

**NEW YORK CITY DEPARTMENT OF HEALTH & MENTAL HYGIENE
FY12 REGULATORY AGENDA**

SUBJECT AREA

General permit provisions

SUMMARY OF PROPOSED RULE

The proposal is to amend Article 5 of the New York City Health Code.

REASON WHY ACTION IS BEING CONSIDERED

As part of a comprehensive review of the New York City Health Code, the Department has revised numerous provisions relating to its issuance of permits and licenses to more accurately align its fees to match its operating costs and expenses in accordance with a changing regulatory environment.

INDIVIDUALS LIKELY TO BE AFFECTED

Individuals/entities issued or seeking licenses/permits from the Department

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York City Charter, Chapter 22

New York City Administrative Code, Title 17, Chapter 3

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Steven Linden

Director of Licensing

Environmental Health Services

SUBJECT AREA

Nutrition and physical activity

SUMMARY OF PROPOSED RULE

Amend Article 48 of the New York City Health Code to strengthen promotion of healthy food and physical activity in camp settings.

REASON WHY ACTION IS BEING CONSIDERED

Obesity is epidemic in New York, and begins early in life. In New York City one in five public school children is obese. Being obese in childhood increases the likelihood of adult obesity, which is associated with diabetes, high blood pressure, high cholesterol, heart disease, and cancer.

INDIVIDUALS LIKELY TO BE AFFECTED

Permitted camp owners and managers

RELEVANT FEDERAL, STATE AND LOCAL LAWS

Article 48 of the New York City Health Code

SCHEDULE FOR ADOPTION

Winter 2011

AGENCY CONTACT PERSON

Susan Kansagra
Acting Assistant Commissioner
Chronic Disease Prevention and Control

SUBJECT AREA

Food Protection – Facility and Equipment

SUMMARY OF PROPOSED RULE

Amend Article 81 of the New York City Health Code

REASON WHY ACTION IS BEING CONSIDERED

To strengthen and clarify Article 81 to be more consistent with its original intent, and update the Code with relevant provisions of the 2009 FDA Model Food Code to be consistent with regulatory trend and science.

INDIVIDUALS LIKELY TO BE AFFECTED

All food service and non-retail food service establishments in NYC

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York State Sanitary Code Subpart 14-1

New York City Health Code Articles 5, 81 and 89

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson

Deputy Executive Director

Food Safety and Community Sanitation

SUBJECT AREA

Meat and meat products; slaughtering of animals

SUMMARY OF PROPOSED RULE

Repeal of Article 91 of the New York City Health Code.

REASON WHY ACTION IS BEING CONSIDERED

Article 91 is being repealed because its provisions are no longer needed to regulate meat and meat products and slaughtering of animals as it is covered under other applicable law; relevant sections from this Article may be preserved and/or integrated into other applicable Health Code Articles.

INDIVIDUALS LIKELY TO BE AFFECTED

Persons and entities in the City of New York

RELEVANT FEDERAL, STATE AND LOCAL LAWS

Federal Meat Inspection Act
New York State Agriculture & Markets Law
New York City Charter Chapter 22
New York City Health Code Article 81

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson
Deputy Executive Director
Food Safety and Community Sanitation

SUBJECT AREA

Poultry, Slaughtering Eviscerating and Processing

SUMMARY OF PROPOSED RULE

Repeal Article 93 of the New York City Health Code

REASON WHY ACTION IS BEING CONSIDERED

This is being proposed to eliminate redundancies and inconsistencies with New York State Department of Agriculture and Markets Article 5. State law preempts Article 93 and the State regulates and licenses all live poultry markets in NYC.

INDIVIDUALS LIKELY TO BE AFFECTED

Owners of Poultry Markets

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York State Agriculture and Markets Law Article 5
New York City Health Code Article 93

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson
Deputy executive Director
Food Safety and Community Sanitation

SUBJECT AREA

Sausage manufacturing and smoking, preparing or preserving of meat

SUMMARY OF PROPOSED RULE

Repeal of Article 95 of the New York City Health Code.

REASON WHY ACTION IS BEING CONSIDERED

Article 95 is being repealed because its provisions are no longer needed to regulate meat and meat products and slaughtering of animals as it is covered under other applicable law; relevant sections from this Article may be preserved and/or integrated into other applicable Health Code Articles.

INDIVIDUALS LIKELY TO BE AFFECTED

Persons and entities in the City of New York

RELEVANT FEDERAL, STATE AND LOCAL LAWS

Federal Meat Inspection Act
New York State Agriculture & Markets Law
New York City Charter Chapter 22
New York City Health Code Article 81

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson
Deputy Executive Director
Food Safety and Community Sanitation

SUBJECT AREA

Horsemeat; Slaughtering of Horses

SUMMARY OF PROPOSED RULE

Repeal of Article 97 of the New York City Health Code.

REASON WHY ACTION IS BEING CONSIDERED

Article 97 is being repealed because it is no longer necessary to regulate horsemeat.

INDIVIDUALS LIKELY TO BE AFFECTED

Persons and entities in the City of New York

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York City Charter Chapter 22

New York City Health Code Article 81

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson

Deputy Executive Director

Food Safety and Community Sanitation

SUBJECT AREA

Shellfish and Fish

SUMMARY OF PROPOSED RULE

Repeal of Article 101 of the New York City Health Code.

REASON WHY ACTION IS BEING CONSIDERED

Article 101 is being repealed because it is no longer necessary to regulate shellfish and fish as it is covered under other applicable law; relevant sections from this Article may be preserved and/or integrated into other applicable Health Code Articles.

INDIVIDUALS LIKELY TO BE AFFECTED

Persons and entities in the City of New York

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York State Environmental Conservation Law

New York City Charter Chapter 22

New York City Health Code Article 81

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson

Deputy Executive Director

Food Safety and Community Sanitation

SUBJECT AREA

Establishments engaged in preparing, preserving or smoking fish

SUMMARY OF PROPOSED RULE

Repeal of Article 103 of the New York City Health Code.

REASON WHY ACTION IS BEING CONSIDERED

Article 103 is being repealed because it is no longer necessary to regulate establishments engaged in fish preparation as it is covered under other applicable law; relevant sections from this Article may be preserved and/or integrated into other applicable Health Code Articles.

INDIVIDUALS LIKELY TO BE AFFECTED

Persons and entities in the City of New York

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York State Environmental Conservation Law

New York State Agriculture & Markets Law

New York City Charter Chapter 22

New York City Health Code Article 81

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson

Deputy Executive Director

Food Safety and Community Sanitation

SUBJECT AREA

Frozen Desserts

SUMMARY OF PROPOSED RULE

Repeal of Article 113 of the New York City Health Code.

REASON WHY ACTION IS BEING CONSIDERED

Article 113 is being repealed because it is no longer necessary to regulate frozen desserts as it is covered under other applicable law; relevant sections from this Article may be preserved and/or integrated into other applicable Health Code Articles.

INDIVIDUALS LIKELY TO BE AFFECTED

Persons and entities in the City of New York

RELEVANT FEDERAL, STATE AND LOCAL LAWS

Federal Food, Drug & Cosmetic Act
New York State Agriculture & Markets Law
New York City Charter Chapter 22
New York City Health Code Article 81

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson
Deputy Executive Director
Food Safety and Community Sanitation

SUBJECT AREA

Specific food establishments and beverages

SUMMARY OF PROPOSED RULE

Repeal of Article 121 of the New York City Health Code.

REASON WHY ACTION IS BEING CONSIDERED

Article 121 is being repealed because it is no longer necessary to regulate these specific food establishments and beverages as they are covered under other applicable law; relevant sections from this Article may be preserved and/or integrated into other applicable Health Code Articles.

INDIVIDUALS LIKELY TO BE AFFECTED

Persons and entities in the City of New York

RELEVANT FEDERAL, STATE AND LOCAL LAWS

Federal Egg Products Inspection Act
Federal Food, Drug & Cosmetic Act
New York State Agriculture & Markets Law
New York State Public Health Law
New York City Charter Chapter 22
New York City Health Code Article 81

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson
Deputy Executive Director
Food Safety and Community Sanitation

SUBJECT AREA

Carbon Monoxide Detectors

SUMMARY OF PROPOSED RULE

Amend Article 131 of the New York City Health Code to require carbon monoxide detectors in public indoor spaces that use fossil fuel-burning machinery, such as ice resurfacing equipment, material handling equipment, etc.

REASON WHY ACTION IS BEING CONSIDERED

To protect the public from potential health effects due to carbon monoxide exposure.

INDIVIDUALS LIKELY TO BE AFFECTED

Building owners and managers.
Equipment owners.

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York City Health Code Article 131

SCHEDULE FOR ADOPTION

Spring 2012

AGENCY CONTACT PERSON

Christopher D'Andrea
Environmental and Occupational Disease Epidemiology
Bureau of Environmental Disease Prevention

SUBJECT AREA

Scalding burn injuries

SUMMARY OF PROPOSED RULE

Add new section to Article 131 requiring water temperature at outlet taps in residential buildings to be no more than 120 degrees F to prevent scalding burns.

REASON WHY ACTION IS BEING CONSIDERED

Scalding tap water burns are a significant cause on injury, disfigurement, loss of function, and mortality in young children and the elderly. Estimates from the United State Consumer Products Safety Commission indicate that approximately 3,800 injuries and 34 deaths occur in the home each year due to scalding from excessively hot tap water. The majority of these injuries involve the elderly and children under the age of five whose skin is more sensitive to burns.

INDIVIDUALS LIKELY TO BE AFFECTED

Building owners and managers, plumbers, tenants

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York City Administrative Code §27-2031

SCHEDULE FOR ADOPTION

Spring 2012

AGENCY CONTACT PERSON

Nathan Graber, MD, MPH

Director, Environmental and Occupational Disease Epidemiology

Bureau of Environmental Disease Prevention

SUBJECT AREA

Building Drinking Water Storage Tanks

SUMMARY OF PROPOSED RULE

Amendment of Article 141 of the New York City Health Code

REASON WHY ACTION IS BEING CONSIDERED

This amendment is needed to clarify enforcement of the requirement for building owners to perform annual drinking water tank inspections in accordance with Health Code §141.07(b). Failure to submit a report when requested by the Department will be considered *prima facie* evidence that no inspection was conducted. Additionally, a revision is needed to indicate that an owner shall be subject to a violation for failure to perform bacteriological testing (or other required element(s)) of a water tank inspection for each year that a complete inspection report is not provided to the Department.

INDIVIDUALS LIKELY TO BE AFFECTED

Persons and entities in the City of New York that own buildings where drinking water is collected and dispensed from roof top tanks.

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York City Administrative Code §17-194

New York City Health Code § 141.07

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Christopher Boyd

Assistant Commissioner

Bureau of Environmental Sciences and Engineering

SUBJECT AREA

Bathing Establishments

SUMMARY OF PROPOSED RULE

Amendment of pool operator course requirements

REASON WHY ACTION IS BEING CONSIDERED

New York City Health Code § 165.15(b)(1) requires that pools be managed by a certified pool operator that has successfully completed a course in swimming pool technology administered by the Department. The Department proposes to change the language of § 165.15(b)(1) to require pool operators to complete a course either administered or approved by the New York State Department of Health (NYSDOH). There are a number of NYSDOH-approved courses available to the public.

INDIVIDUALS LIKELY TO BE AFFECTED

Persons and entities in the City of New York who own or operate bathing establishments (swimming pools).

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York State Sanitary Code §§ 6-1.2(l) and 6-3.2(e)
New York City Health Code § 165.15(b)(1).

SCHEDULE FOR ADOPTION

Summer 2012

AGENCY CONTACT PERSON

Christopher Boyd
Assistant Commissioner
Bureau of Environmental Sciences and Engineering

SUBJECT AREA

Radiation-Article 175 of the

SUMMARY OF PROPOSED RULE

Technical updates are proposed to §§ 175.02 (Definitions), 175.03 (Standards for protection against radiation), 175.101 (general requirements for radioactive materials licenses) and 175.104 (Waste disposal) in order to conform to federal regulatory changes.

REASON WHY ACTION IS BEING CONSIDERED

The U.S. Nuclear Regulatory Commission amended Title 10 of the Code of Federal Regulations to effect the above-referenced changes. New York City (as well as other Agreement States) is required to make commensurate changes to its radiation regulations to remain compatible with federal law.

INDIVIDUALS LIKELY TO BE AFFECTED

New York City radioactive materials licensees and individuals licensed by the Nuclear Regulatory Commission

RELEVANT FEDERAL, STATE AND LOCAL LAWS

Code of Federal Regulations Title 10 Parts 20, 30, 31 and 32

New York Code of Rules and Regulations Title 6 Part 381

New York Code of Rules and Regulations Title 10 Part 16

New York City Health Code Article 175

SCHEDULE FOR ADOPTION

Winter 2011

AGENCY CONTACT PERSON

Tobias Lickerman

Chief-Radioactive Materials

Office of Radiological Health

SUBJECT AREA

Building stairwells

SUMMARY OF PROPOSED RULE

Amend Article 181 (Protection of the Public Health Generally) of the New York City Health Code to include provisions to facilitate and encourage use of stairwells.

REASON WHY ACTION IS BEING CONSIDERED

Obesity and diabetes are rapidly getting worse in New York City. One of the primary reasons is lack of physical activity. Measures to increase stair use are a proven and cost-effective way to promote daily physical activity.

INDIVIDUALS LIKELY TO BE AFFECTED

Building owners, managers, and major tenants

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York City Health Code §3.09

SCHEDULE FOR ADOPTION

Summer 2012

AGENCY CONTACT PERSON

Susan Kansagra
Acting Assistant Commissioner
Chronic Disease Prevention and Control

SUBJECT AREA

Mobile Food Vending

SUMMARY OF PROPOSED RULE

Repeal and reenact Chapter 6 of Title 24 of the Rules of the City of New York

REASON WHY ACTION IS BEING CONSIDERED

These rules are intended to supplement current regulation of mobile food vending units.

INDIVIDUALS LIKELY TO BE AFFECTED

Permitted and licensed mobile food vendors

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York State Sanitary Code Subpart 14-4

New York City Administrative Code Title 17 Chapter 3 Subchapter 2

Rules of the City of New York Title 24 Chapter 6

New York City Health Code Articles 5, 81 and 89

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson

Deputy Executive Director

Food Safety and Community Sanitation

SUBJECT AREA

Smoking in public areas

SUMMARY OF PROPOSED RULE

Amend Chapter 10 of the Rules of the City of New York to repeal Section 10-09, Separate Smoking Rooms in Bars and all references to separate smoking rooms in that Chapter.

REASON WHY ACTION IS BEING CONSIDERED

This is being proposed because it is inconsistent with New York State Public Health Law Article 13-E.

INDIVIDUALS LIKELY TO BE AFFECTED

Restaurant and bar operators

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York State Public Health Law Article 13-E
New York City Administrative Code Title 17 Chapter 5
Rules of the City of New York Title 24 Chapter 10

SCHEDULE FOR ADOPTION

Winter 2011

AGENCY CONTACT PERSON

Michelle Robinson
Deputy Executive Director
Food Safety and Community Sanitation

SUBJECT AREA

Window Guards

SUMMARY OF PROPOSED RULE

Amend Chapter 12-11 of of the Rules of the City of New York to add other alternative devices for other than double hung windows.

REASON WHY ACTION IS BEING CONSIDERED

This rule change is being proposed to authorize alternative window guard devices that the Department has approved and knows to be effective for other than double hung windows.

INDIVIDUALS LIKELY TO BE AFFECTED

Building owners and landlords of multiple dwellings where children 11 years or younger reside.

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York City Administrative Code §17-123

Rules of the City of New York Title 24 Chapter 12

New York City Health Code § 131.15

SCHEDULE FOR ADOPTION

Spring 2012

AGENCY CONTACT PERSON

Michelle Robinson

Deputy Executive Director

Food Safety and Community Sanitation

SUBJECT AREA

Food service establishment inspection procedures

SUMMARY OF PROPOSED RULE

Revise Appendices 23-A and 23-B of Chapter 23 of Title 24 of the Rules of the City of New York to change how inspection violations are scored.

REASON WHY ACTION IS BEING CONSIDERED

The Department proposes to amend Appendix A and Appendix B to consolidate certain violations in order to reduce points for violations that are closely related.

INDIVIDUALS LIKELY TO BE AFFECTED

The public, permittees, owners and managers of all food service establishments are likely to be affected.

RELEVANT FEDERAL, STATE AND LOCAL LAWS

New York State Sanitary Code Subpart 14-1

New York City Health Code Article 81

SCHEDULE FOR ADOPTION

Fall 2011

AGENCY CONTACT PERSON

Michelle Robinson

Deputy Executive Director

Food Safety and Community Sanitation