

Key Regulatory Changes Affecting Small Businesses — July 1, 2015 through June 30, 2016

<u>Agency:</u>	Workers' Compensation Board
<u>Title/Section(s):</u>	Health Insurance Matching Program (HIMP) – 12 NYCRR – Repeal of Subpart 325-5 and 325-6; and addition of new Subparts 325-5 and 325-6
<u>State Register I.D. No:</u>	WCB-14-15-00009-A
<u>Filing Date:</u>	March 22, 2016
<u>Effective Date:</u>	June 1, 2016
<u>Summary:</u>	This regulation provides the process for health insurers to recover from workers' compensation carriers. The repeal and addition clarifies and expands the methods of service that are available to the parties for requests for reimbursement, payment, and objections, and for requests for arbitration.
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Agency: Office for People with Developmental Disabilities

Title/Section(s): Implementation of the Protection of People with Special Need Act and Reforms to Incident Management – 14 NYCRR – Amendment of Parts 624, 633, 687; and addition of Part 625

State Register I.D. No: PDD-38-15-00006-A

Filing Date: November 17, 2015

Effective Date: December 2, 2015

Summary: This regulation enhances the protection of people with developmental disabilities served in the Office for People with Developmental Disabilities (OPWDD) system. These amendments and additions are necessary for the preservation of the health, safety, and welfare of individuals with developmental disabilities who are receiving services in the OPWDD system, including a new system for incident management in services operated or certified by OPWDD and new requirements for more comprehensive and coordinated pre-employment background checks.

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Agency: Department of Health

Title/Section(s): Children’s Camps – 10 NYCRR – Amendment of Subpart 7-2

State Register I.D. No: HLT-51-15-00008-A

Filing Date: June 1, 2016

Effective Date: June 22, 2016

Summary: This regulation is to include camps for children with developmental disabilities as a type of facility within the oversight of the Justice Center for the Protection of People with Special Needs (Justice Center). The following requirements apply to camps enrolling campers with a disability, beginning October 1, 2106: for campers who cannot independently manipulate a wheelchair or adaptive equipment , camps must provide at least 1:2 supervision; receive training relevant to specific needs of the campers; obtain and implement, as appropriate, care and treatment plans relevant to the care and specific need of campers; during swimming activities, provide one counselor for each camper who is non-ambulatory or has a disability; provide one counselor for every five developmental disabled camper during swimming activities; obtain parent/guardian’s written permission to allow camper with developmentally disabilities to participate in swimming activities; lavatories showers must be equipped with specialize features and grab bars and water temperature shall not be greater than 110 degrees Fahrenheit; buildings housing non-ambulatory campers shall have ramps to facilitate access and cannot be housed above ground level; and exterior path must constructed and maintained to provide safe travel.

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Agency: Department of Health

Title/Section(s): Standards for Adult Homes and Adult Care Facilities Standards for Enriched Housing – 18 NYCRR – Amendment of Parts 487 and 488

State Register I.D. No: HLT-42-15-00016-A

Filing Date: January 25, 2016

Effective Date: February 10, 2016

Summary: This regulation coordinates and improves the State’s ability to protect those persons having various physical, developmental, or mental disabilities and who are receiving services from various facilities or provider agencies. The facilities include adult homes and enriched housing programs having a capacity of eighty or more beds, and in which at least 25% (twenty-five percent) of the residents are persons with serious mental illness. These amendments add occurrences which would constitute a reportable incident to the list of occurrences; clarify a facility’s obligations regarding what incidents must be investigated; address when reports must be provided; requirement for staff training in the identification of reportable incidents and facility report procedures; provisions of a code of conduct to employees, volunteers, and others providing services at the facility; requirement that certain facilities consult the Justice Center for the Protection of People with Special Needs (Justice Center) for staff exclusion list with regard to prospective employees, volunteers, and others; include investigation of reportable incidents to the administrative obligations of facilities, and to the duties of a case manager; requirement that certain facilities provide certain information to the Justice Center; reporting of certain incidents; and investigation of reportable incidents.

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Agency: Department of Environmental Conservation

Title/Section(s): Petroleum Bulk Storage (PBS) and Used Oil Management – 6 NYCRR – Repeal of Parts 612, 613 and 614; addition of new Part 613; and amendment of Section 370.1 (e)(2) and Subpart 374-2

State Register I.D. No: ENV-31-14-00006-A

Filing Date: September 11, 2015

Effective Date: Part 613 effective 30 days after filing
Section 370.1 (e)(2) and Subpart 374-2 effective 60 days after filing

Summary: This regulation harmonizes existing State requirements with overlapping federal requirements governing PBS facilities in the State. These additions and amendments address requirements for all new tank systems to be updated to reflect the technology and practices that are the current state of the art for the manufacture, installation, and maintenance of PBS tank systems; update to testing requirements to make it easier and more cost-effective for the regulated community to comply with certain sampling and analysis requirements; design, construction, and installation, general operating practices, inspection and leak detection, spill reporting, investigation, and confirmation, tank system closure, and operator training, handling, and storage of petroleum in underground and aboveground storage tank systems; circumstance and process for imposing delivery prohibition, required notifications, and the process for termination of a delivery prohibition; initial spill response, abatement measures, site check, initial site characterization, free product removal, investigation for soil and groundwater cleanup, corrective action plans, and public participation; and used oil regulations, pertaining to acceptance requirement for “service establishments” and “retail establishments” that a tank that does not meet certain minimal standards may be “tagged”, which means that delivery of used oil into the tank would be prohibited.

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Agency: Department of Environmental Conservation

Title/Section(s): Chemical Bulk Storage (CBS) – 6 NYCRR – Repeal of Parts 595, 596 and 597; addition of new Parts 596 and 597; and amendment of Parts 598 and 599

State Register I.D. No: ENV-31-14-00007-A

Filing Date: September 11, 2015

Effective Date: 30 days after filing

Summary: This regulation harmonizes State regulations with Environmental Protection Agency Federal rules for CBS. These additions and amendments establish the methods and lists for identifying hazardous substances; requirement for reporting and remediation of releases of hazardous substances; requirement concerning sales, handling and storage of hazardous substances, commonly known as CBS; access to records and tank systems, confidentiality, and enforcement; registration process for tanks, requirement of the application forms, transfer of ownership, registration of new facilities, change of substance stored, newly installed tanks, registration certificate, identification number on tanks; fees for registration, re-registration or renewal; requirement for the distribution of hazardous substances including the contents of technical guidance and recommended practices; requirement for the manufacturer or distributor to file an up-to-date copy of its technical guidance recommended practices; and describe the six criteria for identifying a hazardous substance and four criteria for identifying an acutely hazardous substance.

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Agency: Department of Labor

Title/Section(s): Repeal and Removal of Fees – 12 NYCRR – Repeal of Sections 82.2, 82.5 and 82.7; amendment of Sections 59-1.10, 59-1.12, 60-1.5, 60-1.6, 60-1.17, 82.4 and 82.6

State Register I.D. No: LAB-17-15-00013-A

Filing Date: June 23, 2015

Effective Date: July 8, 2015

Summary: This regulation repeals and removes certain safety and health fees without amending or repealing the safety and health protections. These fees were removed as part of the budget to relieve businesses and individuals from excess bureaucracy while still retaining the necessary functions that those fees originated from.

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Agency: Department of Environmental Conservation

Title/Section(s): Pertaining to Commercial and Recreational Regulations for Striped Bass – 6 NYCRR – Amendment of Parts 10 and 40

State Register I.D. No: ENV-13-15-00031-A

Filing Date: July 21, 2015

Effective Date: August 5, 2015

Summary: This regulation reduces fishing mortality of striped bass to promote stable fish populations, and to remain in compliance with Atlantic States Marine Fisheries Commission (ASMFC) Interstate Fishery Management Plan (FMP). This amendment ensures that requirement management measures to reduce the harvest of striped bass by at least 25% in 2015 remain in effect.

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Agency: Department of Health

Title/Section(s): Rate Rationalization – Prevocational Services, Respite, Supported Employment and Residential Habilitation – 10 NYCRR – Addition of Subpart 86-13

State Register I.D. No: HLT-16-15-00014-A

Filing Date: March 25, 2016

Effective Date: April 13, 2016

Summary: This regulation establishes a new reimbursement methodology for Prevocational (Site-based and Community-based), Respite (Hourly and Free-standing), Supported Employment Services, and Residential Habilitation (Family Care) programs, which will be effective July 1, 2015. For Prevocational (Site-based) and Respite (Hourly and Free-standing) programs, the methodology includes the following elements: the use of a base period Consolidated Fiscal Report (CFR) for the period of January 1, 2013-December 31, 2013 for calendar year filers or the period of July 1, 2012-June 30, 2013 for fiscal year filers; the assignment of geographic location based on CFR information and consistent with Department of Health (DOH) regions; wage equalization factors; a budget neutrality factor; and a two year phase-in period of transition to the methodology. For Prevocational (Community-based Services, Supported Employment Services and Residential Habilitation (Family Care) programs, the methodology includes the following elements: the use of a base period CFR for calendar year filers or for fiscal year filers to calculate a fee reimbursement schedule; and the assignment of geographic location, based on CFR information and consistent with DOH regions for Residential Habilitation (Family Care) and for Prevocational (Community-based) Services and Supported Employment Services based on Office for People with Developmental Disabilities regions.

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Agency: Department of Environmental Conservation

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

State Register I.D. No: ENV-19-15-00016-A

Filing Date: September 17, 2015

Effective Date: October 7, 2015

Summary: This regulation reduces recreational harvest of black sea bass to remain in compliance with Atlantic States Marine Fisheries Commission (ASMFC). This amendment increases the minimum size for black sea bass by 1 inch, from 13 inches to 14 inches; in addition, the possession limit will increase by 2 fish, from 8 fish to 10 fish, during the months of November and December. The open fishing season will remain unchanged from July 15 to December 31.

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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 Part 141; and addition of new Part 141

State Register I.D. No: AAM-21-15-00004-A

Filing Date: July 22, 2015

Effective Date: August 5, 2015

Summary: This regulation limits the Emerald Ash Borer (EAB) quarantine to 14 restricted zones where infestation exists. The restricted zones established under this regulation are located in and around the following municipalities or areas: Albany-Rensselaer; Bath; Binghamton; Buffalo; Livingstonville; Mid-Hudson; Montezuma; Nichols; Randolph; Rochester; Sheridan; Syracuse: Unadilla; and West Point. Each restricted zone consists of a core area, which is the location of an EAB infestation, and a buffer area, which surrounds the core area and extends a distance of five miles. If the core or buffer area encompasses a 30-percent or more of a municipality, the entire municipality will be included within the restricted zone.

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Agency: Department of Agriculture and Markets

Title/Section(s): Importation of Poultry, That Have Not Been Determined to be Free of Avian Influenza, into the State – 1 NYCRR – Amendment of Sections 45.1 and 45.6

State Register I.D. No: AAM-22-15-00004-A

Filing Date: July 28, 2015

Effective Date: August 12, 2015

Summary: This regulation minimizes the incidence of avian influenza in the State’s poultry population. This amendment prohibits poultry that have not been determined to be free of avian influenza from entering the State.

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Agency: Department of Environmental Conservation

Title/Section(s): Prevent Further Spread of the Emerald Ash Borer (EAB) – 6 NYCRR – Addition of Section 192.7

State Register I.D. No: AAM-21-15-00010-A

Filing Date: September 18, 2015

Effective Date: October 7, 2015

Summary: This regulation restricts EAB, ash wood and ash products infested with EAP to restricted zones where infestations exist. The addition of this part is to establish quarantines to protect New York’s ash trees, forests, communities, homeowners, forest owners and forest industries from economic, environmental and social harm due to the death of ash trees caused by the invasive, exotic insect, EAB. The quarantines restrict the movement of EAB by regulating movement of host materials to slow the spread of this destructive pest into areas of NYS where it is currently not present, as part of the Department of Environmental Conservation’s Forest Insect and Disease Control responsibilities. The regulations set forth in this Part are complemented by similar provision found in NYS Agriculture and Markets regulations.

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Agency: Department of State

Title/Section(s): Safety Standards for Anchoring, Securing, and Counter-Weighting Movable Soccer Goals – 21 NYCRR – Addition of Part 4608

State Register I.D. No: DOS-22-15-00011-A

Filing Date: July 28, 2015

Effective Date: August 12, 2015

Summary: This regulation established the U.S. Consumer Product Safety Commission’s “Guidelines for Movable Soccer Goal Safety” as the New York standard. The addition of this part is to prevent injuries and fatalities resulting from improperly secured portable soccer goals; and to be consistent with the clear direction of the statute and regulations to protect the general safety and welfare of the public.

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Agency: Department of State

Title/Section(s): Installation of Carbon Monoxide Detecting Devices in Commercial Buildings – 19 NYCRR – Addition of Section 1228.4

State Register I.D. No: DOS-28-15-00004-A

Filing Date: November 20, 2015

Effective Date: December 9, 2015

Summary: This regulation amends the State Uniform Fire Prevention and Building Code (Uniform Code) by adding standards requiring the installation of carbon monoxide detecting devices in every commercial building (including but not limited to every building that contains one or more restaurants), if such building has appliances, devices or systems that may emit carbon monoxide or has an attached garage, and to establish manufacture, design and installation standards for such carbon monoxide detecting devices.

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Agency: Office for People with Developmental Disabilities

Title/Section(s): Day and Residential Habilitation Changes – 14 NYCRR – Amendment of Subparts 635-9, 635-10 and Part 671

State Register I.D. No: PDD-33-15-00005-A

Filing Date: October 13, 2015

Effective Date: November 1, 2015

Summary: This regulation discontinues individual day habilitation services and adds allowable services under residential habilitation. These amendments are will bring Office for People with Developmental Disabilities’ Home and Community Based Services (HCBS) waiver services into full compliance with the federal HCBS waiver funding requirements.

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Agency: Department of Environmental Conservation

Title/Section(s): Management of Black Sea Bass – 6 NYCRR – Amendment of Part 40

State Register I.D. No: ENV-50-15-00002-A

Filing Date: June 3, 2016

Effective Date: June 22, 2016

Summary: This regulation redefines the term trip limit to allow two fishers aboard a single vessel to possess and land the trip limit for black sea bass. A “trip limit” means the maximum amount of fish that can be possessed on board or landed by a vessel during a period of time, not less than 24 hours, in which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port. A vessel or fisher shall not land more than a possession limit or trip limit per species in any one calendar day, except that, where a weekly limit or biweekly limit is specifically authorized to take the weekly or biweekly limit shall not possess or land more than the weekly limit or biweekly limit in one calendar day or; where one trip limit for each of two commercial license holders on board a single vessel is specifically authorized with two or more commercial license holders on board shall not possess more than two trip limits of the authorized species in one calendar day.

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Agency: Department of Environmental Conservation

Title/Section(s): Implement Cap-and-Trade Programs That Reduce NO_x and SO₂ Emissions from EGUs Larger Than 25 MW_e – 6 NYCRR – Amendment of Part 200; repeal of Parts 243, 244 and 245; and addition of new Parts 243, 244 and 245

State Register I.D. No: ENV-37-15-00013-A

Filing Date: November 12, 2015

Effective Date: 30 days after filing

Summary: This regulation repeals the existing defunct Clean Air Interstate Rules (CAIR) program regulations and implements an allocation protocol for the three Transport Rule programs that are more in line with the environmental and energy goals of New York. These amendments and additions establish the transport rule NO_x and SO₂, which are designed to reduce ozone and particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers in NYS and downwind states by limiting emission of NO_x and SO₂ year-round from fossil fuel-fired electricity generating units; incorporates the U.S. Environmental Protection Agency's federal Cross-Stat Air Pollution Rule (CSAPR) and allow the DEC to allocate allowances created under CSAPR to affected units in NYS; and establishes trading programs by allocating allowances that are limited authorizations to emit up to one ton of NO_x and SO₂ in the respective control period or any control period thereafter and affected units are required to hold allowances for compliance deduction at the respective allowance transfer deadlines, the tonnage equivalent to the emissions at the unit for the control period immediately preceding such deadline.

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Agency: Department of State

Title/Section(s): Fixing the Time for Compliance with an Order to Remedy Violations(s) of the State Uniform Fire Prevention and Building Code – 19 NYCRR – Amendment of Section 1203.1; and addition of Section 1203.5

State Register I.D. No: DOS-04-15-00004-A

Filing Date: November 11, 2015

Effective Date: December 2, 2015

Summary: This regulation fixes the time for compliance with an order to remedy any condition found to exist in buildings in violation of the Uniform Code. The amendment and addition of these sections fixes the time within which compliance with an order to remedy any condition found to exist in, on, or about any building in violation of Uniform Code at thirty (30) days following the date of the order to remedy.

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Agency: Office of Mental Health

Title/Section(s): Implementation of the Protection of People with Special Needs Act and Reforms to Incident Management – 14 NYCRR – Amendment of Parts 501 and 550; repeal of Part 524; and addition of new Part 524

State Register I.D. No: OMH-39-15-00002-A

Filing Date: November 23, 2015

Effective Date: December 9, 2015

Summary: This regulation enhances the protection for people with mental illness served in the Office of Mental Health (OMH) System. These amendments and addition incorporate categories of “reportable incidents” as established by the Protection of People with Special Needs Act (PPSNA) and includes enhanced provisions regarding incident investigations; make changes related to definitions, reporting, investigation, notification and committee review of event and situations that occur in providers of mental health services licensed or operated by OMH; require the distribution of the Code of Conduct developed by Justice Center for the Protection of People with Special Needs (Justice Center) to all employees and maintaining a signed documentation from such employees indicating that they have received and understand the Code; and facilitate and implement the consolidation of the criminal background check function in the Justice Center, and make other conforming changes to the criminal background check function established by PPSNA.

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Agency: Department of State

Title/Section(s): Experience Requirements – 19 NYCRR – Amendment of Section 1102.4

State Register I.D. No: DOS-43-15-00001-A

Filing Date: December 15, 2015

Effective Date: December 30, 2015

Summary: This regulation clarifies maximum hours of experience through review appraisals. An applicant has the burden of establishing to the satisfaction of the Department of State that the applicant actually performed the work associated with the appraisal or appraisals which the applicant claim appraisal-experience credit, which will only be granted for hours actual worked on an appraisal assignment provided that no applicant shall be permitted to claim experience hours in excess of the maximum hours per assignment. For review appraisals, an applicant shall receive 25 percent of the hours normally credited for an appraisal if the applicant performed a review appraisal, which shall include a field review, a documentary review, or a combination of both; however the experience gained by performing review appraisal may not exceed 25 percent of the total number of hours of experience required for licensing or certification.

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Agency: Department of State

Title/Section(s): Rules Relating to Insurance and Bond Requirements – 19 NYCRR – Repeal of Section 160.9; and addition of new Section 160.9

State Register I.D. No: DOS-38-15-00003-A

Filing Date: December 8, 2015

Effective Date: December 23, 2015

Summary: This regulation enhances protection to workers by adding new provisions requiring wage coverage. This addition requires an owner to maintain proof of minimum financial security for accident and professional liability and for payment of wages and remuneration legally due employees who provide nail specialty services; proof may be satisfied by purchasing accident and professional liability insurance, or general liability insurance, a bond with a corporate surety, or any combination; proof of bond and liability insurance coverage, as applicable, must be filed with the Secretary and may not be terminated except after notice to, and with the consent of, the Secretary at least forty-five days in advance of such cancellation, revocation, or termination; and proof of such bond or liability insurance policy must be maintained on the business premises and shall be accessible by all employees at all items that the business is open.

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Agency: Department of State

Title/Section(s): Personal Protective Equipment – 19 NYCRR – Amendment of Section 160.11 (a)-(b); and addition of Sections 160.11 (c) and 160.20 (h)-(j)

State Register I.D. No: DOS-38-15-00004-A

Filing Date: December 8, 2015

Effective Date: December 23, 2015

Summary: This regulation requires personal protective equipment for appearance enhancement employees or operators. These amendments and additions outline the following responsibilities of an owner, an area renter or both: the proper conduct of the licensed business and for the proper provision of appearance enhancement services to the public by its employees or operators; compliance with all applicable health and sanitary codes, and all statutory and regulatory requirements with respect to the practices of the occupation and business; and maintaining at each workstation, to be made available upon request and without cost, to each person providing nail cares services who uses such workstation a properly fitting N-95 or N-100 respirator, approved by the National Institute for Occupation Safety and Health (NIOSH), protective gloves made of nitrile, or other similar no-permeable material, and eye protection sufficient to protect from splashes when pouring or transferring potentially hazardous chemicals from bulk containers or when preparing potentially hazardous chemicals for use in nail care services.

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Agency: Workers' Compensation Board

Title/Section(s): Ambulatory Surgery Fee Schedule – 12 NYCRR – Amendment of Part 329

State Register I.D. No: WCB-37-15-00004-A

Filing Date: December 15, 2015

Effective Date: December 30, 2015

Summary: This regulation changes the methodology for reimbursement of fees for ambulatory surgery. This amendment establishes a payment for Ambulatory Patient Groups (APG) methodology, governing reimbursement for licensed freestanding ambulatory surgical centers and hospital-based ambulatory surgery services, which is supported by an empirical framework that is regularly updated and used throughout the medical practice industry.

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Agency: Office of Temporary and Disability Assistance

Title/Section(s): Temporary Housing Placements – 18 NYCRR – Amendment of Sections 352.8 (b)(1) and 352.3 (h); and addition of Section 352.3 (m)

State Register I.D. No: TDA-39-15-00016-A

Filing Date: June 2, 2016

Effective Date: June 22, 2016

Summary: This regulation adjusts the rate approval process for temporary housing placements and expands the scope of inspections for such placements. These amendments and addition set an allowance for each recipient or family purchasing room and/or board to cover the cost of board, room rent and other expenses, except where such items and services are furnished by a legally responsible relative or a recipient of public assistance, which is subject to the review and approval of the Office pursuant to a timetable established by the Office; and such allowance cannot exceed the sum of the statewide monthly grant and allowance, the statewide monthly home energy payments, the statewide monthly supplemental home energy payments, and the local agency monthly shelter allowance schedule without children; local social services districts which make hotel/motel referral must inspect at least once every six months the hotels/motels in which families are placed, and make appropriate inquiries to determine whether the hotel/motel is in compliance with all applicable State and local laws, regulations, codes and ordinances, and any violation found during the on-site inspection shall be reported to appropriate authorities and a written report shall be made of each such inspection and shall be maintained at the office of the local district together with such other information as the district may maintain concerning the families placed in the hotel/motel, and a copy of any such inspection report shall be provided to the Office within thirty days of its completion.

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Agency: Department of Labor

Title/Section(s): Fast Food Minimum Wage – 12 NYCRR – Amendment of Section 146-1.2; and addition of Section 146-3.13

State Register I.D. No: LAB-42-15-00003-A

Filing Date: December 10, 2015

Effective Date: December 31, 2015

Summary: This regulation implements changes to the wages for food service workers and service employees in the hospitality industry. The basic minimum hourly rate for fast food employees employed in the City of New York shall be: \$10.50 per on hour and after December 31, 2015; \$12 per hour on and after December 31, 2016; \$13.50 per hour on and after December 31, 2017; \$15 per hour on and after December 31, 2018. The basic minimum hourly rate for fast food employees employed outside of the City of New York shall be: \$9.75 per hour on and after December 31, 2015; \$10.75 per hour on and after December 31, 2016; \$11.75 per hour on and after December 31, 2017; \$12.75 per hour on and after December 31, 2018; \$13.75 per hour on and after December 31, 2019; \$14.50 per hour on and after December 31, 2020; \$15 per hour on and after July 1, 2021. A fast food employee shall mean any person employed or permitted to work at or for a fast food establishment by any employer where such person’s job duties include at least one of the following: customer service; cooking; food or drink preparation; delivery; security; stocking supplies or equipment; and cleaning or routine maintenance.

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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-44-15-00001-A

Filing Date: February 23, 2016

Effective Date: March 9, 2016

Summary: This regulation reclassifies shellfish lands to prohibit the harvest of shellfish. This amendment designates the following shellfish growing areas as no longer meeting the water quality criteria for a certified (open) area: Mount Sinai Harbor, 200 acres (Town of Brookhaven); a portion of Long Island Sound, 72 acres (Towns of Brookhaven and Riverhead); Great Peconic Bay, 65 acres (Towns of Southold and Riverhead); Patchogue Bay, 1,028 acres (Towns of Brookhaven and Islip); Cold Spring Harbor, 99 acres (Towns of Huntington and Oyster Bay); Stony Brook Harbor, 300 acres (Towns of Brookhaven and Smithtown); Shinnecock Bay, 60 acres (Town of Southampton); and Acabonac Harbor, 20 acres (Town of East Hampton).

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Agency: Department of State

Title/Section(s): Registration of Manufacturers, Distributors, Wholesalers, Various Retailers of Sparkling Devices – 9 NYCRR – Addition of Part 225

State Register I.D. No: HES-32-15-00002-A

Filing Date: March 2, 2016

Effective Date: March 23, 2016

Summary: This regulation establishes the registration process, fees and reporting requirements related to sparkling devices. This addition requires every manufacturer, distributor, wholesaler, specialty retailer, or permanent retailers of sparkling devices to annually register with the Office of Fire Prevention and Control (OFPC), and temporary (seasonal) retailers to register with the OFPC each selling season; the application fees for a manufacturer, distributor, or wholesaler must pay an annual registration fee of \$5,000, a specialty retail must pay an annual registration fee of \$2,500, a permanent retailer must pay an annual registration fee of \$200 for each location, and a temporary seasonal retailer must pay a registration fee of \$250 per season for each location; to obtain a certification, which is valid for one year to manufacturers, distributors, and wholesalers, and for temporary seasonal retailers it is valid for 30 days before through 30 days after the dates of selling season; to maintain and make available to OFPC records regarding the name and quantity of any sparkling devices produced in, imported to, exported from, or sold in NYS; and to report basic information regarding incidents of fires or explosions, including accidental discharge of sparkling devices that occur on premises to the OFPC within 24 hours if no injury or death, or within 1 hour or as soon as practical if injury or death is involved.

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Agency: Department of State

Title/Section(s): To Adopt Updated Provisions for the Uniform Fire Prevention and Building Code (“Uniform Code”) – 19 NYCRR – Amendment of Part 1219; repeal of Parts 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227 and 1228; addition of new Parts 1220, 1221, 1222, 1223, 1224, 1225, 122 and 1227

State Register I.D. No: DOS-47-15-00017-A

Filing Date: March 22, 2016

Effective Date: October 3, 2016

Summary: This regulation repeals the existing text of the Uniform code and adopts updated text for the Uniform Code. The Uniform Code provides reasonably uniform standards and requirements for construction and construction materials for public and private buildings, including factory manufactured homes, consistent with accepted standards of engineering and fire prevention practices in order to provide a basic minimum level of protection to all people of NYS from the hazards of fire and inadequate building construction.

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Agency: Department of State

Title/Section(s): State Energy Conservation Construction Code (the “Energy Code”) – 19 NYCRR – Repeal of Part 1240; and addition of new Part 1240

State Register I.D. No: DOS-47-15-00016-A

Filing Date: March 22, 2016

Effective Date: October 3, 2016

Summary: This regulation repeals the existing Energy Code and to adopt a new, updated Energy Code. The Energy Code provides the standards for the construction of all new commercial buildings; all additions to, alternations of, and/or renovations of existing commercial buildings; and all additions to, alternations of, and/or renovations of building systems in existing commercial buildings shall comply with the requirement of the International Energy Conservation Code Commercial Provisions. The Energy Code shall not apply to the alteration or renovation of an historic building or to certain alternations of existing buildings, provided that the alternation will not increase the energy usage of the building and mirrors the provisions of Energy Law.

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Agency: Department of Motor Vehicles

Title/Section(s): Use of the Vehicle Electronic Reassignment and Integrated Facility Inventory System – 15 NYCRR – Amendment of Section 78.9

State Register I.D. No: MTV-03-16-00005-A

Filing Date: March 8, 2016

Effective Date: March 23, 2016

Summary: This regulation requires dealers to use the Vehicle Electronic Reassignment and Integrated Facility Inventory (VERIFI) system. This amendment requires dealers to maintain an electronic recordkeeping and transmission of information related to sale of vehicles by using the VERIFI system; the fee for each electronic retail or wholesale certificate of sale shall be the same as the fee for the paper version of the form; the Commission may upon written request exempt a dealer from the requirement to use the VERIFI system if the dealer sells fewer than ten vehicles per year, has two or fewer dealer demonstration and/or transporter plates, is not enrolled in Dealer Partnering Program or participates in the Dealer Plate Issuance Program, and has not had a dealer registration suspended or revoked; a dealer shall be exempt from retaining a filing a paper record and temporary certificate of registration for transactions conducted in the VERIFI system.

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Agency: Department of Health

Title/Section(s): Supplementary Reports of Certain Birth Defects for Epidemiological Surveillance; Filing – 1 NYCRR – Amendment of Sections 22.3 and 22.9

State Register I.D. No: HLT-08-15-00003-A

Filing Date: May 4, 2016

Effective Date: May 25, 2016

Summary: This regulation increase the maximum age or reporting certain birth defects to the Birth Defect Registry. This amendment seeks to extend the case capture period for the following diseases: fetal alcohol syndrome, hereditary muscular dystrophies and other myopathies, congenital heart defects, genetic and chromosomal anomalies in order to enhance the Department’s epidemiologic surveillance and advance its understanding of birth defects and their environmental causes; reporting of birth defects diagnosed or identified during pregnancy and allow reporting by qualified health care professionals other than physicians-specifically, nurse practitioners and physician assistants; clarifies the requirement that clinical laboratories performing diagnostic testing for birth defects must report to the Congenital Malformation Registry (CMR); and replaces the term “congenital malformation” in favor of the term “birth defect” and renames the CMR to the “New York Birth Defects Monitoring Program”.

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Agency: Office of Children and Family Services

Title/Section(s): Casework Contacts for Foster Children – 18 NYCRR – Amendment of Sections 428.3, 430.11, 430.12 and 441.21

State Register I.D. No: CFS-07-16-00014-A

Filing Date: May 3, 2016

Effective Date: May 18, 2016

Summary: This regulation implements federal standards which require monthly face-to-face, in-person casework contact with foster children. These amendments require the casework contacts must be performed during the first 30 days of placement, casework contacts are to be held with the child as often as is necessary to implement the services tasks in the family and children’s services plan but must occur at least twice, at least one of the two contacts must be held at the child’s placement location; after the first 30 days of placement, casework contacts are to be held with the child at a minimum of once a month, at least two of the monthly contacts every 90 days must be at the child’s placement location; if the youth is age 18 or older and is attending an educational or vocational program 50 miles or more outside the local social services district, the casework contacts may be made by telephone or mail; and where a foster child is placed in a home or facility located outside of the State of New York, the monthly casework contact requirement can be made either by the authorized agency with case management and/or case planning responsibility for the child, a public agency in the state in which the foster home or facility is located or a private agency under contract with either the authorized agency or the other public agency.

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Agency: Office of Children and Family Services

Title/Section(s): Eligibility of Successor Guardians for Kinship Guardianship Assistance Payments – 18 NYCRR – Amendment of Sections 436.1, 436.3, 436.4, 436.5, 436.6, 436.8 and 436.10

State Register I.D. No: CFS-07-16-00012-A

Filing Date: April 21, 2016

Effective Date: May 11, 2016

Summary: This regulation enacts standards for the appointment and approval of a successor guardian upon the death or incapacity of a relative guardian. These amendments address the eligibility of successor guardians for kinship guardianship assistance payments.

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Agency: Office for People with Developmental Disabilities

Title/Section(s): Article 16 Clinic Service and Independent Practitioner Services for Individuals with Development Disabilities (IPSIDD) – 14 NYCRR – Amendment of Parts 635, 671 and 679; and addition of Subpart 635-13

State Register I.D. No: PDD-42-15-00002-A

Filing Date: March 30, 2016

Effective Date: April 20, 2016

Summary: This regulation discontinues off-site Article 16 clinic services and adds requirements for IPSIDD. These amendments and addition identify the new requirement pertaining to a new Medicaid State plan service, IPSIDD; eliminates provisions for previously allowed off-site delivery of Office for People with Development Disabilities (OPWDD) clinic service to individuals with development disabilities and off-site locations include OPWDD certified residential and day programs and other non-certified site in the community; specifies clinic services must only be delivered at sites that are specifically certified to provide those services; identifies IPSIDD services; and updates the definition of development disability in accordance with the updated definition in Mental Hygiene Law.

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Agency: Department of Health

Title/Section(s): Immediate Need for Personal Care Services (PCS) and Consumer Directed Personal Assistance (CDPA) – 18 NYCRR – Amendment of Sections 505.14 and 505.28

State Register I.D. No: HLT-43-15-00003-A

Filing Date: May 5, 2016

Effective Date: July 6, 2016

Summary: This regulation implements 2015 State law changes regarding Medicaid applicants and recipients with immediate needs for PCS or CDPA. These amendments set forth expedited procedures for social services districts’ determinations of Medicaid eligibility and personal care services eligibility for Medicaid applicants with an immediate need for personal care services.

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Agency: Office for People with Developmental Disabilities

Title/Section(s): Site Based Prevocational Services Certification and Physical Plant Requirements – 14 NYCRR – Amendment of Section 635-7.5

State Register I.D. No: PDD-15-16-00002-A

Filing Date: June 7, 2016

Effective Date: September 1, 2016

Summary: This regulation applies existing physical plan and certification requirements in OPWDD regulations to site based prevocational services. This amendment sets forth the requirements for site based prevocational services sites for any building or space purchased or leased for the purpose of the delivery of day habilitation services or site based prevocational services through the home and community-based services waiver shall be certified; however day habilitation sites in operation as of June 7, 1995 will not be required to retroactively participate in the Certificate of Need process.

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Agency: Department of Motor Vehicles

Title/Section(s): Enforcement of Off Premise Sales Regulation – 15 NYCRR – Amendment of Section 78.3

State Register I.D. No: MTV-15-16-00009-A

Filing Date: June 1, 2016

Effective Date: June 22, 2016

Summary: This regulation provides for enforcement of off premise sales regulation. This amendment sets forth that an applicant for a dealer registration must have and continuously maintain a place of business in the state and only a New York registered retail dealer may engage in buying and selling of vehicles at retail as a business in New York; and an application for registration shall be denied or if one has been approved such registration shall be subject to suspension, revocation and/or a civil penalty where the Commissioner has reasonable grounds to believe that such application has been or will be used for the purpose of circumventing the restrictions regarding sales away from premises.

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