

Key Regulatory Changes Affecting Small Businesses — July 1, 2020 through June 30, 2021

<u>Agency:</u>	Department of Environmental Conservation
<u>Title/Section(s):</u>	Stationary Combustion Installations – 6 NYCRR – Repeal of Subpart 227-1; Addition of New Subpart 227-1
<u>State Register I.D. No:</u>	ENV-36-19-00003-A
<u>Filing Date:</u>	January 26, 2021
<u>Effective Date:</u>	30 days after filing
<u>Summary:</u>	<p>This regulation updates permit references, rule citations, monitoring, recordkeeping, reporting requirements, and lower emission limits. This repeal and addition applies to stationary combustion installations except for those stationary combustion installations that are subject to new source performance standards under 40 Code of Federal Regulation (CFR) 60 and/or national emissions standards for hazardous air pollutants under 40 CFR 63, where the particulate matter standards established in the above regulations are equal to or more stringent than the particulate matter emission standards established in this Subpart; and establishes opacity in which no owner or operator shall operate a stationary combustion installation which exhibits greater than 20 percent opacity (six-minute overage), except for on six-minute period per hour of not more than 27 percent capacity.</p>
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Agency: Department of Environmental Conservation

Title/Section(s): Repeal and Replacement of 6 NYCRR Part 230 Gasoline Dispensing Sites and Transport Vehicles – 6 NYCRR – Amendment of Part 200; Repeal of Part 230; Addition of New Part 230

State Register I.D. No: ENV-06-20-00018-A

Filing Date: January 12, 2021

Effective Date: 30 days after filing

Summary: This regulation further reduces harmful volatile organic compounds (VOCs) emitted into the atmosphere. This amendment, repeal and addition proposes to further reduce VOC source emissions from gasoline dispensing facilities (GDFs) and transport vehicles across New York State by adopting EPA’s control measures for federal enhanced Stage I vapor recovery, submerged fill, dual-point vapor control systems, new performance test requirements and best management practices outlined in 40 Code of Federal Regulation (CFR) 63, which will provide better vapor capture efficiency during the loading of gasoline storage tanks at GDFs to address the requirements in the current New York State Fire Code and minimize the generation of gasoline vapors caused by splash loading. It also includes the removal of Stage II vapor recovery systems due to the equipment incompatibility with onboard refueling vapor recovery (ORVR) systems.

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Agency: Department of Environmental Conservation

Title/Section(s): Sulfur-In Fuel Limitations – 6 NYCRR – Amendment of Subpart 225-1

State Register I.D. No: ENV-05-20-00008-A

Filing Date: January 5, 2021

Effective Date: 30 days after filing

Summary: This regulation limits sulfur in liquid and solid fuels throughout New York State. This amendment imposes limits on the sulfur content of distillate oil, residual oil, and coal fired in stationary sources; adds process sources and incinerators as stationary emission sources; and also lowers the sulfur-in-fuel limit for waste oil.

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Agency: Department of Environmental Conservation

Title/Section(s): Consumer Products – 6 NYCRR – Amendment of Parts 200 and 235

State Register I.D. No: ENV-06-20-00019-A

Filing Date: January 12, 2021

Effective Date: 30 days after filing

Summary: This regulation reduces Volatile Organic Compounds (VOCs) emissions from consumer products used in the average household. This amendment will reduce VOCs emissions, improve air quality, and promote regional product consistency to help New York State attain federal National Ambient Air Quality Standards, and work toward regionally consistent regulations amongst the Ozone Transport Commission (OTC) states; and includes setting VOC content limits for nine new product categories: aromatic compound; artist’s solvent or thinner; automotive windshield cleaner; high temperature coating; industrial maintenance coating; paint thinner; sanitizer; temporary hair color; and zinc rich primer, and lowering the VOC content limits for ten existing product categories: contact adhesive; electronic cleaner; fabric protectant; floor polish or wax; general purpose cleaner; general purpose degreaser; lubricant; multi-purpose solvent; oven or grill cleaner; and rubber or vinyl protectant.

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Agency: Department of Environmental Conservation

Title/Section(s): Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology for Heavy Duty Vehicles – 6 NYCRR – Amendment of Part 248

State Register I.D. No: ENV-05-20-00001-A

Filing Date: October 20, 2020

Effective Date: 30 days after filing

Summary: This regulation is updated to meet with statutory deadline. This amendment updates: compliance dates; the definition of heavy duty vehicle to incorporate changes made to the New York State Vehicle and Traffic Law; and clarifies the reporting period for regulated entities and their prime contractors to assist regulated entities and contractors in complying with the requirements. These changes apply to state agencies and public authorities (regulated entities) and their prime contractors statewide and require Best Available Retrofit Technology (BART) and the use of Ultra Low Sulfur Diesel (ULSD) fuel on all covered vehicles to reduce exhaust emissions from older diesel powered vehicles (including on-road and off-road) with engine models years older than 2007 are subject to BART and ULSD requirements, and includes exemptions for certain vehicles used in certain situations (emergency, agriculture, non-road construction, timber).

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Agency: Department of Health

Title/Section(s): Hospital Indigent Care Pool Payment Methodology – 10 NYCRR – Amendment of Section 86-1.47

State Register I.D. No: HLT-40-20-00002-A

Filing Date: January 29, 2021

Effective Date: February 20, 2021

Summary: This regulation develops an indigent care distribution methodology for calendar years through 2022. This amendment implements an extension to the methodology that the Department of Health uses to determine the Indigent Care Pool payments, eliminates the transition payment afforded to all hospital receiving the pool payments, and creates a transition payment pool for Enhanced Safety Net Hospitals as enacted in Public Health Law (PHL), which would extend the transition payments for another calendar year, in conformance with amendments to PHL Section 2807- k(5-d).

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Agency: Department of Health

Title/Section(s): Nursing Home Case Mix Rationalization – 10 NYCRR – Amendment of Section 86-2.40(m)

State Register I.D. No: HLT-04-20-00011-A

Filing Date: May 17, 2021

Effective Date: June 2, 2021

Summary: This regulation authorizes the Department to change the case mix acuity process for all nursing homes. This amendment makes subsequent case mix adjustments to the direct component of the price for rate periods effective after January 1, 2012 shall be made in July and January of each calendar year and shall use Medicaid-only case mix data applicable to the previous case mix period; case mix adjustments to the direct component of the price for facilities for which facility specific case mix data is unavailable or insufficient shall be equal to the base year previous case mix of the peer group applicable to such facility; adjustments and related patient classifications for each facility shall be subject to audit review by the Office of the Medicaid Inspector General and/or other agents as authorized by the Department; and the operator of a proprietary facility, an officer of a voluntary facility, or the public official responsible for the operation of a public facility shall submit to the Department a written certification, in a form as determined by the Department, attesting that all of the “minimum data set” (“MDS”) data reported by the facility for each census roster is complete and accurate, in the event the MDS reported results in a percentage change in the facility’s case mix index of more than five percent, then the impact of the payment of the Medicaid rate adjustment attributable to such a change in the reported case mix may be limited to reflect no more than a five percent change in such reported data.

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Agency: Department of Environmental Conservation

Title/Section(s): Certain Substances that Contain Hydrofluorocarbons, Highly-Potent Greenhouse Gases – 6 NYCRR – Addition of Part 494

State Register I.D. No: ENV-53-19-00016-A

Filing Date: September 24, 2020

Effective Date: 30 days after filing

Summary: This regulation proposes standards to remove greenhouse gas emission sources that endanger public health and the environment. This addition adopts prohibitions on certain hydrofluorocarbon substances in the specific end-uses identified by the EPA as having safe and available alternatives; requires that certain manufacturers include a written disclosure statement and maintain specific records; provides the mitigation of greenhouse gas pollution; lists the regulated entities as persons who sell, offer for sale, enter into commerce, use, or install the substances in specific end uses that would be prohibited pursuant to this rule, and also provides that except in the case of retrofitted equipment, this rule does not apply to products or equipment containing a prohibited substance acquired or manufactured prior to the applicable prohibition dates; lists the prohibitions on certain hydrofluorocarbon substances in specific end-uses; exempts certain hydrofluorocarbon substances in specific end-uses from the prohibitions listed that include medical, industrial, military, space, and aviation end-uses that may not have safe and available alternatives; mandates certain manufacturers to provide a label or written disclosure statement to buyers regarding the regulated substances and established prohibitions; and requires certain manufacturers maintain specific records, including records pertaining to the sale and type of product or equipment containing regulated substances in the specific end-uses.

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Agency: Department of Health

Title/Section(s): Cardiac Services – 10 NYCRR – Amendment of Section 709.14

State Register I.D. No: HLT-53-19-00011-A

Filing Date: September 15, 2020

Effective Date: September 30, 2020

Summary: This regulation amends the existing Certificate of Need requirements for approval of adult cardiac surgery centers. This amendment requires that a facility proposing to initiate an adult cardiac surgery center must document a cardiac patient base and current cardiac interventional referrals sufficient to support a project annual volume of at least 300 cardiac surgery cases and a projected annual volume of at least 36 emergency Percutaneous Coronary Intervention (PCI) cases within two years of approval.

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Agency: Department of Health

Title/Section(s): Reducing Annual Tuberculosis Testing of Health Care Workers –
10 NYCRR – Amendment of Sections 404.12, 405.3, 415.27, 751.6,
763.13, 766.11, 794.3 and 1001.11

State Register I.D. No: HLT-04-20-00002-A

Filing Date: December 1, 2020

Effective Date: December 16, 2020

Summary: This regulation reduces the annual tuberculosis testing of health care workers requirements. These amendments require for all personnel prior to employment or affiliation, except for personnel with no clinical or patient contact responsibilities who are located in a building or site with no patient care services, an initial individual tuberculosis (TB) risk assessment, symptom evaluation, and TB test (either tuberculin skin test or Food and Drug Administration (FDA) approved blood assay for the detection of latent tuberculosis infection), and annual assessments thereafter; positive findings shall require appropriate clinical follow-up; medical staff shall develop and implement policies regarding positive findings, including procedures for facilitating and documenting treatment for latent TB infection where indicated; and annual TB assessment shall include education, individual risk assessment, and follow-up tests as indicated.

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Agency: Department of Environmental Conservation

Title/Section(s): The Department’s Operating Permit Program – 6 NYCRR – Amendment of Parts 200, 201, 212 and 621

State Register I.D. No: ENV-17-20-00005-A

Filing Date: January 26, 2021

Effective Date: 30 days after filing

Summary: This regulation improves the clarity and consistency of the Department’s operating permit program. These amendments propose to revise the Department’s Operating Permit Programs by revising the definition of “emergency power generating stationary internal combustion engine” to allow operation for more than 500 hours during a declared state disaster emergency as defined under Section 28 of the New York State Executive Law; modifies the definition of “combustion installation” and adds the definitions of “fossil fuel” and “furnace”; corrects minor language inconsistencies; removes outdated references that refers to air state facility permits; clarifies the public noticing requirements for air permits containing emission caps; addresses toxic emissions from the iron and steel industry and includes an alternative toxic impact assessment method, reflects the latest toxicological information, permissible emission rates; and additions are made to specify certain criteria that owners or operators of research and development activities must meet to qualify for exemption from permitting requirements.

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Agency: New York State Thruway Authority

Title/Section(s): Toll Rate Adjustments on the New York State Thruway System – 21 NYCRR – Amendment of Section 101.2; Repeal of Section 101.4; and Addition of New Section 101.4

State Register I.D. No: THR-01-20-00031-A

Filing Date: December 1, 2020

Effective Date: January 1, 2021

Summary: This regulation provides for toll rate adjustment necessary to finance the Authority’s capital plan and comply with the relevant requirement of the General Revenue Bond Resolution and the Authority’s Fiscal Management guidelines. This amendment, repeal and addition provides for toll rate adjustments on the controlled system and at fixed barriers along the New York State Thruway to provide the funds necessary to finance the Authority’s multi-year capital plan to perform necessary maintenance and operations and to comply with the relevant portions of the Authority’s General Revenue Bond Resolution and Fiscal Management Guidelines with toll rate adjustments to be fully implemented by January 1, 2022.

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Agency: Department of Environmental Conservation

Title/Section(s): Emission Statements – 6 NYCRR – Amendment of Subpart 202-2

State Register I.D. No: ENV-17-20-00006-A

Filing Date: November 3, 2020

Effective Date: 30 days after filing

Summary: This regulation is to require electronic submittal of annual emission statements beginning in 2022. This amendment establishes the requirements for annual emission statements filed by facilities requiring electronic submittal, which will be phased in beginning with Title V permits issued in 2021; establishes that by reporting year 2025, all emission statements will be subject to the electronic submittal requirement; a responsible official must sign a form or other legal instrument provided by the department to certify the emission statement information; establishes the following deadlines for submitting emission statements under the new electronic submittal requirement: a) March 15th of each year for facilities with three (3) or fewer processes listed in their Title V permit; b) March 31st of each year for facilities with four (4) to six (6) processes listed in their Title V permit; c) April 15th of each year for facilities with seven (7) to twelve (12) processes listed in their Title V permit; or d) April 30th of each year for facilities with thirteen (13) or more processes listed in their Title V permit; and sets forth situations in which emission statements may be submitted via courier instead of electronic submittal: a) when data cannot be labeled as confidential business information using the Department’s electronic interface; or b) a facility receives permission from the Department after demonstrating a need to submit via courier due to a failure of the electronic reporting interface.

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Agency: Department of Taxation and Finance

Title/Section(s): Property Tax Levy Limits for School Districts in Relation to Certain Costs Resulting from Capital Local Expenditures – 20 NYCRR – Addition of Part 8300

State Register I.D. No: TAF-02-20-00001-A

Filing Date: December 11, 2020

Effective Date: December 20, 2020

Summary: This regulation implements Education Law 2023-a relating to certain costs resulting from capital local expenditures of school districts. This addition allows school districts to include in their capital local expenditures their allowable share of additional budgeted capital expenditures made by a Board of Cooperative Educational Services (BOCES).

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Agency: Department of Health

Title/Section(s): Maximum Contaminant Levels – 10 NYCRR – Amendment of Subpart 5-1

State Register I.D. No: HLT-30-19-00006-A

Filing Date: August 13, 2020

Effective Date: August 26, 2020

Summary: This regulation incorporates Maximum Contaminant Levels (MCLs) for perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS) and 1,4-dioxane. This amendment establishes MCLs for these contaminants and proposes an MCL of 0.0000100 mg/L for PFOA and PFOS as individual contaminants, and 0.0010 mg/L for 1,4-dioxane. These MCLs will apply to all public water supplies regulated by the Department and provide a sufficient margin of protection against adverse health effects in the most sensitive populations, including fetuses during pregnancy, breastfed infants, and infants bottle fed with formula reconstituted using tap water; in addition, the MCLs provide a sufficient margin of protection for lifetime exposure through drinking water for the general population.

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Agency: Department of Environmental Conservation

Title/Section(s): New Source Review Requirements for Proposed New Major Facilities and Major Modifications to Existing Facilities – 6 NYCRR – Amendment of Part 231

State Register I.D. No: ENV-06-20-00020-A

Filing Date: January 26, 2021

Effective Date: 30 days after filing

Summary: This regulation is to conform to federal New Source Review (NSR) rule requirements and related court rulings, correct typographical errors, and clarify rule language. This amendment does not substantially alter the requirements for the permitting of new and modified major stationary sources which are currently in effect in New York State; and leaves intact the major NSR requirements for application of Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) as appropriate, modeling, and emission offsets; Greenhouse Gases (GHGs) alone will not trigger NSR permitting requirements, but GHGs will only be subject to NSR if the new or modified facility is subject to the Prevention of Significant Deterioration provisions and GHGs emissions are greater than the significant project threshold; Global Warming Potentials will also be updated to match EPA’s current list in their Mandatory Greenhouse Gas Reporting rule; the specified precursors for particulate matter or particles with an aerodynamic diameter less than or equal to 2.5 micrometers (PM-2.5) will be removed and replaced with generic references to applicable precursors and the Significant Monitoring Concentration for PM-2.5 will be replaced with a value of zero; new or modified major facilities will still have to undertake applicability reviews and in appropriate cases submit permit applications and undertake control technology reviews.

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Agency: Department of Environmental Conservation

Title/Section(s): Regulations Governing Commercial Fishing of Quota Managed Species – 6 NYCRR – Amendment of Part 40

State Register I.D. No: ENV-04-20-00004-A

Filing Date: November 20, 2020

Effective Date: December 9, 2020

Summary: This regulation is to improve efficiency, reduce waste, and increase safety in marine commercial fisheries. This amendment adds the “Multi-state possession limit” to mean the sum of: (i) the commercial trip limit in New York State for a designated quota-based species and (ii) the commercial trip limit for the same species in cooperating states from which the Program participant has privileges to land the designated quota-based species; “Cooperating states” means states other than New York that have enacted reciprocal rules enabling commercial fishermen licensed by that state to participate in the Program, and that have provided notice to the department of intent to cooperatively participate in the Program; and “Program” means the Cooperative Multi-State Possession and Landing Program, which at the discretion of the Department, allows the holder of a commercial food fish license, in accordance with this section, to simultaneously possess trip limits for the designated quota-based species for New York and other cooperating states and land the appropriate trip limit for that species in each of the cooperating states.

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Agency: Department of Environmental Conservation

Title/Section(s): CO2 Budget Trading Program – 6 NYCRR – Amendment of Parts 200 and 242

State Register I.D. No: ENV-17-20-00007-A

Filing Date: December 1, 2020

Effective Date: 30 days after filing

Summary: This regulation lowers the emissions cap established under Part 242. These amendments are designed to reduce anthropogenic emissions of carbon dioxide (CO2), a greenhouse gas (GHG), from CO2 budget sources in an economically efficient manner; and includes a reduction in the annual CO2 emission budgets, the creation of an Emissions Containment Reserve (ECR), the elimination of two offset categories, and an expansion of applicability to certain units that serve an electricity generator with a nameplate capacity equal to or greater than 15 MW; and reduce the annual base budgets by nearly 30 percent for the period 2020-2030.

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Agency: Department of Health

Title/Section(s): Communicable Diseases Reporting and Control – Adding Severe or Novel Coronavirus – 10 NYCRR – Amendment of Sections 2.1 and 2.5

State Register I.D. No: HLT-08-20-00001-A

Filing Date: June 11, 2020

Effective Date: July 1, 2020

Summary: This regulation requires physicians, hospitals, nursing homes, Diagnostic and Treatment Centers (D&TCs) and clinical laboratories to report instances of severe or novel coronavirus. These amendments designate that when used in the Public Health Law, the term infectious, contagious or communicable disease, shall be held to include the diseases and any other disease which the commissioner, in the reasonable exercise of his or her medical judgment, determines to be communicable, rapidly emergent or a significant threat to public health, provided that the disease which is added solely by the commissioner’s authority shall remain on the list only if confirmed by the Public Health and Health Planning Council at its next scheduled meeting; and requires physicians to submit specimens for laboratory examination in cases, or suspected cases of certain communicable diseases, and the physician in attendance on a person affected with or suspected of being affected with any of the diseases designated by the commissioner shall submit to an approved laboratory, or to the laboratory of the State Department of Health, for examination of such specimens as may be designated by the commissioner, together with data concerning the history and clinical manifestations pertinent to the examination.

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Agency: Department of Environmental Conservation

Title/Section(s): Regulations Governing Sharks, Atlantic Cod and Squid – 6 NYCRR – Amendment of Part 40

State Register I.D. No: ENV-11-20-00004-A

Filing Date: July 2, 2020

Effective Date: July 22, 2020

Summary: This regulation revises the rules concerning the commercial fishing and harvest of sharks, Atlantic cod and squid in New York State waters. This amendment affects the following: (1) Atlantic cod – open season is for all year, the minimum length is 19”, trip limit to 50 pounds, and any amount of Atlantic cod legally harvested from waters outside the state may be possessed on board vessels transiting state waters and may be landed in New York at any time, and persons on such vessels may not fish for Atlantic cod in state waters while utilizing this transit provision; (2) Squid – it is unlawful for any person to take or land ‘Illex’ or Longfin Squid for commercial purposes without having in possession a valid New York State commercial food fish license, the Department may establish trip limits to prevent excessive harvest in New York State waters, such trip limits shall be enforceable upon 72 hours written notice to license holders; (3) Sharks - Fork Length (FL) means that length measured in a straight line from the tip of the nose snout of the shark to the end of the middle caudal fin to the center of the fork of the tail of the shark, it shall be unlawful for any recreational angler to take, or to possess on the waters of the marine and coastal district, as defined in ECL section 13-0103, or the shores thereof, or anywhere inland from such shores, any shark species other than those listed in the regulation.

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Agency: Energy Research and Development Authority

Title/Section(s): CO2 Allowance Auction Program – 21 NYCRR – Addition of Sections 507.2(f), (g), (h); Amendment of Section 507.4(d)

State Register I.D. No: ERD-19-20-00012-A

Filing Date: December 14, 2020

Effective Date: December 30, 2020

Summary: This regulation is for the continued administration and implementation of the CO2 allowance auctions and programs under Part 507. This addition and amendment is designed to complement revisions proposed by the Department of Environmental Conservation to the CO2 Budget Trading Program, and provide for the Authority’s implementation of the CO2 Allowance Auction Program, by incorporating the Cost Containment Reserve, a regulatory flexibility and market stability mechanism, in a manner that will complement the revised Program; by incorporating the Emissions Containment Reserve, a market mechanism designed to secure additional emissions reductions if allowances fall below an established trigger price, in a manner that will complement the revised Program; to incorporate the directives of the recently enacted Climate Act into the definition of the Energy Efficiency and Clean Energy Technology Account; and to allow the Authority to use the proceeds of the CO2 Allowance Auctions to fund and promote programs that are consistent with the Climate Act.

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Agency: Department of Financial Services

Title/Section(s): Corporate Governance – 11 NYCRR – Addition of Part 90 (Regulation 215)

State Register I.D. No: DFS-11-20-00001-A

Filing Date: July 31, 2020

Effective Date: September 18, 2020

Summary: This regulation requires an authorized insurer to adopt a corporate governance framework and file an annual disclosure. This addition requires an insurer to (1) adopt a corporate governance framework that is appropriate for the nature, scale, and complexity of the insurer, which an insurer may satisfy if it is a member of a system and the system has a corporate governance framework; (2) submit electronically to the Superintendent of Financial Services (“Superintendent”) by December 1, 2020 a corporate governance annual disclosure applicable to the insurer and the holding company system of which it is a member; (3) submit to the Superintendent one hard copy of the corporate governance annual disclosure in 2020 and starting in 2021, the insurer must file by June 1 of each year an amended version of its previously submitted corporate governance annual disclosure indicating in the disclosure, using tracked changes, where the insurer made changes and file a copy of the amended disclosure without any tracked changes shown; if the insurer did not make any changes, then the insurer must file with the Superintendent the corporate governance annual disclosure filed with the Superintendent the previous year and must state that the insurer did not make any changes; (4) maintain and make available documentation and supporting information upon examination or upon the Superintendent’s request. A corporate governance annual disclosure must include the signature of the chief executive officer or corporate secretary, attesting to the best of his or her knowledge and belief that the insurer or its system has implemented the corporate governance framework, and that a copy of the corporate governance annual disclosure has been provided to the insurer’s or system’s board of directors or the appropriate committee thereof, or if there is no board of directors, then to the insurer’s or system’s governing body.

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Agency: Department of Financial Services

Title/Section(s): Reverse Mortgage Loans – 11 NYCRR – Repeal of Part 70; Addition of New Part 79

State Register I.D. No: DFS-12-20-00002-A

Filing Date: July 13, 2020

Effective Date: July 29, 2020

Summary: This regulation is to implement Real Property Law Section 280-b. This repeal and addition provides the scope of the regulation; contain definitions of terms; provide that only licensed or exempt entities may make reverse mortgage loans; describe the financial responsibility requirements that must be met by licensees and information that must be provided by exempt organization before the department will grant them authority to do reverse mortgage loans; specify the events that permit the mortgagee to terminate the mortgage, notice and disclosure requirements required to accelerate the mortgage, and the homeowner’s rights to cure any events of default; outline the fees, costs and payments that lenders and brokers may charge applicants or borrowers at or before closing; specify enhanced disclosures that must be provided to applicants; and set forth (1) the requirements and restrictions concerning the advertising of reverse mortgage loans; (2) various requirements and limitations on lenders; (3) cover loan-to-value ratio limitations and financial fitness assessments of applicants and related “set aside account” provisions for certain loans; (grant consumers a right to cancel for three (3) business days after the issuance of a commitment (4) a mortgagor’s obligations to maintain the real property securing the reverse mortgage loan and the creditor’s remedies if the mortgagor fails to maintain the property; (5) counselling requirements for prospective borrowers; (6) a list of prohibited conduct that could subject lenders and brokers to administrative penalties if violated; (7) provisions concerning the payment of real estate taxes and insurance for a mortgaged property and the respective rights and obligations of mortgagors and mortgagees.

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Agency: Department of Environmental Conservation

Title/Section(s): Regulations Governing Commercial Fishing for Tautog (Blackfish) – 6 NYCRR – Amendment of Part 40

State Register I.D. No: ENV-12-20-00001-A

Filing Date: January 12, 2021

Effective Date: January 27, 2021

Summary: This regulation is to revise the regulations concerning the commercial harvest of Tautog in New York State. This amendment sets forth (1) the “tautog tagging season”, which means the period of time when commercial tautog tags may be applied to legally harvested tautog and shall run from April 16 through January 25; and (2) “commercial tagging requirements”, which all commercially harvested tautog must be tagged with a single use serialized tag as specified by the department, possession of a valid food fish license is required to be eligible to order tags and a tag order must be submitted and approved by the department before any tags can be issued, maximum number of tags that may be issued in a single tag order is the highest historical number of tautog reported as landed in one calendar year by the license holder during one of the previous three calendar years immediately preceding the year of issue, food fish license holders harvesting tautog must also include the following information in their trip reports: the tautog tag serial numbers used for the trip, the weight of the tautog (in pounds), and the number of tautog taken.

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Agency: Department of Environmental Conservation

Title/Section(s): Amendments to New York State Mink, Muskrat, and Beaver Trapping Season Dates – 6 NYCRR – Amendment of Sections 6.1 and 6.2

State Register I.D. No: ENV-22-20-00004-A

Filing Date: November 4, 2020

Effective Date: November 25, 2020

Summary: This regulation is to align existing mink, muskrat and beaver trapping season start dates and adjust the seasons to trapper-preferred dates. These amendments sets forth that no person shall trap beaver, otter, mink or muskrat except during the open trapping seasons corresponding to the listed wildlife management units, or parts of units; this rulemaking will align the start dates of these closely-linked seasons and adjust the seasons to trapper-preferred start and end dates, and will allow for easier enforcement of regulations and reduce confusion among trappers going afield.

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Agency: Department of Environmental Conservation

Title/Section(s): Regulations Governing Commercial and Recreational Fishing for Striped Bass – 6 NYCRR – Amendments Of Parts 10 and 40

State Register I.D. No: ENV-15-20-00015-A

Filing Date: August 3, 2020

Effective Date: August 19, 2020

Summary: This regulation governs commercial and recreational fishing of striped bass. These amendments set forth the species for commercial fishing, striped bass; open season, May 15 through December 15; minimum length or slot limit, not less than 26” nor greater than 38”; and trip limit, in the area east of a line drawn due north from the mouth of Wading River Creek and east of a line at 73 degrees 46 minutes west longitude, which is near the terminus of East Rockaway Inlet.

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Agency: Office of Temporary and Disability Assistance

Title/Section(s): New York State Combined Application Project (NYSCAP) – 18 NYCRR – Amendment of Section 387.1 and Addition of new Section 387.24

State Register I.D. No: TDA-16-20-00012-A

Filing Date: February 3, 2021

Effective Date: February 24, 2021

Summary: This regulation implements the New York State Combined Application Project (NYSCAP), a new combined application project for recipients of Supplemental Security Income (SSI) benefits, who have been designated as “Live-Alone” by the Social Security Administration and State-funded SSI State Supplement Program. This amendment and addition codify enhanced access to nutrition benefits for one of the State’s most vulnerable populations, the elderly and disabled by having information about SSI applicants electronically transferred to the Office of Temporary and Disability Assistance (OTDA) from the SSA, via the State Data Exchange (SDX), which is then used by the OTDA to automatically issue SNAP benefits to the project-eligible individuals once their SSI is approved; households will then be automatically notified of their enrollment in the SNAP via the NYSCAP, which includes an overview of the NYSCAP, an explanation of their rights and responsibilities under the NYSCAP, instructions for accessing benefits, and provisions for submitting documentation to support the receipt of a higher SNAP benefit; and NYSCAP-eligible are not required to complete an application or an eligibility interview, they are entitled to a certification period of 36-months, and they are not required to report any changes other than responding to the NYSCAP SNAP Benefit Interim Report (Interim Report), which is distributed to the household approximately 18 months prior to the end of the certification period.

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Agency: Lake George Park Commission

Title/Section(s): Amendment of Stormwater Regulations Within the Lake George Park – 6 NYCRR – Amendment of Subpart 646-4

State Register I.D. No: LGP-29-20-0006-A

Filing Date: March 2, 2021

Effective Date: April 1, 2021

Summary: This regulation sets more adequately control and minimize pollutants found in stormwater runoff from going into Lake George. This amendment sets forth that: the logging and agricultural activities, which exceed stormwater jurisdictional disturbance thresholds (5,000 square feet) must have a soil conservation plan submitted to the Commission or the local municipality administering stormwater regulations 15 days prior to commencement of the subject activity, and small scale residential silvicultural activity, which is for private use and results in less than 5 cords of wood annually, is exempt from having to provide a soil conservation plan; fertilizer applications action within Lake George Park, no person shall apply or authorize the application of lawn fertilizers within 50 feet of any waterbody, excepting newly established lawn areas during their first growing season; standard setback for stormwater facilities for residential projects action create a standard 35 foot setback to water resources for all infiltration devices serving residential projects; and stormwater retrofits for ‘minor’ project applications action for all jurisdictional development projects in the basin to mitigate stormwater discharges from all existing impervious areas on the property through retrofitting practices to the maximum extent practicable, but for not less than one-half inch of precipitation.

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Agency: Department of Environmental Conservation

Title/Section(s): Regulations Governing the Recreational Harvest of Bluefish – 6 NYCRR – Amendment of Part 40

State Register I.D. No: ENV-21-20-00003-A

Filing Date: September 17, 2020

Effective Date: September 30, 2020

Summary: This regulation govern the recreational harvest of bluefish. The amendment ensures that New York State maintains compliance with the requirements of the Atlantic States Marine Fisheries Commission’s (ASMFC) and the Mid-Atlantic Fishery Management Council’s (MAFMC) Fishery Management Plan (FMP) for bluefish by lowering the recreational possession limit for bluefish in accordance with the FMP provisions to 3 fish for private anglers and shore-based fishermen, and 5 fish for anglers fishing from for-hire vessels were approved by the ASMFC and MAFMC; thereby, achieving the required reduction in recreational harvest of bluefish.

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Agency: Workers' Compensation Board

Title/Section(s): EDI System Updates – 12 NYCRR – Amendment of Sections 200.22 and 300.23

State Register I.D. No: WCB-23-20-00004-A

Filing Date: March 25, 2021

Effective Date: January 24, 2022

Summary: This regulation requires carriers to report certain credits take for payments to claimants; biannual reports; EDI 3.1 updates. These amendments update the reporting requirements for carriers, self-insured employers and third-party administrators to reflect the new national standard adopted by the International Association of Industrial Accident Boards and Commissions (IAIABC), the new eClaims program update will provide greater efficiency and data capturing, allowing for a smoother process for claims payment; and seek to avoid confusion, including requiring carriers to report certain credits taken for payments to claimants, and guidance about when biannual reports are due.

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Agency: Office of Children and Family Services

Title/Section(s): To Implement and Enforce Emergency Health Guidance As Put Forward by the Executive Chamber and Department of Health – 18 NYCRR – Addition of Sections 414.15, 415.12, 416.15, 417.15, 418-1.15, and 418-2.15

State Register I.D. No: CFS-24-20-00014-A

Filing Date: September 21, 2020

Effective Date: October 7, 2020

Summary: This regulation implements and enforces emergency health guidance as put forward by the Executive Chamber and Department of Health (DOH). These additions set forth (1) each school age child care program, eligible provider, group family day care; family day care home; day care center; and small day care center must operate in compliance with all emergency health guidance promulgated by the DOH in the interest of public health during a designated public health emergency, provided that, during a designated public health emergency, any relevant emergency directives from the executive chamber or from the DOH shall supersede regulations of the Office of Children and Family Services in the case of any conflict.

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Agency: Office of Children and Family Services

Title/Section(s): Medical Reviews for Child Placement – 18 NYCRR – Amendment of Sections 421.16, 442.18 and 443.2; Repeal of Section 448.2(c)(3); and Addition of new Section 448.39(c)(3)

State Register I.D. No: CFS-24-20-00001-A

Filing Date: September 1, 2020

Effective Date: September 16, 2020

Summary: This regulation modernizes the requirements for medical reviews so that required standards not act as a barrier for child placement. This amendment, repeal and addition modernize the requirements for medical reviews that are a condition precedent for the approval of adoptive parents, certification, approval and renewal of foster homes and for initial and continued employment in certain residential foster care programs so that the required standards not act as a barrier to foster care placements, adoptive placements or certain individuals employed by public or non-profit entities licensed by Office of Children and Family Services (OCFS) to provide residential services to foster children as child caring institutions or group homes; enact a new standard that is based on what poses a health and safety risk to children based on an assessment by a qualified and licensed medical professional; and standardize the requirements for the medical evaluations to determine physical and mental fitness for an individual to care for children in connection to adoption home studies, foster home certification, approval and renewal and evaluation for initial and continuing employment for child caring institutions and group homes and are aligned with the regulatory requirements used to determine physical and mental fitness for persons to act as non-residential childcare providers in New York State.

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Agency: Department of State

Title/Section(s): Siting Permits for Major Renewable Energy Facilities Pursuant to Executive Law Section 94-c – 19 NYCRR – Addition of Subparts 900-1 through 900-5 and 900-7 through 900-15

State Register I.D. No: DOS-37-20-00015-A

Filing Date: February 24, 2021

Effective Date: March 3, 2021

Summary: This regulation establishes procedural requirements for permits for siting, design, construction & operation of major renewable energy facilities. These additions contain the provisions related to basic procedures for pre-application consultations with the Office of Renewable Energy Siting (ORES) and other state agencies, filing, service and publication of notice of an application; the required contents of a complete application; requirements for applicants transferring from Article 10 or another alternate permitting process; the ORES's processing of an application; the establishment and administration of the local agency account; amending an application; notice and conduct of public hearings; issuance of a final determination by the ORES; submission and review of compliance filings, modification, transfer or relinquishment of permits; enforcement and other miscellaneous provisions.

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Agency: Office of Children and Family Services

Title/Section(s): Implement Rules Regarding Release of Original Birth Certificate or Related Identifying Information to Adult Adopted and other Specific Persons – 18 NYCRR – Amendment of Sections 421.4(b), 421.11(g)(3), (4), 466.4(a)(3); Addition of Sections 421.4(g), 421.11(g)(5), and 421.18(p)

State Register I.D. No: CFS-03-21-00004-A

Filing Date: April 20, 2021

Effective Date: May 5, 2021

Summary: This regulation implements rules regarding release of original birth certificate or related identifying information to adult adopted and other specific persons. These amendments and additions make conforming changes to New York State regulations relating to access by adult adopted persons and other specified individuals to a certified copy of the adopted person’s original long form birth certificate or where access to such certificate is not possible, to identifying information otherwise contained in the original long form birth certificate; require local departments of social services (LDSSs) and voluntary authorized adoption agencies (VAs) to inform biological parents and prospective adoptive parents of the right of an adopted person 18 years of age or older, or the direct line descendants of the deceased adopted person, or the lawful representative of such adopted person or the lawful representative of such deceased adopted person’s direct line descendants, to apply for and receive the adopted person’s original birth certificate from the commissioner of the New York State Department of Health (NYSDOH), the commissioner of the New York City Department of Health and Mental Hygiene (NYCDOHMH), an applicable local registrar or any person so authorized by such commissioner or local registrar; and provide for LDSSs and VAs to provide identifiable information, as available, regarding the adult adopted person and the adopted person’s birth parents to the persons specified above where the original birth certificate was unavailable from NYSDOH, NYCDOHMH, applicable local registrars or any person so authorized by NYSDOH, NYCDOHMH or local registrar.

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Agency: Department of Health

Title/Section(s): Development of Mental Health and Substance Use Disorder Parity Compliance Programs – 10 NYCRR – Addition of Subpart 98-4

State Register I.D. No: HLT-27-20-00007-A

Filing Date: September 16, 2020

Effective Date: December 29, 2020

Summary: This regulation establishes standards for a mental health and substance use disorder parity compliance program. This addition establishes mental health and substance use disorder parity compliance program requirements to ensure that managed care organizations (MCOs) are providing coverage for benefits for the treatment of mental health and substance use disorder that is comparable to other health benefits provided by the MCO, as required under both state and federal law; requires that such programs establish corporate governance for parity compliance, identify discrepancies in coverage of services for the treatment of mental health conditions and substance use disorder, provide mental health and substance use disorder training and education for employees and agents, and ensure appropriate identification and remediation of improper practices; and MCOs are required to provide written notification to affected enrollees and the Commissioner regarding any identified improper practice, and failure to remediate improper practices under the rule may result in a civil penalty that would be deposited in a fund established pursuant to State Finance Law.

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Agency: Department of State

Title/Section(s): Siting Permits for Major Renewable Energy Facilities Pursuant to Executive Law Section 94-c – 19 NYCRR – Addition of Subparts 900-1 through 900-5 and 900-7 through 900-15

State Register I.D. No: DOS-37-20-00015-A

Filing Date: February 24, 2021

Effective Date: March 3, 2021

Summary: This regulation establishes procedural requirements for permits for siting, design, construction & operation of major renewable energy facilities. These additions contain the provisions related to basic procedures for pre-application consultations with the Office of Renewable Energy Siting (ORES) and other state agencies, filing, service and publication of notice of an application; the required contents of a complete application; requirements for applicants transferring from Article 10 or another alternate permitting process; the ORES's processing of an application; the establishment and administration of the local agency account; amending an application; notice and conduct of public hearings; issuance of a final determination by the ORES; submission and review of compliance filings, modification, transfer or relinquishment of permits; enforcement and other miscellaneous provisions.

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Agency: Department of Financial Services

Title/Section(s): Mental Health and Substance Use disorder Treatment Parity Compliance Program – 11 NYCRR – Addition of Part 230 (Regulation 128)

State Register I.D. No: DFS-27-20-00002-A

Filing Date: September 15, 2020

Effective Date: December 29, 2020

Summary: This regulation establishes mental health and substance use disorder parity compliance program requirements. This addition sets forth that health care plans must adopt and implement a mental health and substance use disorder parity compliance program; the minimum requirements for such program; provisions regarding the prohibition of improper practices and annual certification requirements; and provides for exemptions from electronic filing and submission requirements under limited circumstances.

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Agency: Division of Housing and Community Renewal

Title/Section(s): Schedule of Reasonable Costs for Major Capital Improvements in Rent Regulated Housing Accommodations – 9 NYCRR – Addition of Sections 2102.11, 2202.28, 2502.10, and 2522.11

State Register I.D. No: HCR-26-20-0012-A

Filing Date: January 12, 2021

Effective Date: January 27, 2021

Summary: This regulation provides a schedule of reasonable costs for Major Capital Improvements (MCI) in rent regulated housing accommodations. These additions set forth a reasonable cost MCI and surrounding procedures for its implementation; the schedule for three main categories: (1) major systems, (2) façade, parapet and roof, and (3) other systems; provides that each class of MCI may list more detailed types of capital improvements inclusive of additional eligible cost and will be listed by an appropriate unit of measure; notes that the maximum reasonable costs shall be based on DHCR’s survey of such costs and shall be published and made available in conjunction with the publication of the regulation; provides there will be a review of the schedule every year; the minimal owner requirements for submission, and notes that the MCI submission must meet all other regulatory requirements; the process to seek a waiver of the schedule with categories for (1) non-landmarked buildings, (2) landmarked buildings, (3) work performed under the auspices of another government agency, and (4) emergency capital improvements; the waiver procedures require expert engineering proof and bids with additional and alternative levels of proof where an owner claims emergency work; clarification that owner requests for a waiver shall be made available to the tenants with an opportunity to comment on and contest the waiver; and the denial of a waiver will limit the amount recoverable to that in the reasonable cost schedule, subject to all other MCI recoupment requirements.

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Agency: Department of State

Title/Section(s): Creation of a Cease and Desist Zone Within Kings County – 19 NYCRR – Amendment of Section 175.17

State Register I.D. No: DOS-26-20-00008-A

Filing Date: October 13, 2020

Effective Date: November 1, 2020

Summary: This regulation adopts a cease and desist zone for a designated area within Kings County. This amendment set forth that no licensed real estate broker or salesperson: (1) shall induce or attempt to induce an owner to sell or lease any residential property or to list same for sale or lease by making any representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, age, sex, sexual orientation, disability, gender identity, military status, familial status or any other protected category under any Federal, State or local law applicable to the activities of real estate licensees in New York State; (2)(i) shall solicit the sale, lease, or the listing for sale or lease of residential property after such licensee has received written notice from an owner thereof that such owner or owners do not desire to sell, lease, or list such property. (ii) notice provided under the provisions of this subdivision to a real estate broker shall constitute notice to all associate brokers and salespersons who are employed by the real estate broker; and (3) shall solicit the sale, lease, or the listing for sale or lease of residential property from an owner of residential property located in a designated cease-and-desist zone if such owner has filed a cease-and-desist notice with the Department of State indicating that such owner or owners do not desire to sell, lease, or list their residential property and do not desire to be solicited to sell, lease, or list their residential property.

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Agency: Department of Agriculture and Markets

Title/Section(s): Spotted Lanternfly – 1 NYCRR- Amendment of Part 142

State Register I.D. No: AAM-27-20-00001-A

Filing Date: September 8, 2020

Effective Date: October 8, 2020

Summary: This regulation is to prevent Spotted Lanternfly (SL) infested articles originating in specific counties in New Jersey, Pennsylvania, Maryland, Virginia, West Virginia, and Delaware from entering New York State. This amendment requires a person, prior to moving a “regulated article” into the State to obtain a certificate of inspection that indicates that such article is free of SL.

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Agency: Department of Health

Title/Section(s): Reduce Hospital Capital Rate Add-On and Reduce Hospital Capital Reconciliation Payment – 10 NYCRR – Amendment of Section 86-1.25

State Register I.D. No: HLT-39-20-00003-A

Filing Date: January 20, 2021

Effective Date: February 3, 2021

Summary: This regulation is to include a 5 percent (5%) reduction to the budgeted and actual add-on in Article 28 hospital inpatient reimbursement rates. This amendment sets forth that the budgeted and actual capital per diem rates and acute diagnosis-related group case rates shall be reduced by five percent (5%); additionally, for capital per diem rates reconciled on or after April 1, 2020, if the difference between the budgeted and actual capital per diem rate results in a positive rate adjustment, that rate adjustment shall be reduced by ten percent (10%); conversely, if the difference between the budgeted and actual capital per diem rate results in a negative rate adjustment, that rate adjustment shall be increased by ten percent (10%).

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Agency: Office for People with Developmental Disabilities

Title/Section(s): Operating Certificates – 14 NYCRR – Amendment of Parts 619, 624, 625, 633; Repeal of Sections 635-5.1, 635-5.2 and 635-5.3

State Register I.D. No: PDD-29-20-00002-A

Filing Date: October 1, 2020

Effective Date: October 21, 2020

Summary: This regulation outlines the required operating certificates for providers who intend to provide care coordination and crisis intervention. These amendments and repeals set forth that all facilities and services must be in accordance with certification of need and terms and comply with certification of need and terms of approval requirements by Office for People with Developmental Disabilities.

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Agency: Office of Children and Family Services

Title/Section(s): To Require Districts to Authorize Up to Eight Hours of Child Care Assistance, As Needed, to Assist Parents or Caretakers – 18 NYCRR – Amendment of Part 415

State Register I.D. No: CFS-31-20-00001-A

Filing Date: October 27, 2020

Effective Date: November 10, 2020

Summary: This regulation requires districts to authorize up to eight hours of child care assistance, as needed, to assist parents or caretakers. This amendment sets forth that child care services provided must be reasonably related to the hours of employment, education or training of a child’s caretaker, as applicable, and permit time for delivery and pick-up of the child; must be provided, if needed, to enable an employed caretaker who works non-traditional hours to obtain up to eight hours of sleep if they have a child who is under the age of 6 and not in school for a full day; may be provided, if needed, to enable other employed caretakers who work non-traditional hours to obtain up to eight hours of sleep if the social services district indicates in its Child and Family Services Plan that it will provide such services.

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Agency: Lake George Park Commission

Title/Section(s): Amendment of Stormwater Regulations Within the Lake George Park – 6 NYCRR- Amendment of Subpart 646-4

State Register I.D. No: LGP-43-20-00005-A

Filing Date: March 3, 2021

Effective Date: April 1, 2021

Summary: This regulation establishes permit requirements and standards for the protection of stream corridors in the Lake George Park. This amendment identifies the water course; establishes a required permit for development, land disturbances and land clearing in designated stream corridors; limits construction of impervious surfaces; limits hydromodification of identified stream channels; provides exemptions and waivers; and provides that variances may be pursued through an application.

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Agency: Department of Financial Services

Title/Section(s): Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure – 11 NYCRR – Addition of Section 52.69

State Register I.D. No: DFS-33-19-00004-A

Filing Date: December 7, 2020

Effective Date: April 22, 2021

Summary: This regulation sets the minimum standards for the content of health insurance identification cards. This addition sets forth that every issuer shall provide a health insurance identification card to the primary insured and to each dependent of the primary insured who is 18 years of age or older within 30 days of the effective date of the insured’s or dependent’s coverage, or if the insured or dependent is enrolled retroactively, within 30 days of the retroactive enrollment, under an accident and health insurance policy that provides coverage for comprehensive hospital, surgical and medical care, except coverage that is provided by this State to its employees or retirees or by governmental programs administered by the Commissioner of Health, including Medicaid, Children’s Health Insurance Program, and Essential Plan; an issuer shall post conspicuously on its website the name of the issuer’s health care provider network or networks for the plan and the name of the plan’s formulary, as applicable. names posted on the issuer’s website shall match the names listed on the health insurance identification card; when any information required to be on the card is changed, each issuer shall provide the primary insured and each dependent of the primary insured who is 18 years of age or older and covered under the accident and health insurance policy with a new health insurance identification card upon renewal of the policy; and every issuer, when acting as an administrator on behalf of a group that provides coverage for comprehensive hospital, surgical, and medical care under a self-funded plan, shall, if the issuer’s name appears on any health insurance identification card, include a phrase that reads as follows: “self-funded coverage”.

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Agency: Office of Children and Family Services

Title/Section(s): Requires Training on Adverse Childhood Experiences, Focused on Understanding Trauma and on Nurturing Resiliency – 18 NYCRR – Amendment of Sections 414.14(d), 416.14(f), 417.14(f), 418-1.14(d), 418-2.14(d)

State Register I.D. No: CFS-36-20-00003-A

Filing Date: December 22, 2020

Effective Date: January 6, 2021

Summary: This regulation requires training on Adverse Childhood Experiences (ACEs), focused on understanding trauma and on nurturing resiliency. These amendments requires child care operators, program directors, employees and assistants of family day care homes, group family day care homes, school-age child care programs and child day care centers to receive training of an additional professional development training topic in adverse childhood experiences (ACEs), focused on understanding trauma and on nurturing resiliency, which is necessary to ensure these individuals are better able to respond to the needs of the children in their care, the provider may access training in person (classroom) or online.

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Agency: Department of Financial Services

Title/Section(s): Information Subject to Confidential Treatment Under Section 36.10 of the Banking Law – 3 NYCRR – Addition of Part 7

State Register I.D. No: DFS-36-20-00007-A

Filing Date: March 19, 2021

Effective Date: April 7, 2021

Summary: This regulation creates exemptions for auditors and attorneys to the prior written approval procedure for Banking Law section 36.10. This addition sets forth (1) definitions for the terms: confidential supervisory information; independent auditor; legal counsel; regulated entity; person; and (2) disclosure of confidential supervisor information: general rules, limited exception to prior written approval requirement; exception for client acceptance of new or continuing engagement of independent auditors; exception for affiliates; duty when served; actions of the Department following notice of service; disclosure to government agencies; and intention of the Department not to waive rights.

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Agency: Department of Financial Services

Title/Section(s): Financial Statement Filings and Accounting Practices and Procedures – 11 NYCRR – Amendment of Part 83

State Register I.D. No: DFS-39-20-00025-A

Filing Date: December 14, 2020

Effective Date: December 30, 2020

Summary: This regulation makes technical corrections and clarifications, adds new subdivisions 83.4(t) and (u) and updates incorporated references. This amendment: clarifies that the forms and annual and quarterly statement instructions prescribed by the Superintendent of Financial Services are the forms that have been adopted from time to time by the National Association of Insurance Commissioners (“NAIC”); adopts the most recent edition published by the NAIC of the Accounting Practices and Procedures Manual As of March 2020; and clarifies that the prohibition to loans to officers or directors as set forth in Insurance Law section 1411(f) is modified by the exception to the prohibition set forth in Insurance Law section 1411(h)(2).

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Agency: Office of Children and Family Services

Title/Section(s): Define “Non-School Hours” and “Those Periods of the Year in Which School Is Not in Session” – 18 NYCRR – Amendment of Parts 413 and 415

State Register I.D. No: CFS-36-20-00001-A

Filing Date: December 15, 2020

Effective Date: December 30, 2020

Summary: This regulation includes virtual and/or remote learning as in school hours. This amendment sets forth that non-school hours shall mean any time a specific child is not physically required to be present in school as part of the regular school day, including during virtual and/or remote learning; the periods of the year in which school is not in session shall mean any time a specific child is not physically required to be present in school as part of the regular school day, including during virtual and/or remote learning; and non-school hours shall mean any time a specific child is not physically required to be present in school as part of the regular school day, including during virtual and/or remote learning.

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Agency: Department of Environmental Conservation

Title/Section(s): Deer Hunting Seasons – 6 NYCRR – Amendment of Part a

State Register I.D. No: ENV-36-20-00002-A

Filing Date: January 29, 2021

Effective Date: February 17, 2021

Summary: This regulation establishes a bow and muzzleloader deer hunting season in the Southern Zone during the Christmas and New Year holiday week. This amendment sets forth: (1) season - season dates ; (2) youth firearms – 3 consecutive days beginning on the Saturday of Columbus Day weekend; (3) regular - 23 days beginning on the 3rd Saturday in November; (4) bowhunting - early season: October 1 through the Friday immediately preceding regular season, late season: nine days immediately following the regular season and December 26 through January 1; and (5) muzzleloader - early season: closed, late season: nine consecutive days immediately following the regular season and December 26 through January 1.

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Agency: Public Service Commission

Title/Section(s): Establishing Expedited Requirement for the Siting, Construction and Operation of Major Transmission Facilities – 16 NYCRR – Addition of Subpart 85-3

State Register I.D. No: PSC-48-20-00009-A

Filing Date: April 16, 2021

Effective Date: April 16, 2021

Summary: This regulation is to adopt the memorandum and resolution approving an addition rule. This addition establishes expedited requirements for the siting, construction and operation of major transmission facilities., subject to the terms and conditions set forth in the order to process for proceedings on applications for a major utility transmission facility as defined in Public Service Law that (i) would be constructed within existing rights of way, (ii) the commission determines would not result in any significant adverse environmental impacts considering current uses and conditions existing at the site, or (iii) would necessitate expanding the existing rights-of-way but such expansion is only for the purpose of complying with law, regulations, or industry practices relating to electromagnetic fields.

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Agency: Office of Temporary and Disability Assistance

Title/Section(s): Standard Utility Allowances for the Supplemental Nutrition Assistance Program – 18 NYCRR – Amendment of Section 387.12(f)(3)(v)(a)-(c)

State Register I.D. No: TDA-39-20-00024-A

Filing Date: December 29, 2020

Effective Date: January 13, 2021

Summary: This regulation sets the Standard Utility Allowances (SUAs for the Supplemental Nutrition Assistance Program (SNAP) according to the federally approved SUAs as of October 1, 2020. This amendment set forth the SUAs within New York State as of October 1, 2020, to reflect an increase in fuel and utility costs, which is indicated in the Consumer Price Index (CPI) fuel and utilities values (which includes components for water, sewage and trash collection), specifically, OTDA is amending the standard allowance for heating/ cooling for SNAP applicant and recipient households residing in New York City from \$800 to \$801; the standard allowance for heating/cooling for such households residing in either Nassau or Suffolk Counties and for such households residing in any other county of New York State remain unchanged from FFY 2020 (from October 1, 2019 through September 31, 2020), at \$744 and \$661, respectively; the standard allowances for utilities and telephone also remain unchanged from FFY 2020 through FFY 2021 (from October 1, 2020 through September 31, 2021) across New York State.

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Agency: Department of Environmental Conservation

Title/Section(s): Sanitary Condition of Shellfish Lands – 6 NYCRR – Amendment of Part 41

State Register I.D. No: ENV-42-20-00003-A

Filing Date: February 9, 2021

Effective Date: February 24, 2021

Summary: This regulation reclassifies underwater shellfish lands to protect public health. This amendment is set forth to ensure that shellfish lands are appropriately classified; and to protect public health by preventing the harvest and consumption of shellfish from lands that do not meet minimum standards for certification.

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Agency: Office of Children and Family Services

Title/Section(s): Behavior Health Services for Foster Kids in Congregate Facilities, Elimination of Room Isolation and Operation De-Escalation Rooms – 18 NYCRR – Amendment of Sections 441.4, 441.17, 441.22, and 442.2

State Register I.D. No: CFS-46-19-00002-A

Filing Date: March 15, 2021

Effective Date: March 31, 2021

Summary: This regulation purposes is about the behavior health services for foster kids in congregate facilities, elimination of room isolation and operation de-escalation rooms. These amendments require: child care agencies to develop and maintain policies on agency continuous quality improvement and residents’ personal property; to eliminate the authority of child care agencies to use room isolation, mechanical restraints, pharmacological restraints, and prone holding techniques as a form of restraint of children in foster care; that children cared for in an institution licensed by OCFS receive a post restraint health review; a specified notification of designated persons and agencies of the physical restraint of a child; to conform the process for HIV testing of children in foster care; child care agencies to provide comprehensive behavioral health services to children in foster care who are cared for in a congregate facility (an institution, group residence, group home or agency operated boarding home); the timely development of an individualized crisis intervention plan for each such child; the timely development and update of a treatment plan for children in foster care placed in congregate settings, which would be subject to development and review by a designated treatment team and consultation with other professionals; that child care agencies, where indicated, provide mental, behavioral and substance use/ abuse services to children in foster care placed in congregate facilities on a regular basis; preclude a child care institution from maintaining or operating an isolation room; authorize a child care institution to establish and operate a de-escalation room for the purpose of calming a child in foster care and averting the need for greater intervention, use of the de-escalation room would require the child’s consent; and establish standards for the operation of the de-escalation room, including frequency, staffing, and the composition of the de-escalation room.

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Agency: Division of Criminal Justice Services

Title/Section(s): Use of Force – 9 NYCRR – Amendment of Part 6058

State Register I.D. No: CS-30-19-00010-A

Filing Date: March 16, 2021

Effective Date: March 31, 2021

Summary: This regulation set forth use of force reporting and recordkeeping procedures. This amendment sets forth the use of force reporting procedures to be followed by each county sheriff, the Superintendent of State Police, the chief of every police department which employs police or peace officers, and, by the Division of Criminal Justice Services (Division); that each county sheriff, the Superintendent of State Police, and the chief of every police department, is required to report to the Division any instance or occurrence in which one of its police officers or peace officers employs use of force; clarifies the statute by defining use of force as when a police officer or peace officer; and on an annual basis, the Commissioner of the Division is required to conspicuously publish on the Division’s website a comprehensive report including the use of force information received.

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Agency: Department of Financial Services

Title/Section(s): Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure – 11 NYCRR – Amendment of Part 52 (Regulation 62)

State Register I.D. No: DFS-51-19-00015-A

Filing Date: April 14, 2020

Effective Date: July 28, 2020

Summary: This regulation clarifies discriminatory activities prohibited by and coverages included within preventive care and screening under the Insurance Laws. This amendment clarifies that discrimination prohibited by the Insurance Law includes certain activities, such as including a policy clause that purports to deny, limit, or exclude coverage based on an insured’s sexual orientation, gender identity or expression, or transgender status or designating an insured’s sexual orientation, gender identity or expression, or transgender status as a pre-existing condition for the purpose of denying, limiting, or excluding coverage; clarifies that coverage for preexposure prophylaxis with effective antiretroviral therapy to person who are at high risk of HIV acquisition is included within preventive care and screening; and sets for the timing for coverage of preventive care and screening.

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Agency: Triborough Bridge and Tunnel Authority

Title/Section(s): To Establish a New Crossing Charge Schedule for Use of Bridges and Tunnels Operated by Triborough Bridge and Tunnel Authority – 21 NYCRR – Repeal of Section 1021.1; Addition of New Section 1021

State Register I.D. No: TBA-50-20-00005-A

Filing Date: February 18, 2021

Effective Date: February 18, 2021

Summary: This regulation is for the purpose to raise revenue. This repeal and addition establishes a new crossing charge schedule for use of bridges and tunnels operated by Triborough Bridge and Tunnel Authority.

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Agency: Department of Financial Services

Title/Section(s): Principle-Based Reserving – 11 NYCRR – Amendment of Part 103 (Regulation 213)

State Register I.D. No: DFS-43-19-00017-A

Filing Date: March 11, 2021

Effective Date: March 31, 2021

Summary: This regulation is to prescribe minimum principle-based valuation standards. This amendment adopts the valuation manual and prescribes the rules for valuing statutory reserves subject to the requirements of the valuation manual for individual and group life insurance policies, and annuity contracts.

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Agency: Department of State

Title/Section(s): Fair Housing Requirements for Appraisers and Assistant Appraisers – 19 NYCRR – Amendment of Part 1107

State Register I.D. No: DOS-51-20-00004-A

Filing Date: February 25, 2021

Effective Date: March 17, 2021

Summary: This regulation is to mandate fair housing education as a condition of renewal. This amendment sets forth the standards for continuing education requirements for real estate appraisers and real estate appraiser assistants who hold State licenses or certifications, must successfully complete a course of study in Fair Housing and Fair Lending, or its equivalent, 28 hours of approved continuing education, every two years including the seven-hour National USPAP update course, or its equivalent, in order to renew their licenses or certifications.

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Agency: Office for People with Developmental Disabilities

Title/Section(s): Service Day Duration – 14 NYCRR – Amendment of Section 635-10.5

State Register I.D. No: PDD-37-20-00004-A

Filing Date: March 8, 2021

Effective Date: March 24, 2021

Summary: This regulation is to assist providers in maintaining capacity to operate during the public health emergency. This amendment sets forth that service day duration flexibility for group day habilitation, site-based prevocational, and supplemental group day habilitation service providers during the COVID-19 Public Health Emergency for individuals with developmental disabilities, is necessary to protect the health, safety, and welfare of individuals who receive these service, and helps maintain the capacity of providers to operate during the COVID-19 emergency.

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Agency: Office for People with Developmental Disabilities

Title/Section(s): Medical Consent – 14 NYCRR – Amendment of Section 633.11

State Register I.D. No: PDD-02-21-00005-A

Filing Date: April 12, 2021

Effective Date: April 28, 2021

Summary: This regulation is to assist providers in administering the COVID-19 vaccine. This amendment provides an additional method for obtaining consent for medical treatment, specifically the COVID-19 vaccine, for individuals who lack capacity to consent on their own behalf and lack the support of a guardian or involved family; and expands access to the Consumer Advisory Board for Willowbrook class members and broadens the jurisdiction of a surrogate decision-making panel which already exists in law and in operation, providing efficient access to consent review to this population statewide.

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Agency: State Board of Elections

Title/Section(s): Related to Establishing a Cure Process for Absentee Ballots – 9 NYCRR – Addition of Section 6210.21

State Register I.D. No: SBE-06-21-00015-A

Filing Date: April 30, 2021

Effective Date: May 19, 2021

Summary: This regulation establishes a cure process for absentee ballots. This addition sets forth: (1) curable absentee ballot envelope defects; (2) notice to the voter; (3) form of cure affirmatio; (4) deadlines for cure; (4) determination of cure; (5) notice of any rejection; (6) special provision related to unsealed envelope; (7) signature comparison standards, procedure and training; and (8) additional instructions for absentee ballot envelopes as to circumstances not requiring cure.

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Agency: Office for People with Developmental Disabilities

Title/Section(s): Reimbursement of Waiver Services – 14 NYCRR – Amendment of Subpart 641-1 and Sections 635-4.4 and 635-10.4

State Register I.D. No: PDD-07-21-00003-A

Filing Date: April 20, 2021

Effective Date: May 5, 2021

Summary: This regulation is to conform Office for People with Developmental Disabilities (OPWDD) waiver services to the federally approved waiver agreement. These amendments are to amend calculations of the occupancy adjustment for Individualized Residential Alternatives by eliminating the adjustment based on a system-wide assessment of vacancy utilization, and limiting reimbursement for periods when individuals are not present in those residences; and changes to conform the regulations for OPWDD waiver services to OPWDD’s approved waiver agreement with the federal Centers for Medicare and Medicaid Services.

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Agency: Division of Homeland Security and Emergency Services

Title/Section(s): Minimum Qualifications for Certain Fire Chiefs – 19 NYCRR – Addition of Part 227; Amendment of Section 426.9(h)

State Register I.D. No: HES-08-21-00007-A

Filing Date: May 13, 2021

Effective Date: June 2, 2021

Summary: This regulation establishes minimum qualifications for fire chiefs subject to Civil Service Law Section 58-a and General Municipal Law Section 204-dd. This addition and amendment establishes basic, educational, health and physical fitness training standards for career (civil service) fire chiefs (outside New York City) and fire chiefs in a department with six or more paid (civil service) firefighters in New York State.

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Agency: Workers' Compensation Board

Title/Section(s): Direct Deposit of Compensation Payments – 12 NYCRR – Repeal of Section 300.26; Addition of New Section 300.26

State Register I.D. No: WCB-10-10-00006-A

Filing Date: May 25, 2021

Effective Date: June 9, 2021

Summary: This regulation is to implement the statute requiring direct deposit be available for certain compensation payments. This repeal and addition set forth the requirements for : direct deposit, applicability and requirement for of all carriers, self-insured employers, third-party administrators and special funds; a carrier, self-insured employer, third-party administrator or special fund may set a minimum amount for deposit into any single bank account when such set minimum amount does not exceed \$20 per bi-weekly payment; one-time notice to the injured worker or person entitled to a death benefit of direct deposit; discounting direct deposit or electing direct deposit. Every notice and election for direct deposit shall inform the injured worker or person entitled to a death benefit of the obligation to immediately notify the carrier that in the vent that the injure worker or person entitle to a death benefit is no long entitled to such payment, the carrier shall be immediately notified; and the carrier, self-insured employer, third[-party administrator or special fund may annually request that an injured worker or person entitled to a death benefit certify that they continue to elect payment of workers' compensation benefits by direct deposit.

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