



NEW YORK CITY DEPARTMENT OF HEALTH & MENTAL HYGIENE  
FY 2018 REGULATORY AGENDA

1. Provide a brief description of the subject area(s) of the proposed rule.

**Clinical laboratory reporting**

2. State the reasons why action by the agency is being considered.
  - Carbapenem antibiotics are often used as the last line of treatment for infections caused by highly resistant bacteria.
  - Carbapenem-resistant *Enterobacteriaceae* (CRE) are an emerging global public health problem.
3. Provide a summary of the anticipated contents of the proposed rule (if known).  
Amend Health Code §§11.03(a) and 13.03 to require laboratories to report any of the following results for *Enterobacter* spp, *E. coli* or *Klebsiella* spp (definitions will be provided):
  - Resistant to any carbapenem
  - Positive for known carbapenemase resistance mechanism demonstrated by a recognized test
  - Positive on a phenotypic test for carbapenemase production
4. Provide a summary of the objectives of the proposed rule.  
Help ensure that patients infected with CRE are diagnosed and treated and that strict infection control measures are implemented in the diagnosing healthcare facility; and collect data to assist with tracking the spread and evolution of CRE (as an international travel hub, NYC has a high burden of CRE, estimated at around 2,000 cases per year).
5. Provide a summary of the legal basis for the proposed rule.  
NYC Charter §556(c)(2) and (4) provides the Department’s jurisdiction to supervise the reporting and control of communicable diseases and clinical laboratories, respectively.
6. Provide all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule:  
None.
7. Provide a description of the types of individuals/entities likely to be subject to the proposed rule:  
Clinical laboratories providing testing services for NYC residents.
8. Provide the approximate schedule for adopting the proposed rule:  
December 2017.
9. Agency Contact for Rulemaking:  
Agency: NYC Department of Health & Mental Hygiene  
Bureau or Division: Disease Control  
Rulemaking Contact Person: Rima Oken  
Telephone: 347.396.7591  
Email: roken@health.nyc.gov



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1. Provide a brief description of the subject area(s) of the proposed rule.

**Clinical laboratory reporting**

2. State the reasons why action by the agency is being considered.
  - Nontuberculous mycobacteria (NTM) are opportunistic pathogens that can be difficult to treat. There are over 150 different species of NTM.
  - Extra-pulmonary NTM infections appear to be increasing and are often associated with severe disease and poor outcomes. Outbreaks have been associated with contaminated medical devices and medications, cosmetic procedures (e.g., nail salons), hot tubs and spas, medical tourism, and other unusual exposures but the true burden and incidence is unknown.
3. Provide a summary of the anticipated contents of the proposed rule.

Amend NYC Health Code §§11.03(a) and 13.03 to require laboratories to report any of the following results for certain species of NTM: a person with a positive culture or molecular evidence of Mycobacteria species in specimens from skin, soft tissue, or surgical wounds.
4. Provide a summary of the objectives of the proposed rule.

Help detect outbreaks due to common sites/sources of exposures and ensure that strict infection control measures are implemented where necessary to prevent additional cases; and collect data to assist with tracking the spread and evolution of NTM.
5. Provide a summary of the legal basis for the proposed rule.

NYC Charter §556(c)(2) and (4) provides the Department’s jurisdiction to supervise the reporting and control of communicable diseases and to regulate clinical laboratories, respectively.
6. Provide all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule:

None.
7. Provide a description of the types of individuals/entities likely to be subject to the proposed rule:

Clinical laboratories providing testing services for NYC residents.
8. Provide the approximate schedule for adopting the proposed rule:

December 2017.
9. Agency Contact for Rulemaking:

Agency:	NYC Department of Health & Mental Hygiene
Bureau or Division:	Disease Control
Rulemaking Contact Person:	Rima Oken
Telephone:	347.396.7591
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1. Provide a brief description of the subject area(s) of the proposed rule.

**Child care**

2. State the reasons why action by the agency is being considered.
  - To align City requirements with recent federal Child Care Development Block Grant (CCDBG) requirements to ensure continued federal funding.
  - To create a set of rules to implement recent Mayoral initiative relating to facility-specific child care performance cards that defines performance standards and how they'll be measured, and frequency of issuance.
  - Create a set of rules to inform child care centers regarding how water needs to be tested, the number and type of sources that need testing, and the qualification of testing companies in response to recently-adopted NYS requirements.
3. Provide a summary of the anticipated contents of the proposed rule (if known).
  - Revise Article 47 of the NYC Health Code to align new federal CCDBG training requirements with training requirements for all child care staff.
  - Create rules to enhance the implementation of child care program performance cards that will identify and define performance indicators, posting protocols, and frequency of issuance.
  - Create rules that codify testing protocols for lead water tests required by Article 47 to conform to recent NYS requirements.
4. Provide a summary of the objectives of the proposed rule.  
The objectives include compliance with Federal and State requirements, and to provide further definition of health standards.
5. Provide a summary of the legal basis for the proposed rule.  
NYC Charter §§556 and 558 authorizes the Department to regulate all matters affecting health in the city and for the Board of Health to adopt and amend the Health Code and to include in the Health Code all matters to which the authority of the Department extends.
6. Provide all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule:
  - 45 CFR §98.1 et seq. (CCDBG)
  - 10 NYCRR Subpart 67-4 (lead testing)
7. Provide a description of the types of individuals/entities likely to be subject to the proposed rule:  
City-regulated child care centers serving preschool age children.
8. Provide the approximate schedule for adopting the proposed rule:  
December 2017.
9. Agency Contact for Rulemaking:  
Agency: NYC Department of Health & Mental Hygiene  
Bureau or Division: Division of Environmental Health, Bureau of Child Care  
Rulemaking Contact Person: Frank Cresciullo  
Telephone: 646-632-6167  
Email: fcresciu@health.nyc.gov



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1. Provide a brief description of the subject area(s) of the proposed rule.

**Penalty schedules for sustained violations.**

The Department seeks to establish a fixed penalty schedule for all sustained notices of violations/summons alleging violations of the Health Code, Department rules and other law enforced by the Department that are adjudicated at the Office of Administrative Trials and Hearings, Hearings Division.

2. State the reasons why action by the agency is being considered.  
It is the Department's intent to establish fixed penalty amounts for all Department programs that issue violations returnable to the Office of Administrative Trials and Hearings, Hearings Division. The Department currently has established fixed penalties for some, but not all, of its enforcement programs.
3. Provide a summary of the anticipated contents of the proposed rule (if known).  
To provide fixed penalties for all Department-enforced violations, which may currently only indicate a range within which the hearing examiner has discretion to choose the final penalty amount.
4. Provide a summary of the objectives of the proposed rule.  
Fixed penalties provide notice, transparency and consistency in adjudication outcomes.
5. Provide a summary of the legal basis for the proposed rule.  
Department rulemaking authority is found under NYC Charter §§ 556 and 1043.
6. Provide all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule:  
Relevant Rules: 24 RCNY (Health Code and Commissioner's Regulations)
7. Provide a description of the types of individuals/entities likely to be subject to the proposed rule:  
Respondents in Department enforcement actions.
8. Provide the approximate schedule for adopting the proposed rule:  
December 2017
9. Agency Contact for Rulemaking:  
Agency: Department of Health and Mental Hygiene  
Bureau or Division: Environmental Health  
Rulemaking Contact Person: Jeffrey Blank, Senior Division Counsel  
Telephone: 646-632-6240  
Email: jblank@health.nyc.gov



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1. Provide a brief description of the subject area(s) of the proposed rule.

**Food safety**

2. State the reasons why action by the agency is being considered.  
Update is required to Department rules located at 24 RCNY Chapter 23, Appendices A, B and C (relating to Food Service Establishment Inspection Procedures) to conform it to applicable recent amendments to Article 81 of the New York City Health Code.
3. Provide a summary of the anticipated contents of the proposed rule (if known).  
To conform the numbering and descriptions of certain violations with those in Article 81 of the Health Code.
4. Provide a summary of the objectives of the proposed rule.  
Chapter 23 will be amended to better reflect changes that were made to Article 81.
5. Provide a summary of the legal basis for the proposed rule.  
NYC Charter §556(c)(9) authorizes the Department to supervise and regulate the City's food supply.
6. Provide all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule:
  - 10 NYCRR Chapter I, State Sanitary Code, Part 14, Subpart 14-1
  - Article 71 of the New York City Health Code
  - Article 81 of the New York City Health Code
7. Provide a description of the types of individuals and entities likely to be subject to the proposed rule:  
The public, permittees, owners and managers of all food service establishments.
8. Provide the approximate schedule for adopting the proposed rule:  
December 2017
9. Agency Contact for Rulemaking:  
Agency: NYC Department of Health & Mental Hygiene  
Bureau or Division: Bureau of Food Safety & Community Sanitation  
Rulemaking Contact Person: Michelle Robinson, Deputy Executive Director  
Telephone: 646-632-6174  
Email: mrobins1@health.nyc.gov



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1. Provide a brief description of the subject area(s) of the proposed rule.  
**Bathing establishments.**
2. State the reasons why action by the agency is being considered.  
To further protect swimmer health and safety and to conform to the federal Center for Disease Control and Prevention (CDC) model code.
3. Provide a summary of the anticipated contents of the proposed rule (if known).  
Revision to bather safety requirements in NYC Health Code Article 165
4. Provide a summary of the objectives of the proposed rule.  
To further protect swimmer health and safety and to conform to the federal CDC model code.
5. Provide a summary of the legal basis for the proposed rule.  
NYC Charter §556(c)(3) authorizes the Department to exercise its functions, powers and duties in the area extending over the city, and over the adjacent waters thereto.
6. Provide all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule:
  - 15 USC §§ 8001-8008 (Virginia Graeme Baker Pools and Spa Safety Act)
  - Model Aquatic Health Code, Centers for Disease Control and Prevention
  - New York State Sanitary Code Part 6, Subpart 6-1 Swimming Pools
  - New York State Building Code (Uniform Code) § 3109
  - New York City Building Code, § BC 3109
  - Article 165 of the New York City Health Code
7. Provide a description of the types of individuals and entities likely to be subject to the proposed rule:  
Swimmers and permitted bathing establishments
8. Provide the approximate schedule for adopting the proposed rule:  
June 2018
9. Agency Contact for Rulemaking:  
Agency: NYC Department of Health & Mental Hygiene  
Bureau or Division: Environmental Health, Bureau of Public Health Engineering  
Rulemaking Contact Person: Trevor McProud, City Research Scientist II  
Telephone: 347-396-6135  
Email: tmcproud@health.nyc.gov



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1. Provide a brief description of the subject area(s) of the proposed rule.

**Bathing beaches**

2. State the reasons why action by the agency is being considered.  
To align City rules with new federal recreational water quality standards for beaches.
3. Provide a summary of the anticipated contents of the proposed rule.  
Revision to Article 167 (Bathing Beaches) of the New York City Health Code
4. Provide a summary of the objectives of the proposed rule.  
To help protect the public health of those utilizing beaches under the jurisdiction of Article 167
5. Provide a summary of the legal basis for the proposed rule.  
NYC Charter §556(c)(3) authorizes the Department to exercise its functions, powers and duties in the area extending over the city, and over the waters adjacent thereto.
6. Provide all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule:
  - Clean Water Act §304(a) (EPA recommendations in its 2012 Recreational Water Quality Criteria guidance)
  - NYS Sanitary Code, 10 NYCRR Part 6, Subpart 6-2 (Bathing Beaches)
7. Provide a description of the types of individuals and entities likely to be subject to the proposed rule:  
Swimmers and permitted bathing beaches
8. Provide the approximate schedule for adopting the proposed rule:  
June 2018
9. Agency Contact for Rulemaking:  
Agency: NYC Department of Health & Mental Hygiene  
Bureau or Division: Environmental Health, Bureau of Public Health Engineering  
Rulemaking Contact Person: Trevor McProud, City Research Scientist II  
Telephone: 347-396-6135  
Email: tmcproud@health.nyc.gov



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1. Provide a brief description of the subject area(s) of the proposed rule.

**Water conservation**

2. State the reasons why action by the agency is being considered.  
This item was identified for repeal through the City's Retrospective Rules Review.
3. Provide a summary of the anticipated contents of the proposed rule (if known).  
This rule was enacted in 1991 at a time when conservation of water was an important public health goal. However, since then, the need to conserve has diminished, especially with respect to the important public health goal of encouraging water consumption by the public.
4. Provide a summary of the objectives of the proposed rule.  
To encourage drinking water consumption.
5. Provide a summary of the legal basis for the proposed rule.  
NYC Charter §556(c)(9) authorizes the Department to supervise and regulate the City's food supply.
6. Provide all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule:  
None.
7. Provide a description of the types of individuals and entities likely to be subject to the proposed rule:  
Food service establishments and the public they serve.
8. Provide the approximate schedule for adopting the proposed rule:  
September 2017.
9. Agency Contact for Rulemaking:  
Agency: NYC Department of Health & Mental Hygiene  
Bureau or Division: Legal Affairs  
Rulemaking Contact Person: Harminderpal Rana, Assistant General Counsel  
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Email: HRana@health.nyc.gov