

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE
COMMISSIONER OF HEALTH AND MENTAL HYGIENE**

**NOTICE OF ADOPTION
OF THE REPEAL AND RECODIFICATION OF CHAPTER 21
OF TITLE 24 OF THE RULES OF THE CITY OF NEW YORK**

In compliance with §1043 (a) of the New York City Charter (the “Charter”), a notice of intention to repeal and recodify Chapter 21 of the Title 24 of the Rules of the City of New York (“RCNY”) was published in the City Record on December 17, 2009, and a public hearing was held on January 28, 2010. No comments were received and no persons testified at the public hearing. Accordingly, the following rule is being adopted by the Department of Health and Mental Hygiene (the “Department” or “DOHMH”).

Statutory Authority

Amendment of Chapter 21 of Title 24 RCNY is authorized by §§389(b) and 1043 (a) of the Charter. Charter §389(b) provides that “heads of mayoral agencies shall have the power to adopt rules to carry out the powers and duties delegated to the agency head or the agency by or pursuant to federal, state or local law.” Charter §1043(a) authorizes each agency to “adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law.”

Statement of Basis and Purpose

The Department is repealing Chapter 21, “Rules Describing Health Academy Training Courses and Prescribing Fees to be Charged by the Department to Defray the Costs Incurred in Administering these Courses,” and recodifying and retitling Chapter 21 as “Health Academy Courses and Fees.” As recodified, Chapter 21 includes changes in fees for existing Health Academy courses, based on the Department’s calculation of the actual current costs of providing the courses, examinations and certificates of successful completion. Added to the rule is the fee for the examination and certificate issuance for persons completing the Department’s on-line food protection course. Also added is a course description and fee for a new quality improvement food protection course designed to assist supervisory food service establishment personnel in developing skills in advanced food protection methods, and to further promote food safety.

The descriptions of the courses have been amended, where applicable, to reflect the renumbering of New York City Health Code provisions requiring certain persons to take these course.

The following chart summarizes the changes in course fees in Chapter 21:

	Current Fee	Proposed Fee	Net Change
Food protection – classroom	\$ 105	\$ 114	\$ 9
Food protection – online (exam)	n.a.	\$ 24	\$ 24
Supplemental food protection (exam)	\$ 27	\$ 34	\$ 7
Quality improvement food protection	n.a.	\$ 98	\$ 98
Mobile vending food protection	\$ 56	\$ 53	(\$ 3)
Swimming pool	\$ 125	\$ 95	(\$ 30)
Animal care and handling	\$ 105	\$ 39	(\$ 66)
Tattooist infection control	\$ 25	\$ 26	\$ 1

Statement Pursuant to Charter Section 1042 - Regulatory Agenda

This rule change was not included in the Department’s Regulatory Agenda because the need for the rule change was not recognized until after the Regulatory Agenda was promulgated.

THE PROPOSAL IS AS FOLLOWS:

Note - Matter to be deleted is in [brackets]

Matter underlined is new

Section 1. Chapter 21 of Title 24 of the Rules of the City of New York, entitled “Rules Describing Health Academy Training Courses and Prescribing Fees to be Charged by the Department to defray the costs incurred in administering these courses” is repealed and recodified to be printed to read as follows:

CHAPTER 21

HEALTH ACADEMY COURSES AND FEES

§21-01 Scope and applicability.

§21-02 Food protection courses and fees.

§21-03 Swimming pool technology course and fee.

§21-04 Animal care and handling techniques course and fee.

§21-05 Tattooist infection control course and fee.

§21-06 Course completion certificate; replacement fee.

§21-01 Scope and applicability. This Chapter describes the courses offered and fees authorized to be charged by the Department of Health and Mental Hygiene (the “Department”) Health Academy.

§21-02 Food protection courses and fees.

(a) Attending Department classes or taking an on-line course. In accordance with §81.15 of the New York City Health Code (the “Health Code”), or successor provision, the Department’s food protection course provides training and instruction to supervisors of food service operations in food service establishments in subject matter and principles deemed necessary by the Department to promote compliance with the requirements of the Health Code, the State Sanitary Code and other applicable law. Persons taking the course may attend the course in person, or may take the course on-line.

(1) The fee payable to the Department by persons attending the course in person, including the costs of issuance of a food protection certificate, shall be one hundred fourteen dollars (\$114.00).

(2) The fee payable to the Department by persons taking the course on line, including the examination and costs of issuance of a food protection certificate, shall be twenty-four dollars (\$24.00).

(b) *Certificates for other approved food protection courses and fee.*

(1) In accordance with §81.15(c) of the Health Code, or successor rule, persons completing Department-approved food protection courses offered at other institutions shall attend a class and receive training in requirements of the Health Code, State Sanitary Code, and other applicable law, and shall take the examination required by the Department prior to issuance of a Department food protection certificate.

(2) The fee payable to the Department for the costs of administering such examination and issuance of a food protection certificate, shall be thirty-four dollars (\$34.00).

(c) *Quality improvement food protection course and fee.*

(1) To train food service establishment supervisors in applying active managerial approaches to food safety, through development of quality improvement plans, implementing Hazard Analysis Critical Control Point (HACCP) plans, employee training, self-inspection, and food safety record keeping, with the objective of improving sanitary conditions and eliminating practices and procedures contributing to food-borne illnesses. Persons fulfilling course requirements shall receive a certificate of successful completion.

(2) The fee payable to the Department by persons taking the course, including the costs of issuing a certificate of completion shall be ninety-eight dollars (\$ 98.00).

(d) *Mobile food vendor food protection course and fee.*

(1) In accordance with §§81.15 (a)(1) and 89.07(b) of the Health Code, or successor provisions, all persons applying for a new mobile food vending license shall submit proof of successful completion of the Department's, or a Department approved equivalent, mobile food vendor food protection course, providing basic information on food safety deemed essential for compliance with requirements of the Health Code, State Sanitary Code and other applicable law.

(2) The fee payable to the Department for this course, including the costs of issuance of a mobile food vendor food protection certificate, shall be fifty-three dollars (\$53.00).

§21-03 Swimming pool technology course and fee.

(a) In accordance with §165.15(b)(1) of the Health Code, or successor provision, the Department's swimming pool technology course shall provide instruction in areas determined by the Department to be essential to promote compliance by pool operators with the Health Code, State Sanitary Code, and other applicable law.

(b) The fee payable to the Department for the swimming pool technology course, including the cost of issuance of a certificate, shall be ninety-five dollars (\$95.00).

§21-04 Animal care and handling techniques course and fee.

(a) In accordance with §161.09(h) and (k) of the Health Code, or successor rule, the Department's animal care and handling techniques course shall provide instruction/training deemed essential by the Department to promote compliance with the Health Code, and other applicable law.

(b) The fee payable to the Department for the animal care and handling techniques course shall be thirty-nine dollars (\$39.00).

§21-05 Tattooist infection control course and fee.

(a) In accordance with §21-05 of Chapter 21 (Tattooists and Applying Tattoos) of these Rules, or successor rule, the Department's course in infection control practices for persons applying tattoos provides information about infection risks, and required infection control practices and techniques in applying tattoos. When the applicant passes the examination, the Department shall notify and provide a photograph of the applicant to the permit director and a license shall be issued to the applicant.

(b) The fee payable to the Department for the tattooist infection control course and examination shall be twenty-six dollars (\$26.00).

§21-06 Course completion certificates; replacement fees.

(a) A person successfully completing a Health Academy course shall receive a certificate containing such person's photograph.

(b) When a certificate is reported lost, damaged or stolen, the Department shall verify that the requestor successfully completed the applicable course and issue a replacement certificate. The fee payable to the Department for issuance of a replacement certificate shall be sixteen dollars (\$16.00).

§2. Section 22-05 (Examination Required) of Chapter 21 (Tattooists and Applying Tattoos) of Title 24 of the Rules of the City of New York is amended to be printed to read as follows:

§22-05 Examination Required.

No person shall be issued a tattooist license without first having attended a [lecture] course and passed an examination administered immediately thereafter by the Department in infection control practices [in the] required for safe application of tattoos. [The fee for such examination conducted by the Department shall be \$25. Satisfactory evidence of passing such examination shall be maintained in the records of the Department, and a copy of such evidence shall be provided to the applicant upon completion of the lecture and passing of the examination.]

§3. The list of Chapter titles in Title 24 of the Rules of the City of New York, is amended to be printed to read as follows:

TITLE 24

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Chapter 1 Posting Regulations for Vendors of Alcoholic Beverages

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21 [Rules Describing Health Academy Training Courses and Prescribing Fees to be Charged by the Department to Defray the Costs Incurred in Administering these Courses] Health Academy Courses and Fees

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