

JANUARY 2023
REGULATORY AGENDA
NEW YORK STATE DEPARTMENT OF STATE

Notice is hereby provided, pursuant to section 202-d(1) of the State Administrative Procedure Act (SAPA), that the Department of State is considering proposing rules regarding subject matters listed below.

The publication of this list is intended to help assure that small businesses, local governments, and public and private interests in rural areas are given advance notice and opportunity to participate in the rule making process. Please note that an agency is not required to adopt a rule concerning a subject matter that has been listed on a regulatory agenda, and an agency may adopt a rule on a subject matter that has not been listed or is different than one that has been listed on a regulatory agenda (SAPA, section 202-d(2)).

The preparation and publication of a regulatory flexibility analysis for small businesses and local governments and/or a rural area flexibility analysis (per SAPA, sections 202-b and 202-bb, respectively) may be required for any listed item that may become the subject of a Notice of Proposed Rule Making. Unless otherwise indicated, the following references to regulatory provisions pertain to Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Written comments may be sent to the agency representative indicated at the end of this list.

DIVISION OF BUILDING STANDARDS AND CODES

Chapter XXXII

Part 1204

Considering amending this Part to make provisions relating to the administration of the Uniform Fire Prevention and Building Code by state agencies substantially similar to corresponding provisions in revised Parts 1202 and 1203, which became effective on December 30, 2022.

Part 1205

Considering amending this Part to: expand and clarify the circumstances under which a Uniform Code variance may be granted by Department of State staff without referral to a Regional Board of Review; and add provisions for alternative compliance cases to allow the use of the design, construction, and maintenance provisions or requirements of a nationally recognized standard or code that is not expressly allowed by the Uniform Code.

Part 1208

Considering amending this Part to: comply with any legislative amendments to Executive Law, section 376-a relating to code enforcement official training; and expand options for certification of code enforcement officials to include acceptable nationally recognized certifications.

Part 1209

Considering amending this Part pertaining to factory manufactured housing to: update the Part, increase fees for plan review and Insignias of Approval; and add provisions relating to non-residential modular buildings.

Chapter XXXIII

Parts 1219-1228

Considering amending the State Uniform Fire Prevention and Building Code (Uniform Code) and/or adding new provisions to the Uniform Code to comply with legislative amendments to section 378 of the Executive Law and to update the Uniform Code based on the latest versions of the national model codes.

Part 1240

Considering amending the State Energy Conservation Construction Code (Energy Code) and/or adding new provisions to the Energy Code to make updates based on the latest versions of the national model code and ASHRAE 90.1.

Part 1263

Considering amending provisions relating to the State Environmental Quality Review Act specific to the State Fire Prevention and Building Code.

DIVISION OF CEMETERIES

Section 200.2

Considering revising the list of applications the Cemetery Board has delegated to the Division for initial determinations, and the applications the Board decides.

Sections 200.3, 200.4

Considering exempting certain “non-traditional” cemeteries from the requirement of filing a CPA review or report, and subjecting them to the same CPA rules that apply to other cemeteries.

Section 200.3

Considering revising requirements to the annual submission of IRS Form 990 by cemeteries.

Section 200.4

Considering amending regulations to clarify requirements for an annual report regarding cemetery indebtedness.

Section 200.4(c)(3)

Considering updating the representations a CPA must make to address the current standard for “related party” transactions.

Section 200.7

Considering changing the Division of Cemeteries principal office to Albany.

Sections 200.11(g), (h)

Considering amending regulations to address when a cemetery providing management for an abandoned cemetery may apply for abandonment funds.

Section 200.11

Considering regulations to require that cemeteries applying for funds from the State cemetery vandalism restoration, monument repair or removal and administration fund must obtain a warranty and address the depth of foundations poured in connection with such applications. Also considering language addressing situations where cemeteries can obtain only one outside bid for restoration of vandalism damage or repair of hazardous monuments.

Section 201.1

Considering repealing section 201.1, as the Cemetery Board no longer reviews routine applications for approval of sale or conveyance of cemetery lots.

Sections 201.3, 201.9

Considering revising regulations concerning the modification of cemetery maps, development of former paths as burial space and signage requirements.

Section 201.11(a)(8)(B)

Considering changing the requirement that cemeteries post a sign before seeking Cemetery Board approval of mausoleum and columbarium projects to ensure an adequate time for comment before submission of the application to the Cemetery Board.

Sections 201.11(a)(2), 201.16(e)

Considering clarifying that cemeteries need not hire architects for all mausoleum and columbarium projects and major alterations.

Section 201.12(c)

Considering eliminating the requirement that cemeteries notify the Cemetery Board of burials on legal holidays and charges for such burials.

Section 201.14

Considering clarifying the obligations of cemeteries to provide notice of repair of non-hazardous damages.

Section 201.15

Considering clarifying the individuals who have the right of memorialization and whose consent is required for placement of a memorial or monument.

Section 201.16

Considering requirements specific to applications to add or replace a cremation retort, instead of subjecting such transactions to regulations governing major alterations.

Section 201.16

Considering changing dollar thresholds for the timing of Cemetery Board review of major alteration applications to conform to new definitions for small, medium, and large cemeteries.

Section 201.17(d)(1)

Considering changing the period within which the Cemetery Board must notify an applicant that an application concerning installation of lawn crypts is complete from 30 to 35 days, to conform to other regulatory time frames.

Section 201.13(c)(13)

Considering amending the requirement that a funeral director witness a cremation authorization to more accurately reflect the funeral director's role in soliciting, preparing and presenting such forms, and the reality of electronic signatures.

Considering regulations regarding pre-need sales: proper trusting of receipts, reporting of liabilities at cost and market, and funding the Permanent Maintenance Fund.

Considering regulations defining certain types of actions by the Cemetery Board as "Type 2" applications for purposes of the State Environmental Quality Review Act.

Considering regulations regarding natural organic reduction process, facilities, record keeping, authorizations, certifications and course requirements.

DIVISION OF CONSUMER PROTECTION

Parts 220 - 222

Considering amending regulations pertaining to the "do-not-call" registry to further conform to current statutory provisions.

DIVISION OF CORPORATIONS, STATE RECORDS AND UCC

Part 130

Considering amending sections 130.2 and 130.3 regarding procedures for filing and numbering local laws filed with the Division pursuant to Municipal Home Rule Law section 27, including considering eliminating the requirement that local laws be numbered by the submitting local government consecutively (each year) based on the order of filing with the Division.

Part 140

Considering amending section 140.6 to update the classification list of goods and services related to trademarks and service marks.

DIVISION OF LICENSING SERVICES

Part 160

Considering amending regulations to clarify that appearance enhancement practitioners may apply FDA approved cosmetics, under certain circumstances, to eyelashes or eyebrow hair.

Parts 160, 162, 163

Considering amendments to govern the scope of practice, training, and standards for cosmetology trainees, which will be necessary when the General Business Law is amended.

Part 192

Considering various amendments to conform this Part, as necessary, to recent Federal regulations concerning over-the-counter hearing aid devices.

Chapter V

Considering eliminating requirements to mail hard copies of course-attendance lists to the Department upon completion of every course, and adding requirements for education providers to maintain course-attendance records and provide them to the Department upon request.

Chapter XXXI

Considering amending regulations to adopt updated Uniform Standards of Professional Appraisal Practice, which will be necessary when corresponding Federal standards are updated.

NEW YORK STATE ATHLETIC COMMISSION

Chapter VII

Considering regulations regarding the term “grappling.”

OFFICE OF PLANNING AND DEVELOPMENT

Parts 600 - 603

Considering amending the New York State Coastal and Inland Waterway Regulations affecting federal, state, local, and individual actions concerned with Article 42 of the New York State Executive Law (“Waterfront Revitalization of Coastal Areas and Inland Waterways”) and implementation of the Federal Coastal Zone Management Act in New York as described in the New York Coastal Management Program.

BUREAU OF FISCAL MANAGEMENT

Part 144

Considering repealing regulations related to the expired Executive Order 38.

To obtain information or submit written comments concerning an item listed above, please contact David Treacy, Esq., Office of General Counsel, New York State Department of State, One Commerce Plaza, Albany, New York 12231-0001, (518) 474-6740, David.Treacy@dos.ny.gov.