

# REGULATORY AGENDA

---

## Department of Agriculture and Markets

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

### Division of Animal Industry

Section 45.6: Consider amending section 45.6 to require mandatory depopulation and cleaning and disinfection of the live poultry every 3 months and amending section 45.6 to require movement permits for poultry imported from a state with highly pathogenic avian influenza.

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) and also clarify requirements for tuberculosis testing.

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 67: Consider amending importation restrictions on livestock originating in states with vesicular stomatitis virus to make those restrictions consistent with federal requirements.

Part 68: Consider amending animal health requirements to require tuberculosis surveillance on all captive cervid herds.

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 adopting pet dealer regulations to define the veterinary plan, the primary enclosure, the whelping box requirement, the exercise requirement, the isolation area and the standards for ventilation, temperature and light.

Name of agency contact: David C. Smith, DVM, Director, Division of Animal Industry

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

Telephone number: (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 (2016).

Part 261: Consider repeal of this Part and addition of a new Part 261, incorporating by reference 21 CFR Part 110.

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

Part 282: Consider incorporating by reference 21 CFR Part 117 – Current Good Manufacturing Practices, Hazard Analysis, and Risk Based Controls for Human Foods

Part 283: Consider incorporating by reference 21 CFR Part 507 - Current Good Manufacturing Practices, Hazard Analysis, and Risk Based Controls for Food for Animals

Part 284: Consider incorporating by reference 21 CFR Part 112 – Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption

Name of agency contact: Stephen D. Stich, Director, Division of Food Safety and Inspection

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

Telephone number: (518) 457-4492

stephen.stich@agriculture.ny.gov

Division of Milk Control and Dairy Services

Section 2.8: Consider amendments to make changes relative to the somatic cell count for prepasteurized milk from sheep and goats.

Section 2.66: Consider incorporating by reference 21 CFR Part 117 – Current Good Manufacturing Practices, Hazard Analysis, and Risk Based Controls for Human Foods

Name of agency contact: Casey McCue, Director, Division of Milk Control and Dairy Services

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

Telephone number: (518) 457-1772

casey.mccue@agriculture.ny.gov

Division of Plant Industry

Part 139: Consider amending the Asian Long Horned Beetle quarantine to reflect the latest survey data and to revise the list of host materials.

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

Name of Agency Contact: Christopher Logue, Director, Division of Plant Industry

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

Telephone number: (518) 457-2087

christopher.logue@agriculture.ny.gov

Bureau of Weights and Measures

Part 220: Consider the repeal of section 220.8 (Retail Petroleum Devices) and 220.9 (Delivery of Petroleum Products) and renumbering sections 220.10 through 220.14 to sections 220.8 through 220.12.

Section 220.2: Consider adopting national standards for the specifications, tolerances and regulations for commercial weighing and measuring devices as published in the 2016 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.

Part 225: Consider adopting regulations to implement Agriculture and Markets Law section 192-h, relating to the installation of generators at service stations in the downstate area.

Name of agency contact: Michael Sikula, Director, Bureau of Weights and Measures

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

Telephone number: (518) 457-3146

mike.sikula@agriculture.ny.gov

Designated Agency Representative: Frederick Brian Arnold, Esq.

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

Telephone number: (518) 457-2449

rick.arnold@agriculture.ny.gov

## Education Department 2016 Regulatory Agenda

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for calendar year 2016. 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 2016 Regulatory Agenda.

Office of P-12 Education

Amendment of section 30-3.2 of the Rules of the Board of Regents to update definitions related to student growth and State provided growth scores. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 30-3.4 and 30-3.5 of the Rules of the Board of Regents to align with any changes or additions to the student characteristics for State-provided or approved growth models. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 80-1.9 of the Commissioner's Regulations relating to the filing of district personnel data. A regulatory change may be required to align the requirement for collecting personnel data which has changed from staff filing a paper form to an electronic filing by school districts, BOCES and charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

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

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

Amendment of section 100.2(gg) of the Commissioner's Regulations relating to the violent and dangerous incident report system. A regulatory change may be required to implement policy and to amend the reportable categories in the violent and dangerous incident report system. 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 to conform to Education Law sections 207, 305, and 211-f as added by Chapter 56 of the Laws of 2015 and to align the already existing rules with the new section 100.19 relating to Receivership. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(m) of the Commissioner's Regulations relating to the school report card. A regulatory change may be required to allow for the various data of the school report card to be identified individually. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(i) of the Commissioner's Regulations to allow the reporting of Complaints About the Use of Corporal Punishment by BOCES, District or Charter School Personnel to be done once a year. 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 100.2(j) of the Commissioner's Regulations relating to guidance counselors. A regulatory change may be required to update language and specific requirements to develop a comprehensive, developmentally appropriate school counseling program for each student attending a New York State public or charter school. 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 100.7 of the Commissioner's Regulations relating to the State High School Equivalency Program to increase the age of eligibility and minimum number of hours required by the program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

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

Amendment of section 100.4(b) of the Commissioner's Regulations relating to program requirements in grades five and six. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

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

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

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

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

Amendment of section 100.5 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. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.18 of the Commissioner's Regulations to align with any amendments made to the State's approved ESEA Flexibility Renewal Request, including but not limited to the identification of Local Assistance Plan Schools, Focus Schools, Priority Schools, and Focus Districts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.19 of the Commissioner's Regulations to incorporate any changes recommended by the Board of Regents as part of emergency actions or to incorporate changes in response to comments from the field regarding the regulations on School Receivership. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 114.1(b) of the Commissioner's Regulations relating to nutrition standards. A regulatory change may be required to conform with federal statute and/or regulation. 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 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 section 119.3 of the Commissioner's Regulations relating to charter school report cards to correct a citation. 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 Subpart 151-1 of the Commissioner's Regulations relating to universal prekindergarten. A regulatory change may be required to implement policy relating to the suspension and expulsion of children in universal prekindergarten classes. 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 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 section 155.17 of the Commissioner's Regulations relating to emergency response plans. A regulatory change may be required to retitle building-level school safety plans to building level school emergency response plans to conform with federal FEMA emergency preparedness guidelines and to change the due date of submissions due to the Department. 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. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.2 of the Regulations of the Commissioner of Education relating to least restrictive environment placements of students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.6 of the Commissioner's Regulations relating to Committee on Special Education recommendations for home and hospital instruction. 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 200.20(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:

Angelica Infante-Green  
Deputy Commissioner P-12 Instructional Support  
New York State Education Department  
Room 875, Education Building Annex  
89 Washington Avenue  
Albany, New York 12234  
(518) 474-5915  
nysedp12@nysed.gov  
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 Regents Rules to add a new section to implement Chapter 220 of the Laws of 2015 in relation to authorizing the state education department to enter into interstate reciprocity agreements and/or regional compacts for post-secondary distance education programs and to charge a fee to participating in-state institutions and non-participating out-of-state institutions that offer distance education.

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 section 50.1 of the Commissioner's Regulations to include a definition of a remedial course and a compensatory course as needed under sections 6451 and 6452 of the Education Law. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 52.2(f) of the Commissioner's Regulations specifying the academic content of a transcript prepared by an Institution of Higher Education. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations relating to the certification requirements for school counselors. 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 Part 80 and section 100.2 of the Commissioner's Regulations to remove the Professional Development requirement and add a new continuing education requirement for certain teachers and school leaders, and to make revisions and additions regarding registration requirements for certain teachers and school leaders, in order to implement Education Law 3006-a, as added by Chapter 56 of the Laws of 2015 effective July 1, 2016. A rural area flexibility analysis may be required.

Amendment of Part 80-4.3 and 80-5.18 relating to the requirements for a Supplementary Bilingual Education extension and the Supplementary English to Speakers of Other Languages certificate. A rural area flexibility analysis may be required.

Amendment of Part 83 of the Commissioner's Regulations to streamline moral character hearings. A regulatory flexibility analysis 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 of Commissioner's Regulations section 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 of Commissioner's Regulations section 145-2.2 to provide a definition of the term "the recognized equivalent of such certificate" as found in Education Law section 661(4)(f) for the purposes of determining eligibility for the NYS Tuition Assistance Program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.15(b)(3) 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.

Amendment of Commissioner's Regulations section 145-2.15(b)(2) to clarify the federally approved ability to benefit test administration for the purposes of the NYS Tuition Assistance Program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 152-1.2 to insert language concerning remedial, developmental, and compensatory courses. 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 flexibility analysis may be required.

Amendment of Parts 52, 59 and 79 of the Commissioner's Regulations to add a new profession entitled "Geology," to establish educational requirements and licensure for Professional Geologists and to protect the title "Professional Geologist." A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 61 of the Commissioner's Regulations relating

to dental anesthesia certification. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

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

Amendment of Part 69 of the Commissioner's Regulations relating to licensure by endorsement provisions for architects. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 70 of the Commissioner's Regulations relating to the definitions of public accountancy and the certified public accountancy professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 71 of the Commissioner's Regulations relating to the requirements for certified shorthand reporting certification. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 71 of the Commissioner's Regulations relating to the examination requirements for certified shorthand reporting certification. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment to Subpart 79-7 of the Commissioner's Regulations relating to the education requirements for certified athletic trainers. 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.

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 Part 246 of the Commissioner's Regulations, relating to sheltered workshop programs and community rehabilitation providers, 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 (WIOA) on July 22, 2014, which amended the Rehabilitation Act. The draft federal regulations were released on April 16, 2015. The final federal WIOA regulations are expected to be released in March 2016. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of a new section 247.19 of the Commissioner's Regulations as follows:

Readers Aid for blind or deaf students. Contingent upon the adoption of proposed amendments to § 4210 of the New York State Education Law, this section authorizes personnel responsible for the provision of reasonable accommodations at institutions of higher education or proprietary schools to apply for Readers Aid funding. Applications will include documentation that attests to student eligibility and meets additional requirements as established by ACCES-VR. Readers Aid funding will be awarded based on available funding and at ACCES VR's discretion, not to exceed \$4,000 per student per academic year. A regulatory flexibility analysis and/or 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 Resource Development  
Office of Adult Career and Continuing Education Services  
Room 580 EBA  
89 Washington Avenue  
Albany, New York 12234  
(518) 473-1626  
Lisa.VanRyn@nysed.gov

Amendment of section 100.7 of the Commissioner's Regulations that would 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, 2017. 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

(518) 474-8892

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 received," 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.

Addition of a new section 126.10(k), as per section 5001(4)(f)(3) of the Education Law, to specify any alternate licensing procedures applicable to non-profit schools exempt from taxation under section 501(c)(3) of the internal revenue code whose programs, including registration fees, the sale of books, supplies, services, kits, uniforms or equipment are funded entirely through donations, exclusive of public sources, from individuals or philanthropic organizations, or endowments, and interest accrued thereon, shall be subject to all of the requirements of article 101 of the Education Law and this Part, except that:

126.10(k)(1), such schools shall be exempt from the requirements of Education Law, as follows:

126.10(k)(1)(i), § 5002(3), which relates to tuition liability;

126.10(k)(1)(ii), § 5001(4)(e)(i), which relates to the inclusion in financial statements of refunds due or owed to past or presently enrolled students;

126.10(k)(1)(iii), § 5002(2)(b)(5), which relates to the inclusion in any school record of the amount of any refund paid to any student;

126.10(k)(1)(iv), § 5005(a)(4), which relates to the disclosure to prospective and enrolled students of any refund policy and § 5005(e), and § 5005(f) which relates to a tuition reimbursement fund claim form;

126.10(k)(2), such schools shall be exempt from the requirements of the following provisions of this Part:

126.10(k)(2)(i), § 126.4(c)(6), which relates to data required to be submitted about tuition and other charges and method of payment;

126.10(k)(2)(ii), § 126.7(b)(6) – (9), which relates to the inclusion in enrollment agreements of any tuition charges or fees or method of payment;

126.10(k)(2)(iii), § 126.7(b)(15), which relates to any refund a school will make under certain prescribed circumstances;

126.10(k)(2)(iv), § 126.7(d), except § 126.7(d)(3) thereof, which relates to the inclusion in enrollment agreements of a reasonable adjustment of tuition and other fees, and any refund policies;

126.10(k)(2)(v), § 126.7(e), which relates to the option to use the refund policy of a nationally recognized accrediting agency and the use of the refund policy required by federal law;

126.10(k)(2)(vi), § 126.7(g), which relates to the inclusion in the enrollment agreements of any refunds due;

126.10(k)(2)(vii), § 126.9(a)(8), which relates to inclusion in the school catalog of a schedule of fees or charges;

126.10(k)(2)(viii), § 126.9(a)(9), which relates to the inclusion in the school catalog of school policies and regulations governing the refund of any unused portion of tuition, fees and other charges in certain circumstances;

126.10(k)(2)(ix), § 126.9(a)(13), which relates to the inclusion in the school catalog of financial assistance information;

126.10(k)(2)(x), § 126.9(a)(18), which relates to the inclusion in the school catalog of information about tuition refunds from the Tuition Reimbursement Account (TRA);

126.10(k)(2)(xi), § 126.9(a)(19), which relates to the inclusion in the school catalog of a weekly tuition liability chart;

126.10(k)(2)(xii), § 126.11(a)(10), which relates to the maintenance of records of tuition, fees, public loans and grants, and their disbursement, by a school for seven years.

A regulatory flexibility analysis and/or 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:

Ruth Singer

Supervisor, Bureau of Proprietary School Supervision

Office of Adult Career and Continuing Education Services

Room 560 EBA

89 Washington Avenue

Albany, New York 12234

(518) 474-3969

Ruth.Singer@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; clarification regarding the authority of a state review officer to review manifestation determinations; and definition of the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.2 of the Commissioner's Regulations, relating to timelines for serving and filing a notice of intention to seek review; clarification of the 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; addition of a notice of intention to cross-appeal requirement; and addition of a requirement to identify the issues sought to be reviewed by a state review officer. 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 request for review and supporting papers upon the opposing party; clarification of required elements of a cross-appeal; clarification of methods and completion of permissible service; and procedures for filing a request for review and supporting papers 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 279.5 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 the content and service of additional pleadings upon the opposing party and filing with the Office of State 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 279.7 of the Commissioner's Regulations, relating to endorsement and 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 form and content of pleadings and memoranda of law; clarification of the requirement that pleadings be signed consistent with 22 NYCRR 130-1.1a(a); submission of electronic copies of pleadings and memoranda of law; and when filing is considered complete. 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; providing consequences to districts that fail to timely file the complete record; and specifying content of records on appeal from interim decisions. 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 submission of additional evidence or remand of a matter to the impartial hearing officer. 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 by which service must be made. 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 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, Suite 203  
Albany, New York 12203  
(518) 485-9373  
osrcomment@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. A regulatory flexibility analysis and/or 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:

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 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, 11 and 23 of the NYCRR that the New York State Department of Financial Services ("Department") is presently considering proposing during the first half of 2016. Many of these items were previously published in the June 2015 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: 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. Summary description of proposal: Adoption of new Part 151-7 to

11 NYCRR (Insurance Regulation 119) to establish requirements for health care facilities to obtain a workers' compensation insurance premium credit for safe patient handling programs. Agency Contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

7. Summary description of proposal: Amendment of 11 NYCRR 82 (Insurance Regulation 203) to require a holding company and certain domestic insurers to describe their enterprise risk management's functions in their enterprise risk reports and to clarify certain language. Agency Contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

8. Amendment of 11 NYCRR 65 (Insurance Regulation 68) and Part 68 (Insurance Regulation 83) to implement an alternative dispute resolution process for disputes involving claims of independent livery drivers that are processed pursuant to pre-authorization procedures and medical treatment guidelines set forth in 12 NYCRR 324, and other applicable provisions of Article 2 of the Workers' Compensation Law. Agency Contact: Camielle A. Barclay, Senior Attorney, Office of General Counsel - (212) 480-5299.

9. Summary description of proposal: Adoption of a new part 35 to 11 NYCRR (Title Insurance Agents, Affiliated Relationships, and Required Disclosures) (Insurance Regulation 206) and amendments to certain other regulations, including 11 NYCRR 20 (Brokers and Agents - General) (Insurance Regulations 9, 18, and 29), 11 NYCRR 29 (Special Prohibitions) (Insurance Regulation 87), 11 NYCRR 30 (Producer Compensation Transparency) (Insurance Regulation 194), and 11 NYCRR 34 (Requirements Pertaining to the Location of an Insurance Agent or Broker at Each Place of Insurance Business: Reporting Requirements) (Insurance Regulation 125), to address amendments made to the Insurance Law by Part V of Chapter 57 of the Laws of 2014 regarding the licensing of title insurance agents and title insurance business. Agency Contact: Paul Zuckerman, Office of General Counsel - (212) 480-5286. (Rules on this subject were adopted on an emergency basis most recently on November 10, 2015.)

10. 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.

11. 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.

12. Amendment of 11 NYCRR 65-4 (Regulation Implementing the Comprehensive Motor Vehicle Insurance Reparations Act) (Insurance Regulation 68-D) to amend rules related to both the manner in which the first party motor vehicle insurance arbitration programs are administered and the manner in which the costs of these programs are assessed to the insurance industry. Agency Contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5595.

13. 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 individual disability income table for valuing active life and disabled life reserves in consideration of a proposed NAIC adoption of such table. Agency Contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

14. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Insurance Regulation 147) to adopt the existing NAIC standards for waiver of premium reserves. Agency Contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

15. Summary description of proposal: Amendment of 11 NYCRR

83 (Financial Statement Filings and Accounting Practices and Procedures) (Insurance Regulation 172) to revise lapse rates and economic volatility used in calculating the standard scenario reserve, to update the economic volatility assumption used in the stochastic modeling for variable annuities with guaranteed living benefits, and other revisions. Agency Contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

16. Summary description of proposal: Amendment of 11 NYCRR 53 (Life and Annuity Cost Disclosure and Sales Illustrations) (Insurance Regulation 74) to revise and clarify the delivery, signature and certification form requirements for life insurance sales illustrations, including electronic delivery, for policies marketed with an illustration; to modify the basis used for illustrations for life insurance policies with non-guaranteed elements, including universal life; to add additional requirements on the disciplined current scale underlying the illustrations; and to require additional disclosures for such policies. Agency Contact: Thomas Hartman, Supervising Actuary, Life Bureau - (518) 486-2126.

17. Summary description of proposal: Amendment of 11 NYCRR 50 (Separate Accounts and Separate Account Annuities) (Insurance Regulation 47) to establish revised standards for the operation of separate accounts, contract provisions, and actuarial requirements to reflect statutory changes, recent innovations in product design, and changes in contract administration of separate account and variable annuity products. Agency Contact: Peter Dumar, Supervising Insurance Attorney, Life Bureau - (518) 474-4552.

18. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Insurance Regulation 147) to adopt the 2017 CSO mortality table for valuing life insurance reserves in consideration of a proposed NAIC adoption of such table. Agency Contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

19. 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) (Insurance Regulation 62) establishing minimum standards for the form, content, and sale of policies and contracts of accident and indemnity insurance. Agency Contact: John Tully, Senior Insurance Attorney, Health Bureau - (518) 486-7815.

20. 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) (Insurance 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.

21. Summary description of proposal: Amendment of 11 NYCRR 350 (Continuing Care Retirement Communities) (Insurance 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: Christine Galton, Assistant Chief, Health Bureau - (212) 480-5061.

22. Amendment of 11 NYCRR 86 (Fraud Prevention Plans and Special Investigations Unit) (Insurance Regulation 95) to establish a requirement that a licensee required to submit a fraud prevention plan must revise its fraud prevention plan to reflect changes to the holding company, the lines of business that affect the SIU, and changes to SIU personnel or the provider of SIU services. Agency Contact: Kathleen Grogan, Principal Examiner, 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-related issues/crises 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 16, 2015);
- (b) rules governing the business conduct of mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on November 26, 2015); and
- (c) rules concerning force-placed insurance.

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

3. Summary description of proposal: Amendment of the Superintendent's Regulations regarding the Banking Development District ("BDD") program.

4. Summary 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 6-1 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 and 104 to eliminate certain outdated regulatory requirements and to clarify language relating to 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 15, 2015.)

11. Summary of description of proposal: Adoption of a new regulation implementing Banking Law Section 9-w, creating a standard student loan shopping sheet for all New York schools of higher education. Agency contact Max Dubin, Assistant Counsel, Financial Frauds and Consumer Protection Division (212) 480-7232.

### Department of Motor Vehicles

#### 2016 Regulatory Agenda

Pursuant to section 202-d of the State Administrative Procedure Act, the Department of Motor Vehicles presents its regulatory agenda for 2016. 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 6 in relation to the recertification requirements for certified examiners.
- 2. Amend Part 7 to require providers of the five hour pre-licensing to comply with the Americans with Disabilities Act.
- 3. Amend Part 16 in relation to the issuance of custom plates.
- 4. Amend Part 28 to remove the exemption for charter buses from the International Registration Plan program.
- 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 Parts 76, 77 and 78 to curb abuses in the use of the automated road test scheduling system.
- 7. Amend Part 78 in relation to the electronic transmission of MV-50s by dealers.
- 8. Amend Part 81 to simplify the process of issuing a salvage certificate.
- 9. Amend Part 127 to extend the period of time in which the Department 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.
- 10. Amend Part 127 (in a separate rulemaking) in relation to the granting of adjournments for certain hearings conducted by the Department of Motor Vehicles.
- 11. Amend Part 136 in relation to relicensure after revocation where the applicant has been involved in a fatal accident.

### Department of State

#### January, 2016 Regulatory Agenda

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act (SAPA), notice is hereby provided of the following rules that the Department of State is considering proposing, but for which a rule making proceeding has not been commenced. All following references to regulatory provisions are to Title 19 of the New York Code of Rules and Regulations, unless otherwise noted. Please note that regulatory plans of the Department of State are subject to change; the Department reserves the right to add, delete, or modify items appearing on this list. Further, as indicated in SAPA section 202-d(2), the Department of State is not required to propose or adopt any rule listed on a regulatory agenda, and may propose or adopt a rule that has not been listed on an agenda.

Publication of this notice is intended to further assure that small businesses, local governments, and public and private interests in rural areas are given opportunity to participate in the rule making process, as provided by sections 202-b and 202-bb of SAPA. Each rule listed below may require a regulatory flexibility analysis or a rural area flexibility analysis, pursuant to SAPA sections 202-b and 202-bb, respectively.

The public is welcome to send written comments regarding this regulatory agenda of the Department of State to the agency representative indicated at the end of this list.

Division of Building Standards and Codes  
 Chapter XXXII

Considering adding new Part(s) and/or amending existing Parts to establish rules, regulations, standards and procedures relating to (1) the measurement of the rate of compliance with the State Energy Conservation Construction Code, and requirements that such rate of compliance be measured on an annual basis; and (2) otherwise to implement Chapter 560 of the Laws of 2010 and section 376-a of the Executive Law.

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

Part 1201

Considering amending this Part to provide that (1) where a county

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

#### Part 1202

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

#### Part 1203

Considering amending this Part to (1) establish more appropriate inspection intervals for normally unoccupied buildings; (2) clarify the language found in this Part; (3) make such changes to this Part as may be required or appropriate to reflect the applicability of this Part to enforcement of the State Energy Conservation Construction Code; (4) make such other changes to this Part as may be required or appropriate to implement Chapter 560 of the Laws of 2010 and Section 376-a of the Executive Law; (5) delete the requirement that local governments and counties file annual reports related to their code enforcement activities; (6) add provisions fixing the time within which a person or entity served with an Order to Remedy violation(s) of the Uniform Code must comply with such Order to Remedy; and/or (7) revise provisions relating to the features required to be included in the code enforcement program established by a local government or other governmental unit or agency responsible for administration and enforcement of the Uniform Code and Energy Code.

#### Part 1204

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

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

#### Part 1205

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

#### Part 1209

Considering amending this Part pertaining to factory manufactured housing to update it, to increase fees for plan review and Insignias of Approval, and to add provisions relating to non-residential modular buildings.

#### Part 1210

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

#### Chapter XXXIII

##### Parts 1219-1228

Considering amending the State Uniform Fire Prevention and Building Code (the Uniform Code) and/or adding new provisions to the Uniform Code to address issues coming to the attention of the Department of State and the Code Council from time to time.

##### Part 1240

Considering amending the State Energy Conservation Construction Code (Energy Code) and/or adding new provisions to the Energy Code to address issues coming to the attention of the Department of State and the Code Council from time to time.

##### Part 1260

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

##### Division of Cemeteries

##### Parts 200 to 203

Considering adding new regulation pursuant to recent legislation that permits cemetery corporations to seek to appropriate a percentage of its net appreciation in its permanent maintenance fund, and a percentage of its net appreciation in its perpetual care fund.

Considering adding new regulation by which a cemetery that takes over an abandoned cemetery may apply for abandonment funds. It would be similar to existing regulation 19 NYCRR § 200.1(g) and (h).

Considering adding new regulation requiring an annual report regarding cemetery indebtedness (implementing N-PCL § 1511).

Considering adding new regulation of pre-need sales: proper trust- ing of receipts, reporting of liabilities at cost and market, and funding the Permanent Maintenance Fund.

##### Division of Consumer Protection

##### 21 NYCRR 4600 et seq.

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

##### 21 NYCRR Part 4603

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

##### Division of Corporations, State Records and UCC

##### Part 130

Considering amending sections 130.2 and 130.3 regarding the procedures for filing and numbering local laws filed with the Division pursuant to Municipal Home Rule Law section 27.

##### Part 140

Considering amending section 140.6 to update the classification list of goods and services related to trademarks and service marks.

##### Part 150

Considering adding a new section 150.8 regarding punctuation in entity names on filing certificates. The section would authorize the Division to accept for filing corporation and other business entity documents, such as certificates of amendment, that list the entity's name with or without a comma or period that is present in the entity's real name. The filing of such certificates would not change an entity's name on the records of the Division.

##### Part 154

Considering amending sections 154.4 through 154.7 to clarify the Division's procedures related to the processing of expedited requests for services.

##### Division of Licensing Services

##### Part 160

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

Considering amending appearance enhancement regulations regarding esthetics curriculum and waxing procedures.

##### Part 175

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

Considering amending regulations pertaining to the record retention requirements for real estate brokers.

#### Section 175.17

Considering repealing this section as there are no current cease and desist zones in the state.

#### Section 175.25

Considering amending regulations relating to licensee advertising.

#### Parts 175-179

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

#### Section 176.3

Considering amending regulations relating to curricula to include licensee safety.

#### Section 177.3(g)

Considering amending regulations relating to course approval to accommodate hour long programs.

#### Section 177.7

Considering amending regulations to change hour of instruction to 50 minutes for 1 hour course.

#### Part 195

Considering amending regulations pertaining to alarm installation, service and maintenance in order to clarify licensing requirements and to incorporate new technology and terminology.

#### Part 1102 et seq.

Considering amending regulations pertaining to real estate appraisal in order to permit the completion of qualifying education via distance learning.

Considering amending regulations to adopt updated Uniform Standards of Professional Appraisal Practice for 2016-2017.

#### Parts 170-175 and Part 1102 et seq.

Considering amending regulations pertaining to private investigators, watch guard patrol companies, security guards and real estate appraisers in order to further implement the New York State Enterprise E-Licensing initiative.

#### New York State Athletic Commission

#### Part 216

Considering repealing obsolete sections of Part 216 regarding professional wrestling in order to achieve consistency with Title 25 of the Unconsolidated Laws.

#### Office Of Planning And Development

#### Parts 600 - 603

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

To obtain information or submit written comments concerning an item listed above, please contact David Treacy, Esq., Office of General Counsel, New York State Department of State, One Commerce Plaza, Albany, New York 12231-0001, (518) 474-6740; David.Treacy@dos.ny.gov. This agenda is posted on the Department's website at [http://www.dos.ny.gov/info/regulatory\\_activity/index.html](http://www.dos.ny.gov/info/regulatory_activity/index.html).

## 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 2016. 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 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 allow for reporting increases in the amount subject to administrative enforcement in certified cases.

Part 347 – Establishment of Paternity and Enforcement of Child Support

Repeal the regulatory provision setting forth the child support standards chart.\*

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

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.\*

#### 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.

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

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

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

Update regulations to clarify that the term "hearing officer" may be used interchangeably with the term "administrative law judge."

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

Amend regulations to reflect changes to federal Supplemental

Nutrition Assistance Program (SNAP) regulations regarding Intentional 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 regulations to reflect Chapter 562 of the Laws of 2015.

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.\*

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 765 – Confirmation as a State-Confirmed Human Trafficking Victim**

Update regulations regarding victims of human trafficking to reflect State statutory requirements set forth in SSL Article 10-D.\*

**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 Richard P. Rhodes, Jr., New York State Office of Temporary and Disability Assistance, 40 North Pearl Street 16C, Albany, New York 12243. Telephone: (518) 486-7503. E-mail: richard.rhodesjr@otda.ny.gov. The regulatory agenda may be accessed on OTDA’s website at <http://otda.ny.gov/legal/>.

## Workers’ Compensation Board

### Regulatory Agenda: January 2016

Pursuant to section 202-d of the State Administrative Procedures Act, notice is hereby provided of the following rules which the Workers’ Compensation Board (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 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 sections 202-b and 202-bb of the State Administrative Procedures Act. 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 sections 202-b and 202-bb of the State Administrative Procedures Act, respectively.

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

The Chair and/or the Board is considering proposing the rules described below:

1. Amend section 313 to clarify that a Board decision is not a pre-

requisite to the parties' compliance with statutory and regulatory obligations and to set forth the criteria when a Board decision will be issued.

2. Amend section 300.17 to identify the process an attorney or licensed hearing representative must follow when requesting a fee and seeking to withdraw from representation of a client.

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

4. Amend 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.

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

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 Street, Schenectady, New York 12305-2318, telephone: (518) 486-9564, e-mail: [regulations@wcb.ny.gov](mailto:regulations@wcb.ny.gov).

