

REGULATORY AGENDA

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 repealing sections 57.7 through 57.23 pertaining to the salmonella enteritidis testing program.

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 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 68: Consider incorporating by reference the federal herd certification program for the interstate movement of deer.

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

Part 351: Consider repealing health certification requirements for camels, elephants and non-human primates at State and county fairs.

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DIVISION OF FOOD SAFETY AND INSPECTION

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

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

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.

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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.

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DIVISION OF PLANT INDUSTRY

Parts 128, 129, 135 and 137: Consider the repeal of quarantines for the gypsy moth and regulations governing the control of the gypsy moth, blossom thinning sprays and pear root stock and seed.

Part 131: Consider the repeal the pine shoot beetle quarantine.

Part 140: Consider amending the plum pox virus quarantine to deregulate areas in Niagara, Wayne and Orleans Counties.

Section 141.2: Consider amending the emerald ash borer quarantine to extend the quarantine to cover positive finds in Dutchess and Tioga Counties as well as expanding the buffer area to address economic concerns.

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

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.

Name of Agency Contact: Kevin S. King, Director, Division of Plant Industry

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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 2013 edition of NIST Handbook 44.

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.

Section 224.3(6): Consider adopting current standards of the American Society for Testing Materials (ASTM) regarding vapor lock protection for gasoline and gasoline blends.

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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.

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Education Department

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for calendar year 2013. 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 2013 Regulatory Agenda.

OFFICE OF P-12 EDUCATION

Amendment of section 3.33 of the Rules of the Board of Regents relating to the provision of special education services to students in Alternative High School Equivalency Preparation (AHSEP) Programs and High School Equivalency Preparation (HSEP) Programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

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 100.1(t) of the Commissioner's Regulations relating to the definition of the ELA and mathematics standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment 100.3 (a)(2) and (3) of the Commissioner's Regulations relating to the Pre k-4 Program requirements to reflect the adoption of the Common Core Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment 100.4(b)(ii) of the Commissioner's Regulations relating to program requirements in grades 5-6 to reflect the adoption of the Common Core Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

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

Amendment of section 100.2(c) of the Commissioner's Regulations, relating to instruction in civility, citizenship, and character education under the Dignity for All Students Act, to implement Chapter 102 of the Laws of 2012. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(I) of the Commissioner's Regulations, relating to Code of Conduct under the Dignity for All Students Act, to implement Chapter 102 of the Laws of 2012. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(jj) of the Commissioner's Regulations, relating to school employee training under the Dignity for All Students Act, to implement Chapter 102 of the Laws of 2012. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(kk) of the Commissioner's Regulations, relating to reporting requirements under the Dignity for All Students Act, to implement Chapter 102 of the Laws of 2012. 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 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 100.5 of the Commissioner's Regulations relating to implementation of the Seal of Biliteracy. Chapter 271 of

the Laws of 2012 (Section 815 of Education Law) established the state Seal of Biliteracy to recognize high school graduates who have attained a high 2 level of proficiency in listening, speaking, reading, and writing in one or more languages in addition to English. The NYS Seal of Biliteracy will be awarded by the Commissioner to students who meet criteria established by the Board of Regents and attend schools in districts that voluntarily agree to participate in the program. The Seal of Biliteracy will be affixed to the high school diploma and transcript of graduating pupils attaining Seal criteria and must be made available to students at no cost. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.18 to revise the procedure for those districts seeking to open or modify a public school during a current school year. A 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. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 117 of Commissioner's Regulations pertaining to the screening of students to determine whether they are English language learners.

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 section 118 of the Commissioner's Regulations relating to revisions to the use of the State Assessments Program for school and district accountability purposes. 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 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 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 ap-

pointment 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:

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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 80-3.10 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 80 of the Commissioner's Regulations relating to changes regarding the new certification examinations. A rural area flexibility analysis may be required.

Amendment of Part 83 of the Commissioner's Regulations to streamline moral character hearings. A regulatory flexibility analysis for local governments and a rural area flexibility analysis may be required.

Amendment of Part 135 of the Commissioner's Regulations to clarify the due process procedures relative to coaching licenses. 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 regulatory flexibility analysis for local governments and a rural area flexibility analysis may be required.

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

Amendment of Part 4-1 of the Rules of the Board of Regents relating to the institutional accreditation standards for Title IV purposes. A rural area flexibility analysis may be required.

Amendment of section 80-5.4 of the Commission Regulations regarding clarification of the length of employment for substitute teachers. A rural area flexibility analysis may be required.

Amendment of section 80-1.2 of the Commissioner's Regulations regarding clarification of what a year of experience is. A rural area flexibility analysis may be required.

Amendment of section 80-1.6 of the Commission Regulations regarding automatic issuance of a third year time extension. A rural area flexibility analysis may be required.

Repeal of section 80-5.8 and amendment of Part 80 of the Commis-

sioner's Regulations to eliminate the regional credential and establish requirements for reciprocity of out-of-state licenses for teachers, school building leaders and pupil personnel service providers. A rural area flexibility analysis may be required.

Amendment of section 80-3.6 of the Commissioner's Regulations relating to professional development requirements. A rural area flexibility analysis may be required.

Add a new section 80-1.13, amend section 52.21 and Part 57 of the Commissioner's Regulations to implement the requirements for training on harassment, bullying and discrimination for certain school professionals applying for a certificate or license on or after July 1, 2013 and to establish the requirements for providers of such training to implement Chapter 102 of the Laws of 2012. A rural area flexibility analysis and a regulatory flexibility analysis for small businesses and local governments may be required.

Amendment of section 100.2(dd) and section 80-3.6 of the Commissioner's Regulations to require professional development plans to include a description of alignment to the Common Core Standards and to include as part of the 175 hour requirement, professional development and training on the Common Core Standards. A regulatory flexibility analysis for local governments and a rural area flexibility analysis may be warranted.

Amendment of Part 80 of Commissioner's Regulations relating to the certification of bilingual teaching assistants, tenure areas for bilingual teaching assistants and bilingual teachers, and professional development requirements for teachers relating to the provision of instruction to English language learners. A regulatory flexibility analysis for local governments and a rural area flexibility analysis may be required.

Agency Representative

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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 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 section 60.8 of the Commissioner's regulations to implement Chapter 48 of the Laws of 2012, relating to the separation, in law, of physician assistants and specialist assistants and the conversion of physician assistants from a registered profession to a licensed profession; retaining specialist assistants as a registered profession. A rural area flexibility analysis may be required.

Amendment to section 63.9 of the Commissioner's regulations to implement Chapter 447 of the Laws of 2012 relating to the prescription monitoring program registry. A rural area flexibility analysis and a regulatory flexibility analysis for small businesses 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.

Amendment of Part 65 of the Commissioner's Regulations relating to the implementation of Chapter 438 of the Laws of 2012 which expanded the definition of the practice of podiatry, established new ankle surgery privileges, and authorized the Department to issue ankle surgery limited permits. A rural area flexibility analysis may be required.

Agency Representative:

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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

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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.

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OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Bureau of Proprietary School Supervision

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 distinc-

tion 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 define by the number of hours the difference between a curriculum and a course. 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 practical experience for curriculum approval and for school personnel work experience. 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 requirements of scholarships offered by licensed private career schools. 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 a teacher to possess an occupationally required credential if such is required for employment in that field. 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 increase from \$50 to \$100 for applications for all teachers' permits/licenses, directors' permits/licenses, amendments of temporary permits/licenses, and renewals of such licenses. 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. 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 ap-

plication 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:

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cyates@mail.nysed.gov
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 Part 246 of the Commissioner's Regulations relating to the sheltered employment, workshop and community rehabilitation programs, as may be necessary to conform to federal regulations and to reflect new standards for services. 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.

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 to Section 100.7 of the Commissioner's Regulations that would both update and revise outdated provisions as well as authorize a process whereby assessments other than the approved New York State High School Equivalency exam could be approved as an alternative pathway to a High School Equivalency Diploma. An independent expert panel of nationally recognized educational assessment specialists would review educational assessments which would have to demonstrate their alignment with Common Core Standards. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Amendment to section 100.8 of the Commissioner's Regulations to provide for the opportunity for adult students to earn a local High School Equivalency Diploma based upon experimental programs approved by the commissioner until June 30, 2014, after which date

such boards may no longer award a local high school equivalency diploma. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Agency Representative

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

Mark Leinung,
 Director - Adult Education Programs and Policy
 Adult Career and Continuing Education Services
 New York State Education Department
 Room 1622, One Commerce Plaza
 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 Rd., 2nd Fl., Albany, NY 12203, (518) 485-9373

Department of Environmental Conservation

DIVISION OF AIR RESOURCES

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

6 NYCRR Part 200, General Provisions. Part 200 will be amended to add new non-attainment areas as designated by the United States Environmental Protection Agency for areas in New York State that do not meet new or revised National Ambient Air Quality Standards (NAAQS). Part 200 will also be amended to remove references to former nonattainment areas that are now meeting the NAAQS. This rulemaking will not require a Regulatory Flexibility for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Robert Bielawa, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 203, Indirect Sources of Air Contamination. Part 203 will be repealed. Part 203 has become obsolete and has been superseded by other regulations, most notably 6 NYCRR Part 240, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws; 40 CFR 93 Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans; and 6 NYCRR Part 617, State Environmental Quality Review. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Michael Sheehan, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 205, Architectural and Industrial Maintenance (AIM) Coatings. The existing regulation will be revised to include additional and more restrictive volatile organic compound (VOC) limits.

This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Ona Papageorgiou, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

6 NYCRR Part 218, Emission Standards for Motor Vehicles and Motor Vehicle Engines. The regulation will be amended to incorporate revisions California has made to its emission control program to amend the Low Emission Vehicle and Zero Emission Vehicle programs. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Jeff Marshall, P.E., NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3255, Telephone: 518-402-8292. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

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

6 NYCRR Part 230, Gasoline Dispensing Sites and Transport Vehicles. The existing rule will be amended to update and clarify testing requirements for gasoline dispensing sites (gas stations) and to conform more closely with new federal requirements and guidance. The regulation will also require prior notification to the department for each test; require new vapor leak detection equipment; and remove Stage II requirements. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Denise Prunier, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

6 NYCRR Part 235, Consumer Products. The existing regulation

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

6 NYCRR Parts 237 and 238, Acid Deposition Reduction Budget Trading Programs. These rules will be repealed because they have been superseded by the Clean Air Interstate Rules (CAIR), Parts 243, 244 and 245. New Parts 237 and 238 will be developed to implement the New York State provisions of EPA's new Cross State Air Pollution Rule (CSAPR). On August 21, 2012, the U.S. Court of Appeals for the D.C. Circuit vacated EPA's CSAPR rule, so this rulemaking is on hold pending resolution of the appeal of that decision. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Michael Miliani, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

6 NYCRR Part 242, CO2 Budget Trading Program. The Regional Greenhouse Gas Initiative (RGGI) Participating States are currently undertaking comprehensive Program Review. Part 242 may be revised, based in part on any recommendations coming out of the RGGI Program Review. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Michael Sheehan, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: airregs@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

DIVISION OF ENVIRONMENTAL PERMITS

6 NYCRR, Part 621, Uniform Procedure Act (UPA). Part 621 was last amended on October 14, 2009. Since that time several statutes and regulations that interface with Part 621 have been changed or amended. The Division of Environmental Permits proposes to update the main text of Part 621. The Several minor changes and updates are proposed to align the text with the revised regulations. Also several minor clarifications and corrections are proposed to correct inaccurate references and clarify permitting procedures. Contact: Kent Sanders, NYS Department of Environmental Conservation, 625 Broadway, 4th Floor, Albany, NY 12233-1750. Telephone: 518-402-9168. E-mail: depprmt@gw.dec.state.ny.us Please include the Part number when e-mailing.

DIVISION OF ENVIRONMENTAL REMEDIATION

6 NYCRR Parts 612, 613, and 614, Petroleum Bulk Storage Regulation. DEC proposes to repeal Parts 612-614 and replace with

Part 613 to: (1) achieve equivalency with 40 CFR Part 280 (Underground Storage Tank regulations), which is needed in order for the State to receive delegation and to be able to apply the requirements of the regulations to the same universe of tanks as the United States Environmental Protection Agency; (2) comply with the federal Energy Policy Act of 2005 (a.k.a. federal Underground Storage Tank Compliance Act of 2005), which amends Subtitle I of the Resource Conservation and Recovery Act; (3) make explicit certain enforcement authority of DEC to prevent contamination and require remediation of surface and ground waters, public drinking water supplies, and natural resources by petroleum bulk storage (PBS) facilities; (4) improve the consistency and clarity of language directing the administration of the PBS program; (5) enhance monitoring, maintenance and equipment requirements to prevent leaks and spills; and (6) adjust the definitions of petroleum and facility pursuant to recent changes in Environmental Conservation Law section 17-1003. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Russ Brauksieck, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9543. E-mail: derweb@gw.dec.state.ny.us. Please include the Part numbers in the subject line when e-mailing.

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

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

6 NYCRR Part 610, Certification of Onshore Major Facilities [Major Oil Storage Facility (MOSF) Regulation]. DEC proposes to repeal and replace Part 610 to: (1) incorporate appropriate language from the New York State Department of Transportation regulations, 17 NYCRR Parts 30, 31 and 32, that pertains to the administration of the MOSF program, which has been solely handled by DEC since 1985; (2) repeal 17 NYCRR Parts 30, 31 and 32; (3) improve the consistency and clarity of language directing the administration of the MOSF program, which will make explicit in regulation the procedures set

forth in DEC Program Policy DER-11, Procedures for Licensing Onshore Major Oil Storage Facilities; and (4) enhance monitoring, maintenance and equipment requirements to prevent leaks and spills. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Russ Brauksieck, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9543. E-mail: derweb@gw.dec.state.ny.us. Please include the Part number in the subject line when e-mailing.

6 NYCRR Part 611, Environmental Priorities and Procedures in Petroleum Cleanup and Removal Regulation. DEC proposes to repeal and replace Part 611 to address Article 12 of the Navigation Law which prohibits the discharge of petroleum and provides for cleanup and removal of any petroleum discharge. Part 611 needs to be revised to achieve equivalency with 40 CFR Part 280 (Underground Storage Tank regulations), which is needed in order for the State to receive delegation and to be able to apply the requirements of the regulations to the same universe of tanks as the United States Environmental Protection Agency. First priority is given to minimizing environmental damage and to ensure a clean environment in the State by preventing petroleum discharges that may result in impacts to lands, waters, or natural resources of the State. This is accomplished by authorizing DEC to respond immediately and require prompt cleanup and removal of such discharges or to clean up the discharge if the responsible party is unwilling or unable. The payment of cleanup and removal costs, in addition to resulting direct and indirect damages, is provided through the New York Environmental Protection and Spill Compensation Fund that is administered by the State Comptroller. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Dennis Farrar, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7020. Telephone: 518-402-9543. E-mail: derweb@gw.dec.state.ny.us. Please include the Part number in the subject line when e-mailing.

6 NYCRR Parts 370, 371, 372, 373, 374, and 376, Update of the Hazardous Waste Management Regulations. This rulemaking will incorporate, as appropriate, (1) federal rules from January 2002 to present; (2) changes related to Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (MACT rules) from September 1999 to present; and (3) State initiated changes, including clarification of language and corrections of errors found in the regulations. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Deborah Aldrich, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7252. Telephone: 518-402-9711. E-mail: hwregs@gw.dec.state.ny.us.

6 NYCRR Part 375 (Subparts 375-1 to 375-4, and 375-6), Environmental Remediation Programs. DEC proposes to amend subparts 375-1 to 375-4, and 375-6 to: (1) provide additional direction for issues that have been encountered since the rule was promulgated in December 2006; (2) provide additional guidance on processes so as to promote uniformity and consistency; (3) incorporate soil cleanup objective (SCO) changes, if any, resulting from the statutorily required five year review; (4) add or revise multiple provisions to clarify issues that have arisen in the Brownfield Cleanup Program (BCP) in the course of implementing the program since 2006; (5) review of the provisions applicable to the State Superfund Program, including, but not limited to, considering the need to make revisions to clarify the definition of "significant threat;" (6) consider opportunities to encourage the incorporation of sustainable remediation and development techniques into cleanup projects covered by this rule; and (7) correct scrivener's errors that have caused inconsistencies and created confusion, replace accidental omissions, and insert clarifications required for amendments to this regulation. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Michael Ryan, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway,

Albany, NY 12233-7014. Telephone: 518-402-9662. E-mail: derweb@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Part 380, Prevention and Control of Environmental Pollution by Radioactive Materials. This rulemaking will amend the Part 380 regulations to incorporate federal rule changes. In addition, several corrections and revisions not related to the federal rules will be done, including: clarifying the regulations in a number of areas such as standards for issuance of a Part 380 permit and language in the variance provision; elimination of redundant provisions; and deletion of obsolete provisions. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Sandra Hinkel, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7255. Telephone: 518-402-9625. E-mail: radregs@gw.dec.state.ny.us.

6 NYCRR Part 384, Cleanup Criteria for Remediation of Sites Contaminated with Radioactive Material. This rule is being developed to adopt applicable sections of the federal Nuclear Regulatory Commission's (NRC) License Termination Rule (LTR), which establishes cleanup criteria for radiologically contaminated sites, and the Timeliness of Decommissioning Rule, which outlines necessary steps for the planning and implementing of site cleanups. Program staff is coordinating adoption of these rules with the New York State Department of Health and the New York City Department of Health and Mental Hygiene to ensure compatibility, as they also have to adopt applicable sections of these federal rules. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Timothy Rice, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7255. Telephone: 518-402-8579. E-mail: radregs@gw.dec.state.ny.us.

DIVISION OF FISH, WILDLIFE AND MARINE RESOURCES

6 NYCRR Part 182, Endangered and Threatened Species. Statutory Authority: ECL 11-0535. This regulation implements the State Endangered Species Act by providing definitions, listing protected species and defining a permitting process for addressing impacts to protected species. Part 182 will be amended to modify the list of endangered and threatened species based on the Department's assessment of species status and recovery, and to clarify definitions to improve the implementation of the regulations. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Vicky Wagenbaugh, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8879. E-mail: vfwagenb@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Sections 2.20 and 6.2, Hunting and trapping of bobcat. Statutory Authority: ECL 11-0905 and 11-1103. These amendments are needed to implement the recently adopted bobcat management plan. Contact: Vicky Wagenbaugh, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8879. E-mail: vfwagenb@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 189, Chronic Wasting Disease. Statutory Authority: ECL 3-0301, and 11-0325. These amendments are needed to strengthen the existing regulation on the feeding of deer based on a recent finding in Sullivan County Court. Additionally, the Department will propose regulations pertaining to deer feeding in the context of the use of the 4-Poster Tickicide device. A separate section in Part 189 will address both issues. Contact: Vicky Wagenbaugh, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8879. E-mail: vfwagenb@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Subchapter G, Fish and Wildlife Management Areas and

Facilities. Statutory Authority: ECL 11-0101. These amendments are needed to simplify public use regulations pertaining to the wildlife management areas, cooperative fish and wildlife management areas, and several state parks. Contact: Vicky Wagenbaugh, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8879. E-mail: vfwagenb@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR 180.12, Feral Swine. Adopt a new regulation to prevent the establishment and spread of feral swine, an invasive species that will cause significant harm to natural resources, public and private property, and domestic swine producers across New York State. The new regulation will define feral swine, prohibit the importation, possession, transportation, propagation, hunting and release of swine, and regulate the taking of swine. Contact: Vicky Wagenbaugh, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8879. E-mail: vfwagenb@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Section 2.30, Special snow goose harvest program. Statutory Authority: ECL 11-0307. These amendments are needed to increase hunter harvest of snow geese outside of conventional waterfowl hunting seasons. Contact: Vicky Wagenbaugh, NYS Department of Environmental Conservation, Division of Fish, Wildlife & Marine Resources, 625 Broadway, Albany, NY 12233-4754. Telephone: 518-402-8879. E-mail: vfwagenb@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 177, Sporting License Issuance and Use. Amend current regulations to update proof of qualifications for certain licenses to be consistent with updated procedures and potential changes necessary to issue sporting licenses as part of a statewide, shared services electronic licensing system that is currently under development. Contact: Mary Bailey, New York State Department of Environmental Conservation, Division of Fish, Wildlife, and Marine Resources, 625 Broadway, Albany, NY 12233-4750. Telephone: 518-402-8869. E-mail: mebailey@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 183 -License-Issuing Officers. Amend current regulations to address procedures for evaluation and prioritization of applicants that wish to become license-issuing officers (agents) for DEC. Contact: Mary Bailey, New York State Department of Environmental Conservation, Division of Fish, Wildlife, and Marine Resources, 625 Broadway, Albany, NY 12233-4750. Telephone: 518-402-8869. E-mail: mebailey@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 175, Special Licenses and Permits - Definitions and Uniform Procedures. This amendment is necessary to update and enhance the regulation for administrative and enforcement procedures. We need to include provisions for additional statutory amendments that have occurred since the regulations were last amended, and to clarify standards and criteria for agency actions on applications and licenses. This amendment may require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Joseph Therrien, New York State Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4752. Telephone: 518-402-8997. E-mail: jetherri@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 180.1, Wildlife Dangerous to Health or Welfare. Amendment of Part 180.1 or promulgation of a new regulation is necessary to address statutory requirements of Environmental Conservation Law 11-0512 and 11-0103(6)(e)(5). The statutory language in ECL 11-0512 and 11-0103(6)(e)(5) provides the opportunity for the private possession of animals that are or should be considered too dangerous for possession outside bona fide zoological gardens. In addition, the proposed amendments to Part 180.1 will provide a list of species that have been found to be too dangerous to the public or to the fish and wildlife resources of the state to be possessed in any facil-

ity except a bona fide zoological garden certified by the American Zoological Association. This amendment may require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Joseph Therrien, New York State Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4752. Telephone: 518-402-8997. E-mail: jetherri@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR - New Regulation -Exotic Reptile Exhibition. Promulgation of new regulation is necessary to address statutory requirements of Environmental Conservation Law 11-0512(2)(b) and 11-0103(6)(e)(5). The statute authorizes exhibition of venomous and other dangerous reptiles and these regulations are needed to provide for the issuance of permits. This amendment may require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Joseph Therrien, New York State Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4752. Telephone: 518-402-8997. E-mail: jetherri@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 664, Freshwater Wetlands Maps and Classification. This rulemaking will update and clarify freshwater wetlands mapping and classification standards to reflect a greater understanding of wetland science. In addition, there will be changes to facilitate more efficient map amendments where errors are detected on the maps. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Roy Jacobson, NYS Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY, 12233. Telephone 518-402-8853. E-mail: rajacobs@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Parts 662, 663, 665 - Amendments to these regulations would be done as one package.

- Repeal Part 662 Freshwater Wetlands - Interim Permits. Provided standards for the issuance of permits prior to the filing of final freshwater wetlands maps. Inasmuch as all maps outside of the Adirondack Park are now final, this regulation is obsolete.

- Amend Part 663 Freshwater Wetland Permit Requirements. Amendments needed to reflect proposed changes in Part 664; as well as other changes to clarify and simplify for regulated community, and remove outdated references and procedures.

- Amend Part 665 Local Government Implementation of the Freshwater Wetlands Act and Statewide Minimum Land-Use Regulations for Freshwater Wetlands. Eliminate the Land Use Regulations, which are redundant of those contained in Part 663 and rename it "Local Government Implementation of the Freshwater Wetlands Act."

This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Roy Jacobson, NYS Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY, 12233. Telephone 518-402-8853. E-mail: rajacobs@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 180, Eliminate Exemption Allowing Sale & Possession of Bighead Carp. This amendment may likely require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Shaun Keeler, New York State Department of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518 402 8928. E mail: sxkeeler@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 35, Restructure the Schedule of License Fees for Commercial Fishing in Inland Waters, Including for Collection and Sale of Baitfish. This amendment may require a Regulatory Flexibility Analysis for Small Businesses as well as a Rural Area Flexibility Analysis. Contact: Shaun Keeler, New York State Department of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518 402 8928. E mail: sxkeeler@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 10, Remove Second through Eighth Lakes of the Essex Chain of Lakes as privately managed waters with sportfishing regulations specified in NYCRR. This amendment will not require a Regulatory Flexibility Analysis for Small Business nor a Rural Flexibility Analysis. Contact: Shaun Keeler, New York State Department of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518 402 8928. E mail: sxkeeler@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

6 NYCRR, Part 35, Licenses. The Department will propose to establish new reporting requirements for certain inland commercial fishery license holders, consistent with those in Part 40 for the same regulated species. The Department also seeks a reduction in the number of types of licenses issued and an increase in the fees charged for certain licenses. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, New York State Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: swheins@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR, Part 36, Gear and Operation of Gear. These amendments pertain to the management of diadromous fishes in the Hudson River and are needed to maintain compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission (ASMFC) or as directed in the Federal Sustainable Fisheries Act for such species. They also comply with the requirements of Environmental Conservation Law regarding the management of anadromous species. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, New York State Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: swheins@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Part 40, Marine Fish. The Department proposes to amend regulations pertaining to the management of marine and diadromous fishes, including sharks, to maintain compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission (ASMFC), with the requirements of Environmental Conservation Law or pursuant to the Federal Sustainable Fisheries Act for such species. Proposed amendments will also provide compliance with National Marine Fisheries Service requirements and other federal laws. The Department proposes to amend the regulations to define what methods are allowed for recreational anglers to take fish. The Department proposes to amend reporting and record keeping requirements for State licensed harvesters; and to create a definition for proof of residency and establish the requirement for providing such proof of residency when obtaining marine license and permits. The Department will seek to amend the striped bass and summer flounder commercial fishing special regulations to replace qualifications for permits with an acceptable substitute for 50 percent of earned income and tax

records and make changes to striped bass commercial fishing permit reissuance and striped bass commercial permit tag provisions. New regulations will be proposed to make changes in the summer flounder commercial fishing special regulations to add language for re-qualification similar to that in the striped bass commercial fishing special regulations. The Department seeks to adopt regulations to establish a commercial eel permit with reporting requirements statewide, and to extend coverage by the general provisions of this part to include Rockland and Putnam Counties and ensure that commercial possession is covered statewide. The proposed amendments will adopt changes to the shipping, labeling and packing requirements to require harvester's fishing vessel trip report numbers on labels for quota managed species and adopt regulations to clarify provision for records retention by food fish shippers and dealers. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, New York State Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: swheins@gw.dec.state.ny.us. Please include the Part number when e-mailing.

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

6 NYCRR Part 42, Sanitary Control over Shellfish. The Department proposes to amend regulations pertaining to the sanitary, record keeping, and reporting requirements for shellfish harvesters and shippers needed to comply with the guidelines of the National Shellfish Sanitation Program (NSSP), the federal regulations regarding interstate shipment of shellfish, and the Environmental Conservation Law. The proposed regulations will modify the descriptions of allowable activities under each category of shellfish shipper permit consistent with the NSSP and the Environmental Conservation Law and amend and clarify descriptions of shellfish harvest areas to clearly delineate geographical sites where shellfish are harvested. Contact: Susan Ritchie, New York State Department of Environmental Conservation, Bureau of Marine Resources, Shellfisheries Section, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0494. E-mail: srxritchi@gw.dec.state.ny.us. Please include the Part number when e-mailing.

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

6 NYCRR Part 44, Lobsters and Crabs. The Department proposes to amend regulations pertaining to the management of lobsters,

decapod crabs and horseshoe crabs to maintain the health of such species and to prevent the introduction of exotic crustacean species. These proposed regulations will comply with fishery management plans developed by the Atlantic State Marine Fisheries Commission (ASMFC) for the species and with requirements of the Environmental Conservation Law. The proposed regulations will include general provisions consistent with those found in Part 40. The proposed amendments will allow for flexibility in the type of vent used in crab traps, mandatory use of terrapin excluder devices on crab traps and establish open crab dredge seasons and areas. Rulemakings will be proposed to clarify current language and remove unnecessary regulations. Horseshoe crabs regulations will be proposed to allow more control over the harvest and storage of horseshoe crabs. ASMFC will be developing an Addendum to the lobster management plan to scale the size of the Southern New England lobster fishery to the size of the resource. Lobster regulations will be developed based on the details of the Addendum. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government. Contact: Kim McKown, New York State Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0454. E-mail: kamckown@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Part 45, Transplanting of Shellfish. The Department proposes to amend regulations pertaining to the transplanting of shellfish that are necessary to provide adequate protection of public health and comply with the guidelines and minimum requirements of the National Shellfish Sanitation Program. The proposed regulations will amend requirements for permits, transplanting of shellfish, relay area certification, and establish requirements for recordkeeping and reporting. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Debra Barnes, New York State Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0483. E-mail: dabarnes@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Part 48, Marine Hatcheries, On-Bottom and Off-Bottom Culture of Marine Plant and Animal Life. The Department proposes to amend regulations pertaining to the sale of cultured food fish and other cultured food products for consumption or resale. The proposed regulations will amend requirements for marking and identification of cultivation products in commercial markets, requirements for permits, and record keeping and reporting requirements. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Debra Barnes, New York State Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0483. E-mail: dabarnes@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Part 49, Shellfish Management. The Department seeks to adopt regulations for the management of hard clams, soft or steamer clams and razor clams. The management measures include provisions for size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility, record keeping and identification requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale. The Department seeks to amend regulations pertaining to the possession of oysters of less than legal size which is needed to ensure enforceability and compliance with the minimum size requirements for harvest of wild (natural) oysters in the marine district. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Debra Barnes, New York State Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0483. E-mail: dabarnes@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Part 50, Miscellaneous Marine Species. The Department

seeks to adopt new regulations for the protection and management of various other marine species. The immediate need is for the adoption of regulations for the protection and management of whelks (also known as conch, Busycon spp). These regulations will include size limits, reporting requirements for harvesters and dealers, specifications for marking and placement of whelk fishing gear, trap limits and other regulations necessary to manage the whelk fishery. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government. Contact: Kim McKown, New York State Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0454. E-mail: kamckown@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 50, Miscellaneous Marine Species. The Department seeks to adopt new regulations for the protection of various other marine species. An immediate need is for the adoption of regulations limiting the collection and possession of the northern or lined seahorse. These regulations will include defining possession of more than two seahorses as commercial purposes (which is prohibited in 13-0310 of the ECL) and prohibiting the collection and possession of pregnant or gravid males. Local seahorses are subject to harvest for the pet/aquarium and Eastern medicine trades and are vulnerable to local extinction. Survival of wild caught seahorses and their newborn young in captivity is poor, especially without access to appropriate sources of live foods. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, New York State Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0435. E-mail: swheins@gw.dec.state.ny.us Please include the Part number when e-mailing.

DIVISION OF FOREST PROTECTION

6 NYCRR Part 197, Licensing of Guides. The Department is proposing to revise 6NYCRR 197 (k) to include additional rivers in New York where a guides license is required; part 197.5 to restructure the fee schedule; and 197.8(a) to allow revocation of guide licenses for convictions of any law associated with the business of guiding. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Colleen Kayser, NYS Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-2560. Telephone: 518-402-8838. E-mail: rangers@gw.dec.state.ny.us Please include the Part number when e-mailing.

OFFICE OF HEARINGS AND MEDIATION SERVICES

6 NYCRR Part 622, Uniform Enforcement Hearing Procedures. The Office of Hearings and Mediation Services proposes to clarify procedures governing default procedures and motions for order without hearing, and make various typographical, technical and related corrections throughout. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses, and a Rural Regulatory Flexibility Analysis. Contact: James T. McClymonds, Chief Administrative Law Judge, New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, First Floor, Albany, New York 12233-1550. Telephone: 518-402-9003. E-mail: jtmcclym@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 624, Permit Hearing Procedures. The Office of Hearings and Mediation Services proposes to amend procedures governing issues conferences and interim appeals to the Commissioner from issues rulings by the Administrative Law Judges, to clarify the procedures governing motion practice, to establish procedures governing trade secrets and other confidential information in adjudicatory hearings, to revise certain definitions and to make various typographical, technical and related corrections. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses, and a Rural Regulatory Flexibility Analysis. Contact: Louis A. Alexander, New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, 14th Floor,

Albany, New York 12233-1010. Telephone: 518-402-8537. E-mail: laalexan@gw.dec.state.ny.us Please include the Part number when e-mailing.

DIVISION OF LANDS AND FORESTS

6 NYCRR Part 592, Conservation Easements. Addition of a New Section. These regulations will provide guidance and a process for the Department to follow when modifying or extinguishing a conservation easement. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Francis Sheehan, NYS Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, NY 12233-4250. Telephone: 518-402-9405. E-mail: fsheeha@gw.dec.state.ny.us. Please include the Part number when e-mailing.

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

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

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

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

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

6 NYCRR, Use of State Lands. Amend existing sections 190.0(14), 190.1(c) and 190.8(g). These amendments will clarify the intent of the existing regulation for the public and for those responsible for enforcement. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Robert Messenger, NYS Department of Environmental Conservation,

Bureau of State Land Management, 625 Broadway, Albany, NY 12233-4255. Telephone: 518-402-9428. E-mail: rwmissen@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

6 NYCRR Part 190, Lower Salmon River State Forest. Adopt a new section. These regulations are needed to control public use on lands to be acquired by the Department along the Salmon River in Oswego County. Because of the uniqueness of the area and its uses, specific regulations for the state forest will be developed that are not addressed in the existing Part 190 general regulations. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Daniel Bishop, NYS Department of Environmental Conservation, Region 7 Sub-Office, 1285 Fisher Avenue, Cortland, NY 13045-1090. Telephone: 607-753-3095. E-mail: dlbishop@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

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

6 NYCRR Part 199, Taxation of Forest Land. Amend Part 199, Taxation of Forest Land. A 2008 legislative amendment to Real Property Tax Law Section 480-a requires and directs the Department to amend its regulations implementing the Forest Tax Law to include "participation in a forest certification program ... recognized in the regulations of the Department." Additional amendments to the regulations will be considered to address concerns expressed and problems raised over the last 47 years by program participants and landowners who would like to participate, as well as to streamline and reduce DEC's administrative workload associated with this growing program. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Bruce Williamson, NYS Department of Environmental Conservation, Bureau of Private Land Services, 625 Broadway, Albany, NY 12233-4253. Telephone: 518-402-9425. E-mail: bewillia@gw.dec.state.ny.us Please include the Part number when e-mailing.

DIVISION OF MATERIALS MANAGEMENT

6 NYCRR, Part 325, Rules and Regulations Relating to the Application of Pesticides and Part 326, Registration and Classification of Pesticides. Part 325 will be amended, in part, to clarify and update existing regulations. Part 326 will be amended, in part, to clarify and update existing regulations and will include the federal requirements regarding removal of residues from pesticides containers prior to dis-

posal or refilling. Part 325 and 326 will also be amended to address Minimum Risk Pesticides in New York State and include the federal requirements for the Worker Protection Standard (WPS). This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Maggie O'Neil, NYS Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, New York 12233-7254. Telephone: 518-402-8748. E-mail: pestmgt@gw.dec.state.ny.us. Please include the Part number when e-mailing.

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

6 NYCRR Part 367, Returnable Beverage Containers. This rulemaking will incorporate revisions to the statute that specifically changed and, in some cases, contradict the Part 367 regulations that were promulgated in 1983; reflect changes in the way the industry and the regulated community now complies with these regulations; and include changes that will lead to improved compliance and enforcement. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Jennifer Kruman, NYS Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, New York 12233-7253. Telephone: 518-402-8706. E-mail: nybottle@gw.dec.state.ny.us. Please include the Part number when e-mailing.

6 NYCRR Part 368, Product Stewardship and Labeling. This rulemaking will rename and include changes to the existing Recycling Emblem regulations in 6 NYCRR Part 368 to be consistent with national labeling guidelines for recycling terms. It will also include developing regulations for mercury-added consumer products labeling, and product stewardship requirements for E-Waste, Cell Phones and Rechargeable Batteries - all resulting from legislation for these specific materials. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Peter Pettit, NYS Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, New York 12233-7253. Telephone: 518-402-8706. E-mail: pswr@gw.dec.state.ny.us. Please include the Part number when e-mailing.

DIVISION OF MINERAL RESOURCES

6 NYCRR Parts 550-556 and 560, Mineral Resources. The Department is proposing to revise 6 NYCRR Parts 550-556 and to adopt a new Part 560, Operations Associated with High-Volume Hydraulic Fracturing. Part 550 will be revised to reflect that the Bureau of Mineral Resources is a Division and add new definitions. Part 551 will be revised to include storage, stratigraphic, geothermal and disposal wells and to replace the blanket bond for wells greater than 6,000' with a financial security instrument that covers the actual cost of well plugging. Part 552 will be revised to include clarity for commencement of operations, to cover geothermal and stratigraphic wells greater than 500' deep, well re-fracturing requirements, increase the drilling permit term to two years, revise language for requests to suspend permits and add new text for the reissuance of permits. Part 553 will be revised to reflect statutory well spacing changes, spacing order issuance and variances. Part 554 will be revised to cover waste

fluid disposal plans, drill cuttings disposal plans, horizontal well drilling, notice and plat map requirements and interim completion report filing requirements. Part 555 will be revised to clarify shut-in well status and plugging requirements. Part 556 will be revised to include gas flaring requirements and sundry notice and report on well requirements. A new Part 560 is proposed to cover activities associated with high-volume hydraulic fracturing, including definitions, application requirements, setbacks, testing, recordkeeping and reporting requirements, well construction and operation standards and reclamation requirements. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Peter Briggs/Jack Dahl, NYS Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-6500. Telephone: 518-402-8056. E-mail: dmog@gw.dec.state.ny.us Please include the Part number when e-mailing.

DIVISION OF WATER

6 NYCRR Parts 750.1 and 750.3, High Volume Hydraulic Fracturing. The proposed rulemaking will modify the Department's existing regulations and promulgate new regulations for State Pollutant Discharge Elimination System permits for high-volume hydraulic fracturing (HVHF) activities. Contact: Ken Kosinski, Bureau of Water Resource Management, Division of Water, NYSDEC, 625 Broadway, Albany, NY 12233. Telephone: 518-402-8110. E-mail: kakosins@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 750, State Pollutant Discharge Elimination System (SPDES) Permits. On August 9, 2012 Governor Cuomo signed the Sewage Pollution Right to Know Act (SPRTK) that amends Article 17 of the Environmental Conservation Law by adding a new section 17-0826-a to establish new requirements for the reporting of discharges of untreated and partially treated sewage. SPRTK also imposes new requirements on DEC to collect and post discharge information expeditiously on its website and produce an annual report on the discharges and their remediation. SPRTK shall take effect on May 1, 2013. Contact: Joe DiMura, Director, Bureau of Water Compliance, Division of Water, NYSDEC, 625 Broadway, Albany, NY 12233-3506. Telephone: 518-402-8177. E-mail: jxdimura@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 502, Floodplain Management Criteria for State Projects. Revisions will update language to comply with enabling legislation and will update criteria to comply with changes in Federal Emergency Management Agency regulations and New York State Building Code. Part 502 was last updated in 1984. Areas include updated definitions, clarifying floodway encroachment requirements, changing lowest floor elevation requirements to reflect the Building Code of New York State, and clarifying the variance application and decision process. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: William Nechamen, Chief, Floodplain Management Section, Bureau of Flood Protection and Dam Safety, Division of Water, NYSDEC, Albany, NY 12233-3507 Telephone 518-402-8147. E-mail: wsnecham@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Parts 700 - 706, Water Quality Standards. Revisions will add/revise ambient water quality standards, standard-setting procedures, implementation procedures and other regulatory provisions. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Scott Stoner, Chief, Standards and Analytical Support Section, Bureau of Water Quality Management, Division of Water, NYSDEC, Albany, NY 12233-3502. Telephone 518-402-8193. E-mail: sxstoner@gw.dec.state.ny.us

6 NYCRR Part 505, Coastal Erosion Management Regulations. Part 505 of 6 NYCRR was last amended in March 1988. Since that date, through the implementation of the program there have been a number of areas identified which should be amended. These areas include clarifying definitions, providing new defined terms, and clarifying regulatory language regarding regulated activities in natural

protective features areas. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, Director, Bureau of Water Permits, Division of Water, NYSDEC, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8185. E-mail: aafuchs@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

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

6 NYCRR Part 500, Flood Plain Management Regulations Development Permits (BFP&DS). This Part of 6 NYCRR will be repealed. Changes made to ECL Article 36 in 1992 removed this requirement from law. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, Director, Bureau of Flood Protection and Dam Safety, Division of Water, NYSDEC, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: aafuchs@gw.dec.state.ny.us Please include the Part number when e-mailing.

6 NYCRR Part 651, State Aid for Collection, Treatment and Disposal of Sewage - Cost of Operation and Maintenance of Sewage Treatment Plants. Due to a lack of appropriations for this program for several years, this Part of 6 NYCRR will be repealed. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a Rural Area Flexibility Analysis. Contact: Koon Tang, Director, Bureau of Water Permits, Division of Water, 625 Broadway, NYSDEC, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: ktang@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

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

6 NYCRR Part 910, St. Lawrence River Drainage Basin. Revisions will reclassify surface waters as needed to provide water quality protection consistent with designated best usages, as well as the Clean Water Act (CWA) Section 101(a)(2) goals. This rulemaking may require a Regulatory Flexibility Analysis for small businesses and a

Rural Area Flexibility Analysis. Contact: Scott Stoner, Chief, Standards and Analytical Support Section, Bureau of Water Quality Management, Division of Water, NYSDEC, Albany, NY 12233-3502. Telephone 518-402-8193. E-mail: sxstoner@gw.dec.state.ny.us Please include the Part number when e-mailing.

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

Department of 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 first half of 2013. Many of these items were previously published in the June 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 required by sections 202-b and 202-bb of SAPA.

For inquiries about a specific item, please contact the person(s) identified in the item. For general inquiries about the Insurance Regulations included in this Regulatory Agenda, or to obtain copies of current Insurance Regulations, 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

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 implement 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 Titles 3 and

11 to correct out-of-date references to the "Superintendent of Insurance", "Superintendent of Banks", "Insurance Department", "Banking Department", and "Banking Board", which resulted from the passage 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 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.

7. 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.

8. Summary description of proposal: Adoption of a new part to 11 NYCRR to require insurers in a holding company system to file an enterprise risk report and own risk and solvency assessment. Agency Contact: Joana Lucashuk, Senior Attorney, Office of General Counsel - (212) 480-2125.

9. Summary description of proposal: Adoption of a new 11 NYCRR 244 (Insurance Regulation 168) to guide and enable insurers to guard against the disclosure of confidential information pertaining to domestic violence victims and endangered individuals. Agency Contact: Joana Lucashuk, Senior Attorney, Office of General Counsel - (212) 480-2125.

10. Summary description of proposal: Amendment of 11 NYCRR 178 (Insurance Regulation 163) to conform to revisions made in 2012 to Insurance Law § 1410(f), governing derivative transactions. Agency Contact: Michael Campanelli, Office of General Counsel - (212) 480-5290.

11. 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: Dennis Ferez, Assistant Chief, Life Bureau - (212) 480-5032.

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 and Reinsurance 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 301 (Purchasing Groups) (Insurance Regulation 134) to conform the rule with the requirements of the Non-Admitted and Reinsurance Reform Act of 2010 ("NRRA") 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.

14. Summary description of proposal: Adoption of 11 NYCRR 65-5 (Insurance Regulation 68-E) to establish standards and procedures for the investigation and suspension or removal of a health service provider's authorization. Agency Contact: Hoda Nairooz, Principal Insurance Examiner, Property Bureau - (212) 480-5587.

15. 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.

16. 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 estab-

lish higher ethical standards, strengthen internal controls and governance, and enhance the operational transparency of the city and state retirement systems. Agency Contact: Michael Maffei, Chief, Life Bureau - (212) 480-5027.

17. 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.

18. 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.

19. 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.

20. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Insurance Regulation 147) to revise existing standards for universal life insurance products with secondary guarantees in consideration of recent adopted changes to NAIC standards. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau - (518) 474-7929.

21. Summary description of proposal: Amendment of 11 NYCRR 99 (Valuation of Annuity, Single Premium Life Insurance, Guaranteed Interest Contract and Other Deposit Reserves) (Insurance Regulation 151) to adopt a new mortality table for valuing annuity reserves in consideration of a proposed NAIC adoption of such table. Agency Contact: Fred Andersen, Supervising Actuary, Life Bureau - (518) 474-7929.

22. 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.

23. 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.

24. Summary description of proposal: Adoption of a new Part 440 to 11 NYCRR (Insurance Regulation 201) to establish, in consultation with the commissioners of the Departments of Health and Education, standards of professionalism, supervision, and relevant experience for individuals who provide or supervise the provision of behavioral health treatment in the form of applied behavior analysis, for insurance coverage pursuant to Insurance Law §§ 3216(i)(25), 3221(l)(17) and 4303(ee). Agency Contact: Abby Nash, Senior Insurance Attorney, Health Bureau - (518) 473-7470.

25. Summary description of proposal: Amendment of 11 NYCRR 39 (Minimum Standards for the New York State Partnership for Long-Term Care Program) (Regulation 144) to update the minimum daily benefit amounts from 2014 through 2023 for the New York State Partnership for Long-Term Care Program. Agency Contact: Austin Rinella, Supervising Insurance Attorney, Health Bureau - (518) 486-5253.

26. 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.

27. 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 Criminal Investigations Unit had previously approved must be submitted to the Criminal Investigations Unit within thirty days of its implementation. Agency Contact: Edward Ferrity, Counsel, Criminal Investigations Unit - (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 first half of 2013. Many of these items were previously published in the June 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 required by sections 202-b and 202-bb of SAPA.

For inquiries about the Banking Regulations included in this Regulatory Agenda, or to obtain copies of current Banking Regulations, 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

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 September 17, 2012);

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

(c) Rules governing the business conduct of mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on October 7, 2012); and

(d) Rules governing the licensing and education requirements for mortgage loan originators (rules on this subject were adopted on an emergency basis most recently on November 27, 2012).

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: Amendments to Titles 3 and 11 to correct out-of-date references to the "Superintendent of Insurance", "Superintendent of Banks", "Insurance Department", "Banking Department", and "Banking Board", which resulted from the passage 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.

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 January through June 2013:

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 be more inclusive, allowing more types of relevant research access to the Registry and expanding surveillance use of confidential data.

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 regulation to incorporate mandatory federal regulations to improve control of microbial pathogens (federal LT2SWTR) while limiting risks associated with the formation of and exposure to disinfection byproducts (federal Stage 2 D/DBPR).

5-1 Public Water Systems - Amend the regulation 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 regulation 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 reporting to the Congenital Malformations Registry of children up to 10 years of age with certain birth defects, as well as fetuses diagnosed with defects prior to birth. Both changes will support an improved ability to accurately document prevalence rates for certain birth defects. Fetal alcohol syndrome and Duchenne muscular dystrophy are often not diagnosed until a child is older than two years of age, the current maximum age for required reporting. Anencephaly, spina bifida, and trisomies 13, 18 and 21 are often diagnosed prenatally, and would not be reported if the pregnancy is not carried to term. Improved surveillance will help monitor the impact of environmental factors or 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 update technical requirements to reflect advances in technology and changes in industry standards and enhance monitoring and enforcement of restrictions on the sale of human tissue for transplant.

52-12 Therapeutic Cell Banks - Promulgate a new subpart to propose standards for the collection, processing, storage, and distribution of nucleated somatic 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.

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, and to clarify that regulated analytes exclude analytes considered process controls by the NYS Department of Environmental Conservation (DEC).

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.

58-8 Human Immunodeficiency Virus (HIV) Testing - Amend the regulation to create consistency with the HIV testing law implemented

September 1, 2010 and supporting regulations of Part 63. Address updated technologies and revise testing algorithms for the management of HIV.

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 Advisory Committee on Immunization Practice 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 - Amend the regulations, as needed, to comply with 34 CFR Parts 300 and 303 issued on September 28, 2011. Amendments are also needed to Early Intervention Program regulations to comply with statutory changes enacted with the SFY 2012-13 budget. Section 10 NYCRR Section 69-4.30 will be amended to clarify the commissioner's authority to establish a fixed payment methodology for service coordination services. Amendments may also be needed to address other areas of regulation 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.

72-1 Tanning Facilities - Amend the regulations to be consistent with recent Chapter 105 of the Laws of 2012 amendments to Public Health Law Article 35-A - Tanning Facilities. The regulations will be amended to reflect the recent changes to the Public Health Law Section 3555 which prohibit individuals under seventeen (17) years of age from utilizing indoor tanning facilities.

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 and body piercing studios and the permitting of body piercing specialists and tattooists.

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 regulation 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 treat-

ment system regulations to clarify design submittal and approval procedures; add new regulations for individual water wells in order to establish water quality reference standards for individual household wells.

77 Funeral Establishments, Registrations, Funeral Directing, and Misconduct - Amend the regulations to prohibit the recovery of tissue within a funeral establishment and preclude operation of tissue banks and nontransplant anatomic banks within such establishments and the requesting of consent for an anatomical donation by funeral directors and employees of a funeral firms.

80 Controlled Substances - Amend the regulations to reflect recent statutory changes pertaining to the implementation of an upgraded Prescription Monitoring Program (PMP) Registry for collecting, monitoring and reporting data concerning the prescribing and dispensing of controlled substances. The amended regulations will address the statutory requirements for prescribing practitioners to consult the Registry prior to prescribing controlled substances; provide pharmacists access to the Prescription Monitoring Program Registry; allow for the use of designees to assist in accessing the PMP; and provide for more timely reporting of prescription information. Amended regulations will reflect statutory changes mandating the implementation of electronic prescribing for all prescriptions with limited exceptions. Amend the regulations pertaining to the Official New York State Prescription Forms reflecting required changes to the prescription forms and electronic prescriptions to include a section where prescribers may indicate whether an individual is limited English proficient and a line where the prescriber may specify the preferred language indicated by the patient. Amend the regulations to allow for electronic transmission, documentation, record keeping and endorsement of 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 of 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 provided in State Education Law section 6810 (7) (b) for non-controlled substances. Amend Part 80 to update reporting requirements for Methadone Maintenance Treatment Programs enacted by Public Health Law section 3352 statutory changes. Outline training and certification requirements applicable to 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 PMP 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 become permanent.

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).

85.45 Orthodontic services. Amend the existing regulation to clarify current policy regarding coverage of orthodontic services under the Physically Handicapped Children's Program (PHCP). The proposed amendments will allow the inclusion of specific procedures and criteria in the Department's Medicaid Dental Provider Manual.

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 Safety Net Vital Access Provider (VAP) Program - Amend

the regulation, as a result of the MRT waiver submitted to CMS, as it relates to Safety Net/VAP temporary Medicaid rate adjustments for hospital inpatient services.

86-1.38 Redirect Inpatient Reform Transition II Funds to the Safety Net/ Vital Access Provider (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.

86-1.45 Language Assistance Medicaid Reimbursement for Hospital Inpatient Services - Add regulations and develop rates for the payment of Language Assistance services provided by hospitals to inpatients.

86-2 Safety Net Vital Access Provider (VAP) Program - Amend the regulation, as a result of the MRT waiver submitted to CMS, as it relates to Safety Net/VAP temporary Medicaid rate adjustments for nursing homes.

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.

86-4.20 FQHC Medicaid Capital - Amend the regulation to reflect the ability for FQHC's to receive Medicaid capital appeal increases due to projects now exempt from the CON process due to enacted legislation.

86-8 Physician Home Visits for Hospitals and Clinic - Amend the regulation to establish Medicaid rates and billing policies to allow hospitals and clinics to be reimbursed for physician home visits for chronically ill patients.

86-8 Safety Net Vital Access Provider (VAP) Program - Amend the regulation, as a result of the MRT waiver submitted to CMS, as it relates to Safety Net/VAP temporary Medicaid rate adjustments for free standing clinics.

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 Department of Financial Services 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. In addition, the regulations will be updated to be consistent with the amendment to the PHL for the collection of claims data and covered person data from third party health care payers. 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.

405 Federal Conditions of Participation - Amend the regulation to include recent federal conditions of participation.

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

405 Sepsis - Amend the regulations to require hospitals to develop policies and procedures related to sepsis.

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.

405.21 Perinatal Services - Technical amendments are required in Section 405.21 Perinatal Services. A specialty hospital releasing a neonate back to the hospital of birth would be entitled to billing as a discharge, while transfer to another community hospital would be considered a transfer and therefore reimbursed at a lower rate. Transfer back to the hospital of birth or another lower level perinatal service hospital is strongly encouraged to ensure proximity to parents, and to ensure that neonates who no longer need the higher level of care do not use higher level resources. It is anticipated that 86-1.15 will be amended as well. Therefore, to ensure consistency, amend the perinatal services regulations to allow release to "the sending hospital or other hospital providing a lower level of perinatal services....." to conform with changes to Sections 86-1.15 and current language in Section 721.4(c)(1).

405.21 Perinatal Services - Amend the regulations in Section 405.21 (c)(2)(ii) to cross reference 405.9(b)(12) of this Part, which is the correct regulatory reference instead of 405.9(b)(11).

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.

407 Federal Conditions of Participation - Amend the regulation to incorporate federal conditions of participation for Critical Access Hospitals (CAHs).

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.

600.3 Certificate of Need (CON) Applications - Amend the regulation to simplify the process for review of amendments to Certificate of Need (CON) applications that have received approval for establishment by the Public Health and Health Planning Council (PHHPC) but which have not yet proceeded to actual establishment.

700 Accountable Care Organizations (ACOs) - It is anticipated that regulations will be added to 10 NYCRR Part 700 pursuant to amendments to PHL Article 29-E governing Accountable Care Organizations (ACOs).

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 Construction - 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.

710.5 Certificate of Need (CON) Applications - Amend the regulation to simplify the process for review of amendments to Certificate of Need (CON) applications that have received approval for construction by the Public Health and Health Planning Council (PHHPC) but which have not yet proceeded to actual construction.

721.4 Patient Care and Patient Transfers - Amend the regulations to allow release to "the sending hospital or other hospital providing a lower level of perinatal services....." to conform with proposed changes to Section 86-1.15, 405.21 and current language in Section 721.4(c)(1).

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. Modernize course sponsors provisions to address the current environment and technology as well as reflecting the current EMS education curricula. Strengthen the surveillance portions of these provisions to appropriately address issues of quality, student rights and safety. Establish a new section on the mobilization and/or sharing of resources in the event of a declared disaster. Amend to reflect current ambulance vehicle construction requirements, technology and safety for the patients and EMS providers.

910 Official New York State Prescription Forms - Amend the regulations pertaining to the Official New York State Prescription Forms reflecting required changes to the prescription forms and electronic prescriptions to include a section where prescribers may indicate whether an individual is limited English proficient and a line where the prescriber may specify the preferred language indicated by the patient.

Title 18 NYCRR (Social Services)

360-10 Medicaid Managed Care Program - Replace emergency regulations promulgated 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 and provide clearer guidance regarding fair hearing rights and requirements specific to Medicaid managed care and Family Health Plus.

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.

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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 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.

2. Amend Title 12 NYCRR 61-3 To reflect new OSHA regulation regarding crane operators.

3. Amend Title 12 NYCRR Part 195 to conform to the 2012 amendments to Labor Law § 195.

4. 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.

5. Amend Title 12 NYCRR Section 471.1 to allow blanket elections of specified groups of employees for liability purposes.

6. Amend Title 12 NYCRR Section 472.6 to strengthen the notice requirements for transfers of business.

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

8. 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, New York State Department of Labor, Building 12, State Office Campus, Counsel’s Office, Room 508, Albany, New York 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. This regulatory agenda was prepared and submitted by Jeanine Dillon, Special Assistant for Executive Operations, New York State Department of Labor, 9 Bond Street, 4th Floor, Brooklyn, New York, 11201 (718) 613-3992.

Office of Medicaid Inspector General

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

The following regulations are under consideration by the OMIG for submission as a Notice of Proposed Rulemaking during the calendar year 2013, but for which a rulemaking proceeding has not yet been commenced.

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

Title 18 NYCRR (Social Services)

360-6.4 Restriction of recipient access to services (recipient restriction program) - Amend regulation in relation to restriction of recipient access to services (recipient restriction program).

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

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

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

CONTACT PERSON: Office of the Medicaid Inspector General, Michael T. D’Allaird, Esq., Senior Attorney, 800 N. Pearl St., Albany, NY 12204, (518) 402-1434, Fax (518) 408-0536, e-mail: Rulemaking@omig.ny.gov

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 flexibility analysis 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

Chapter XXXII

Considering 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) 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; (8) certification of 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; (9) 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; (10) 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 (11) otherwise to implement Chapter 560 of the Laws of 2010 and section 376-a of the Executive Law.

Considering adding new Parts relating to energy efficiency standards for appliances and equipment.

Part 1201

Considering 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; and (5) delete the requirement that local governments and counties file annual reports related to their code enforcement activities.

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).

Considering 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 made in the New York State / New York City Building Code Task Force report issued June 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 pertaining to 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.

Chapter XXXIII
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 (Fire Code) to implement recommendations made in the New York State / New York City Building Code Task Force report issued 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 CONSUMER PROTECTION
21 NYCRR 4600 et seq

Considering renumbering and amending regulations of the former State Consumer Protection Board.

21 NYCRR Part 4603

Considering amending regulations pertaining to “do-not-call” registry in order to conform them to recent statutory changes.

DIVISION OF CORPORATIONS, STATE RECORDS AND UCC
Part 156

Considering amending regulations regarding names of corporations and other business entities.

DIVISION OF LICENSING SERVICES
Part 160

Considering amending regulations pertaining to appearance enhancement in order to implement the “ELicensing” initiative.

Considering adding regulations regarding the use of laser devices by appearance enhancement practitioners.

Considering amending regulations to clarify that appearance enhancement practitioners may maintain material safety data sheets in electronic form.

Considering amending appearance enhancement regulations regarding waxing procedures.

Part 175

Considering amending regulations pertaining to the deposit of money into escrow by real estate brokers and salespeople.

Considering adding regulations to clarify the ability of real estate brokers and salespeople to offer rebates and other incentives.

Section 175.17

Considering amending this section to update the Albany address of the Division of Licensing Services.

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 adding regulations relative to the internet sale of hearing aids.

Part 1102

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

Part 1102 et seq

Considering amending regulations pertaining to real estate appraisal

in order to permit the completion of qualifying education via distance learning.

Section 1106.1

Considering amending this section to update the Albany address of the Division of Licensing Services.

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; David.Treacy@dos.ny.gov. This Regulatory Agenda, scheduled for publication in the January 2, 2013 Issue of the New York State Register, is posted on the Department’s website: 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 first half of 2013. 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.*

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 sup-

port 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.*

Promulgate regulations for establishing and enforcing medical support obligations.*

Revise regulation concerning confidentiality of information based on September 26, 2008 federal final rule and Social Services Law (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 make technical updates to Part 352, including updating references to "aid to dependent children" and "home relief" with "family assistance" and "safety net assistance" respectively.

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

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 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 Supplemental Nutrition Assistance Program (SNAP) 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 - Supplemental Nutrition Assistance Program

Amend regulations to make technical updates to Part 387.

Update regulations to reflect the current policy that standard allowances for heating/air conditioning, utility and telephone costs are used in calculating shelter expenses for SNAP.*

Update regulations to reflect the current policy that households in shared living arrangements are entitled to the full applicable level of the standard utility allowance.*

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

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

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

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

Generally update SNAP 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 SNAP.*

Update regulations for the SNAP 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 SNAP benefits.*

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, Office of Temporary and Disability Assistance, 40 N. Pearl St., 16C, Albany, NY 12243, (518) 474-9779, e-mail: Jeanine.Behuniak@OTDA.ny.gov The regulatory agenda may be accessed on OTDA's website at <http://otda.ny.gov/legal/>.

Workers' Compensation Board

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

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

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

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

1. Amend Section 300.2 regarding independent medical examinations regarding the time period within which reports of such examinations must be filed with the Board and served on all others, procedures for review of records without an examination of a claimant, process to revoke the authorization of an independent medical examiner whose medical license has been restricted or Board Certification revoked, and process to revoke the registration of an Independent Medical Examination (IME) Entity which has engaged in misconduct or upon a finding that an IME Entity has materially altered or caused to be altered an IME report.

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

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

4. Add Part 318 to establish rules for the licensing and conduct of group administrators of group self-insured trusts pursuant to Workers' Compensation Law § 50(3-a)(5).

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

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

7. Amend Parts 390 and 393 regarding the Aggregate Trust Fund to conform to the amendments to Workers' Compensation Law § 27, the decisions of the Board and the recent decision by the Court of Appeals in *Raynor v. Landmark Chrysler*, 18 NY3d 48 [2011].

8. Repeal and readopt Section 300.22, amend Sections 300.23, 300.26, 300.29, 300.33, 300.37, 300.38, 310.1, 312.2, 325-1.24, 327.3, 403.1 to replace the filing of C-7, C-669 and C-8/8.6 with mandatory electronic filing of timely first reports of injury, subsequent reports of injury and reports of payments by carriers, employers, third-party administrators and special funds.

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

To obtain information about or submit written comments concerning any item in this Regulatory Agenda, contact: Heather M. MacMaster, Associate Attorney, Workers' Compensation Board, 328 State St., Schenectady, NY 12305-2318, (518) 486-9564, e-mail: regulations@wcb.ny.gov

