



RULE REVIEW

Pursuant to Section 207 of the State Administrative Procedure Act, notice is hereby provided of the following rules, which the Department of Agriculture and Markets intends to review in 2026. Public comment on the continuation or modification of these regulations will be accepted until May 15, 2026. 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 Section and Part references are to Title 1 of the New York Codes, Rules and Regulations.

Rules adopted in 1998:

Section 380.1, Farm Product Dealer license period.

Statutory Authority: Agriculture Markets Law sections 16, 18, 248 and 250-i.

Justification: The continuation of this regulation is necessary to establish the license year for Farm Product Dealers as required by section 248 of the Agriculture and Markets Law. The regulation was amended in 2003 to remove obsolete proration language.

Rules adopted in 1999:

Part 45, Avian Influenza.

Statutory Authority: Agriculture and Markets Law sections 16(1), 18(6), 72, 74 and 75.

Justification: The continuation of this regulation is necessary to prevent the spread of avian influenza through live poultry markets in the New York City Metropolitan area by limiting the markets' source of poultry to flocks which are free of disease. The Department's avian influenza control program was strengthened by additional requirements adopted in 2003, 2005, 2014 and 2015. The amendments adopted in 2003 and 2005 established new requirements for the safe transport of poultry, including requirements that certain transporters to maintain clean and sanitary facilities and equipment. The amendments adopted in 2015 require that all birds imported into the State for all purposes other than immediate slaughter must be determined or certified to be free of avian influenza. Amendments to this regulation are being considered. See the 2026 Regulatory Agenda.

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.

Justification: 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 2001:

Part 139, Asian Long Horned Beetle Quarantine

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

Justification: The rule was promulgated to stem the spread of the Asian Long Horn Beetle. Controlling the spread of the Asian Long Horned Beetle is accomplished by removing and either chipping or burning the infested host trees and materials. Quarantines are implemented as well

because 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 Department has determined that the continuation of this regulation is necessary to preserve the Asian Long Horned Beetle quarantine in certain areas of New York City and Long Island. The quarantine area and list of regulated articles have been modified several times, including in 2002, 2003, 2010, 2014, 2016 and 2023.

Rules adopted in 2003:

Part 221, Method of sale, delicatessen products.

Statutory Authority: Agriculture and Markets Law sections 16(1), 179(2), and 189.

Justification: The continuation of this regulation is necessary to continue to allow the sale of common delicatessen products by the quarter and half pound rather than the whole pound. Fractional pricing allows delicatessens to post prices in the unit consumers are most likely to purchase thereby reducing confusion. The regulation also dictates the size of the information required to be posted for delicatessen products and commodities in bulk. Amendments adopted in 2003 allowed a smaller sized price label for delicatessen products. The smaller size allows groceries and delicatessens with limited space to post all the required information and promotes the objective of adequately informing consumers of the price of these products offered for retail sale. In 2022, Part 221 was amended to allow specific commodities to be sold using metric only quantity statements. It also modified labeling obligations for packers, removed the dual quantity declaration requirement and introduced new requirements on packers for online transactions.

Rules adopted in 2004:

Part 271, Food offered for sale in retail stores.

Statutory authority: Agriculture and Markets Law sections 16(1), 18(2), (6) and 214-b.

Justification: The continuation of this regulation is necessary to combat outbreaks of food borne illness by addressing five risk factors: improper holding temperature, inadequate cooling, contaminated equipment, unsafe food sources and poor personal hygiene. The regulation incorporates provisions of the federal food code focusing on five interventions to help prevent food borne illness as follows: time/temperature relationship, employee health, management knowledge, hands as a vehicle of contamination, and consumer education. This rule was amended in 2011 to update incorporations by reference to current federal regulations. Amendments to this regulation are being considered. See the 2026 Regulatory Agenda.

Rules adopted in 2006:

Part 154, Ammonium Nitrate and Regulated Ammonium Nitrate Materials.

Statutory Authority: Agriculture and Markets Law sections 18(6) and 146-f.

Justification: The continuation of this regulation is necessary for public safety and to implement L. 2005, c. 620, which requires the registration of persons and entities in New York State that sell, offer for sale or otherwise make available ammonium nitrate or regulated ammonium nitrate materials. Ammonium nitrate is a common chemical compound used in fertilizer, which is also an explosive chemical used to make bombs such as those used in the 1993 World Trade Center and 1995 Oklahoma City bombings.

Part 245, Sanitation and Processing Procedures for Slaughterhouses.

Statutory Authority: Agriculture and Markets Law sections 16(1), 18(6), and 96-a.

Justification: The continuation of this regulation is necessary to improve the sanitary conditions and processing procedures of slaughterhouses to help ensure the wholesomeness of meat and poultry produced therein. Amendments to this regulation are being considered. See the 2026 Regulatory Agenda.

Section 127.2, Golden Nematode Quarantine.

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

Justification: The continuation of this regulation is necessary to address the eradication and management of the golden nematode and continue to prevent the spread of the nematode. The regulation was amended in 2015 to lift the golden nematode quarantine in portions of Nassau, Suffolk and Orleans Counties, and again in 2018 to lift it in portions of Cayuga, Seneca, Steuben, Suffolk and Wayne Counties. Additional quarantine reductions occurred in 2022 and 2024.

Rules adopted in 2008:

Section 53.3, Requirements Governing Importation of Cattle.

Statutory Authority: Agriculture and Markets Law sections 18(6), 72, 74 and 76.

Justification: The continuation of this regulation is necessary to allow cattle originating from states with disease-free status to be imported into New York State without tuberculosis and brucellosis testing and to maintain the program which allows untested cattle to be fed for slaughter at pre-approved feed lots. The 2008 amendment allowed, under certain circumstances, the importation of cattle without a certificate of veterinary inspection, if they are moved directly to a specifically approved stockyard or recognized slaughtering establishment. This regulation provides New York dairy and beef producers greater access to replacement animals for their herds and New York livestock markets with additional business from increased consignment of out-of-state cattle.

Section 53.5 and Part 62, Requirements for Cattle, Sheep, Goats, Llamas and Deer.

Statutory authority: Agriculture and Markets Law sections 18, 72, 74, and 76.

Justification: Amendments adopted in 2008 allow the importation of certain ruminants without testing for bluetongue, tuberculosis, brucellosis and anaplasmosis and to allow the importation of sheep and goats without a certification of veterinary inspection under certain circumstances. The continuation of this regulation is necessary to facilitate the importation of these animals into New York, thereby improving the economic standing of the importers of the animals. The elimination of the testing and certificate requirements also allows the Department to focus on more pressing areas of disease control.

Part 140, Various Trees and Plants of the Prunus Species.

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

Justification: The continuation of this regulation is necessary to prevent the further spread of the Plum Pox Virus throughout the State as well as into neighboring states and provinces. The failure to control the spread of the disease would result in damage to the natural resources of the State and could result in the imposition of a federal quarantine or quarantine by other States. The quarantine has been revised multiple times, including via amendments in 2011, 2013 and 2016. The regulations, largely repealed in 2025, now prohibit the planting and over-wintering of plant and plant materials of the Prunus species in Niagara County, as well as the sourcing of such species from Niagara County for planting anywhere in the state. The remaining language of Part 140 is necessary

to retain because PPV has not been eradicated from the Province of Ontario and Niagara County NY is at risk of reinfection from Canada.

Rules adopted in 2009:

Part 96, Certification of Seed.

Statutory Authority: Agriculture and Markets Law sections 141 and 142.

Justification: The continuation of this regulation is necessary to maintain appropriate standards and procedures for the certification of seed and define terms to be used when referring to seed produced in accordance with these procedures and that meet these standards. This regulation, developed after consultation with the Dean of the State College of Agriculture and Life Sciences and the President of the State University of New York College of Environmental Science and Forestry, gives full effect to Article 9 of the Agriculture and Markets Law. Part 96 helps assure that high-quality seed continues to be available in New York State.

Rules adopted in 2011:

Part 97, Certification of Small Grain Seed.

Statutory Authority: Agriculture and Markets Law, sections 141 and 142.

Justification: The continuation of this regulation is necessary to ensure the accurate labeling of small grain seeds. The rule sets forth land requirements, field inspections, field standards and seed standards for the certification of small grain seeds. Part 97 helps assure that high-quality seed continues to be available in New York State.

Rules adopted in 2013:

Part 192, Cull Onions and Potatoes.

Statutory Authority: Agriculture and Markets Law, section 160-v.

Justification: The continuation of this regulation is necessary to ensure the proper disposal of culls and waste piles of onions and potatoes not produced in New York State. This rulemaking was a response to concerns raised by the potato and onion industry in 2013 and the issue continues to pose a risk. Improperly disposed onion and potato culls can lead to the introduction of pathogens previously not known to exist in New York State and the outbreak of diseases in New York State agricultural products.

Part 270, Standards of Identity and Grades of Maple Syrup.

Statutory Authority: Agriculture and Markets Law, sections 16, 18, 160-u, 203 and 214-b.

Justification: The continuation of this regulation is necessary to ensure that grades of maple syrup meet appropriate compositional requirements to promote public confidence and fair dealing. The rule requires the State's maple syrup manufacturers to label their maple syrup with the same grades as required in other states and Canadian provinces in which it is sold, thereby allowing New York maple syrup to be readily sold in such jurisdictions. The rule also sets standards for determining the grade of a particular maple syrup based upon the syrup's color, taste, and percentage of light transmission assuring consumers that the grade of maple syrup that they purchase will meet their needs and expectations.

Part 351, Animal Health Requirements for Admission to Fairs.

Statutory Authority: Agriculture and Markets Law sections 18, 31-b, 72, 74, and 287.

Justification: The continuation of this regulation is necessary to maintain health certification requirements for animals exhibited at fairs. Livestock exhibitions at fairs have the potential to facilitate the spread of communicable or infectious diseases among the domestic animal population of the state. The public is also exposed directly to these animals during the exhibitions, increasing the risk of transmission of certain diseases from animals to humans. The 2013 amendment required animal identification consistent with federal requirements; as well as clarification and easing of the existing regulatory requirements. Amendments to this regulation are being considered. See the 2026 Regulatory Agenda.

Part 224, Petroleum Products.

Statutory Authority: Agriculture and Markets Law sections 16, 18, and 179(3)(b).

Justification: The continuation of this regulation is necessary to ensure that specifications and test procedures for petroleum products meet the requirements issued by ASTM. The rule was amended for the same reason in 2019 and 2025 as well.

Rules adopted in 2014:

Part 68, Captive Cervids.

Statutory Authority: Agriculture and Markets sections 18(6), 72, and 74.

Justification: The continuation of these rules is necessary to prevent further introduction of chronic wasting disease (CWD) into New York State and to permit detection and control if the disease were to arise in the State's captive cervid population. The rule was amended in 2014 to prohibit the movement of cervids susceptible to CWD into New York State. Amendments in 2019 and 2023 extended the restriction on the movement of cervids into New York State, and a 2022 amendment required that captive cervids be held and moved in a manner designed to prevent disease and to be properly treated of disease.

Rules adopted in 2016:

Part 159, Growth and Cultivation of Industrial Hemp.

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

Justification: The continuation of this regulation is necessary to provide procedures and authorizations for the research and cultivation of hemp. A 2022 amendment established a regulatory scheme for the industry after the Department was tasked with its administration.

Rules adopted in 2019:

Part 142 Spotted Lanternfly ("SL").

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

Justification: The continuation of this regulation is necessary to prevent SL-infested articles from entering New York State, whether originating in or moving through areas in other states where SL is present. Amendments adopted in 2019 and 2020 expanded the quarantine area.

Part 261, Shell Eggs; Acidified Foods.

Statutory Authority: Agriculture and Markets Law sections 16, 18 and 214-b.

Justification: The continuation of this rule is necessary to allow the Department to continue inspecting and regulating acidified food and egg-shell producers, processors and manufacturers

that produce and manufacture foods to be consumed by the public. The regulations ensure that these establishments continue to comply with public health and safety requirements.

Rules adopted in 2020:

Part 128, Control of the European Cherry Fruit Fly.

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

Justification: The continuation of this rule is necessary to help control the spread of the European Cherry Fruit Fly (ECFF), which renders cherries unmarketable if they are infested. Its continuation is also necessary because the ECFF remains a federally quarantined pest. The regulation helps ensure that control measures are undertaken in the quarantine area, and that the ECFF will not spread beyond those areas via the movement of infested fruit, or through other host material. As originally adopted, it established regulated and quarantine areas consisting of Erie, Niagara and Orleans Counties in their entirety. Amendments in 2021 and 2024 redefined the quarantine area. Amendments are being considered to add Livingston County to the quarantine area. See the 2026 Regulatory Agenda.

Rules adopted in 2022: (initial 4-year review)

Part 143, Control of the Box Tree Moth (*Cydalima perspectalis*).

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

Justification: The continuation of this rule is necessary to help control the spread of the Box Tree Moth (BTM), which infests certain landscaping host plants, rendering them unmarketable. Its continuation is also necessary because the BTM remains a federally quarantined pest. In 2023, the regulation was amended to expand the BTM quarantine to include additional counties, require pre-notification of certain shipments, and add an exemption.

Rules adopted in 2024: (initial 2-year review)

Part 273, Agricultural water standards for the growing, harvesting, packing, and holding of produce for human consumption.

Statutory Authority: Agriculture and Markets Law sections 16, 18 and 214-b.

Justification: The continuation of this rule is necessary for the Department's enforcement of the provisions of article 17 of the Agriculture and Markets Law. The regulation contains agricultural water standards for produce, specifically those outlined in Subpart E of 21 CFR Part 112.

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