

RULE REVIEW

DEPARTMENT OF AGRICULTURE AND MARKETS

Pursuant to Section 207 of the State Administrative Procedure Act (SAPA), notice is hereby provided of the following rules, adopted during calendar years 2000, 2005, 2010 and 2017 which the Department of Agriculture and Markets intends to review in 2020. Public comment on the continuation or modification of these regulations will be accepted until May 12, 2020. The original notice of proposed rulemaking for all listed rules required the preparation of a regulatory flexibility analysis, a rural area flexibility analysis, and/or a job impact statement. As appropriate, small businesses, local governments, and public and private interests in rural areas will be notified by the Department of the rule review for those rules that affect them or have the potential to affect them. All Part and Section references are to Title 1 of the New York Code of Rules and Regulations.

Rules adopted in 2000:

Part 6, Sampling and Testing Milk for Component Content.

Statutory Authority: Agriculture and Markets Law, Sections 16, 18, 46-a, 56 and 255.

The continuation of this regulation is necessary to retain the procedure for sampling and testing milk to assure that dairy farmers are accurately paid for milk produced by them.

Rules adopted in 2005:

Part 45, Sanitation Requirements for Poultry Dealers and Poultry Transporters.

Statutory Authority: Agriculture and Markets Law sections 16, 18, and 72.

Part 45 was amended in 2005 to require a poultry transporter holding a valid domestic animal health permit who buys or sells poultry to be sold or offered for sale in a live poultry market, or transports poultry to a live poultry market, to have facilities that can be cleaned and disinfected on a year round basis; to possess and utilize a mechanical crate washer to clean and disinfect crates between uses on a year round basis, to use all-season truck or vehicle wash facilities to clean and disinfect trucks or vehicles between uses on a year round basis; and to compile and maintain records of the dates and times that the crates and the trucks or vehicles were cleaned and disinfected. The regulation also clarifies the requirement that the certificate of veterinary inspection remain with the DAHP holder (i.e. poultry dealer or poultry transporter) and the invoice accompanies the poultry to the live poultry market. The continuation of this regulation is necessary to maintain an effective avian influenza control program. Amendments to section 45.6 are being considered. See the 2020 Regulatory Agenda.

Rules adopted in 2010:

Part 139, Control of the Asian Long Horned Beetle – Regulated Articles

Statutory Authority: Agriculture and Markets Law, sections 18, 164 and 167.

Part 139 was amended in 2010 to control the movement of material from the Katsura tree, which is subject to infestation by the Asian Long Horned Beetle. Control of the Asian Long Horned Beetle is accomplished by the removal of infested host trees and materials and then chipping or burning them.

The risk of moving infested nursery stock, logs, green lumber, firewood, stumps, roots, branches and debris of a half inch or more in diameter poses a serious threat to the hardwood forests and street, yard, park and fruit trees of the State. The quarantine imposed on Staten Island by this rulemaking was lifted on February 12, 2014.

Rules adopted in 2017 (3 - year review):

Part 159, Growth, cultivation, sale, distribution, transportation, and processing of industrial hemp.

Statutory Authority: Agriculture and Markets Law, sections 16, 18 and 508.

Part 159 was amended in 2017, to allow institutions of higher education to possess, sell, distribute, transport or process industrial hemp in New York State. Authorizing such educational institutions to conduct these activities, puts them in a better position to accomplish the objective of determining whether there is a market for industrial hemp and, if so, the broad contours of that market. Amendments to Part 159 are being considered. See the 2020 Regulatory Agenda.

Comments should be addressed to:

Sarah R. Hall, Senior Attorney, New York State Department of Agriculture and Markets, 10B Airline Drive, Albany, NY 12235, 518-457-6468, Sarah.Hall@agriculture.ny.gov.