*To obtain information or submit written comments regarding this regulatory agenda, contact: Amy Karp, Esq., Legislative Counsel, Department of Labor, Bldg. 12, State Office Campus, Counsel's Office, Rm. 508, Albany, NY 12240, or regulations@labor.ny.gov* When e-mailing, please include "Regulations - Regulatory Agenda" in the subject line. You may also reach this office by phone at 518-457-7350.

## 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 that 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. Regulatory plans of the Department of State are subject to change; the Department reserves the right to add, delete, or modify items appearing on the following list. As indicated in SAPA section 202-d(2), the Department of State is not required to propose for adoption any rule summarized in a regulatory agenda and may propose a rule for adoption that is not listed in a regulatory agenda.

This notice is also intended to further assure that small businesses, local governments, and public and private interests in rural areas are given 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 regarding the Regulatory Agenda of the Department of State to the contact person at the end of this list.

### DIVISION OF CEMETERIES

#### Part 200

Considering adding new sections regarding various financial matters, such as permanent maintenance fund allocations, pre-need sales, trust fund reconciliations, and financial reports.

#### Section 201.17

Considering amending section 201.17 dealing with lawn crypts.

#### Section 201.19

Considering adding a new section to allow for the disposal of remains in pet cemeteries.

### DIVISION OF COASTAL RESOURCES

#### Parts 600 - 603

Considering amending the 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.

## Chapter XXXII

Consider adding new Part(s) and/or amending existing Parts to establish rules, regulations, standards and procedures relating to (1) 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; (2) 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; (3) minimum qualifications for instructors for approved code enforcement training programs for code enforcement personnel and CCTs; (4) 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; (5) the requirements for in-service training programs designed to assist code enforcement personnel and CCTs in maintaining skills and being informed of technological advances; (6) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications; (7) 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; (8) 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; (9) 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; (10) 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 (11) 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 1201

Consider amending this Part to provide that (1) where a county elects not to enforce the Uniform Code, the local government in which a county facility is situated shall be responsible for enforcement of the Uniform Code with respect to such facility and (2) where both a county and the local government in which a county facility is located have elected not to enforce the Uniform Code, the Secretary of State shall be responsible for enforcement of the Uniform Code with respect to such facility.

## 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; (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; (5) delete the requirement that local governments and counties file annual reports related to their code enforce-

ment activities; and (6) require that permits for the renovation, remodeling, repair, alteration, or demolition of existing structures include as a condition a requirement that before work begins, the permit applicant must obtain and submit to the code official documentary evidence establishing compliance with any and all applicable asbestos surveying requirements and asbestos abatement requirements as established from time to time by the Labor Law and/or Department of Labor regulations.

## 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).

Consider amending this Part to authorize the Department of State to prescribe the form to be used for construction-permitting agencies' annual reports, to require construction-permitting agencies to submit their annual reports to the Department of State, to authorize the Department of State to post construction-permitting agencies' annual reports on the Department's website, and otherwise to implement recommendations that may be made in the New York State / New York City Building Code Task Force report expected to be issued on or about June 30, 2012.

## Part 1205

Considering amending this Part to (1) make the procedures for variances under the State Uniform Fire Prevention and Building Code applicable to variances under the State Energy Conservation Construction Code; (2) add new provisions relating to variances under the State Energy Conservation Construction Code; (3) revise procedures for appeals on variance matters; (4) address reopening and rehearing of variance hearings; (5) establish procedures for decisions to be made on a written record; (6) revise and/or clarify the circumstances under which an appeal of a determination made by a code enforcement official may be filed under this Part; and (7) expand and clarify the circumstances under which a Uniform Code variance may be granted by Department of State staff without referral to a Regional Board of Review.

## 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. Consider amending Part 1225 (the Fire Code of New York State) to implement recommendations that may be made in the New York State / New York City Building Code Task Force report expected to be issued on or about June 30, 2012.

## 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.

## DIVISION OF LICENSING SERVICES

## Section 175.25

Considering revising the advertising regulations applicable to real estate brokers and salespeople.

Parts 175-179

Considering revising regulations applicable to real estate brokers and salespeople to account for statutory and industry changes, and to add clarity to existing regulations.

Part 192

Consider adopting regulations relative to the internet sale of hearing aids.

Part 197

Considering revising field-based training regulations for home inspectors to implement more stringent requirements.

Part 1102

Considering revising regulations pertaining to real estate appraisers in order to conform them with federal requirements for supervising appraisers and appraisal trainees.

STATE ATHLETIC COMMISSION

Part 217

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

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.

To obtain information or submit written comments concerning any item in the above Regulatory Agenda of the Department of State, please contact: David Treacy, Esq., Office of General Counsel, New York State Department of State, One Commerce Plaza, 99 Washington Avenue, Suite 1120, Albany, New York 12231-0001, (518) 474-6740. This "2012 Regulatory Agenda," to be published in the June 27, 2012 Issue of the New York State Register, will be posted on the Department's website: [www.dos.ny.gov](http://www.dos.ny.gov).

## 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 New York State Register. Set forth below is an agenda for the second half of 2012. 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 of Title 18 NYCRR that most likely would be amended. However, the agenda items eventually could require amendments to different Parts than those listed below and/or to more than one Part of Title 18 NYCRR.

### PART 300 Local Welfare Administration

A new section 300.13 will be added to reflect programmatic responsibility for desk review of distribution and collections under section 347.25.

### PART 301 -Veteran Assistance

Amend regulations to replace gender-specific terms with gender-neutral terms.

### 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 to Public Officers Law Article 6.\*

### Part 341 - Local Advisory Councils

Remove the regulatory requirement for social services districts to create and maintain local advisory councils.\*

### 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 or signed petition and provision of necessary family information.\*

Update regulations to address State statutory amendments, and an exemption thereof, concerning property execution provisions.\*

Update regulations to address process changes to lottery intercept provisions.\*

### Part 347 - Establishment of Paternity and Enforcement of Child Support

Update regulation pertaining to the calculation of basic child support obligations, repeal the child support standards chart, and further update regulation to reflect Chapter 182 of the Laws of 2010 as it pertains to the modification of child support orders.\*

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.\*

Update regulation setting forth definitions used in this Part.\*

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

Revise regulation to establish the procedures by which the State will distribute child support incentives received from the U.S. Department of Health and Human Services and allocate portions of those incentives to social service districts.\*

Address annual service fee for never assistance cases consistent with Title 42 of the United States Code (USC) § 654 and Social Services Law (SSL) § 111-g.\*

Revise legal services section consistent with Family Court Act § 453 and SSL § 111-c to clarify the responsibilities of an attorney who provides child support services on behalf of a local 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 and SSL § 111-v.\*

Revise regulation concerning case closure to add new criterion as set forth in the federal Department of Health and Human Services regulation at Title 45 of the Code of Federal Regulations (CFR) § 303.11.

Revise regulations concerning the provision of child support services in intergovernmental cases 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.\*

Delete the regulatory provisions relating to the Learnfare program.

Require social services 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 SSL § 131(20).\*

### Part 352 - Standards of Assistance

Amend regulations to address support payments, noncountable income and resources, and estimates of need and application of income.

Amend regulations to establish new schedules for the standard of monthly need for determining eligibility for all categories of public assistance consistent with SSL § 131-a.

Amend regulations authorizing social services districts to provide

shelter allowance supplements at local option to prevent eviction and address homelessness.\*

Amend regulations governing emergency shelter allowances for persons medically diagnosed with AIDS or HIV-related illness.\*

Update regulations to comply with the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.\*

Amend regulations to implement a shared living reduction.\*

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.\*

Part 369 - Family Assistance

Amend regulation to address applications for or receipt of public assistance as an assignment to the State and the social services district of rights to support.

Part 384 - Automated Finger Imaging System

Clarify the finger imaging and other information that is retained for individuals applying for certain Public Assistance benefits.\*

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

Amend regulations to make technical updates to Part 387.

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 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.\*

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

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.\*

Update regulations for the Food Stamp Transitional Benefits Alternative Program, which helps provide nutritional assistance to households who often are transitioning from public assistance programs to employment and would otherwise not be eligible for food stamp benefits.\*

Amend regulations to expand the timeframe from five to seven calendar days for social services districts to process a food stamp application for applicant households eligible for expedited processing of said application.\*

Amend regulations to update the federally approved standard utility allowances for the Food Stamp Program consistent with 7 USC § 2014, 7 CFR § 273.9 and SSL §§ 20 and 95.\*

Amend regulations regarding what is a complete periodic report to require verification of income only if a change in income has been reported.\*

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.\*

Part 398 - State Supplemental Personal Needs Allowance

Amend regulations to add the administration of the Supplemental Security Income State supplemental payment program consistent with SSL §§ 22, 208, 209, 212, and 366.\*

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.

At this time, OTDA cannot specify the dates for publication in the New York State Register of the items listed above. OTDA would welcome comments related to this regulatory agenda at the address listed below, and each published Notice of Proposed Rule Making will provide a public comment period and a contact person to whom comments can be sent.

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

