

DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH

NOTICE OF ADOPTION OF AN AMENDMENT TO
VARIOUS PROVISIONS OF ARTICLE 175 OF THE
NEW YORK CITY HEALTH CODE

In compliance with Section 1043(b) of the New York City Charter (the "Charter"), a Notice of Intention to Amend Various Provisions of Article 175 of the New York City Health Code and Notice of Public Hearing was printed in the City Record on Wednesday, March 17, 2004. A public hearing was held on Wednesday, April 21, 2004. One person testified and submitted a written comment and four additional written comments were received. After a review of the transcript of the public hearing and the comments received, no changes were made in response to the comments. The Board of Health at its July 22, 2004 meeting adopted the following:

STATUTORY AUTHORITY

These amendments to the New York City Health Code ("Health Code") are promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter ("Charter"). Section 556 of the Charter grants the Department of Health and Mental Hygiene (the "Department") jurisdiction to regulate matters affecting health in the City of New York. Section 556(s) of the Charter specifically empowers the Department to regulate radioactive materials. Section 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants the Department of Health rule making powers.

STATEMENT OF BASIS AND PURPOSE

The New York City Department of Health's Office of Radiological Health (ORH) supervises and regulates the public health aspects of ionizing radiation, including the handling and disposal of radioactive waste and responding to emergencies involving sources of ionizing radiation. The Office of Radiological Health carries out its mandate through its registration, licensing, inspection, emergency response and public education programs.

The Department is requesting the authority to use State Certified Radiation Safety Officers as part of its x-ray inspection program by amending Section 175.51(n) of the New York City Health Code. Section 175.51(n) covers inspections. It is proposed that a new paragraph (E) be added to paragraph 2 of subsection (n) of Section 175.51 to include language that would authorize the Department to utilize Certified Radiation Equipment Safety Officers (CRESO) for the inspections of dental and podiatric installations in lieu of or in addition to using the Department's ORH inspectors. This proposed amendment would allow the Department's ORH flexibility in assuring timely inspections for these types of installations during years when there are large numbers of these installations coming due for inspections.

The proposal is as follows:

Note- matter in brackets [] to be deleted
matter underlined is new

RESOLVED, that paragraph(2) of subdivision (n) of Section 175.51 of the New York City Health Code as last repealed and re-enacted by resolution, on the seventh day of June, nineteen hundred and ninety-four, be and the same hereby is amended by adding a new subparagraph (E) , to be printed together with explanatory notes, to read as follows:

§175.51 Registration and inspection of installations with radiation equipment; other permitted activities

• • •

(n) Inspections.

(E) The inspections shall be made by the Department or, as the Department shall direct for dental and podiatric installations, by Certified Radiation Equipment Safety Officers approved by the Department, to use the New York City Health Code, including Article 175 thereof, for compliance purposes.

(i) Certified Radiation Equipment Safety Officers shall furnish an inspection report, in a form prescribed by the Department, signed by the person who made the inspection to the operator of the installation and a copy thereof to the Department in accordance with the instructions of the prescribed form.

(ii) Certified Radiation Equipment Safety Officers shall not charge or propose to charge a fee for an inspection in excess of a fair and reasonable amount as determined by the New York State Department of Health.

Notes: Paragraph(2) of subdivision (n) of Section 175.51 was added on July 22, 2004 to authorize the Department to also utilize Certified Radiation Equipment Safety Officers for the inspections of

dental and podiatric installations to assure timely inspections for such installations.