

REGULATORY AGENDA

Department of Agriculture and Markets

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

DIVISION OF ANIMAL INDUSTRY

Section 45.6: Consider amending section 45.6 to require mandatory depopulation, cleaning, and disinfection of the live poultry markets every 3 months.

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

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

Part 57: Consider repealing sections 57.7 through 57.23 pertaining to the salmonella enteritidis testing program.

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

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

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

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

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

Part 77: Consider amending the standards of care for seized dogs, clarifying the definition of a dog dealer and conforming the means of euthanasia set forth in section 77.3(a) of the regulations to AML section 374(3)(a).

Part 82: Consider adopting pet dealer regulations to establish requirements for the veterinary plan, primary enclosure, whelping box, exercise for the animals, isolation area, ventilation, temperature, and light.

Part 351: Consider amending sections 351.6 and 351.10 to require official identification in the form of USDA approved official RFID ear tags for cattle and swine entering all county fairs and the New York State Fair.

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DIVISION OF FOOD SAFETY AND INSPECTION

Parts 250, 252, 259; sections 261.8, 261.9, 262.1, 265.1, 266.1,

267.1, 271-4.7, 271-5.3(h), 271-5.3(j), 271-5.4(g); and Parts 277, 279, 280 and 281: Consider amending these Parts/sections to incorporate by reference the most recent Federal regulations (2016).

Part 271: Consider repealing section 271-2.2(f), regarding the inspection by an approved mushroom identification expert of mushroom species picked in the wild prior to sale.

Part 271: Consider amendments to section 271-7.30, to require the posting of a sign near each entrance of a store indicating "No Animals (Other Than Service Animals) Allowed."

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

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DIVISION OF MILK CONTROL AND DAIRY SERVICES

Part 2: Consider amendments in order to regulate camel's milk.

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

Section 2.8: Consider amendments to establish quality standards for raw milk cheeses.

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DIVISION OF PLANT INDUSTRY

Parts 106 and 107: Consider updating seed potato certification standards for foundation and certified classes to reflect advances in plant disease testing and to set standards and tolerances for a group of bacterial pathogens known by the common name "blackleg."

Part 151: Consider amendments to reflect current technical practices in the analysis of commercial fertilizer as published in the latest version of the rules of the Association of Plant Food Control Officials.

Part 159: Consider amendments to the industrial hemp regulations to align them with the current version of Article 29 of the Agriculture and Markets Law and agency practices in the Industrial Hemp Program.

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BUREAU OF WEIGHTS AND MEASURES

Section 220.1: Consider removing the requirement for commercial devices to have NYS approval and only use approval through the National Conference on Weights and Measures (NCWM). Also consider removing the associated \$100 fee paid by private industry in section 220.12(a)(2).

Section 220.2: Consider adopting national standards for the specifications, tolerances, and regulations for commercial weighing and measuring devices as published in the 2018 edition of NIST Handbook 44.

Section 220.3: Consider allowing municipal weights and measures officials to charge an additional fee if a seal on a device is broken and adjustments are made.

Section 220.5: Consider removing terminal rack meters from the list of devices which municipal weights and measures officials are mandated to test.

Section 220.5: Consider allowing the Federal Milk Market Administrator to perform calibrations of milk holding tanks independently, without the involvement of local W&M offices.

Section 220.5: Consider amendments to remove timing devices from the list of devices which municipal weights and measures officials are mandated to test.

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

Section 221.11: Consider adopting national standards for the checking of the net contents of packaged goods as published in the 2019 edition of NIST Handbook 133.

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

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State Commission of Correction

As required by Chapter 262 of the Laws of 1996, the following is a list of rules which were adopted by the State Commission of Correction in calendar years 1999, 2009, and 2014 which must be reviewed in calendar year 2019. There were no rules that were adopted in 2004. Public comment on the continuation or modification of these rules is invited. Comments should be received by April 1, 2019. Comments may be directed to: Deborah Slack-Bean, Associate Attorney, A.E. Smith State Office Building, 80 S. Swan Street, 12th Floor, Albany, New York 12210-8001.

CMC-12-99-00013-A Amendment of subdivision (a) of section 7032.2 and addition of a new subdivision (c) to section 7006.9 of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to authorize local correctional facilities to impose a disciplinary surcharge, not to exceed \$25, upon inmates found guilty of misbehavior and addition of surcharges as a non-grievable issue.

Legal basis for the rule: Correction Law sections 45(6) and 42(b)(1).

CMC-17-99-00003-P Repeal of section 7009.7, renumbering of section 7009.8 to 7009.7, amendment of section 7009.2, amendment of subdivision (a) of paragraph (1) of section 7009.5 and amendment of subdivision (a) of section 7009.6 of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to streamline the provisions and ensure that prisoners are provided with nutritionally adequate diets.

Legal basis for the rule: Correction Law section 45(6).

CMC-44-98-00008-P Renumber Part 7400 of Title 9 NYCRR to Part 7202 of Title 9 NYCRR, Redesignated Chapters III and IV of Title 9 NYCRR to Chapters IV and V of Title 9 NYCRR, respectively, designating Parts 7400 to 7499 of Title 9 NYCRR as Chapter III and amendment of subparagraph (i) of paragraph (3) of subdivision (c) of section 7202.4, as renumbered.

Analysis of the need for the rule: The rule is needed to establish a

new Chapter III of Title 9 NYCRR for Minimum Standards and Regulations for Management of Office of Children and Family Services' Secure Facilities for Juvenile Offenders.

Legal basis for the rule: Correction Law section 45(6-b).

CMC-31-09-00005-P Amendment of Part 7016 and the addition of section 7016.2 of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to allow for automated and electronic deposits to inmate institutional fund accounts in county correctional facilities.

Legal basis for the rule: Correction Law section 45(6) and 45(15).

CMC-10-09-00001-P Addition of new Chapter III of Subtitle AA of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to enact minimum standards and regulations for the management of secure facilities operated by Office of Children and Family Services.

Legal basis for the rule: Correction Law section 45(6-b) and 45(10).

CMC-36-14-00013-A Amendment of sections 7013.4 and 7013.6 of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to conform Commission of Correction inmate classification regulations to the amended provision of Correction Law.

Legal basis for the rule: Correction Law sections 45(6), 45(15) and 500-(b)(6).

Office for People with Developmental Disabilities

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act (SAPA), notice is provided of the following rules that the Office for People With Developmental Disabilities (OPWDD) is considering proposing, but for which a rule making proceeding has not begun. All following references to regulatory provisions are to Title 14 of the New York Code of Rules and Regulations. Please note that the regulatory plans of OPWDD are subject to change. OPWDD reserves the right to add, delete, or modify items appearing on this list. Further, as indicated in SAPA section 202-d (2), OPWDD is not required to propose or adopt any rule listed on a regulatory agenda and may propose or adopt a rule that has not been listed on an agenda.

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

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

The following rules are under consideration for submission as a Notice of Proposed Rulemaking during the calendar year 2019:

DESCRIPTION OF THE RULE SUBJECT MATTER Title 14 NYCRR (Mental Hygiene)

Freedom of Information Law - to update the Freedom of Information regulations.

Advanced Healthcare Directives - to allow an individual with an advanced healthcare directive to authorize his/her health care agent to commence decision-making immediately upon the execution of a health care proxy.

Objection to Services Updates - to streamline and standardize processes for objecting to services.

Plan of Care Supports and Services (PCSS) Liability Regulations - to add Plan of Care Supports and Services as a covered service under OPWDD's Liability regulations.

Life Safety Code - to implement a recent update in the Life Safety.

Conflict of Interest and Case Management Requirements - to address potential conflicts with service delivery and service coordination.

Person-Centered Planning - to amend requirements to ensure consistency with person-centered planning regulations.

Supported Decision-Making - to implement supported decision-making practices.

Delegation of Nursing Tasks to Direct Support Professionals - to implement changes to the Nurse Practice Act.

Enrollment Authorization for Independent Practitioner Services for Individuals with Developmental Disabilities - to allow authorization of providers' enrollment into Independent Practitioner Services for Individuals with Developmental Disabilities.

Repeal Rate Appeal Processes - to repeal processes for appealing rate methodologies as this function now rests with the Department of Health.

Repeal of Rate Setting Authority - to repeal rates and rate setting methodologies as rulemaking authority for rates now rests with the Department of Health.

Intermediate Care Facilities (ICF) Closure and Conversions - to require ICF conversion compliance as necessary.

Home and Community Based Services (HCBS) Requirements Settings - to define HCBS requirements for all services.

Day Habilitation with/ without Walls - to define programmatic standards for day habilitation with/ without walls.

Contact Person: Mary Beth P. Babcock, Deputy Counsel, Office for People With Developmental Disabilities, Office of Counsel, Bureau of Policy and Regulatory Affairs, 44 Holland Ave., 3rd Fl., Albany, NY 12229, (518) 474- 7700, Marybeth.p.Babcock@opwdd.ny.gov

This agenda is also posted on the OPWDD website at: www.opwdd.ny.gov

