

# REGULATORY AGENDA

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## Education Department

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for calendar year 2019. 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 2019 Regulatory Agenda.

### OFFICE OF P-12 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 Parts 52 and 80 of the Commissioner's Regulations to require all prospective teachers to complete coursework on English Language Learner instructional needs, co-teaching strategies, and integrating language and content instruction for English Language Learners. 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(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 100.2(kk) of the Commissioner's Regulations relating to dignity act reporting requirements and collecting data regarding the number of school threats each year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 100.2(y)(3) to require that school districts, when notifying parents that students are not residents of the district, must, wherever practicable, specify which district they may be entitled to enroll in. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Section 100.5(b) to allow districts to develop and implement Arts and Health coursework and curriculum without the approval of the State Education Department. A regulatory flexibility analysis for local government and a rural 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 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 Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendments to section 100.2(l) of the Commissioner's Regulations relating to School conduct and discipline to address the topics of progressive discipline, restorative practices, and equity in school discipline. 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 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 100.5(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 to section 100.5(d)(12) of the Commissioner's Regulations relating to the superintendent determination option. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 100.10(h) of the Commissioner's Regulations to expand and/or modify the list of annual assessments to be utilized by home instructed students. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of section 100.22 of the Commissioner's Regulations relating to students in foster care. 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 new provisions in New York State's Every Student Succeeds Act plan regarding incarcerated youth. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.1 of the Commissioner's Regulations relating to financing of charter schools to correct a citation and address statutory changes. 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 section 119.4 of the Commissioner's Regulations

relating to the location and timelines for charter school hearings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.5 of the Commissioner's Regulations relating to charter school preferences. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of a new Part 121 of the Regulations of the Commissioner of Education relating to the requirements for a basic educational data system code for nonpublic school sites. 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 Part 136 of the Commissioner's Regulations to implement Chapter 373 of the Laws of 2016 and to make technical amendments, relating to school health services. A regulatory flexibility analysis 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 Subpart 151-1 of the Commissioner's Regulations to consolidate and update the provisions governing the Universal Pre-kindergarten Program, consistent with statutory amendments and program implementation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.12 of the Regulations of the Commissioner of Education relating to lease approval and building aid for leased school buildings and facilities by school districts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.22(a)(3)(i)(d)(1) through (4) of the Regulations of the Commissioner of Education relating to Qualified Zone Academy Bonds ranking of eligible districts and allocation of funds. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.23 of the Regulations of the Commissioner of Education relating to multi-year cost allowance. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Parts 100, 200 and 201 of the Commissioner's Regulations to make certain technical amendments, including corrections to cross citations, as may be appropriate, and to conform to possible changes to Federal regulations or State statute. A regulatory flexibility analysis for local government and rural area flexibility analysis may be required.

Amendment of sections 200.1(x), 200.5(j) and 200.16(h) of the Commissioner's Regulations relating to the impartial due process hearing procedures, including the provisions relating to prehearing conferences and impartial hearing officer qualifications and impartiality, and as may be necessary to conform to State statute. 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 200.3 of the Commissioner's Regulations relating to membership of the Committee on Special Education, as may be necessary to conform to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.4(d) of the Commissioner's Regulations relating to participation in State and districtwide alternate assessments, as may be necessary to conform to the Every Student Succeeds Act. 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 200.5(l) of the Regulations of the Commissioner of Education relating to appeals of State complaint findings. 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 approval of State reimbursement for students with disabilities in approved private school placements. 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 the minimum level of service requirements for consultant teacher services and resource room programs, maximum size for special classes, maximum caseloads for consultant teachers and resource room teachers, and the maximum instructional group size in a resource room program. 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 the addition of specially designed reading instruction to the continuum of services. 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 sections 200.7(b) and 200.13 of the Commissioner's Regulations relating to length of school day. 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 200.9 of the Commissioner's Regulations relating to tuition rates for approved special class integrated setting programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.16(c)(i) of the Commissioner's Regulations relating to selection by the parent of an approved multidisciplinary evaluation program, as may be necessary to conform to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.16(i) of the Commissioner's Regulations relating to preschool continuum of services and preschool inclusion in early childhood programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.21(b) of the Commissioner's Regulations relating to procedures for the suspension or revocation of impartial hearing officer certification. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.16(c)(1) of the Rules of the Board of Regents to update delegation of authority with respect to the approval of changes to certain charter school revisions. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.17(a)(3) of the Rules of the Board of Regents to update the revocation proceeding and to allow the Board of Regents to appoint a representative to hear oral arguments on behalf of the Board of Regents and to make a determination in regard to such

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

Amendment of section 3.17(a)(3) of the Rules of the Board of Regents to update the revocation proceeding to revoke the certificate of incorporation after the assets of the education corporations have been discharged. 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:* Jhone M. Ebert, Senior Deputy Commissioner for Education Policy, State Education Department, Rm. 875, Education Building Annex, 89 Washington Ave., Albany, NY 12234, (518) 474-3862, e-mail: nysedp12@nysed.gov

#### OFFICE OF HIGHER EDUCATION

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 Parts 50 and 52 of the Commissioner's Regulations concerning registration of undergraduate and graduate postsecondary curricula. 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 to create a certification extension for bilingual teaching assistants. 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 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 sections 80-4.3 and 80-5.18 of the Commissioner's Regulations 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 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.

Amendment of Commissioner's Regulations Section 152-1.1 to amend applications to clarify that each application shall include the provision of a summer program that shall occur at the beginning of the program year and to update obsolete processes and language. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations Part 50 and Part 54 to amend the definitions and procedures related to off-campus instruction and locations. 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, State Education Department, Office of Higher Education, Rm. 975, Education Building Annex, 89 Washington Ave., Albany, NY 12234, (518) 486-3633, e-mail: 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 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 sections 52.14 and 73.1 relating to the education requirements for licensure in the profession of chiropractic. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 61.10 relating to the requirements for dental anesthesia certification. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 70.4 relating to the examination requirements for licensure in the profession of public accountancy. 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, State Education Department, Office of the Professions, 89 Washington Ave., West Wing, Second Flr., Education Building, Albany, NY 12234, (518) 486-1765, e-mail: 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,*

*ted, concerning the above proposed amendment by contacting:* Mark Schaming, Deputy Commissioner for Cultural Education, State Education Department, New York State Library, Rm. 10C34, Albany, NY 12230, (518) 474-5930, e-mail: Mark.Schaming@nysed.gov

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.

Amendment of Part 188 of the Commissioner's Regulations related to state government archives and records management to update the annual fees for storage of records in a records center facility. 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, Assistant Commissioner for the State Archives, 9C49 Cultural Education Center, Albany, NY 12230, (518) 474-5561, e-mail: Tom.Ruller@nysed.gov

#### OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Amendment of section 126.4(e)(2)(i) of the Commissioner's Regulations relating to standards and methods of instruction to revise the language to say: except as provided in subparagraph (iii) of this paragraph, and notwithstanding any other provisions of law, any student who is absent more than 15 percent of the total number of instructional hours offered during each marking period of the student's program, excluding approved leaves of absence pursuant to paragraph (6) of this subdivision, or who has not maintained satisfactory academic progress, shall be dismissed or placed on academic probation in accordance with subparagraph (iii) of this paragraph. 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, 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, 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 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 Federal regulations were released on August 19, 2016. 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:* Ceylane Meyers-Ruff, Director of VR Central Office Administration, Office of Adult Career and Continuing Education Services, Rm. 580 EBA, 89 Washington Ave., Albany, NY 12234, (518) 474-2699, e-mail: Ceylane.meyers-ruff@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.

Amendment of Parts 275 and 276 of the Commissioner's Regulations relating to appeals to the Commissioner. 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:* Alison Bianchi, Counsel and Deputy Commissioner for Legal Affairs, State Education Building Rm. 112, 89 Washington Ave., Albany, NY 12234, (518) 474-6400, e-mail: legal@nysed.gov

#### OFFICE OF STATE REVIEW

Amendment of section 279.1 of the Commissioner's Regulations, relating to the jurisdiction of a state review officer and procedures regarding state review proceedings. 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 procedures governing service of the notice of intention to seek review. 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 request for review and the timeliness of an appeal, clarification of the procedures governing service of the request for review; clarification of the time in which a cross-appeal must be filed. 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; clarification of the time in which an answer must be served and when service is complete. 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; clarification of procedures governing replies served together with an answer to a cross-appeal; clarification of the time when service is complete. 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 the provision of contact information for parties and non-attorney advocates appearing before the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.8 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. 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 the hearing 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. 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 that state review officers may take into consideration multiple appeal files within the Office of State Review when they involve the same student; clarifying the time in which a decision must be issued by a state review officer. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Addition of 279.14 of the Commissioner's Regulations, relating to ex parte communications. 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,*

ted, concerning any of the above proposed amendments by contacting: Justyn P. Bates, Office of State Review, 80 Wolf Rd., Suite 203, Albany, NY 12203, (518) 485-9373, e-mail: osrcomment@nysed.gov

## Department of Environmental Conservation

### Introduction

Each year, pursuant to SAPA, the Department publishes a Regulatory Agenda in the State Register and on its website. This is a listing of the regulations that may be proposed for adoption or amendment within that calendar year.

### Division of Air Resources

6 NYCRR Part 200, General Provisions. Amendments to Section 200.10 will be evaluated to update the list of Federal air regulations for which the Department has incorporated by reference. This rulemaking would require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Steve Yarrington, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York, 12233-3254. Telephone 518-402-8403. Email: air.regs@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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mark Lanzafame, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-8403. E-mail: air.regs@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Subpart 202-2, Emission Statements. Existing Subpart 202-2 will be revised to require electronic submission of annual Emission Statements beginning in 2021 (for calendar year 2020 emissions reporting) for facilities subject to Title V of the Clean Air Act. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Carlos Mancilla, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: air.regs@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 203, Oil and Gas Sector Emissions. This is a new regulation to reduce volatile organic compound (VOC) and methane emissions from the oil and gas sector. This regulation is part of the State's Methane Reduction Plan and will also address and expand upon EPA's control technique guideline for volatile organic compound emissions from this sector. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Ona Papageorgiou, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: air.regs@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 205, Architectural and Industrial Maintenance Coatings. The existing regulation will be revised to include additional and more restrictive volatile organic compound (VOC) limits. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Ona Papageorgiou, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: air.regs@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 208, Landfill Gas Collection & Control Systems for Certain Municipal Solid Waste Landfills will be revised to include the Federal emission guidelines at 40 CFR Part 60 Subpart Cf, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills. The revisions may also include additional measures that will assist in meeting the goals of the States Methane Reduction Plan. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Daniel Brinsko, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-

3255. Telephone: 518-402-8403. E-mail: air.regs@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 212, Process Operations. This proposal will repeal subpart 212-4, Control of nitrogen oxides for hot mix asphalt (HMA) production plants. The requirements of 212-4 will be folded into a source specific regulation under Part 220-3, which specifically address the emissions of particulate, carbon monoxide, sulfur dioxide, NO<sub>x</sub> and High Toxicity Air Contaminants (HTAC) such as formaldehyde, benzene and polycyclic aromatic hydrocarbons from HMA production plants. The proposed 220-3 regulation will enact stricter requirements for new sources built after the applicability date while addressing the existing facilities with requirements that are easily interpreted from Region to Region. Also, Part 212-1, General Provisions, will be revised to allow for a second compliance option when a source owner is required to demonstrate compliance with a Federal NESHAP (National Emissions Standard for Hazardous Air Pollutants) regulation which controls the emissions of High Toxicity Air Contaminants. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis and a Job Impact Analysis. Contact: Steven DeSantis, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8402. E-mail: air.regs@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 218, Emissions Standards for Motor Vehicles and Motor Vehicle Engines. The Department is considering revisions to 6 NYCRR Part 218 to clarify that the deem to comply provisions for model year 2021- 2025 only applies to those Federal standards which were last amended as part of the October 16, 2015 rulemaking. The deem to comply provision allows automobile manufacturers to demonstrate compliance with Federal greenhouse gas emission standards in lieu of California's more stringent standards. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Jeff Marshall, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-8292. E-mail: air.regs@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 218, Emissions Standards for Motor Vehicles and Motor Vehicle Engines. The Department is considering revisions to 6 NYCRR Subpart 218-7, Aftermarket Parts, to clarify or amend aftermarket catalytic converter prohibitions that currently apply to 1993, 1994, 1996 and subsequent model-year light and medium duty vehicles. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Jeff Marshall, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-8292. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 219, Incinerators. Existing Subpart 219-4 will be amended to better reflect the current state of cremation technology and reduce emissions of particulate matter from new crematories constructed in the state. In addition, Division of Air will sunset existing Subparts 219-5 and 219-6 by requiring that existing units subject to these requirements be regulated by more stringent standards. Furthermore, a new Subpart 219-10 will be proposed to set a limit on nitrogen oxide (NO<sub>x</sub>) emissions from municipal waste combustors. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mark Lanzafame, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-8403. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 220: Revisions to Subpart 220-1, Portland Cement Plants, will include minor changes to better align with Federal regulations and reduce monitoring costs. Subpart 220-3, Hot Mix Asphalt Production Plants, will be a new regulation, replacing Subpart 212-4, to reduce criteria and non-criteria pollutants from asphalt plants. Subpart 220-3 is intended to streamline compliance for this source category while requiring best available control technologies. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility

Analysis. Contact: Mike Miliani, NYS Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3254. Telephone: 518-402-8403. E-mail: air.regs@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 222, Distributed Generation Sources. Pursuant to an Order by the Supreme Court of the State of New York dated July 26, 2017, the Department will develop a new rule to replace the rule adopted on November 1, 2016. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments. Contact: John Barnes, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-8396. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Subpart 225-1, Fuel Composition and Use - Sulfur Limitations. Revisions to this regulation entail the inclusion of process sources and incinerators as applicable stationary emission sources in New York State. These revisions will also include the lowering of the sulfur-in-fuel limit for waste oil and the correction of typographical errors. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mike Jennings, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-8403. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Subpart 225-2, Fuel Composition and Use - Waste Fuel. Revisions to this regulation were proposed in 2016. However, based on comments received during the public comment period, the Department decided that it would not be able to complete the rule making in the time allowed under the State Administrative Procedures Act. Therefore, the Department will propose a new rule making to address the significant comments received on the earlier proposal and include updated permitting references, updated rule citations, the incorporation of Federal waste oil pollutant content limits, the updating of monitoring, recordkeeping, and reporting requirements, and the relocating of specific definitions from Subpart 225-2 to 6 NYCRR Part 200, General Provisions. The new regulation will redefine what emission sources are eligible to fire waste oil, either as a permitted or exempt emission source, and will lower the exempt source size eligibility threshold to match the size requirement in State and Federal hazardous waste regulations. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mike Jennings, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-8403. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 226, Solvent Metal Cleaning Processes. The existing regulation will be amended to remove out-of-date regulatory references, update work practices, and establish requirements that meet the Federal control techniques guideline (CTG) for industrial cleaning solvents. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: John Henkes, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-8403. E-mail: air.regs@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" regulatory references, correct typographical errors, and update the permissible emission rates for particulate matter for both solid and liquid fuels. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Mike Jennings, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-8403. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Subpart 227-2, NO<sub>x</sub> RACT. The existing regulation will be revised to lower NO<sub>x</sub> emissions from peaking turbines. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Ona Papageorgiou, New York State Department of Environ-

mental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Subpart 228-1, Surface Coating Facilities. Existing Subpart 228-1 will be revised to lower the volatile organic compound limits for surface coatings used in motor vehicle and mobile equipment repair and refinishing. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Marie Barnes, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: air.regs@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 proposed changes will also require prior notification to the Department for any mandated testing; as well as new vapor leak detection equipment; and remove Stage II requirements. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Denise Prunier, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-408-5574. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 231, New Source Review. The existing rule will be amended to conform to changes under the Federal New Source Review (NSR) rule and the Supreme Court rulings. In particular, the Part 231 revisions will include changes to NSR applicability based on emissions of greenhouse gases (GHGs) and requirements for particulate matter or particles with an aerodynamic diameter less than or equal to 2.5 micrometers (PM-2.5). The definitions section in 6 NYCRR Part 200, General Provisions will also be revised to conform to the Federal rule. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Steven Yarrington, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3254. Telephone: 518-402-8403. E-mail: air.regs@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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Kenneth Newkirk, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 242, CO<sub>2</sub> Budget Trading Program. The regulation will be amended, as necessary and appropriate, to be consistent with the Regional Greenhouse Gas Initiative 2016 Program Review. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Laura Stevens, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251, Telephone: 518-402-8396. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 247, Outdoor Wood Boilers. The existing regulation will be updated to conform to the emission standards and certification requirements of the Federal NSPS rule. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Kenneth Newkirk, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8396. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

6 NYCRR Part 257, Air Quality Standards. Part 257, subparts 257-2 through 257-10, list the New York State Air Quality Standards (SAQS) promulgated by the Department over several decades. A number of these SAQS are outdated and have been superseded by Federal air

quality standards and will be repealed or revised. The Department proposes to make the necessary changes to this regulation to achieve parity with Federal standards and support its mission to preserve and protect air quality. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis and a Job Impact Analysis. Contact: Steven DeSantis, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-3251. Telephone: 518-402-8402. E-mail: air.regs@dec.ny.gov. Please include the Part number when emailing.

#### Division of Environmental Permits

6 NYCRR, Part 621, Uniform Procedure Act (UPA). Part 621 was last substantially amended in 2006. Since that time several statutes and regulations that interface with Part 621 have been changed or amended. The Department proposes to update the main text of Part 621 to align with those changes. Also several clarifications and corrections are proposed to correct inaccurate references and clarify permitting procedures. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: James Eldred, New York State Department of Environmental Conservation, 625 Broadway, 4th Floor, Albany, NY 12233-1750. Telephone: 518-402-9158. E-mail: deppermitting@dec.ny.gov Please include the Part number when emailing.

#### Division of Environmental Remediation

6 NYCRR Part 375 (Subparts 375-1 to 375-4, and 375-6), Environmental Remediation Programs. The Department proposes to amend subparts 375-1 to 375-4, and 375-6 to: (1) incorporate legislative mandates which modify the tax incentives offered under the brownfield cleanup program (BCP); (2) incorporate the provision introduced in that legislation that a property is not eligible for the program unless the site "requires remediation," which would be defined in these regulations; (3) incorporate needed changes, clarifications, and modifications to the regulations based on the experience developed during the first decade of implementing the BCP. These changes would increase consistency across remedial programs administered by the Division of Environmental Remediation and provide the Department with the tools necessary to more effectively implement the programs; and (4) incorporate soil cleanup objective (SCO) changes, if any, resulting from the statutorily required five-year review. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: William Ottaway, New York State Department of Environmental Conservation, Division of Environmental Remediation, 625 Broadway, Albany, NY 12233-7020. Telephone: 518-402-9553. E-mail: derweb@dec.ny.gov Please include 'Part 375' in the subject line when e-mailing.

6 NYCRR Parts 596, 597, 598, and 599, Chemical Bulk Storage Regulations. In this second phase of rule making for revisions to the Chemical Bulk Storage (CBS) regulations, the Department proposes to amend Part 597 to update the list of hazardous substances and clarify the spill reporting requirements. The Department also proposes to repeal Parts 596, 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 State Program Approval from U.S. Environmental Protection Agency (EPA) by incorporating new requirements from the Federal regulations that the EPA promulgated in their July 2015 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: James Quinn, 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 'Parts 597 and 598' in the subject line when e-mailing.

6 NYCRR Part 610, Certification of Onshore Major Facilities [Major Oil Storage Facility (MOSF) Regulations]. The Department

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 the Department 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 would make explicit in regulation the procedures for licensing MOSFs; 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: James Quinn, 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. The Department 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. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Kevin Hale, 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, the Department 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 State Program Approval from EPA by incorporating new requirements from the Federal regulations that the EPA promulgated in their July 2015 rule making; (2) clarify language of the existing requirements; and (3) 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: James Quinn, 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 and Wildlife

6 NYCRR Part 51, Public use of State Wildlife Management Areas. Statutory Authority: ECL 1-0101, 3-0301, 9-0105, and 11-2101. DEC is proposing to amend 6 NYCRR Part 51 to more clearly identify public use compatible with the legal and intended purposes of Wildlife Management Areas for wildlife dependent recreation and wildlife conservation. Where appropriate, revisions will more closely mirror provisions in 6 NYCRR Part 190 Use of state lands. These amendments may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments or a Rural Area Flexibility Analysis. Contact: Marcelo DelPuerto, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-4754. Telephone: 518-402-8883. E-mail: wildliferegs@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Parts 151, 153, 170, 174 and 182. Amendments to these regulations would be done as one package.

6 NYCRR Part 151, Propagation and Sale of Fur-Bearing Animals. The Department is proposing to amend 6 NYCRR Part 151 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 Flex-

ibility Analysis. Contact: Joseph Therrien, New York State Department of Environmental Conservation, Division of Fish and Wildlife, 625 Broadway, Albany, New York 12233-4752. Telephone: 518-402-8985. E-mail: joseph.therrien@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 153, Preserve Licenses. The Department is proposing to amend 6 NYCRR Part 153 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 as allowed in Section 153.2. In addition, the requirement for submission of an annual report will be removed from Section 153.1. Contact: Joseph Therrien, New York State Department of Environmental Conservation, Division of Fish and Wildlife, 625 Broadway, Albany, New York 12233-4752. Telephone: 518-402-8985. E-mail: joseph.therrien@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Sections Part 170.1 and 170.3, Miscellaneous Licenses. The Department is proposing to amend 6 NYCRR Sections 170.1 and 170.3 to remove the \$1 fee for licenses issued for the importation of fish or wildlife from without to within the state. Contact: Joseph Therrien, New York State Department of Environmental Conservation, Division of Fish and Wildlife, 625 Broadway, Albany, New York 12233-4752. Telephone: 518-402-8985. E-mail: joseph.therrien@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 174, Sale of Live Birds. The Department is proposing to amend 6 NYCRR Part 174 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 and Wildlife, 625 Broadway, Albany, New York 12233-4752. Telephone: 518-402-8985. E-mail: 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. Also, amend current regulations concerning the description of what constitutes a license issued by the Department to allow for electronic sporting licenses to be carried and presented via electronic device(s). This amendment may 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 and Wildlife, 625 Broadway, Albany, New York 12233-4750, Telephone: 518-402-8869. E-mail: mary.bailey@dec.ny.gov

#### Division of Forest Protection

6 NYCRR Part 197, Part 197 will be amended to clarify the License to Guide application criteria and review procedure for new applications and renewals. The amendment will also increase the guide license fee for out of state residents to the statutory maximum of two-hundred dollars per license. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments. Contact: Colleen Kayser, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-2560. Telephone: 518-402-8838. Email: colleen.kayser@dec.ny.gov Please include the Part number when emailing.

#### Office of Climate Change

6 NYCRR 494, Standards and Reporting for the Use of Hydrofluorocarbons. Statutory Authority: Environmental Conservation Law, §§ 1-0101, 1-0303, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 71-2103, and 71-2105. This new regulation

will place prohibitions on the use of certain refrigerants, foam-blowing agents, and aerosols in equipment or consumer products where there are safe and available alternatives. This regulation will be substantially similar to USEPA Significant New Alternatives Policy. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, a Rural Area Flexibility Analysis, and a Jobs Impact Statement. Contact: Suzanne Hagell, Office of Climate Change, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-1030; phone: 518-402-8448; email climatechange@dec.ny.gov Please include the part number in the subject line when e-mailing.

#### Office of General Counsel

6 NYCRR Part 175, Special Licenses and Permits-Definitions and Uniform Procedures. Part 175 will be updated to reflect the re-establishment of the Division of Marine Resources and to include recently developed licenses and permits. It will be revised to add provisions relating to the suspension of processing and review of license and permit applications, furnishing of financial security for certain licenses and permits, and suspension of marine licenses and permits, and to clarify processes for the issuance, renewal, revocation and transfer of special and marine licenses and permits. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Anne Haas, New York State Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-3255. Telephone: 518-402-9533. Email: anne.haas@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 Department proposes to clarify procedures governing default procedures and motions for order without hearing, and make various typographical, technical and related corrections throughout. This rule making 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 Department 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 rule making 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 190, Use of State Lands. Addition of a new section to Part 190, Moscow Hill Camping and Assembly Area, to protect public safety and natural resources on this heavily used recreational facility. Contact: Robert Messenger, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 12233-4255, Telephone: (518) 402-9428, E-mail: robert.messenger@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 190, Use of State Lands, Hemlock-Canadice State Forest (Livingston-Ontario State Reforestation Area No.1). Amend existing section 190.26 by applying further restrictions on public use to protect the public water supply since Hemlock and Canadice lakes are a direct source of public water for the city of Rochester and other communities. Contact: Robert Messenger, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 12233-4255, Telephone: (518) 402-

9428, E-mail: robert.messenger@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 190, Use of State Lands, Rush Oak Openings Unique Area. Amend section 190.10, Unique Areas to include a new section, Rush Oak Openings Unique Area. These regulations will protect the unique area by prohibiting certain activities on the property. Contact: Robert Messenger, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 12233-4255, Telephone: (518) 402-9428, E-mail: robert.messenger@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. Contact: Peter J. Frank, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 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. Addition of a new section to Part 190, Forest Preserve Health and Safety Land Account, that would manage a "land account" of not more than 250 acres of forest preserve land, that could be used for certain public health and safety projects, the burial of utility lines in road corridors crossing forest preserve lands and establishing bicycle trails within these road corridors. This regulation is authorized by amendments to Article XIV of the New York State Constitution that created the "land account." Contact: Peter Frank, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 12233-4254, Telephone: (518) 473-9518. E-mail: peter.frank@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 193, Trees and Plants. Amend sections 193.4, Definitions, 193.5, Collection, Sale and Conservation of American Ginseng in New York, 193.6, Certification of Ginseng, and 193.7, Ginseng Dealers. The purpose of the proposed regulation is to define "wild-simulated" ginseng and clarify the definitions of "wild" and "cultivated" ginseng. Additionally, the proposed regulation would include a new license requirement for legal ginseng harvest.

A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Jason Denham, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 12233-4254, Telephone: (518) 402-9436, E-mail: jason.denham@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 Catskill Park. These regulations will allow a modest increase in the size of signs and the distance of signs from businesses. Contact: Peter Innes, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 12233-4250, Telephone: (518) 402-9405, E-mail: peter.innes@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 and Catskill Forest Preserve. These regulations will update this section, including the existing list of forest preserve wilderness areas where bicycles are prohibited. Contact: Peter Frank, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 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 196.8, Operation of Motorized Equipment in Wilderness, Primitive, Primitive Bicycle Corridor and Canoe Areas within the Adirondack and Catskill Parks. These regulations will update this section, including establishing a list where motorized equipment is prohibited

on existing forest preserve units and newly classified forest preserve units. Contact: Peter Frank, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 12233-4254, Telephone: (518) 473-9518, E-mail: peter.frank@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 199, Taxation of Forest Land. Amend the existing regulations to update them and provide effective administration of the program by lessening the administrative burden on participants and provide clarity for addressing issues and situations that arise due to changing circumstances associated with private forest land ownership. This regulation will require the preparation of a Regulatory Flexibility Analysis and a Rural Area Flexibility Analysis. Contact: Robert Messenger, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 12233-4255, Telephone: (518) 402-9428, E-mail: robert.messenger@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 575, Prohibited and Regulated Invasive Species. Amend sections 575.3, Prohibited Invasive Species and 575.4, Regulated Invasive Species to update these lists. The purpose of this Part is to establish procedures to identify and classify invasive species and to establish a permit system to restrict the sale, purchase, possession, propagation, introduction, importation, and transport of invasive species in New York, as part of the Department of Environmental Conservation's statewide invasive species management program, as required by ECL sections 9-1709 and 71-0703. A Regulatory Flexibility Analysis and Rural Area Flexibility Analysis will be prepared. Contact: Justin Perry, New York State Department of Environmental Conservation, Division of Lands and Forests, 625 Broadway, Albany, New York 12233-4254 (518) 402-9436, E-mail: justin.perry@dec.ny.gov Please include the Part number when e-mailing.

#### Division of Marine Resources

6 NYCRR Part 11, More than One Species. The Department is proposing amendments that pertain to the management of diadromous fishes, including American eel, for taking, possessing, sale, or trafficking in the Harlem or East Rivers and the Hudson River. The amendments are needed for New York State to remain in compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission or as directed in the Federal Sustainable Fisheries Act for such species. They also comply with the requirements of Environmental Conservation Law regarding the management of anadromous species. The purpose of these regulations is to protect and to maintain the health of these fish stocks. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 18, Taking Bait. The Department is proposing amendments that pertain to the management of diadromous fishes to take as bait for sportfishing through the use of fishing devices. The amendments are needed for New York State to remain in compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission or as directed in the Federal Sustainable Fisheries Act for such species. They also comply with the requirements of Environmental Conservation Law regarding the management of anadromous species. The purpose of these regulations is to protect and to maintain the health of these fish stocks. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 35, Licenses. The Department proposes 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 proposes to reduce the number of types of licenses issued and to increase the fees charged for certain licenses. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 36, Gear and Operation of Gear. The Department is proposing amendments that 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. The amendments will also comply with the requirements of Environmental Conservation Law regarding the management of anadromous species. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, E. Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@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 to maintain compliance with fishery management plans developed by the Atlantic States Marine Fisheries Commission (ASMFC), or 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 requirements for providing such proof of residency when obtaining marine license and permits.

The Department proposes to amend reporting and record keeping requirements for State licensed harvesters who also hold Federal harvesting licenses. The amendment would require Federal license holders to advise the Department if they are required to report to any Federal agencies. In addition, the amendment would clarify reporting requirements specific to Federal Highly Migratory Species (HMS) permits.

The Department proposes to amend the striped bass and summer flounder commercial fishing special regulations to replace qualifications for permits and make changes to striped bass commercial fishing permit reissuance and striped bass commercial permit tag provisions. New regulations would 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 proposes 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 and sale is covered statewide.

The Department proposes to amend commercial fishing regulations for American eel to establish quota-based fishing limits and closures.

The Department proposes to adopt regulations which will require the use of bait bags when fishing with eel pots.

The Department proposes to change the open season for striped bass commercial fishing.

The Department proposes to 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.

The Department proposes amendments to establish seasonal area gear closures to decrease bycatch of Atlantic sturgeon.

The Department proposes: amendments to coastal shark regulations to prohibit the harvest of blacknose sharks; regulations for shortfin mako and oceanic whitetip sharks, which could include minimum size limits and/or adding them to the prohibited shark species list; a limited exception for smoothhound sharks to the general prohibition on landing sharks without fins attached; seasonal adjustments of landing limits for large coastal sharks and hammerheads; and an amendment specifying that recreational shark size limits are measured in fork length, in order to comply with NOAA requirements. The Department also proposes to adopt gear restrictions for the shore based shark fishery to discourage fishing on prohibited shark species.

The Department proposes additional regulations that ensure New York State commercial and recreational fishermen remain in compliance with NOAA shark fishery requirements.

The Department proposes amendments to cod and squid regulations to allow for seasonal adjustments of landing limits and to revise the commercial cod size limit.

The Department proposes amendments to establish rules pertaining to commercial tautog tag issuance, allocation, and accountability. The Department also proposes regulations governing the application of tags, the sale and possession of tagged and untagged fish, and reporting/record keeping requirements for harvesters and dealers as it pertains to tagged tautog.

The Department proposes rules to implement gillnet gear restrictions in the state ocean waters off the south shore of Long Island to comply with the Federal Marine Mammal Protection Act.

This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: John Maniscalco, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0430. E-mail: john.maniscalco@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 41, Sanitary Condition of Shellfish Lands. As necessary, the Department will propose to amend regulations that specify the classification (certified or uncertified) of shellfish lands. These amendments are 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. The Department also proposes that shellfish lands that have not been subject to a sanitary survey conducted within the previous ten (10) years be designated as uncertified. Shellfish are defined in law as oysters, scallops, and all kinds of clams and mussels. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: Debra Barnes, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0477. E-mail: debra.barnes@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 rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: Susan Ritchie, New York State Department of Environmental Conservation, Division of Marine Resources, 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 proposes to amend regulations pertaining to the management of surfclams and ocean quahogs that are consistent with the provisions of fishery management plans adopted by the Department and allow for the orderly implementation of any changes to the Environmental Conservation Law for the surfclam fishery. All amendments may describe changes to permit requirements and eligibility, harvest limits, gear restrictions, record keeping, and reporting requirements. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: Jennifer O'Dwyer, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, New York 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 species. These proposed regulations would comply with fishery management plans developed by the Atlantic State Marine Fisheries Commission (ASMFC) for these species and with requirements of the Environmental Conservation Law. The proposed regulations would include general provisions consistent with those found in Part 40. The proposed amendments would allow for flexibility in the type of vent used in crab traps, establish open crab dredge seasons and areas, establish crab pot limits, and revise blue crab size limits. The Department proposes to amend reporting and record keeping requirements for State licensed harvesters with the requirements in Part 40. The Department proposes to adopt regulations to implement the new ASMFC Interstate Fishery Management Plan for Jonah Crab which would include a special permit, size limit, bycatch limit, rules on harvest of parts, effort controls and other management measures based on details of the plan. The Department proposes to clarify current language and remove unnecessary regulations. Horseshoe crab regulations will be proposed to allow more control over the harvest and storage of horseshoe crabs. Rules would 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 and to respond to the continued depletion of the stock. The Department would propose lobster regulations based on the details of the Addendum. The Department would propose rules to prohibit the liberation of non-local crustaceans into New York's marine district. Rules would be developed to modify lobster trap tag allocations in order to implement trap transferability program. The Department proposes to develop rules to implement lobster gear restrictions in LCMA 4 to comply with the Federal Marine Mammal Protection Act. The Department will also develop rules to establish a minimum age for the non-commercial lobster license. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: Kim McKown, New York State Department of Environmental Conservation, Division of Marine Resources, Finfish and Crustaceans Section, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 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 for the protection of the public health, compliance with Federal guidelines, and minimum requirements from the National Shellfish Sanitation Program (NSSP) Model Ordinance (MO). The proposed regulations would amend requirements for

permits, transplanting of shellfish, periods of transplanting, relay area certification, and establish requirements for recordkeeping and reporting. The proposed regulations would also establish requirements for water quality, shellfish testing, and bacterial reduction (cleansing) studies. This rulemaking 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, Division of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0481. E-mail: wade.carden@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 47, Certification of Shellfish Lands. The Department proposes technical amendments that would remove the word "uncertified" where it appears in two subparagraphs that specify the water quality criteria overlying certified shellfish lands. This rulemaking may 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, Division of Marine Resources, 205 N. Belle Meade Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0477. 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 would amend requirements for marking and identification of cultivation products in commercial markets, requirements for permits, and record keeping and reporting requirements. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Wade Carden, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, New York 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 proposes 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 proposes to amend regulations pertaining to the possession of oysters of less than legal size which is needed to ensure enforceability and compliance with the minimum size requirements for harvest of wild (natural) oysters in the marine district. This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Government as well as a Rural Area Flexibility Analysis. Contact: Debra Barnes, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, New York 11733. Telephone: 631-444-0477. E-mail: debra.barnes@dec.ny.gov Please include the Part number when emailing.

6 NYCRR Part 50, Miscellaneous Marine Species. The Department proposes 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 and Busycotypus spp). These regulations would include size limits, specifications for marking and placement of whelk fishing gear, trap limits and other regulations necessary to manage the whelk fishery. The Department proposes to amend reporting and record keeping requirements for State license holders with the requirements in Part 40. The Department also proposes to adopt regulations which would require the use of bait bags when fishing with whelk traps. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Government and a Rural Area Flexibility Analysis. Contact: Kim McKown, New York State Department of Environmental Conservation, Division of Marine Resources, 205 N. Belle Mead Road, Suite 1, East Setauket, New York

11733. Telephone: 631-444-0454. E-mail: kim.mckown@dec.ny.gov Please include the Part number when emailing.

Division of Materials Management

6 NYCRR Part 321, Pesticides in Grape Vineyards, Part 322 Pesticides in Grape Vineyards, Niagara County, Part 323 Pesticides In Grape Vineyards, Chautauqua County, Southern Townships, Part 324 Pesticides In Grape Vineyards, Erie County, and Part 325 Application of Pesticides will be repealed and replaced with new Parts 321-325. This rule making will include comprehensive reorganization and revisions to the current rule to update the current pesticide use regulations, including 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. These rules will also incorporate Federal certification and training regulations contained in 40 CFR Part 170 and the provisions currently in Part 326 Registration and Classification of Pesticides related to the sale of restricted use pesticides. In addition, Part 326 will be revised to address the registration of minimum risk pesticides. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Tricia Newell, New York State Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, New York 12233-7254. Telephone: 518-402-8748. E-mail: Pestmgt@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 327, Rules and Regulations Relating to the Use of Chemicals for the Control or Elimination of Aquatic Vegetation. Part 327 will be amended to incorporate relevant provisions of Part 328 (Rules and Regulations Relating to the Use of Chemicals for the Control or Elimination of Undesirable Fish) and Part 329 (Rules and Regulations Relating to the Use of Chemicals for the Control or Elimination of Aquatic Insects) and to reflect the current statutory requirement of the Environmental Conservation Law. 6 NYCRR Part 328 and 6 NYCRR Part 329 will be repealed. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Anthony Lamanno, New York State Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, New York 12233-7254. Telephone: 518-402-8727. E-mail: aqpestregs@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 360, Solid Waste Series Revisions. The rule making will amend the November 4, 2017 Part 360 Solid Waste Management Facilities Series Regulations. The rulemaking will include adjustments to Parts 360, 361, 362, 363, 364, 365, 366 and 369 to address clarifications regarding construction and demolition (C&D) debris processing facilities, beneficial use of C&D debris, simplify the requirements for waste transport of C&D, adjust pre-determined beneficial uses for the use of brine for road spreading and extend the brine beneficial use transition requirements, and add new requirements for the management of waste tires used at farms to secure tarpaulins which will reduce retention of water while avoiding unnecessary costs to farmers. The revisions will allow the continued operation of facilities which were registered landfills prior to November 4, 2017 for the receipt of tree debris, concrete, asphalt, brick, and uncontaminated soil and rock resulting from land clearing, utility line maintenance and season or storm-related cleanups until entitled capacity is achieved. The rule making will implement requirements of state legislation to ensure protection of groundwater at composting facilities and mulch processing facilities located in Nassau and Suffolk County, and restrict the types of facilities allowed to operate inside of a mine within these two counties. Adjustments will be made to improve and simplify the process to receive municipal waste reduction and recycling grants for recycling projects and programs statewide. The rule making will also include minor amendments to correct errors made in cross-references contained in Subpart 374-2 Standards for the Management of Used Oil, as well as adjustments to language contained in 372.3 Standards Applicable to Transporters related to 10-day temporary storage to be consistent with Part 360 and Part 364 requirements. Contact: Melissa Treers, New York State Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, New York

12233-7260. Telephone: 518-402-8678. Email: SolidWasteRegulations@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 367, Returnable Beverage Containers. This rule making 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 rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Jennifer Kruman, New York State 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 Product Labeling. This rule making 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 the E-Waste take back program resulting from legislation adopted in 2010 for E-Waste management. This rule making will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments, and a Rural Area Flexibility Analysis. Contact: Peter Pettit, New York State 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.

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 Materials Management, 625 Broadway, Albany, NY 12233-7020. Telephone: 518-402-8651. 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, Federal rules that were adopted between July 31, 2013 and the present, which include regulations governing recycling of hazardous materials; electronic manifest requirements; reorganization and updates to regulations pertaining to hazardous waste generators; and may include regulations addressing the management of vehicle air bags, aerosol cans and pharmaceuticals. 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 Materials Management, 625 Broadway, Albany, NY 12233-7020. Telephone: 518-402-8651. E-mail: hwregs@dec.ny.gov Please include 'FedReg6' 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 have 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 Materials Management, 625 Broadway, Albany, NY 12233-7255. Telephone: 518-402-8651. E-mail: Regs.Radiation@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 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: Tom Killeen, New York State Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, New York 12233-7256. Telephone: 518-402-8651. E-mail: derweb@dec.ny.gov Please include 'Part 483' in the subject line when e-mailing.

#### Division of Mineral Resources

6 NYCRR Parts 420, 421, 422, 423, and 425. The Department is proposing to amend 6 NYCRR Parts 420 to 425 to: (1) clarify ambiguous sections; (2) strengthen portions of the regulations; (3) reflect changes in the regulatory fee structure and civil penalties; and (4) reflect changes in scientific knowledge. Amendments to these regulations would be done as one package.

6 NYCRR Part 420, General. Amend current regulations to expand the definitions to include words used to describe abandonment, technical terms associated with blasting, bluestone, and other terms to ensure consistency with the Mined Land Reclamation Law.

6 NYCRR Part 421, Permits. Amend current regulations to: (1) add language requiring a mining termination notice to be filed if a complete renewal application is not received within 30 days of the expiration of the permit; (2) add a section codifying the criteria for determining if an excavation is exempt from requiring a mining permit; (3) update the annual regulatory fee schedule to be consistent with the current rates; and (4) restore the alterations and modifications section for proposed changes that are ministerial in nature.

6 NYCRR Part 422, Mined Land-Use Plan. Amend current regulations to: (1) revise the language for mined land-use plan requirements; (2) add an expanded section describing the required elements for the graphic portion of the mined land-use plan; and (3) add expanded sections addressing dust control, noise control, visual pollution, water resource protection, sediment and erosion control, and blasting.

6 NYCRR Part 423, Reclamation Bond. Amend current regulations to replace the word bond with financial security throughout the section to reflect the variety of financial instruments that may satisfy the need for financial assurance for reclamation.

6 NYCRR Part 425, Civil Penalties. Amend current regulations to change civil penalties amounts to reflect changes made to ECL § 71-1307(1) subsequent to the last revisions to the regulations.

This rulemaking will require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Matthew Podniesinski, New York State Department of Environmental Conservation, Division of Mineral Resources, 625 Broadway, 3rd Floor, Albany, NY 12233-6500. Telephone: 518-402-8076. E-mail: matthew.podniesinski@dec.ny.gov Please include the Part number when emailing.

#### 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 rule making will not require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Tom Shimalla, New York State 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.

#### Division of Water

6 NYCRR Part 485 - State Pollutant Discharge Elimination System (SPDES) Program Fees. The SPDES program fees were changed in 2009 through amendments to ECL section 72-0602. Part 485 would be amended to conform the SPDES fees in regulation to the fees in statute. This rule making may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Carol Lamb-LaFay, New York State Department of Environmental Conservation, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: carol.lamb-lafay@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 502 - Floodplain Management Criteria for State Projects. Revisions would update language to comply with enabling legislation and would update criteria to comply with changes in Federal Emergency Management Agency regulations and New York State Building Code. Part 502 was last updated in 1984. Revisions would include updated definitions, clarifying floodway encroachment requirements, changing lowest floor elevation requirements to reflect the Building Code of New York State, and clarifying the variance application and decision process. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, New York State Department of Environmental Conservation, Division of Water, Albany, NY 12233-3507. Telephone 518-402-8185. E-mail: alan.fuchs@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 505 - Coastal Erosion Management. Part 505 of 6 NYCRR was last amended in March 1988. Revisions would include clarifying definitions, adding new defined terms, and clarifying language regarding regulated activities in natural protective features areas. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Alan Fuchs, New York State Department of Environmental Conservation, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402- 8185. E-mail: alan.fuchs@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 602 - Long Island Agricultural Water Wells. Revisions are needed to reflect that the permit exemption for agricultural water wells on Long Island was eliminated in 1992 by the introduction of paragraph 7 of ECL section 15-1527. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Koon Tang, New York State Department of Environmental Conservation, Division of Water, 625 Broadway, Albany, New York 12233. Telephone: 518-402-8086. E-mail: koon.tang@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR 676 – Salt Storage. A new part would be added to regulate the private and municipal storage of road salt and road salt/sand mixtures. Regulations are needed to protect waters of the state from contamination due to the uncovered storage of road salt and road salt/sand mixtures. The rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Carol Lamb-LaFay, New York State Department of Environmental Conservation, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: carol.lamb-lafay@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Parts 609, and 700 – 706 Water Quality Standards. Revisions would add/revise ambient water quality standards, standard-setting procedures, implementation procedures, and other regulatory provisions. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Scott Stoner, New York State Department of Environmental Conservation, Division of Water, Albany, NY 12233-3502. Telephone 518-402-8193. E-mail: scott.stoner@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 750 - State Pollutant Discharge Elimination System (SPDES) Permits. Revisions are necessary to incorporate new Federal

criteria and standards. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Carol Lamb-LaFay, New York State Department of Environmental Conservation, Division of Water, 625 Broadway, Albany, NY 12233-3505. Telephone: 518-402-8111. E-mail: carol.lamb-lafay@dec.ny.gov Please include the Part number when e-mailing.

6 NYCRR Part 910 - St. Lawrence River Drainage Basin. Revisions would reclassify surface waters as needed to provide water quality protection consistent with designated best usages, as well as the Clean Water Act (CWA) Section 101(a)(2) goals. This rulemaking may require a Regulatory Flexibility Analysis for Small Businesses and Local Governments and a Rural Area Flexibility Analysis. Contact: Scott Stoner, New York State Department of Environmental Conservation, Division of Water, Albany, NY 12233-3502. Telephone 518-402-8193. E-mail: scott.stoner@dec.ny.gov Please include the Part number when e-mailing.

## 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 2019. 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. Part 3 - Amend Part 3 to eliminate the photo image exemption for driver license and permit applicants. This amendment will coincide with current requirements for non-driver identification cards, REAL IDs and Enhanced Driver Licenses (EDLs), as there are no exemptions from photo images relative to these documents.

2. Part 20 - Amend Part 20 to require that the title of a rebuilt salvage vehicle bear the brand "REBUILT SALVAGE" for the life of the vehicle and not for only vehicles that are eight model years old or newer on the date of loss, which is the current language of the regulation. This amendment will benefit consumers by providing them with accurate and valuable historical information about a vehicle.

3. Part 78 - Amend Part 28 to limit motor vehicle dealers that may be exempt from participation in VERIFI (Vehicle Electronic Reassignment and Integrated Facility Inventory) system, and to eliminate various recordkeeping requirements for dealers participating in VERIFI. This amendment will require all newly registered dealers to participate in the VERIFI system, unless they are granted an exemption because of inability to electronically connect to the system, and will relieve VERIFI participating dealers from certain paper recordkeeping requirements.

4. Part 28-Amend Part 28 to require all IRP (International Registration Plan) participants to have all IRP jurisdictions listed on their cab card and to increase the fee when an applicant seeks to decrease the weight of a vehicle. These amendments are technical updates that will conform to changes made in the International Registration Plan.

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

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

3. Amend section 325-1.25 to permit the Chair to require electronic submission of medical bill objections.

4. Amend section 325-1.3 to require providers to electronically submit CMS-1500 medical bills and required medical narratives to workers' compensation insurers/payers, and to establish a hardship exception process for providers who are unable to meet electronic reporting requirements.

5. Add Part 304 describing the process for filing and adjudication of discrimination claims against an employer pursuant to section 120 of the WCL for retaliation in filing of workers' compensation claims.

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, Deputy General Counsel, Workers' Compensation Board, 328 State St., Schenectady, NY 12305-2318, (518) 486-9564, e-mail: regulations@wcb.ny.gov