

# REGULATORY AGENDA

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## Department of Agriculture and Markets

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

### DIVISION OF ANIMAL INDUSTRY

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

Part 50: Consider amending regulations pertaining to livestock disinfection procedures and removing obsolete provisions.

Part 53: Consider amendments relative to the movement of cattle into New York State.

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 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 64: Consider amending sections 64.4, 64.7 and 64.8 to clarify the requirement that veterinarians must have Class 2 USDA accredited status in order to submit samples for official equine infectious anemia (Coggins) tests.

Part 68: Consider amending animal health requirements to require tuberculosis surveillance on all captive cervid herds; 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; and to exempt special purpose herds of less than 10 animals from sampling requirements.

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 82: Consider adding animal exercise requirements for pet dealers.

*Name of agency contact:* David C. Smith, DVM, Director, Division of Animal Industry, 10B Airline Dr., Albany, NY 12235, (518) 457-3502, david.smith@agriculture.ny.gov

### DIVISION OF FOOD SAFETY AND INSPECTION

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

Parts 250, 252, 259; sections 261.8, 261.9, 262.1, 265.1, 266.1, 267.1, 271-4.7, 271-5.3(h), 271-5.3(j), 271-5.4(g); and Parts 277, 279, 280 and 281: Consider amending these Parts/sections to incorporate by reference the most recent Federal regulations (2015).

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

*Name of agency contact:* Stephen D. Stich, Director, Division of Food Safety and Inspection, 10B Airline Dr., Albany, NY 12235, (518) 457-4492, stephen.stich@agriculture.ny.gov

### DIVISION OF PLANT INDUSTRY

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

Part 141: Consider amending the emerald ash borer regulations to expand existing quarantined areas.

*Name of Agency Contact:* Christopher Logue, Director, Division of Plant Industry, 10B Airline Dr., Albany, NY 12235, (518) 457-2087, christopher.logue@agriculture.ny.gov

### BUREAU OF WEIGHTS AND MEASURES

Section 220.2: Consider adopting national standards for the specifications, tolerances and regulations for commercial weighing and measuring devices as published in the 2015 edition of NIST Handbook 44.

Section 220.4: Consider increasing fees for metrology laboratory testing.

Section 220.12: Consider increasing fees for type evaluations.

Part 221: Consider adopting NIST Handbook 130 standards for packaging and labeling and for methods of sale.

Section 221.11: Consider adopting national standards for the checking of the net contents of packaged goods as published in the 2015 edition of NIST Handbook 133.

Part 224: Consider adopting diameter size requirements for diesel fuel dispensers.

Part 224: Consider adopting current standards of the American Society for Testing Materials (ASTM) regarding gasoline (D 4814), diesel (D 975) and kerosene (D 3699). Also consider adopting stricter standards for levels of water in storage tanks.

*Name of agency contact:* Michael Sikula, Director, Bureau of Weights and Measures, 10B Airline Dr., Albany, NY 12235, (518) 457-3146, mike.sikula@agriculture.ny.gov

## Education Department

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for calendar year 2015. 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 2015 Regulatory Agenda.

### OFFICE OF P-12 EDUCATION

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

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

Amendment of section 100.2 (gg) to revise the number of categories pertaining to Violent and Disruptive Incident Reporting to be reported annually by school districts.

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

Amendment of section 100.3 of the Commissioner's Regulations relating to the PreK-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 of section 100.4 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 100.5 of the Commissioner's Regulations, relating to graduation requirements. A regulatory change may be required to allow for additional options for English language learners. 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 diploma requirements for students pursuing a career/technical education program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.18 pertaining to Accountability for graduation rate of schools with PTech and Early College high school programs.

Amendment of § 100.5(g)(1)(i) of the Commissioner's Regulations relating to the transition to the Common Core Regents Examination in English Language Arts.

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 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.

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.

Extension of the amendment to sections 100.4(e)(2) and 100.18(b)(14) of the Commissioner's Regulations to provide flexibility to school districts and charter schools regarding the administration of Regents Examinations in Mathematics (Common Core) to grades 7 and 8 students.

Amendment of 100.18 of the Commissioner's Regulations to align with the State's submitted ESEA Flexibility Renewal Request for the 2015-16 school year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 117 of the Commissioner's Regulations relating to initial identification and enrollment processes for English language learners. A regulatory change may be required to align to regulatory changes made to Part 154. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

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

Amendment of Part 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 Part 118 of the Commissioner's Regulations relating to implementation of waivers from specified provisions of the Elementary and Secondary Education Act of 1965, as amended, that have been granted by the Secretary of the U.S. Department of Education pursuant to section 9401 of the ESEA for purposes of ESEA flexibility pertaining to school and district accountability. 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 of Commissioner's Regulations, relating to Charter School Tuition Reimbursement, to conform to section 4 of Part BB of Chapter 56 of the Laws of 2014. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 120 of the Commissioner's Regulations relating to implementation of waivers from specified provisions of the Elementary and Secondary Education Act of 1965, as amended, that have been granted by the Secretary of the U.S. Department of Education pursuant to section 9401 of the ESEA for purposes of ESEA flexibility pertaining to Supplemental Educational Services and Public School Choice. 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 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 the 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 the 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 section 136.3(b) of the Commissioner's Regulations to conform to Education Law section 901, as amended by the Laws of 2006, Ch. 58, pt. A-1, § 57, which removed the exemption of the city school districts of Rochester and Buffalo from the requirement to provide school health services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 136 of the Commissioner's Regulations to conform to Chapter 424 of the Laws of 2014, which added a new Education Law section 921, relating to the administration of epinephrine auto-injectors. 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 the 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 English Language Learners including administration of a new assessment to determine whether students are English language learners upon their first enrollment in a New York state school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Development of a new Part of the Commissioner's Regulations to create identification, placement and program requirements for students who are English language learners in preschool.

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 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(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 200.5(j) of the Commissioner's Regulations relating to the statute of limitations for requesting an impartial hearing, as may be necessary to conform to changes to State statute and relating to prehearing conferences for impartial due process hearings; and to make technical amendments, as may be appropriate, to conform to federal regulations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

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

Amendment of section 200.7(d) of the Commissioner's Regulations relating to the approval of the Commissioner of Education on an appointment of a student with a disability to a State-supported school and evaluations conducted by State-supported schools, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.15 of the Commissioner's Regulations relating to the standards for the protection of day and residential students who attend a residential school, as may be necessary to

conform to State regulations adopted by the New York State Justice Center for the Protection of People with Special Needs and with Chapter 501 of the Laws of 2012. 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 sections 200.9, 200.16 and 200.20 of the Commissioner's Regulations relating to the preschool rate-setting methodology and the approval of programs serving preschool students with disabilities. 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 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:

Cosimo Tangorra, Jr.

Ken Wagner

Deputy Commissioners P-12

New York State Education Department

State Education Building, Room 2M West

89 Washington Avenue

Albany, New York 12234

(518) 474-3862

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OFFICE OF HIGHER EDUCATION

Addition of a new Part of the Commissioner's Regulations pertaining to the requirements for student and teacher data privacy and security pursuant to Education Law section 2-d, as added by Subpart L of Part AA of Chapter 56 of the Laws of 2014. A rural area flexibility analysis and/or a regulatory flexibility analysis may be required.

Amendment of section 3.56 of Regents Rules to clarify requirements for out-of-state institutions of higher education that are seeking Regents permission to operate in New York. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 4.1 of Regents Rules to clarify standards and procedures related to institutional accreditation. A rural area flexibility analysis and/or a regulatory flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations relating to the certification requirements for pupil personnel service providers. A rural area flexibility analysis may be required.

Amendment of section 80-1.6 of the Commissioner's Regulations relating to the ability to time extend a Teaching Assistant Level II certificate for Citizenship. A rural area flexibility analysis may be required.

Amendment of section 80-3.4 of the Commissioner's Regulations relating to education requirements for the professional certificate. A rural area flexibility analysis may be required.

Amendment of section 80-5.6 of the Commissioner's regulations to define "school year" for purposes of experience for a teaching assistant certificate. A rural area flexibility analysis may be needed.

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

Amendment of Part 86 of the Commissioner's Regulations relating to the requirements for the Albert Shanker Grant. 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 and a rural area flexibility analysis may be required.

Amendment to Part 145 of the Commissioner's Regulations to establish: (1) a uniform submission process for the nomination of scholarship recipients; and (2) a final due date for the submission of nomination(s) for the scholarships for academic excellence.

Amendment to Commissioner's Regulations 145-2.1(a)(iii) to provide a definition of a remedial course(s). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Commissioner's Regulations 145-2.15(c)(1) to clarify and establish jurisdiction over a student at the time of the completion of secondary education. 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:

John D'Agati  
Deputy Commissioner for the Office of Higher Education  
New York State Education Department  
Office of Higher Education  
Room 977, Education Building Annex  
89 Washington Avenue  
Albany, New York 12234  
(518) 486-3633  
Shannon.Roberson@nysed.gov  
OFFICE OF THE PROFESSIONS

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

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the pharmacy profession. 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 Parts 52, 59 and 79 of the Commissioner's Regulations to add a new profession entitled "Applied Behavior Analysis," to establish educational requirements and licensure for Licensed Behavior Analysts and certification for Certified Behavior Analyst Assistants, to protect the titles "Licensed Behavior Analyst" and "Certified Behavior Analyst Assistant," and to authorize the Department to issue a waiver for certain entities to provide services provided under 167 of the Education Law for which licensure would be required.

Amendment of Part 60.8 of the Commissioner's Regulations relating to the segregation, in law, of physician assistants and specialist assistants and conversion of Physician Assistants from a registered profession to a licensed profession; retaining Specialist Assistants as a registered profession.

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 the creation of an electronic, interoperable system to identify and trace certain prescription drugs as they are distributed in the United States, as required by the federal Drug Quality and Security Act of 2013.

Amendment of Part 64 of the Commissioner's Regulations to authorize registered professional nurses to administer tests to determine the presence of the Hepatitis C virus pursuant to a non-patient specific order and protocol issued by a physician or nurse practitioner.

Amendment of Part 69 of the Commissioner's Regulations relating to licensure by endorsement provisions for architects.

Amendment of Part 70 of the Commissioner's Regulations relating to the definitions of public accountancy and the certified accountancy professions.

Amendment of Subparts 79-9, 79-10, 79-11, and 79-12 of the Commissioner's Regulations to establish mandatory continuing education requirements for mental health counselors, marriage and family therapists, creative arts therapists, and psychoanalysts. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 79 of the Commissioner's Regulations to create a new Subpart 79-17 to add a new profession entitled "Perfusionists"; to describe the scope of practice of a Perfusionist and to make Perfusion a title protected profession. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations to create a new Subpart to add a new profession entitled "Geology"; to describe the scope of practice of a geologist and to establish education and experience requirements for licensure as a geologist in order to implement Chapter 475 of the Laws of 2014. A rural area flexibility analysis and a regulatory flexibility analysis may be required.

Agency Representative:

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

Douglas E. Lentivech  
Deputy Commissioner for the Professions  
New York State Education Department  
Office of the Professions  
89 Washington Avenue  
West Wing, Second Floor - Education Building  
Albany, NY 12234  
(518) 486-1765  
opdepcom@nysed.gov  
OFFICE OF CULTURAL EDUCATION

Amendment of Part 90 of the Commissioner's Regulations, relating to the library and library system programs and services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

Bernard A. Margolis  
State Librarian and Assistant Commissioner for Libraries  
New York State Education Department  
New York State Library  
Room 10C34  
Albany, NY 12230  
(518) 474-5930  
Bernard.Margolis@nysed.gov

Amendment of sections 189.1 and 189.3 of the Commissioner's regulations relating to the Documentary Heritage program, to revise procedures for the award of grants and for the provision of field services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 188 of the Commissioner's Regulations related to state government archives and records management to update the agency fee list to match the current organizational structure of executive branch agencies. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

Tom Ruller

Interim, Assistant Commissioner for the State Archives  
9A49 Cultural Education Center  
Albany, New York 12230  
(518) 474-5561  
Tom.Ruller@nysed.gov

OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Amendment of Parts 246, 247 and 248 of the Commissioner's Regulations, regarding conforming and technical amendments pertaining to the vocational rehabilitation and independent living programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

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 area flexibility analysis may be required.

Amendment of Part 246 of the Commissioner's Regulations relating to sheltered workshop programs and community rehabilitation providers, as may be necessary to conform to federal regulations and to reflect new standards for services established in contracts. A regulatory flexibility analysis for local government and a rural area 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 changes resulting from the passage of the Workforce Innovation and Opportunity Act on July 22, 2014 which amended the Rehabilitation Act. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

Lisa Van Ryn  
Manager, VR Resources Development  
Office of Adult Career and Continuing Education Services  
Room 580 EBA  
89 Washington Avenue  
Albany, New York 12234  
Lisa.VanRyn@nysed.gov  
Adult Education Programs and Policy

Amendment to Section 100.7 of the Commissioner's Regulations that would update and revise outdated provisions of the regulation to conform with the new High School Equivalency exam, the Test Assessing Secondary Completion – TASC™. The amendment would also authorize the National External Diploma Program (NEDP) as an alternative assessment to a New York State High School Equivalency Diploma. Currently, the NEDP is an accepted program under Section 100.8 as a local high school equivalency diploma. Regulation 100.8 expires on June 30, 2015. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

Mark Leinung  
Director – Adult Education Programs and Policy  
Adult Career and Continuing Education Services  
New York State Education Department  
89 Washington Ave  
Albany, NY 12234  
Mark.Leinung@nysed.gov

Amendment of section 126.1(o) of the Commissioner's Regulations to delete the term, "received," as used in the phrase "revenue re-

ceived," in reference to the reporting of gross tuition. This change is needed to ensure that the term used accurately aligns with Generally Accepted Accounting Principles (GAAP), as required by statute. A Regulatory Flexibility Analysis for Local Government and a Rural Area Flexibility Analysis may be required.

Agency Representative:

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

Carole W. Yates  
Director, Bureau of Proprietary School Supervision  
Office of Adult Career and Continuing Education Services  
Room 560 EBA  
89 Washington Avenue  
Albany, New York 12234  
Carole.Yates@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 intention to cross-appeal 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 extensions of time for 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, clarification of sufficiency of content and time in which to serve the petition for review and memorandum of law upon the opposing party; clarification of required elements of a cross-appeal; clarification of methods and completion of permissible service; procedures for filing a request for review with the Office of State Review; and addition of 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 sections 279.4, 279.5 and 279.6 of the Commissioner's Regulations to permit electronic filing of pleadings and documents. A regulatory flexibility analysis 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, content of pleadings and memoranda of law, 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 providing consequences to respondent districts that fail to timely file the 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; and State Review Officer authority to request additional briefing from the parties. 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 279.12 of the Commissioner's Regulations to permit correction of clerical errors or mistakes and minor technical changes in a decision of the State Review Officer. A regulatory flexibility analysis 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 279.14 of the Commissioner's Regulations, relating to pre-review conferences. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

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

OFFICE OF MANAGEMENT SERVICES

Amendment of Parts 187 and 188 to update regulations relating to the inspection and copying of State Education Department records and to State Government Archives and Records Management.

Agency Representative:

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

Richard J. Trautwein  
Counsel and Deputy Commissioner for Legal Affairs  
State Education Building, Room 148  
89 Washington Ave., Albany, NY 12234  
(518) 474-6400  
legal@nysed.gov

## Department of Environmental Conservation

### DIVISION OF AIR RESOURCES

6 NYCRR Part 200, General Provisions. Part 200 is being revised,

and is on the Department's 2014 regulatory agenda and will carry into 2015. 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: Air.Reg@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 201, Permits and Registrations. Part 201 will be amended to make certain minor wording changes, correct typographical errors, and other minor corrections to ensure consistent implementation across regions. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mark Lanzafame, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: Air.Reg@dec.ny.gov. 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: Air.Reg@dec.ny.gov. Please include the Part number when emailing.

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

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. Additional amendments may be made to clarify the Aftermarket Catalytic Converter provisions. 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: Air.Reg@dec.ny.gov. Please include the Part number when emailing.

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

6 NYCRR Subpart 225-2, Fuel Composition and Use - Waste Oils. The existing regulation will be revised to remove "out-of-date" regulatory references, correct typographical errors, update the waste oil constituent limits, remove "out-of-date" work practices, expand the number of facilities allowed to burn waste oil, and update the rule to compliment Title V criteria. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mike Jennings, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254. Telephone: 518-402-8403. E-mail: Air.Reg@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Subpart 227-1, Stationary Combustion Installations. The existing regulation will be revised to remove "out-of-date" regula-

tory references, correct typographical errors, and update the permissible emission rates for particulate matter for both solid and liquid fuels. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mike Cronin, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3254, Telephone: 518-402-8403, E-mail: Air.Regis@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 230, Gasoline Dispensing Sites and Transport Vehicles. The existing rule will be amended to update and clarify testing requirements for gasoline dispensing sites (gas stations) and to conform more closely with new federal requirements and guidance. The regulation will also require prior notification to the department for each test; 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: Air.Regis@dec.ny.gov. Please include the Part number when emailing.

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

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

6 NYCRR Part 246, Mercury Reduction Program for Coal-Fired Electric Utility Steam Generating Units. Part 246 will be amended to update monitoring and reporting requirements. These changes are necessary to achieve parity with the United States Environmental Protection Agency's National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation for electric generating units. This rulemaking will require a Regulatory Flexibility for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Steven DeSantis, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251, Telephone: 518-402-8402, E-mail: steve.desantis@dec.ny.gov. 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. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Kent Sanders, NYS Department of Environmental Conservation, 625 Broadway, 4th Floor, Albany, NY 12233-1750, Telephone: 518-402-9168, E-mail: deppermitting@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 617, State Environmental Quality Review Act (SEQR). The Division of Environmental Permits proposes to amend the main text of Part 617. The purpose of the revisions is to streamline the SEQR process without sacrificing meaningful environmental review. The revisions would modify the Type I and Type II lists of actions, as well make other changes to the SEQR process. More infor-

mation about the expected changes could be found at <http://www.dec.ny.gov/permits/83389.html>. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Robert Ewing or Kent Sanders, Department of Environmental Conservation, 625 Broadway, 4th Floor, Albany, NY 12233-1750, Telephone: 518-402-9167, E-mail: deppermitting@dec.ny.gov. Please include the Part number when emailing.

#### DIVISION OF ENVIRONMENTAL REMEDIATION

6 NYCRR Parts 370, 371, 372, 373, 374, and 376, Hazardous Waste Management Regulations ('FedReg5'). This rule making 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: Michelle Ching, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7020, Telephone: 518-402-9553, E-mail: hwregs@dec.ny.gov. Please include 'FedReg5' in the subject line when emailing.

6 NYCRR Parts 370, 371, 372, 373, 374 and 376, Hazardous Waste Management Regulations ('FedReg6'). This rulemaking will incorporate, as appropriate, three federal rules that were adopted between July 31, 2013 and February 7, 2014, which are: (1) Solvent-Contaminated Wipes Rule, published in Federal Register on July 31, 2013, which modifies provisions for laundering and reuse that are currently administered by Program Policy DSW-HW-03-09, 'Regulatory Status of Laundered Industrial Rags and Soiled Clothing;' (2) Carbon Dioxide Sequestration Rule, published in Federal Register on January 3, 2014, which provides a conditional exclusion for carbon dioxide streams in geological sequestration activities; and (3) Electronic Manifest Rule, published in Federal Register on February 7, 2014, which provides the legal and policy framework to authorize use of electronic manifests. Standards for the Management of Used Oil (6 NYCRR Subpart 374-2) will also be amended. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Michelle Ching, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7020, Telephone: 518-402-9553, E-mail: hwregs@dec.ny.gov. Please include 'FedReg6' in the subject line when e-mailing.

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) make necessary revisions of provisions applicable to the State Superfund Program, including, but not limited to, possibly clarifying the definition of "significant threat;" (6) 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 rule making 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 12233-7011, Telephone: 518-402-9706, E-mail: derweb@dec.ny.gov. Please include 'Part 375' in the subject line when e-mailing.

6 NYCRR Part 380, Prevention and Control of Environmental Pollution by Radioactive Materials. This rule making 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 rule making 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@dec.ny.gov. Please include 'Part 380' in the subject line when e-mailing.

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 are 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 are required to adopt applicable sections of these federal rules. This rule making 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@dec.ny.gov. Please include 'Part 384' in the subject line when e-mailing.

6 NYCRR Part 483, Hazardous Waste Program Fees. This rule making will amend Part 483 to incorporate statutory changes made to the Hazardous Waste Program Fees over the past several years in Environmental Conservation Law section 72-0402. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Laura Zeppetelli, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, New York 12233-7012. Telephone: 518-402-9764. E-mail: derweb@dec.ny.gov. Please include 'Part 483' in the subject line when e-mailing.

6 NYCRR Parts 596, 597, 598, and 599, Chemical Bulk Storage Regulations. In this second phase of rulemaking for revisions to the Chemical Bulk Storage (CBS) regulations, DEC proposes to repeal Parts 596, 597, 598, and 599 and replace them with a new Part 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 from U.S. Environmental Protection Agency (EPA) by incorporating new requirements from the federal regulations that the USEPA may promulgate in their current rule making; and (2) incorporate State-initiated changes pertaining to the administration of the CBS program and its consistency with the Petroleum Bulk Storage program, where applicable. This rule making 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: 518-402-9553. E-mail: derweb@dec.ny.gov. Please include respective Part numbers in the subject line when e-mailing.

6 NYCRR Part 610, Certification of Onshore Major Facilities [Major Oil Storage Facility (MOSF) Regulations]. 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, procedures, and equipment requirements to prevent leaks and spills. This rule making 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: 518-402-9553. E-mail: derweb@dec.ny.gov. Please include 'Part 610' in the subject line when e-mailing.

6 NYCRR Part 611, Environmental Priorities and Procedures in Petroleum Cleanup and Removal. DEC proposes to repeal and replace Part 611 to incorporate requirements from 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 from EPA. First priority is given to minimizing environmental damage and to ensuring 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 to require prompt cleanup and removal of such discharges, or to clean up the discharge if the responsible party is unwilling or unable to do so. 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. This rule making 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: 518-402-9553. E-mail: derweb@dec.ny.gov. Please include 'Part 611' in the subject line when e-mailing.

6 NYCRR Part 613, Petroleum Bulk Storage Regulations. In this second phase of rulemaking for revisions to the Petroleum Bulk Storage (PBS) regulations, DEC proposes to amend 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 from EPA by incorporating new requirements from the federal regulations that the USEPA may promulgate in their current rule making; and (2) incorporate State-initiated changes pertaining to the administration of the PBS program and its consistency with the CBS program, where applicable. This rule making 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: 518-402-9553. E-mail: derweb@dec.ny.gov. Please include 'Part 613' in the subject line when e-mailing.

#### DIVISION OF FISH, WILDLIFE, AND MARINE RESOURCES

6 NYCRR Part 1, Section 1.40, Hunting wild turkey. Authority: ECL 11-0903, 11-0905. These amendments are needed to change season dates, boundaries, and bag limits for the fall wild turkey hunting season. Modification of hunting regulations is needed due to changes in wild turkey populations and improved understanding of the environmental conditions that influence those changes in different regions of New York State. It is not anticipated that this amendment will require a Regulatory Flexibility Analysis for small businesses or 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: vicky.wagenbaugh@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 6, Section 6.2, Mink, muskrat, raccoon, opossum, weasel, red fox, gray fox, skunk, coyote, fisher, bobcat and pine marten trapping seasons and bag limits. Authority: ECL 11-1101, 11-1103. These amendments are needed to implement certain aspects of a fisher management plan expected to be adopted in early 2015. Additional amendments to this section are needed to clarify specifications for legal sizes and placement of traps for certain species. It is not

anticipated that this amendment will require a Regulatory Flexibility Analysis for small businesses or 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: vicky.wagenbaugh@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 10 Sportfishing Regulations. Every two years the Department makes needed adjustments to the freshwater sportfishing regulations for the purposes of keeping the regulations up to date and current with management needs (including individual waters) and to provide for angling opportunity. The amendment of these regulations is necessary to adjust for meeting management needs, and to include appropriate adjustments to seasons, creel limits, and size limits. These regulations were initially scheduled to be amended in 2014, but will now be amended in 2015. This amendment will not require a Regulatory Flexibility Analysis for Small Businesses or a Rural Area Flexibility Analysis. Contact: Shaun Keeler, New York State Department of Environmental Conservation, Bureau of Fisheries, 625 Broadway, Albany, NY 12233. Telephone: 518 402 8928. E mail: shaun.keeler@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR, Part 10 - Sportfishing Regulations. These amendments pertain to the management of diadromous fishes in the Hudson and Delaware Rivers, and 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, New York State Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: steve.heins@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR, Part 11 – More Than One Species. These amendments pertain to the management of diadromous fishes for taking, possessing, sale, or trafficking in the Harlem or East Rivers and 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, New York State Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: steve.heins@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR, Part 18 – Taking Bait. These amendments pertain to the management of diadromous fishes to take as bait for sport fishing via the use of fishing devices. 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, New York State Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail:

steve.heins@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR, Part 19 – Use of Bait, Fish for Bait, and Bait Fish. These amendments pertain to the management of diadromous fishes used for bait in the Delaware and Hudson Rivers. 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, New York State Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: steve.heins@dec.ny.gov. Please include the Part number when emailing.

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

6 NYCRR, Part 36 - Gear and Operation of Gear. These amendments pertain to the management of diadromous fishes in the Hudson and Delaware Rivers 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, New York State Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: steve.heins@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 37 – Sale of certain Lake Ontario fishes prohibited. Statutory Authority: ECL 11-0317 and 11-0325. The amendment of these regulations is necessary to provide additional protection to American eel in Lake Ontario and the St. Lawrence River. This amendment may not require a Regulatory Flexibility Analysis for Small Businesses and Local Government or a Rural Area Flexibility Analysis. Contact: Steve LaPan, New York State Department of Environmental Conservation, Cape Vincent Fisheries Research Station, Cape Vincent, NY 13618. Telephone: 315 654 2147. E mail: steven.lapan@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 40 - Marine Fish. The Department proposes to amend regulations pertaining to the management of marine and diadromous fishes, including sharks, to maintain compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission (ASMFC), with the requirements of Environmental Conservation Law or pursuant to the Federal Sustainable Fisheries Act for such species. Proposed amendments will also provide compliance with National Marine Fisheries Service requirements and other federal laws. The Department proposes to amend 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Stephen W. Heins, New York State Department of Environmental Conservation, Bureau of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, E. Setauket, NY 11733. Telephone: 631-444-0435. E-mail: steve.heins@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 41 - Sanitary Condition of Shellfish Lands. As necessary, the Department will amend regulations that specify the classification (certified or uncertified) of shellfish lands. This is necessary to protect public health by designating lands that do not meet bacteriological water quality criteria as uncertified or closed to shellfish harvesting. Shellfish lands that meet the water quality criteria are designated as certified (open) for the taking of shellfish. Shellfish are defined in law as oysters, scallops, and all kinds of clams and mussels. This rule making 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: karen.graulich@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 42 - Sanitary Control over Shellfish. The Department proposes to amend regulations pertaining to the sanitary, record keeping, and reporting requirements and to require *Vibrio* control plans and introduce educational requirements, as necessary, to protect public health and allow for the modification of any conditions placed on permit activities after the permit has been issued 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 permits and the harvester 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. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. 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: susan.ritchie@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 43 - Surfclam/Ocean Quahog Fishery Management. The Department seeks to amend regulations pertaining to the management of surfclams and ocean quahogs that are consistent with the provisions of fishery management plans adopted by the Department 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Jennifer O'Dwyer, New York State Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0489. E-mail: jennifer.odwyer@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 44 - Lobsters and Crabs. The Department proposes to amend regulations pertaining to the management of lobsters, decapod crabs and horseshoe crabs to maintain the health of such species and to prevent the introduction of exotic crustacean species. These proposed regulations will comply with fishery management plans developed by the Atlantic State Marine Fisheries Commission (ASMFC) for the species and with requirements of the Environmental Conservation Law. The proposed regulations will include general provisions consistent with those found in Part 40. The proposed amendments will 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. Rule makings will be proposed to clarify current language and remove unnecessary regulations. Horseshoe crabs regulations will be proposed to allow more control over the harvest and storage of horseshoe crabs. Rules will also be developed to prohibit the importation, possession and use of Asian 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. Rules will be proposed to prohibit the liberation of non-local crustaceans into New York's marine district. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. 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: kim.mckown@dec.ny.gov. Please include the Part number when emailing.

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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Debra Barnes, New York State Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0483. E-mail: debra.barnes@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 48 - Marine Hatcheries, On-Bottom and Off-Bottom Culture of Marine Plant and Animal Life. The Department proposes to amend regulations 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Wade Carden, New York State Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0481. E-mail: wade.carden@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 49 - Shellfish Management. The Department seeks to adopt regulations for the management of hard clams, soft or steamer clams and razor clams. 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Debra Barnes, New York State Department of Environmental Conservation, Bureau of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, NY 11733. Telephone: 631-444-0483. E-mail: [debra.barnes@dec.ny.gov](mailto:debra.barnes@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 50 – Miscellaneous Marine Species. The Department seeks to adopt new regulations for the protection and management of 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Government but no Rural Flexibility Analysis. 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: [kim.mckown@dec.ny.gov](mailto:kim.mckown@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Subchapter G (Fish and Wildlife Management Areas and Facilities), Parts 51-113. Statutory Authority: ECL 11-0303, 11-2101, 11-2106. 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. They are also needed to ensure that public use activities on WMAs are consistent with the requirements of the Pittman-Robertson Law, a key source of federal funding for the acquisition and management of WMAs. It is not anticipated that this amendment will require a Regulatory Flexibility Analysis for small businesses or 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: [vicky.wagenbaugh@dec.ny.gov](mailto:vicky.wagenbaugh@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 59, State Boat-Launching Sites, Fishing-Access Sites and Fishing Rights Areas. Statutory Authority ECL 9-1709 and 11-2101. These amendments are needed to establish regulations that would strengthen efforts to prevent the introduction and spread of aquatic invasive organisms by watercraft using State owned access sites administered by the Division of Fish, Wildlife and Marine Resources. These amendments may require a Regulatory Flexibility Analysis for Small businesses as well as a Rural Area Flexibility Analysis. Contact: Ed Woltmann, NYS Department of Environmental Conservation, Division of Fish Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4753, Telephone 518-402-8893. [ed.woltmann@dec.ny.gov](mailto:ed.woltmann@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 151, Propagation and Sale of Fur-bearing Animals. Amendment of Part 151 is necessary to bring the regulations current with changes to ECL 11-1907, which became effective in April 2012. The statutory language now states that the department shall not issue any new licenses after April 1, 2012. The regulatory changes will provide for continued licensing of currently licensed individuals and will prohibit the issuance of new licenses. This amendment may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments 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: 518-402-8985. E-mail: [joseph.therrien@dec.ny.gov](mailto:joseph.therrien@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 153, Preserve Licenses. Amendment of Part 153 is

necessary to bring the regulations current with changes to multiple Sections of the ECL. The statutory language has removed the requirement for marking domestic game species with a department provided tag and has extended the shooting season authorized for shooting preserve licenses. The regulatory changes will remove the carcass tagging requirements in Section 153.1 and will extend the shooting season in Section 153.2. In addition, the requirement for submission of an annual report will be removed from Section 153.1. This amendment will not require a Regulatory Flexibility Analysis for Small Businesses and Local Governments or a Rural Area Flexibility Analysis. Contact: Joseph Therrien, New York State Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4752. Telephone: 518-402-8985. E-mail: [joseph.therrien@dec.ny.gov](mailto:joseph.therrien@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 174 Sale of Live Birds. Amendment of Part 174 is necessary to simplify the regulatory language and to clearly state for what purposes a license is required. Part 174 will be repealed in its entirety and a new Part 174 will be written. Changes will also include the removal of the records retention requirement in 174.3(c). 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: 518-402-8985. E-mail: [joseph.therrien@dec.ny.gov](mailto:joseph.therrien@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 175, Special Licenses and Permits – Definitions and Uniform Procedures. This amendment is necessary to update and enhance the regulation for administrative and enforcement procedures. We need to include provisions for additional statutory amendments that have occurred since the regulations were last amended, and to clarify standards and criteria for agency actions on applications and licenses. This amendment may require a Regulatory Flexibility Analysis for Small Businesses but not a Rural Area Flexibility Analysis. Contact: Joseph Therrien, New York State Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4752. Telephone: 518-402-8985. E-mail: [joseph.therrien@dec.ny.gov](mailto:joseph.therrien@dec.ny.gov). Please include the Part number when emailing.

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. It is not anticipated that this amendment will require a Regulatory Flexibility Analysis for small businesses or a Rural Area Flexibility Analysis. 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: [mary.bailey@dec.ny.gov](mailto:mary.bailey@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 180 Miscellaneous Regulations. Amend 180.9(c) by removing permit fee, Re-write to authorize possession of dangerous fish only for education and exhibition at Zoos accredited by the Association of Zoos and Aquariums and for scientific research. Contact: Joseph Therrien, New York State Department of Environmental Conservation, Division of Fish, Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4752. Telephone: 518-402-8985. E-mail: [joseph.therrien@dec.ny.gov](mailto:joseph.therrien@dec.ny.gov). Please include the Part number when emailing.

6 NYCRR Part 180.1 - Wildlife Dangerous to Health or Welfare. Amendment of Part 180.1 or promulgation of a new regulation is necessary to address statutory requirements of Environmental Conservation Law 11-0512 and 11-0103(6)(e)(5). The statutory language in ECL 11-0512 and 11-0103(6)(e)(5) provides the opportunity for the private possession of animals that are or should be considered too dangerous for possession outside bona fide zoological gardens. In addition, the proposed amendments to Part 180.1 will provide a list of species that have been found to be too dangerous to the public or to the fish and wildlife resources of the state to be possessed in any 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: 518-402-8985. E-mail: joseph.therrien@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 182 Endangered and Threatened Species of Fish and Wildlife; Species of Special Concern; Incidental Take Permits. Repeal Section 182.14 to remove license fee and application language for sale of articles made from crocodilian species; Rewrite Section 182.8 or, add new Section allowing exception for the sale of crocodilian and vicuna articles manufactured from legal sources. Rewrite 182.8 to: clearly distinguish between live animals, raw carcasses or parts and worked or manufactured articles containing pieces or parts from endangered or threatened species; and to define requirements of license application including proof of acquisition and provenance. Add new Section listing the prohibitions on sale of articles made in whole or in part from ivory and rhinoceros horn and clearly list the application requirements for sale of such articles. 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: 518-402-8985. E-mail: joseph.therrien@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 183 –License-Issuing Officers. Amend current regulations address procedures for evaluation and prioritization of applicants that wish to become license-issuing officers (agents) for DEC. It is not anticipated that this amendment will require a Regulatory Flexibility Analysis for small businesses or a Rural Area Flexibility Analysis. 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: mary.bailey@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 184 Wildlife Rehabilitation. Amendment of Part 184 will reduce the number of license classes from six down to one, will remove the requirement for submitting two character references with license applications, and will remove the requirement for interview of new licensees by regional staff. Changes will be made to incorporate the prohibitions of the proposed dangerous animal regulations and the Chronic Wasting Disease Regulations as to possession of prohibited species for rehabilitative care. ). 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: 518-402-8985. E-mail: joseph.therrien@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 186, Deer Feeding. Statutory Authority: ECL 3-0301, and 11-0325. A new regulation is needed to strengthen and clarify laws relating to 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. It is not anticipated that this new rule will require a Regulatory Flexibility Analysis for small businesses or 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: vicky.wagenbaugh@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 189, Chronic Wasting Disease. Statutory Authority: ECL 3-0301, 11-0325, and 11-1905. These amendments are needed to strengthen the existing regulation pertaining to importation, transportation, possession and disposal of live or dead Cervids (or parts of those animals) as necessary to prevent the introduction or spread of

Chronic-wasting Disease in New York. It is not anticipated that this amendment will require a Regulatory Flexibility Analysis for small businesses or 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: vicky.wagenbaugh@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 190.24, Use of State Lands- Boat Launching Sites. Statutory Authority ECL 1-0101, 3-0301, and 9-0105. These amendments are needed to establish regulations that would strengthen efforts to prevent the introduction and spread of aquatic invasive organisms by watercraft using State owned access sites administered by the Division of Lands and Forests, the Division of Operations, or both. These amendments may require a Regulatory Flexibility Analysis for Small Businesses as well as a Rural Area Flexibility Analysis. Contact: Ed Woltmann, NYS Department of Environmental Conservation, Division of Fish Wildlife and Marine Resources, 625 Broadway, Albany, NY 12233-4753, Telephone 518-402-8893. ed.woltmann@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Parts 662, 663, 664, 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 and Part 665 Local Government Implementation of the Freshwater Wetlands Act and Statewide Minimum Land-Use Regulations for Freshwater Wetlands. Amendments needed to clarify specific aspects, update language regarding third party mitigation, and remove outdated references and procedures.

- Amend Part 664 Freshwater Wetlands Maps and Classification. Amendments to clarify specific aspects to define the meaning of approximate wetland boundary shown on regulatory maps.

- Repeal Part 647-Freshwater Wetlands Appeals Board - Rules of Procedure. Provided rules for the Freshwater Wetlands Appeals Board that was abolished in 2012.

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: roy.jacobson@dec.ny.gov. Please include the Part number when emailing.

#### OFFICE OF HEARINGS AND MEDIATION SERVICES

6 NYCRR Part 622, Uniform Enforcement Hearing Procedures. The Office of Hearings and Mediation Services proposes to clarify procedures governing default procedures and motions for order without hearing, and make various typographical, technical and related corrections throughout. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses, and a Rural Regulatory Flexibility Analysis. Contact: James T. McClymonds, Chief Administrative Law Judge, New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, First Floor, Albany, New York 12233-1550. E-mail: james.mcclymonds@dec.ny.gov. 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 may require a Regulatory Flexibility Analysis for Small Businesses, and a Rural Regulatory Flexibility Analysis. Contact: Louis A. Alexander, New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, 14th Floor, Albany, New York 12233-1010. E-mail: louis.alexander@dec.ny.gov. Please include the Part number when e-mailing.

## DIVISION OF LANDS AND FORESTS

6 NYCRR Part 592, Conservation Easements. Addition of a New Part. 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: Robert Burgher, NYS Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, NY 12233-4256. Telephone: (518) 402-9442. E-mail: robert.burgher@dec.ny.gov. Please include the Part number when e-mailing.

6 NYCRR, Aquatic Invasive Species Prevention. Addition of a New Part. These regulations will define "reasonable precautions" that a person shall take prior to launching a watercraft or floating dock into a public water body. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Leslie Surprenant, NYS Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, NY 12233-4250. Telephone: (518) 402-8980. E-mail: leslie.surprenant@dec.ny.gov. Please include the Part number when e-mailing.

6 NYCRR Part 195, Permits for the Erection and Maintenance of Signs, Advertising Structures and Devices in the Adirondack and Catskill Parks. These regulations will allow a modest increase in the size of signs and the distance of signs from businesses. 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: peter.frank@dec.ny.gov. 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, campfires 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: peter.frank@dec.ny.gov. Please include the Part number when e-mailing.

6 NYCRR Part 196, Operation of Motorized Vehicles, Vessels, Aircraft and Motorized Equipment in the Forest Preserve. Amend Section 196.7, Operation of Bicycles in the Adirondack Forest Preserve. This regulation will update existing Section 196.7 implemented by 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: peter.frank@dec.ny.gov. Please include the Part number when e-mailing.

6 NYCRR Part 190, Use of State Lands. Amend existing Section 190.10, Unique Areas. The amended regulation will address public safety and environmental issues at the Department managed Croton Gorge Unique Area. A Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis are not required for this rulemaking. Contact: Jeffrey Wiegert, NYS Department of Environmental Conservation, 21 South Putt Corners Road, New Paltz, NY 12561. Telephone: (845) 256-3084. E-mail: jeffrey.wiegert@dec.ny.gov. 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: daniel.bishop@dec.ny.gov. 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: charles.vandrei@dec.ny.gov. Please include the Part number when e-mailing.

DEC is proposing to replace its current Emerald Ash Borer Emergency Quarantine Order with a permanent regulation, to slow the spread of this invasive, exotic, tree-killing insect and increase protection for currently-uninfested areas and communities. NYS Department of Agriculture and Markets is expected to simultaneously propose an identical regulation to replace their current Emerald Ash Borer quarantine regulation (Part 141). A Regulatory Flexibility Analysis and a 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: bruce.williamson@dec.ny.gov. 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 is not required for this rulemaking. Contact: Bruce Williamson, NYS Department of Environmental Conservation, Bureau of Private Land Services, 625 Broadway, Albany, NY 12233-4253. Telephone: (518) 402-9425. E-mail: bruce.williamson@dec.ny.gov. 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 disposal or refilling. Part 325 and 326 will also be amended to 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: Scott Menrath, NYS Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, New York 12233-7254. Telephone: 518-402-8748. E-mail: pestmgmt@dec.ny.gov. Please include the Part number when e-mailing.

6 NYCRR, Part 325, Rules and Regulations Relating to the Application of Pesticides. Part 325 will be amended to adopt regulations on the use of pesticides classified by the USEPA as exempt from the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act. These pesticides are commonly known as 25(b) or minimum risk pesticides. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Anthony Lamanno, NYS Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, New York 12233-7254. Telephone: 518-402-

8727. E-mail: pestcomp@dec.ny.gov. 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 to 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 12233-7260. Telephone: 518-402-8678. E-mail: SolidWasteRegulations@dec.ny.gov. 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, change 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@dec.ny.gov. 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@dec.ny.gov. Please include the Part number when e-mailing.

#### DIVISION OF OPERATIONS

6 NYCRR 623: Use of Environmental Education Centers. The Department is proposing to revise 6 NYCRR 623: Use of Environmental Education Centers to include Reinstein Woods Environmental Education Center, update appropriate uses of the education centers, and make the regulations consistent with relevant sections of Part 190: Use of State Lands. This rulemaking will not require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Tom Shimalla, NYS Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-5256. Telephone: 518-402-8043. E-mail: edcenterregs@dec.ny.gov. Please include the Part number when emailing.

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

### Department of Financial Services

Pursuant to State Administrative Procedure Act (“SAPA”) Section 202-d, the following Regulatory Agenda is a list of the regulatory additions and amendments to Titles 3 and 11 of the NYCRR that the New York State Department of Financial Services (“Department”) is

presently considering proposing during the first half of 2015. Many of these items were previously published in the June 2014 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 in 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.

#### I. Insurance Regulations

For inquiries about a specific item, please contact the person 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, Supervising Attorney

Camielle Barclay, Senior Attorney

New York State Department of Financial Services

One State Street

New York, NY 10004

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

1. Summary description of proposal: Adoption of a new Part to 11 NYCRR to establish guidelines regarding the proper expensing of title insurance premiums and additional charges by both insurers and their agents. Agency Contact: Ellen R. Buxbaum, Associate Counsel, Civil Investigations, Financial Frauds & Consumer Protection Division – (212) 480-5383.

2. Summary description of proposal: Amendment of Part 101 to 11 NYCRR (Standards for Financial Risk Transfer Between Insurers and Health Care Providers) (Insurance Regulation 164) to permit, in consultation with the commissioner of the Department of Health, certain insurers to enter into financial risk transfer agreements with Accountable Care Organizations. Agency contact: Pascale Jean-Baptiste, Associate Attorney, Office of General Counsel - (212) 480-5289.

3. Summary description of proposal: Adoption of a new Part 5 to 11 NYCRR (Insurance Regulation 195) to implement the Superintendent’s authority under Insurance Law Section 316 to require an insurer or other person or entity making a filing or submission with the Superintendent to do so 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.

4. Summary description of proposal: Amendment of 11 NYCRR 28 (Professional Bail Bond Agents) (Insurance Regulation 42) to provide standards designed to prevent the use of bail bond businesses in furtherance of organized crime and to protect collateral given by indemnitors for the purpose of posting bail. Agency Contact: Paul Zuckerman, Assistant Deputy Superintendent and Counsel for Insurance, Office of General Counsel – (212) 480-5286.

5. Summary description of proposal: Amendment of 11 NYCRR 25 (Public Adjusters) (Insurance Regulation 10) to address amendments made to the Insurance Law by Chapter 546 of the Laws of 2013. Agency Contact: Joana Lucashuk, Associate Attorney, Office of General Counsel – (212) 480-2125.

6. Summary description of proposal: Adoption of new Part 111 to 11 NYCRR (Insurance Regulation 207) to require an authorized property/casualty insurer to submit with its annual statement a statement of actuarial opinion (“SAO”) and to require a domestic property/casualty insurer that files an SAO to file with the Superintendent an annual actuarial opinion summary, electronically. Agency Contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

7. Summary description of proposal: Amendment of 11 NYCRR 60-2 (Supplementary Uninsured/Underinsured Motorists Insurance)

(Insurance Regulation 35-D) to replace references in Sections 60-2.3 and 60-2.4 to “AAA/American Arbitration Association” with “designated organization”; amend rules related to the manner in which the organization designated by the Superintendent to administer the SUM arbitration program assesses the cost of the program to the insurance industry; and clarify the intent and application of the coverage via various editorial revisions to the regulation and to the prescribed policy endorsement form. Agency Contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau – (212) 480-5595.

8. Summary description of proposal: Amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Insurance Regulation 83) to adopt specific rules for fees charged for health services rendered outside New York State. Agency Contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5595.

9. Summary description of proposal: Amendment of 11 NYCRR 94 (Valuation of Individual and Group Accident and Health Insurance Reserves) (Insurance Regulation 56) to adopt a new disability table for valuing group long term disability reserves in consideration of a proposed NAIC adoption of such table. Agency Contact: Michael Cebula, Deputy Chief Life Actuary, Life Bureau - (518) 474-7929.

10. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Insurance Regulation 147) to revise existing standards for universal life products with secondary guarantees. Agency Contact: Amanda Fenwick, Supervising Actuary, Life Bureau – (518) 474-7929.

11. Summary description of proposal: Amendment of 11 NYCRR 100 (Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and Recognition and Application of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities) (Insurance Regulation 179) to revise existing mortality standards for universal life products with secondary guarantees. Agency Contact: Amanda Fenwick, Supervising Actuary, Life Bureau – (518) 474-7929.

12. Summary description of proposal: Amendment of 11 NYCRR 45 (Applications for Life Insurance) (Insurance Regulation 19) to expand Insurance Regulation 19 to apply to all life insurance policy forms containing any war or travel exclusion or restriction and to implement the recent amendment to Section 3201(c)(4) of the Insurance Law by expanding and describing the permissible formats for the disclosure required by Section 3201(c)(4) to appear on the face page of policy forms containing any war or travel exclusion or restriction. Agency Contact: Rebecca Bollam, Associate Insurance Attorney, Life Bureau - (518) 474-4552.

13. Summary description of proposal: Amendment of 11 NYCRR 53 (Life and Annuity Cost Disclosure and Sales Illustrations) (Insurance Regulation 74) to include additional disclosure in sales illustrations for life products with non-guaranteed elements and to modify the basis used for illustrations. The additional disclosures provide: (1) A greater emphasis by separate notice to the prospective purchaser of the guaranteed results; and (2) On an annual basis an early warning notice if the policy will lapse within the next ten years. Additional requirements are placed on the disciplined current scale underlying illustrations to better reflect the current economic environment. Agency Contact: Thomas Hartman, Supervising Actuary, Life Bureau – (518) 486-2126.

14. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) establishing minimum standards for the form, content, and sale of policies and contracts of fixed indemnity and accident insurance. Agency Contact: John Tully, Senior Insurance Attorney, Health Bureau (518) 486-7815.

15. Summary description of proposal: Amendment of 11 NYCRR 350 (Continuing Care Retirement Communities) (Regulation 140) to clarify and modify the actuarial reserve calculation, distribution allowances, allowable investments, and necessary filing requirements, in view of marketplace expansion in both the number and types of Continuing Care Retirement Communities. Agency Contact: Warren Youngs, Supervising Examiner, Health Bureau – (212) 480-3883.

16. Summary description of proposal: Adoption of a new part to 11

NYCRR and/or amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Regulation 62) establishing minimum standards for the form, content, and sale of policies and contracts of student accident and health insurance. Agency Contact: Sarah L. Allen, Supervising Insurance Attorney, Health Bureau – (518) 486-7815.

17. 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: Jessica Heegan, Counsel, Criminal Investigations Unit - (212) 480-5683.

## II. Banking Regulations

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

Christine M. Tomczak

Assistant Counsel

New York State Department of Financial Services

One State Street

New York, NY 10004

Telephone Number: (212) 709-1642

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 registration and financial responsibility requirements for mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on November 25, 2014);

(b) Rules governing the business conduct of mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on December 9, 2014); and

(c) Rules concerning force-placed insurance.

2. Summary description of proposal: Amendments of Part 38 of the General Regulations of the Superintendent which address advertising, disclosure and conduct rules for mortgage bankers and brokers to incorporate changes required by federal laws and regulations.

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

4. Summary of description of proposal: Various amendments of the Superintendent’s Regulations regarding check cashers, licensed lenders, money transmitters, sales finance companies, premium finance agencies, and budget planners.

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

6. Summary description of proposal: Amendment of Part 79 of the General Regulations of the Superintendent to incorporate advertising requirements for reverse mortgage loans and clarify the applicability of disclosure and filing requirements for HUD’s Home Equity Conversion Mortgage program.

7. Summary description of proposal: Amendment of Parts 410 and 413 of the Superintendent’s Regulations and Supervisory Procedures 101, 102, 103, 104 and 106 to eliminate certain outdated regulatory requirements and to clarify language, the minimum licensing standards, and other requirements in connection with mortgage banker and mortgage broker applications.

8. Summary description of proposal: Adoption of new rules clarifying 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.

9. 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.

10. Summary description of proposal: Adoption of a new regulation formalizing the assessment process for persons regulated under the Banking Law. (Rules on this subject were adopted on an emergency basis most recently on December 22, 2014.)

### III. Financial Services Regulations

For specific inquiries about the Financial Services Regulation included in this Regulatory Agenda, please contact the person identified in the item. For general inquiries about the item, or to obtain copies of current Financial Services Regulations, please contact:

Christine M. Tomczak, Assistant Counsel  
New York State Department of Financial Services  
One State Street  
New York, NY 10004  
Telephone Number: Christine M. Tomczak (212) 709-1642

1. Summary description of proposal: Adoption of a new Part to 23 NYCRR to set forth standards for the collection of consumer debts to prevent abusive and deceptive collection practices. Agency Contact: Max Dubin, Assistant Counsel, Financial Frauds and Consumer Protection Division - (212) 480-7232.

## Department of Labor

Pursuant to subdivision 1 of Section 202-d of the State Administrative Procedure Act, as amended by Chapter 635 of the Laws of 1995, notice is hereby provided of the following rules that the Department of Labor is considering proposing, but for which a rulemaking proceeding has not been commenced.

1. Add a new Part to Title 12 NYCRR regulating the use of Payroll/Debit Cards by employers for the payment of wages to employees.
2. Amend Title 12 NYCRR Part 32 to conform to 2011 industry standards for the safe operation of ski tows and other tramways. These changes will eliminate inconsistencies and require the regulated community to follow one set of standards.
3. Amend Title 12 NYCRR Part 56 to clarify fire/life safety regulatory requirements at asbestos projects within New York State.

To obtain information or submit written comments regarding this regulatory agenda, contact Harry Dunsker, Esq., Deputy Counsel, Department of Labor, Bldg. 12, State Office Campus, Counsel's Office, Rm. 508, Albany, NY 12240, or [regulations@labor.ny.gov](mailto: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) 485-2191.

## Department of Motor Vehicles

Pursuant to section 202-d of the State Administrative Procedure Act, the Department of Motor Vehicles presents its regulatory agenda for 2015. All references are to Title 15 of the New York Code of Rules and Regulations. The Department reserves the right to add, delete or modify any item presented in this agenda.

1. Amend Part 3 to conform the restrictions imposed for holders of commercial driver's licenses and commercial learner's permits to the federal requirements related to such restrictions.
2. Amend Part 6 in relation to the use of an electronic system for Article 19-A transactions; expand the regulatory oversight of certified examiners.
3. Amend Part 7 to require providers of the five hour pre-licensing to comply with the Americans with Disabilities Act.
4. Amend Part 32 in relation to criteria for the issuance of electronic insurance ID cards.
5. Amend Part 76 to make numerous technical and clarifying amendments, to improve consumer protection and to conform the regulation to relevant statutory provisions.
6. Amend Part 78 to regulate off-site sales of motor vehicles.
7. Amend Part 106 to raise the weight threshold for the registration of pick-up trucks in the passenger class.
8. Amend Part 127 to extend the period of time in which the Depart-

ment of Motor Vehicles may schedule a fatal accident hearing, if the Department receives notice from a District Attorney's Office that a criminal case is pending against the person involved in the fatal accident. In addition, amend Part 127 to clarify that that a preponderance of the evidence is the burden of proof at a DMV Safety Hearing.

9. Amend Part 127 (in a separate rulemaking) in relation to the granting of adjournments for certain hearings conducted by the Department of Motor Vehicles.

## 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 2015. 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 § 300.13 will be added to reflect programmatic responsibility for desk review of distribution and collections under § 347.25.\*

### Part 301 – Veteran Assistance

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

### Part 311 – Change of Residence

Amend regulations to repeal certain residency requirements to reflect current policies and practices.

### Part 340 – Public Access to Department Records under the Freedom of Information Law

Update regulations concerning public access to records under the Freedom of Information Law to reflect the current organization of the Department of Family Assistance.

### Part 344 – Income Withholding for Persons Not Served by the Title IV-D Child Support Enforcement Program

Amend regulations governing income withholding for persons not served by the Title IV-D child support program and income withholding for persons served by the Title IV-D child support program consistent with the Civil Practice Law and Rules, the Social Services Law (SSL) and federal law requirements.

### 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 denied, revoked, or restricted by the United States (U.S.) 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 regulations to address State statutory amendments concerning the time limits for filing a petition to vacate an Acknowledgment of Paternity.\*

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

Revise regulations for the distribution and assignment of child support collections to reflect the requirements of federal and State statutes 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 update 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 services districts.\*

Promulgate regulations for establishing and enforcing medical support obligations.\*

Revise regulation concerning confidentiality of information based on federal requirements and the SSL.\*

Revise regulation concerning case closure to add new criteria 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.

#### 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 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 acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (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.\*

Amend regulations to implement changes to public assistance lien policy consistent with SSL § 106.\*

Update regulations to reflect that public assistance recipients are allowed to exempt up to \$1,400 in a separate bank account for the sole purpose of paying tuition at two-year or four-year accredited post-secondary educational institutions.

#### Part 358 – Fair Hearings

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

Amend regulations to state that when a person is objecting to the amount deducted from his or her initial payment of Supplemental Security Income as reimbursement of interim assistance, the social services district must establish that its actions were correct.\*

Amend regulations to add provisions concerning the video hearings process.\*

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

#### Part 359 – Disqualification for Intentional Program Violation

Amend regulations to reflect changes to federal Supplemental Nutrition Assistance Program (SNAP) regulations regarding Inten-

tional Program Violations, including changes to the definition of “trafficking” and the imposition of a ten-year disqualification.\*

#### 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 381 – Method of Payment

Amend regulations to clarify the issuance of benefits through restricted payments under all public assistance category types.\*

#### Part 385 – Public Assistance and Food Stamp Employment Program Requirements

Amend the title and the regulations of Part 385 to make technical updates, including updating references from “food stamp” to “SNAP.”

Clarify that support services may be provided to individuals assigned to work activities by the social services district.\*

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 SSL 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 SNAP employment and training regulations to conform to federal regulations.\*

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-Maintenance of Effort (non-MOE) 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.

Revise regulations to raise the level of the minimum annual Home Energy Assistance Program (HEAP) or other energy assistance benefit required to confer eligibility for the SNAP Heating and Cooling Standard Utility Allowance (HCSUA) from \$1.00 to \$21.00.\*

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.\*

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.\*

Update regulations concerning household cooperation with quality control reviews to reflect changes in federal requirements.\*

Update regulations concerning quality control reviews to reflect federal SNAP requirements.

#### Part 393 – Home Energy Assistance Program (HEAP)

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

#### Part 800 - Homeless Housing and Assistance Program (HHAP)

Amend regulations regarding the conflict of interest rules for HHAP to address all ownership entities involved in HHAP projects. Revise and update certain definitions and terminology, clarify funding processes, and provide for the role of the Homeless Housing and Assistance Corporation Board as established in Private Housing Finance Law § 45-c.

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 may be sent.

Any questions, comments, or requests for information concerning the items listed in this agenda may 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. 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.

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

3. Amendment to multiple sections of Parts 327, 328, 329, 330, 332, 342, 345, 347, and 349 to implement the provision for a single arbitrator process as set forth in recently amended Workers' Compensation Law §§ 13-g, 13-k, 13-l and 13-m.

4. Amendment of sections 329.3, 333.2, 343.2, 348.2 and 442.2 to update the medical fee schedules of the Board.

5. 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](mailto:regulations@wcb.ny.gov).