

## Key Regulatory Changes Affecting Small Businesses — July 1, 2016 through June 30, 2017

<b><u>Agency:</u></b>	Department of Environmental Conservation
<b><u>Title/Section(s):</u></b>	Distributed Generation Sources That Feed the Distribution Grid or Produce Electricity for Use at Host Facilities or Both – 6 NYCRR – Amendment of Part 200 and Subpart 227-2; Addition of Part 222
<b><u>State Register I.D. No:</u></b>	ENV-51-15-00004-A
<b><u>Filing Date:</u></b>	November 1, 2016
<b><u>Effective Date:</u></b>	30 days after filing
<b><u>Summary:</u></b>	<p>This regulation establishes emission limits for Distributed Generation (DG) sources. These amendments and additions apply to owners and operators of DG sources where the potential Oxides of Nitrogen (NO<sub>x</sub>) emissions are below the major source threshold and that have maximum mechanical output ratings of 200 horsepower (hp) or greater in New York City metropolitan area or 400 hp or greater elsewhere in the state. Owners and operators of DG sources subject to an emission limit(s) must conduct an initial emissions test to demonstrate compliance with the emission limits. Additional testing must be conducted at a frequency of once every 10 years. Also the regulation requires owners and operators of DG sources to notify the Department of Environmental Conservation (DEC) 60 days prior to testing and to submit a copy of the test report to DEC within 60 days following the test. Records of the emission test must be maintained and made available to the DEC.</p>
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**Agency:** Office of Children and Family Services

**Title/Section(s):** Youth Development Program Funding and Implementation – 9  
NYCRR – Repeal of Subparts 165-1 and 165-2; and Addition of  
New Subpart 165-1

**State Register I.D. No:** CFS-49-15-00005-A

**Filing Date:** August 1, 2016

**Effective Date:** August 17, 2016

**Summary:** This regulation implements statutory changes regarding youth development program funding and implementation. This repeals the rule as it pertains to the Special Delinquency Prevention Programs (SDPP) and Youth Development and Delinquency Prevention (YDDP) services; adds the rules for implementing new youth development programs; and stream lines the funding for the youth development programs by providing a single stream of funding to replace multiple funding streams.

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**Agency:** Department of Health

**Title/Section(s):** Controlled Substances for EMS Agency Agent and Requirements for Advanced Life Support System – 10 NYCRR – Amendment of Sections 80.136 and 800.5

**State Register I.D. No:** HLT-30-15-00008-A

**Filing Date:** June 30, 2016

**Effective Date:** July 20, 2016

**Summary:** This regulation amends the regulations regarding EMS agency agent and the requirements for an advanced life support system. These amendments add a requirement that Advanced Life Support (ALS) agencies providing Critical Care and/or Paramedic level service must be licensed to purchase, possess, deliver and administer controlled substance medications as per state approved regional protocols; and specifies that the factors set forth in Correction Law §753 will be utilized when making a determination whether to grant the application to an applicant who has a criminal conviction.

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**Agency:** Workers' Compensation Board

**Title/Section(s):** Stipulations – 12 NYCRR – Amendment of Section 300.5

**State Register I.D. No:** WCB-45-15-00019-A

**Filing Date:** October 14, 2016

**Effective Date:** November 2, 2016

**Summary:** This regulation allows for permitting parties to a workers' compensation claim to enter into stipulations in accordance with agreements reached outside of a hearing. The amendment allows for the Workers' Compensation Law Judge, in controverted claims, to make a reasoned decision upon the contested points by an oral statement which shall be entered into the minutes of the hearings, or may be in a written and signed statement which shall be filed with the papers in record. Parties to any claim before the board may stipulate, in writing and shall be signed by all parties so stipulating, to uncontested facts or proposed findings. When a claimant is represented, a stipulation may be made either as an oral statement on the record at a hearing or in writing outside of a hearing. A written stipulation must be submitted using the form or format prescribed by the Chair of the Workers' Compensation Board.

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**Agency:** Department of Financial Services

**Title/Section(s):** Regulating Transaction Monitoring and Filtering Systems  
Maintained by Banks, Check Cashers and Money Transmitters – 3  
NYCRR – Addition of Part 504

**State Register I.D. No:** DFS-50-15-00004-A

**Filing Date:** June 30, 2016

**Effective Date:** January 1, 2017

**Summary:** This regulation ensures that the financial system is not used for purposes of money laundering or other suspicious activities, terrorist financing, or sanctions violations. This addition clarifies the required attributes of a Transaction Monitoring and Filtering program and to require that the Board of Directors or Senior Officer(s), as applicable, of each Regulated Institution submit to the Superintendent annually a Board Resolution or Compliance Finding confirming the steps taken to ascertain compliance by the Regulated Institution with this regulation.

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**Agency:** Department of Labor

**Title/Section(s):** Employer Imposed Limitations on the Inquiry, Discussion, and Disclosure of Wages – 12 NYCRR – Addition of Part 194

**State Register I.D. No:** LAB-03-16-00009-A

**Filing Date:** January 19, 2017

**Effective Date:** February 1, 2017

**Summary:** This regulation sets forth standards for limitations on inquiry, discussion, or the disclosure of wages amongst employees. This addition sets forth that an employer may, in a written policy provided to an employee either electronically, through publicly available posting, or by paper copy, place reasonable limitations on the time, place and manner that an employee may inquire about, discuss, or disclose wages. An employer shall not impose restrictions on employees in such a way that unreasonably or effectively precludes or prevents inquiry, discussion, or disclosure of wages at the worksite and/or during work hours, directly or in practice.

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**Agency:** Department of Health

**Title/Section(s):** Hospice Operational Rules – 10 NYCRR – Amendment of Parts 700, 717, 793 and 794

**State Register I.D. No:** HLT-06-16-00005-A

**Filing Date:** August 10, 2016

**Effective Date:** August 31, 2016

**Summary:** This regulation is to implement hospice expansion. These amendments define hospice patient as a person certified as being terminally ill, who, alone or in conjunction with designated family member(s), has voluntarily requested admission and been accepted into a hospice for which the Department of Health (DOH) has issued a certificate of approval; clarifies that nothing provided herein shall be constructed to require provision of services to a patient that are not covered by the patient’s payment source; increases the maximum bed capacity from 8 to 16 beds in a free standing hospice residence; set forth patient rights for hospice patients and requires alleged violations for mistreatment, neglect or abuse to be investigated and reported to the state; set forth requirements for a patient complaint investigation process and emergency plan; and requires hospices to obtain and maintain a Health Commerce System account as a communication link with DOH.

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**Agency:** Department of State

**Title/Section(s):** Facility Requirements for Businesses Which Offer Appearance Enhancement Services – 19 NYCRR – Amendment of Section 160.16

**State Register I.D. No:** DOS-22-15-00017-A

**Filing Date:** August 30, 2016

**Effective Date:** October 3, 2016

**Summary:** This regulation increases the ventilation standards for businesses which offer appearance enhancement services. This amendment improves working conditions and air quality standards in places of business which offer nail specialty services to protect workers, patrons and the public at large; and ensures that all new appearance enhancement businesses that open after October 3, 2016 will be required to satisfy the requirement and existing appearance enhancement businesses established before October 3, 2016 will all within the following five years meet the same standards that new businesses will be required to meet.

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**Agency:** Department of Agriculture and Markets

**Title/Section(s):** Species of Ash Tree, Parts Thereof and Products and Debris Therefrom, Which Are at Risk for Infestation by the Emerald Ash Borer – 1 NYCRR – Repeal of Section 141.2 and Addition of New Section 141.2

**State Register I.D. No:** AAM-25-16-00006-A

**Filing Date:** August 16, 2016

**Effective Date:** August 31, 2016

**Summary:** This regulation expands and combines the 14 existing restricted zones where the Emerald Ash Borer (EAB) infestation exists. This repeal and addition extends and combines the 14 restricted zones into eight restricted zones, as follows: Binghamton, Montezuma, Nichols, Syracuse and Unadilla remain unchanged; the City of Rome is a new restricted zone; Bath, Buffalo, Livingstonville, Randolph, Rochester and Sheridan are expanded and combined into a new Western Region; and Albany/Rensselaer, Mid-Hudson and West Point are expanded and combined into a new Hudson Valley Region. This regulation is necessary to protect the general welfare, since the effective control of EAB in the restricted zones set forth in this rule is important to protect New York’s nursery, forest products industry, urban and suburban street trees and forest resources; to balance pest risk against economic impacts as the EAB control program transitions to a management program; and limit the human assisted spread of EAB through the unrestricted movement of infested material during flight season.

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**Agency:** Department of Financial Services

**Title/Section(s):** Workers' Compensation Safe Patient Handling Program – 11 NYCRR – Addition of Subpart 151-7 (Regulation 119)

**State Register I.D. No:** DFS-29-16-00020-A

**Filing Date:** November 8, 2016

**Effective Date:** November 23, 2016

**Summary:** This regulation implements the requirements with regard to safe patient handling programs. This addition requires a health care facility to establish a safe patient handling program on or before January 1, 2017; and establishes the requirements for health care facilities to obtain a reduced workers' compensation insurance rate for safe patient handling programs implemented pursuant to Public Health Law on or before July 1, 2016.

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**Agency:** Department of State New York State Athletic Commission

**Title/Section(s):** Conduct and Regulation of Authorized Combative Sports – 19 NYCRR – Repeal of Parts 205 through 217; and Addition of New Parts 206 through 214

**State Register I.D. No:** ATH-28-16-00018-A

**Filing Date:** August 31, 2016

**Effective Date:** September 21, 2016

**Summary:** This regulation establishes a new Article in the General Business Law entitled “Combative Sports”, effective September 1, 2016, provides that combative sports legally undertaken in this state are subject to the licensing and regulatory authority of the Commission. These additions seek to protect combatants in all combative endeavors by establishing insurance minimums for some and vesting in the Commission the discretion to establish them for others; ensure appropriate protections for the health and safety of combative sports athletes and the integrity in athletic competition; prevent abuses in the business practices with the covered industries; provide reasonable requirements for the licensure of professional boxing and mixed martial arts promoters, ringside personnel and combatants; and provides for the authorization of third party entities to verse the conduct of certain authorized combative sports including, kickboxing, wrestling (which is distinguished from “professional wrestling”, amateur mixed martial arts, and the martial arts of Judo, Tae Kwon Do, Karate and Kempo.

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**Agency:** Office of Children and Family Services (OCFS)

**Title/Section(s):** Child Day Care Safety Enforcement and Administrative Hearings Regulations – 18 NYCRR – Amendment of Section 413.3 and 413.5

**State Register I.D. No:** CFS-30-16-00001-A

**Filing Date:** September 13, 2016

**Effective Date:** September 28, 2016

**Summary:** This regulation amends child day care safety regulations and administrative hearing regulations pertaining to child day care safety enforcement. These amendments relate to the issuance of written inspection reports which include corrective action plans and request to submit a corrective action plan and notices of intention to initiate enforcement through the imposition of a fine or the limitation, suspension, termination, revocation, or denial of a license or registration; requests to the Attorney General to take such action as is necessary to collect civil penalties, seek criminal prosecution, or to bring about compliance with any outstanding hearing decision or order; publication in local newspapers of the names and addresses of child day care licensees or registrants whose licenses, registrations or applications for licensure or registration have been rejected, denied, limited, suspended, terminated or revoked, or against whom a fine has been assessed after administrative hearing; authorization to assess the health and safety of the children in the other program (s) owned and/or operated by a child care provider when an enforcement action has been initiated; violations are subject to a fine; require the child day care program to immediately post upon receipt in a prominent place at the program that is visible to parents a copy of the most recent inspection report issued to the program and if possible on the program’s website; and entitle the applicant, licensee or registrant to hearing before any child care license or registration is suspended, revoked, denied, or before civil penalties are imposed, however, a license or registration will be temporarily suspended or limited without a hearing upon written notice following a finding that public health, or an individual’s safety or welfare are in imminent danger.

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**Agency:** Department of Environmental Conservation

**Title/Section(s):** Rule Making to Implement Environmental Conservation Law – 6 NYCRR – Amendment of Parts 621 and 750

**State Register I.D. No:** ENV-26-16-00013-A

**Filing Date:** October 20, 2016

**Effective Date:** November 9, 2016

**Summary:** This regulation implements the reporting, notification and recordkeeping requirements described in Environmental Conservation Law. These amendments relate to the Sewage Pollution Right to Know Act (SPRTK) for Public Owned Treatment Works (POTWs) and operators of Publicly Owned Sewer Systems (POSSs) are required to report untreated and partially treated sewage discharges to the New State Department of Environmental Conservations (DEC) and the local health department, or if there is none, the New York State Department of Health, immediately, but in no case later than two hours from discovery of the discharge. Partially treated sewage discharged directly from a POTW that is in compliance with a DEC approved plan or permit does not need to be reported. SPRTK specifies the necessary minimum content of these two hour reports to the extent the information is knowable with existing systems and models. These amendments also require owners and operators of POTWs and POSSs to submit daily reports for each day that the discharge continues after the date that the initial discharge report is made. On the day the discharge terminates, a termination report may be made in lieu of the daily reports. This amendment establishes a registration program for POSSs and obligates owners and operators of these facilities to comply with specified reporting and notification requirements.

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**Agency:** Office of Temporary and Disability Assistance

**Title/Section(s):** Operational Plans for Uncertified Shelters for the Homeless – 18 NYCRR – Addition of New Section 352.39

**State Register I.D. No:** TDA-39-16-00006-A

**Filing Date:** January 17, 2017

**Effective Date:** February 11, 2017

**Summary:** This regulation requires social services districts to submit to the Office of Temporary and Disability Assistance for review and approval operational plans and closure reports for each publicly-funded emergency shelter that does not fall within the scope of Section 352.3 (e)-(h), Part 491 or Part 900. This addition sets forth that a social services district may be reimbursed for costs incurred for emergency shelters and services provided by emergency shelters subject to this section only when the emergency shelters are operated pursuant to operational plans that have been approved by the Office of Temporary and Disability Assistance (Office); a separate operation plan must be submitted by the social services district for each emergency shelter for which the district seeks reimbursement, or for each portfolio of emergency shelters where the emergency shelters within the portfolio are operated by a single operator and are comprised of individual apartment units within residential apartment buildings, and the operators are reimbursed by the social services district on a per diem basis; and in the event that an operator elects to close an emergency shelter falling within the scope of this section, the social services district shall notify the Office in writing at least 120 days prior to the anticipated closure and the notice shall include a proposed plan for closure.

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**Agency:** Office of Temporary and Disability Assistance

**Title/Section(s):** Child Support – 18 NYCRR – Amendment of Section 347.19

**State Register I.D. No:** TDA-37-16-00001-A

**Filing Date:** January 17, 2017

**Effective Date:** February 1, 2017

**Summary:** This regulation helps ensure the State’s compliance with the federal rules for safeguarding confidential information, disclosing said information, where appropriate, to authorized persons and entities for authorized purposes, and reporting of delinquent child support payors to credit reporting agencies. This amendment clarifies what information is to be safeguarded and what uses are permitted for child support purposes and details when disclosure of location information is not permitted due to the risk of family violence; addresses the limitations on disclosure to third parties, including other government agencies or programs; provides instructions on the manner in which to respond to court ordered disclosure and identify the penalties for unauthorized use or disclosure; to existing rules regarding reporting child support arrears to consumer reporting agencies; and clarifies the rules setting out the threshold requirement for reporting child support arrears and the process for challenging the support collection unit’s determination to make such a report.

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**Agency:** Department of State

**Title/Section(s):** Signs on Buildings Utilizing Truss Type, Pre-Engineered Wood or Timber Construction – 19 NYCRR – Amendment of Sections 1264.4(b), (e), 1265.3(c), (d), (h), (j), (k), 1265.5(e)(3)(i) and (ii)

**State Register I.D. No:** DOS-40-16-00029-A

**Filing Date:** December 16, 2016

**Effective Date:** January 4, 2017

**Summary:** This regulation makes amendments in the manner required to reflect the recent amendment and update of the State Uniform Fire Prevention and Building Code (the Uniform Code). The amended and updated version of the Uniform Code became effective on October 3, 2016. These amendments require the placement of a sign or symbol on commercial structures that utilize truss-type construction; and requires placement of a sign or symbol on residential structures that utilize truss-type, pre-engineered wood or timber construction.

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**Agency:** Department of State

**Title/Section(s):** Sugarhouse Alternative Activity Provisions – 19 NYCRR – Amendment of Part 1219; and Addition of Part 1228

**State Register I.D. No:** DOS-46-16-00007-A

**Filing Date:** January 24, 2017

**Effective Date:** February 8, 2017

**Summary:** This regulation allows alternative activities which support the maple product industry to be conducted in sugarhouses. This amendment will enhance the health, safety and security of owners, operators and employees of sugarhouses which are used for activities which are not normally conducted in a sugarhouse but which support the maple product industry and will enhance the health, safety, and security of members of the public who participate in such alternative activities. Prior to commencing an alternative activity, the building owner must obtain a permit from the Authority Having Jurisdiction (AHJ). Before a permit is issued, the sugarhouse must satisfy certain health and safety requirements. The duration of a permit shall not exceed 60 days, consecutive or otherwise, within a 12 month period and no alternative activity shall be conducted after daylight hours unless an approved lighting source is provided.

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**Agency:** Department of Environmental Conservation

**Title/Section(s):** Sportfishing (Freshwater) and Associated Activities – 6 NYCRR – Amendment of Sections 10.2, 10.3, 10.7 and 10.9

**State Register I.D. No:** ENV-39-16-00011-A

**Filing Date:** January 18, 2017

**Effective Date:** April 1, 2017

**Summary:** This regulation revises sportfishing regulations and associated activities. These amendments include the commercial collection, sale and use of baitfish.

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**Agency:** Department of Agriculture and Markets

**Title/Section(s):** Growth, Cultivation, Sale, Distribution, Transportation, and Processing of Industrial Hemp – 1 NYCRR – Amendment of Part 159

**State Register I.D. No:** AAM-47-16-00005-A

**Filing Date:** January 17, 2017

**Effective Date:** February 1, 2017

**Summary:** This regulation allows industrial hemp to be sold, distributed, transported and processed. This amendment sets forth the rules for the authorization to grow and cultivate industrial hemp and industrial hemp seeds, which may not be possessed, grown, cultivated, sold, distributed, transported, or processed unless an application therefor has been submitted to and authority has been granted by the Department of Agriculture and Markets’ Commissioner; only an institution of higher education may submit an application to the Commissioner for authorization to grow, cultivate, possess, sell, distribute, transport, or process industrial hemp and it shall be made upon a form prescribed by the Commissioner and include an application fee of \$500; industrial hemp may only be grown, cultivated, or processed upon registered premises; the Commissioner may decline to grant authority to grow, cultivate, process, (and market) sell, distribute, transport, and possess industrial hemp, and may revoke or decline to renew an authorization to grow, cultivate, possess, sell, distribute, transport, and process industrial hemp; and the authorization to grow and cultivate industrial hemp shall be for a period of three years from the date application therefor was approved by the Commissioner, who may grant or renew an authorization to grow and cultivate industrial hemp for a period of more than three years if he or she determines that the issues and matters that applicant or authorization holder intends to study or is studying cannot be adequately and fully studied within three years from the date that authorization is granted or renewed.

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**Agency:** Department of Financial Services

**Title/Section(s):** Commercial Crime Coverage Exclusions – 11 NYCRR – Addition of Part 76 (Regulation 209)

**State Register I.D. No:** DFS-41-16-00012-A

**Filing Date:** December 6, 2016

**Effective Date:** July 1, 2017

**Summary:** This regulation prohibits certain insurance exclusions for loss/damage caused by an employee previously convicted of criminal offense. This addition sets forth that no policy issued, renewed or delivered in this state that provides commercial crime coverage may exclude or limit coverage for loss or damage caused by an employee on the basis that the employee was convicted of one or more criminal offenses in this state or any other jurisdiction prior to being employed by the employer, if, after learning about an employee’s past criminal conviction or convictions, the employer made a determination to hire or retain the employee utilizing the factors set out in Correction Law Article 23-A.

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**Agency:** Department of Financial Services

**Title/Section(s):** Minimum Standards for the Form and Rating of Family Leave Benefits Coverage, Including the Establishment and Operation of a Risk – 11 NYCRR – Addition of Part 363 (Regulation 211)

**State Register I.D. No:** DFS-08-17-00009-A

**Filing Date:** May 16, 2017

**Effective Date:** May 31, 2017

**Summary:** This regulation implements statutory mandates for family leave benefits coverage set forth in Insurance Law and Workers' Compensation Law. This addition establishes that family leave benefits coverage must be community rated and may be subject to a risk adjustment mechanism; establishes the procedures for establishing the community rate, a risk adjustment mechanism; and rules relating to the content and sale of policy forms for family leave benefits coverage, the maximum employee contribution, and date collection.

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