

NOTICE OF PUBLIC HEARING

- Subject:** Opportunity to comment on proposed amendments to Article 175 (Radiation Control) of the New York City Health Code, primarily concerning standards of protection for radiation exposure, in order to maintain compatibility with federal regulations.
- Date/Time:** August 12, 2013/10:00am to 12:00pm
- Location:** New York City Department of Health and Mental Hygiene
42-09 28th Street
14th Floor, Room 14-45
Long Island City, NY 11101-4132
- Contact:** Rena Bryant
42-09 28th Street, 14th Floor, WS 14-55
Long Island City, NY 11101-4132
(347) 396-6071

Proposed Rule

The Department of Health and Mental Hygiene is proposing that the Board of Health amend Article 175 of the Health Code to make certain technical additions and revisions primarily concerning standards of protection for radiation in order to ensure compatibility with applicable federal regulations.

Instructions

You may submit written comments about the proposed amendment by mail to:

New York City Department of Health and Mental Hygiene
Board of Health
Attention: Rena Bryant
42-09 28th Street, 14th Floor, WS 14-55
Long Island City, NY 11101-4132

or, electronically through NYC RULES at www.nyc.gov/nycrules
or, by email to resolutioncomments@health.nyc.gov
or, online (without attachments) at <http://www.nyc.gov/html/doh/html/about/notice.shtml> on or before 5:00 P.M., on August 12, 2013.

To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact Rena Bryant at the phone number shown above by July 29, 2013.

Comments

Within a reasonable time after receipt, electronic copies of written comments will be available online at the Department's website and paper copies will be available between the hours of 9 A.M. and 5 P.M. at:

New York City Department of Health and Mental Hygiene
Board of Health
Attention: Rena Bryant

Statutory Authority

These amendments to the New York City Health Code (“Health Code”) are proposed pursuant to Sections 556, 558 and 1043 of the New York City Charter (“Charter”) and applicable state and federal law.

- Section 556 of the Charter grants the New York City Department of Health and Mental Hygiene (“Department”) jurisdiction to regulate matters affecting health in New York City. Specifically, Section 556 (c)(11) of the Charter authorizes the Department to supervise and regulate public health aspects of ionizing radiation within the five boroughs of New York City.
- Sections 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 rule-making powers to the Department.

The New York State Sanitary Code, in 10 NYCRR §16.1(b)(3), states that localities that have a population of more than 2,000,000 may establish their own radiation licensure requirements in place of State regulations, provided that the local requirements are consistent with Sanitary Code requirements. Section 274 of the federal Atomic Energy Act of 1954 (codified at 42 USC §2021, “Atomic Energy Act”) authorizes “Agreement States” to regulate byproduct material, source material and special nuclear material in quantities not sufficient to form a critical mass. New York State is an “Agreement State” within the meaning of the Atomic Energy Act, and the New York City Department of Health and Mental Hygiene program is a component of the relevant Agreement.

Statement of Basis and Purpose

New York State is an Agreement State, meaning that New York State and the United States Nuclear Regulatory Commission (NRC) have entered into an agreement under the Atomic Energy Act through which the NRC has delegated authority to the State to regulate radioactive material at non-reactor sites within its jurisdiction.¹ The New York State Agreement is comprised of the regulatory programs of three agencies:

1. the New York State Department of Health,
2. the New York State Department of Environmental Conservation, and
3. the New York City Department of Health and Mental Hygiene.

Under the Agreement and section 16.1 of the State Sanitary Code, the New York City Department of Health and Mental Hygiene, through its Office of Radiological Health (ORH), regulates radioactive material for medical, research and academic purposes within the five boroughs of New York City.

ORH regulations for radioactive material are contained in Article 175 of the Health Code. ORH licenses and inspects radioactive materials facilities for compliance with Article 175 for the protection of the health and safety of patients, radiation program employees and the general public. There are about 375 licensed sites in New York City possessing radioactive material for medical, academic and research purposes. ORH inspects these facilities once every 1, 2 or 3 years depending on the type of use.

Each Agreement State program is required to maintain compatibility with the NRC regulatory program. NRC Compatibility Categories specify the type of wording of proposed State program regulatory changes corresponding to relevant NRC regulations. The following are the NRC Compatibility Categories:

- Compatibility A – Identical
- Compatibility B – Essentially Identical

¹ New York State’s agreement with NRC is available online at, <http://nrc-stp.ornl.gov/special/regs/nyagreements.pdf>.

- Compatibility C – Reflect the “essential objectives” of relevant NRC regulations
- Compatibility D – Not required for compatibility
- Compatibility H&S – Recommended for Health and Safety “best practices”

The majority of proposed changes in this Notice are Compatibility A and B. Some are compatibility C and H&S.

These proposed technical amendments to Article 175 are in response to NRC amendments of 10 CFR Part 20, concerning standards of protection for radiation, and 10 CFR § 19.13, regarding notification and reporting to individuals who are exposed to radiation as part of their employment, and are indicated in NRC Regulation Amendment Tracking Sheets (RATS) 1998-5, 1998-6 and 2008-1, available online at http://nrc-stp.ornl.gov/rss_regamendments.html. The provisions in Article 175 that require amendment are §§175.02 (*Definitions*), 175.03 (*Standards for protection against radiation*), 175.04 (*Notices, instructions and reports to workers; inspections*) and 175.104 (*Waste disposal*).

At its meeting on June 28, 2013, the Board of Health adopted a resolution that included amendments to §§ 175.02 and 175.04 that renumbered portions of those sections which are also proposed to be amended below. The amendments proposed below reflect Article 175 of the Health Code as it exists at the time this proposal was approved for publication, and do not yet reflect the changes approved for adoption on June 28, 2013.

Matter in brackets [] is deleted.

Matter underlined is new.

RESOLVED, that subdivision (a) of Section 175.02 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, as last amended by resolution on March 13, 2012, be and the same hereby is amended to update various definitions concerning radiation exposure limits to ensure compatibility with applicable federal regulations, to be printed together with explanatory notes to read as follows:

§ 175.02 Definitions

(a) As used in this Code, the following definitions shall apply:

(63) "Declared pregnant woman" means a woman who has voluntarily informed her employer the licensee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(95) "[Eye] Lens dose equivalent" means the external [dose equivalent to] exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm²).

(110) "High radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour at 30 centimeters [(12 inches)] from [any source of] the radiation source or 30 centimeters from any surface that the radiation penetrates. [For the purposes of this Code, rooms or areas in which diagnostic x-ray systems are used for healing arts purposes are not considered high radiation areas.]

(115) "Individual monitoring devices" (individual monitoring equipment) means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices. [For purposes of this Code, "personnel dosimeter" and "dosimeter" are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal air sampling devices.]

(183) ["Public dose" means the dose received by a member of the public from exposure to sources of radiation or to radioactive material released by a licensee or to any other source of radiation under the control of the licensee. Public dose does not include occupational dose, dose received from background radiation, exposure to individuals administered radioactive material and released under §175.103(c)(9), dose received as a patient from medical practices, or dose from voluntary participation in medical research programs] Reserved.

(256) "Total effective dose equivalent" (TEDE) means the sum of the [deep] effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

(276) "Very high radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in 1 hour at 1 meter [(3 feet)] from a radiation source or 1 meter from any surface that the radiation penetrates. [At very high doses received at high dose rates, units of absorbed dose (gray and rad) are appropriate, rather than units of dose equivalent (sievert and rem)].

Notes: The Department proposes that the Board of Health amend §175.02(a) of the Health Code to update various definitions concerning radiation exposure limits to ensure compatibility with applicable federal regulations.

RESOLVED, that subdivisions (b), (c), (f), (k), and (l) of Section 175.03 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, subdivision (f) as last amended by resolution on April 3, 2001, subdivision (c) as last amended by resolution on September 26, 2006, subdivisions (b), (k), and (l) as last amended by resolution on March 13, 2012, be and the same hereby is amended to ensure compatibility with applicable federal regulations concerning radiation exposure limits, to be printed together with explanatory notes to read as follows:

§175.03 Standards for protection against radiation.

(b) *Radiation protection programs.* (1) *Radiation Protection Programs.* Each person who operates or permits the operation of a radiation installation or who operates, transfers, receives, produces, possesses or uses, or permits the operation, transfer, receipt, production, possession or use of any radiation source shall:

(i) use, to the extent practicable, procedures and engineering controls based upon sound radiation

protection principles to achieve occupational doses and [public] doses to members of the public that are as low as is reasonably achievable (ALARA) below the limits specified in this Code;

(c) *Occupational dose limits. (1) Occupational dose limits for adults.*

(i) Except for planned special exposures pursuant to §175.03(c)(6), the licensee or registrant shall control the occupational dose to any individual adult from licensed or registered activities to ensure that such dose does not exceed:

(B) annual limits to the lens of the eye, to the skin of the whole body, and to the skin of the extremities of:
(a) a lens [an eye] dose equivalent of 0.15 Sv (15 rem), and

(iii) When the external exposure is determined by measurement with an external personal monitoring device, the deep-dose equivalent must be used in place of the effective dose equivalent, unless the effective dose equivalent is determined by a dosimetry method approved by the Department. The assigned deep dose equivalent must be for the part of the body receiving the highest exposure. The assigned shallow dose equivalent must be the dose averaged over the contiguous 10 square centimeters of skin receiving the highest exposure:

(A) the deep dose equivalent, [eye] lens dose equivalent and shallow dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable; or

(3) *Determination of external dose from airborne radioactive material.*

(i) Licensees, when determining the dose from airborne radioactive material, shall include the contribution to the deep dose equivalent, [eye] lens dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. (See Appendix B of this section, footnotes 1 and 2.)

(5) *Determination of prior occupational dose.* (i) For each individual who may enter the licensee's or registrant's restricted area and is likely to receive [, in a year,] an annual occupational dose requiring monitoring pursuant to §175.03(f)(2), the licensee or registrant shall:

(ii) Prior to permitting an individual to participate in a planned special exposure, the licensee or registrant shall determine:

(B) all doses in excess of the limits [,] (including doses [received] during accidents and emergencies), received during the lifetime of the individual; and

(iii) In complying with the requirements of [§175.03(c)(5)(i)] subparagraphs (i) or (ii) of this paragraph, a licensee or registrant may:

(A) accept, as a record of the occupational dose that the individual received during the current year, a written signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual may have received during the current year; and

(C) obtain reports of the individual's dose [equivalent] equivalent(s) from the most recent employer for work involving radiation exposure, or the individual's current employer[,] (if the individual is not

employed by the licensee or registrant), by telephone, telegram, facsimile, or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

(vi) The licensee or registrant shall retain the records on form RAD-4, "Cumulative Occupational Radiation Exposure History," or equivalent until the Department authorizes their disposition. The licensee or registrant shall retain records used in preparing form RAD-4 or equivalent for 3 years after the record is made. This includes records required under the standards for protection against radiation in effect prior to January 1, 1994.

(8) *Dose to an embryo/fetus.* (i) The licensee or registrant shall ensure that the dose equivalent to [an] the embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 5 mSv (0.5 rem). (See [§175.03(k)(8)] §175.03(k)(9) for recordkeeping requirements.)

(iii) The dose to an embryo/fetus shall be taken as the sum of:

(B) the dose equivalent to the embryo/fetus resulting from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman.

(iv) If, by the time the woman declares pregnancy to the licensee or registrant, the dose equivalent to the embryo/fetus [has exceeded 4.5 mSv (0.45 rem)] is found to have exceeded 5 mSv (0.5 rem), or is within 0.5 mSv (0.05 rem) of this dose, the licensee or registrant shall be deemed to be in compliance with §175.03(c)(8)(i) if the additional dose to the embryo/fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

(f) *Surveys and monitoring.* (1) *General.* (i) Each licensee or registrant shall make, or cause to be made, surveys that:

(A) [are] may be necessary for the licensee or registrant to comply with this Code; and

(B) are necessary under the circumstances to evaluate:

(a) the magnitude and extent of radiation levels; and

(c) the potential radiological hazards [that could be present] of the radiation levels and residual radioactivity detected.

(2) *Personnel monitoring.* (i) *External radiation sources.* Each [person who possesses any radiation source shall supply and require the proper use of appropriate, calibrated and operable] licensee shall monitor occupational exposure to radiation from licensed and unlicensed radiation sources under the control of the licensee and shall supply and require the use of individual monitoring devices by: ***

(B) minors and declared pregnant women likely to receive, in 1 year from sources external to the body, a deep dose equivalent in excess of 10 percent of any of the applicable limits in §175.03(c)(7) or §175.03(c)(8); and

(k) *Records.* (1) *General provisions.* (i) [Each] (A) Except as required by federal law or regulations, each licensee or registrant shall use [SI units (becquerel, gray, sievert and coulomb per kilogram) or special units (curie, rad, rem and roentgen) including multiples and subdivisions,] the following units: curie, rad, rem, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this subdivision.

(B) In the records required by this subdivision, the licensee may record quantities in the International

System of Units (SI) in parentheses following each of the units specified in paragraph (a) of this subdivision. However, all quantities must be recorded as stated in clause (A) of this subparagraph.

(ii) The licensee or registrant shall make a clear distinction between the quantities entered on the records required by this section, such as, total effective dose equivalent, total organ dose equivalent, shallow dose equivalent, [eye] lens dose equivalent, deep dose equivalent, or committed effective dose equivalent.

(9) *Records of individual monitoring results.* (i) *Recordkeeping Requirement.* Each licensee or registrant shall maintain records of doses received by all individuals for whom monitoring was required pursuant to §175.03(f)(2) of this Code, and records of doses received during planned special exposures, accidents, and emergency conditions. Assessments of dose equivalent and records made using units in effect before the effective date of these requirements need not be changed. These records shall include, when applicable:

(A) the deep dose equivalent to the whole body, [eye] lens dose equivalent, shallow dose equivalent to the skin, and shallow dose equivalent to the extremities; and

(D) the specific information used to [calculate] assess the committed effective dose equivalent pursuant to §175.03(c)(4)(iii)[;], and when required by §175.03(f)(2); and

(1) *Reports.* (1) *Reports of stolen, lost, or missing licensed or registered sources of radiation.*

(2) *Notification of incidents.* (i) *Immediate notification.* Notwithstanding other requirements for notification, each licensee or registrant shall immediately report each event involving byproduct, source, or special nuclear material or a source of radiation possessed by the licensee or registrant that may have caused or threatens to cause any of the following conditions:

(A) an individual to receive:

(b) [an eye] a lens dose equivalent of 0.75 Sv (75 rem) or more; or

(ii) *Twenty-four hour notification.* Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Department each event involving loss of control of a licensed or registered source of radiation possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:

(A) an individual to receive, in a period of 24 hours:

(b) [an eye] a lens dose equivalent exceeding 0.15 Sv (15 rem); or

Notes: The Department proposes that the Board of Health amend subdivisions (b), (c), (f), (k), and (l) of §175.03 of the Health Code to ensure compatibility with applicable federal regulations concerning radiation exposure limits.

RESOLVED, that subdivision (d) of Section 175.04 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, as last amended by resolution on March 23, 2011, be and the same hereby is amended to ensure compatibility with applicable federal regulations concerning exposure limits for radiation facility workers, to be printed together with

explanatory notes to read as follows:

§175.04 Notices, instructions and reports to workers; inspections.

(d) *Notification and reports to workers.*

(3) Each licensee and/or registrant shall [furnish a report of the worker's exposure to sources of radiation at the request of the worker formerly engaged in activities controlled by the licensee or registrant] make dose information available to workers as shown in records maintained by the licensee and/or registrant under the provisions of §175.03(k)(9). The licensee shall provide an annual report to each individual monitored under §175.03(f)(2) of the dose received in that monitoring year if:

(i) The individual's occupational dose exceeds 1 mSv (100 mrem) TEDE or 1 mSv (100 mrem) to any individual organ or tissue; or

(ii) The individual engaged or formerly engaged in activities controlled by the licensee or registrant requests his or her annual dose report.

The report shall include the dose record for each year the worker was required to be monitored pursuant to §175.03(f)(2) of this Code, or the equivalent provisions of previous versions of such section of this Code. Such report shall be furnished to the Department within thirty (30) days from the date of the request, or within thirty (30) days after the dose of the individual has been determined by the licensee or registrant, whichever is later. The report shall cover the period of time that the worker's activities involved exposure to sources of radiation and shall include the dates and locations of licensed or registered (including certified registrations) activities.

(4) When a licensee and/or registrant is required pursuant to §175.03(1)(3)(2), or §175.03(1)(4) or §175.03(1)(5) to report to the Department any exposure of an identified occupationally exposed individual, or an identified member of the public, to radiation or radioactive material, the licensee and/or registrant shall also provide the individual a report on the exposure data included [therein] in the report to the Department. [Such reports shall be transmitted at a time not later than the transmittal to the Department.]

Notes: The Department proposes that the Board of Health amend §175.04 of the Health Code to ensure compatibility with applicable federal regulations concerning exposure limits for radiation facility workers.

RESOLVED, that subdivision (f) and Appendix A of Section 175.104 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, as last amended by resolution on June 27, 1994, be and the same hereby is amended to ensure compatibility with applicable federal regulations concerning the transfer or disposal of radioactive waste, to be printed together with explanatory notes to read as follows:

§175.104 Waste disposal.

(f) *Transfer for disposal and manifests.* (1) The requirements of [§175.104(f)] this subdivision and [Appendix A of §175.104] Appendix G to 10 CFR Part 20 are designed to:

(i) control transfers of low-level radioactive waste [intended for disposal at a licensed low-level radioactive waste] by any waste generator, waste collector, or waste processor licensee, as defined in Appendix G to 10 CFR Part 20, who ships low-level waste either directly, or indirectly through a waste

collector or waste processor, to a licensed low-level waste land disposal facility, as defined in 10 CFR §61.2;

(ii) establish a manifest tracking system, and

(iii) supplement existing requirements concerning transfers and recordkeeping for those wastes.

(2) Each shipment of radioactive waste designated for disposal at a licensed low-level radioactive waste disposal facility shall be accompanied by a shipment manifest as specified in Section I of [Appendix A of §175.104] Appendix G to 10 CFR Part 20.

(3) Each shipment manifest shall include a certification by the waste generator as specified in Section II of [Appendix A of §175.104] Appendix G to 10 CFR Part 20.

(4) Each person involved in the transfer of waste for disposal [or in the] and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in Section III of [Appendix A of §175.104] Appendix G to 10 CFR Part 20.

(6) Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility must document the information required on NRC's Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with Appendix G to 10 CFR Part 20.

(7) Any licensee shipping byproduct material as defined in §§175.02(a)(33)(iii) and (iv) intended for ultimate disposal at a land disposal facility licensed under 10 CFR Part 61 must document the information required on the NRC's Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with Appendix G to 10 CFR Part 20.

APPENDIX A

[REQUIREMENTS FOR TRANSFER OF LOW-LEVEL RADIOACTIVE WASTE FOR DISPOSAL AT LAND DISPOSAL FACILITIES AND MANIFESTS

I. Manifest. The shipment manifest shall contain the name, address, and telephone number of the person generating the waste. The manifest shall also include the name, address, and telephone number or the name and U.S. Environmental Protection Agency hazardous waste identification number of the person transporting the waste to the land disposal facility. The manifest shall also indicate: a physical description of the waste, the volume, radionuclide identity and quantity, the total radioactivity, and the principal chemical form. The solidification agent shall be specified. Waste containing more than 0.1% chelating agents by weight shall be identified and the weight percentage of the chelating agent estimated. Wastes classified as Class A, Class B, or Class C in Section I of Appendix B shall be clearly identified as such in the manifest. The total quantity of the radionuclides hydrogen-3, carbon-14, technetium-99, and iodine-129 shall be shown. The manifest required by this paragraph may be shipping papers used to meet U.S. Department of Transportation or U.S. Environmental Protection Agency regulations or requirements of the receiver, provided all the required information is included. Copies of manifests required by this section may be legible carbon copies or legible photocopies.

II. Certification. The waste generator shall include in the shipment manifest a certification that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the U.S. Department of Transportation, the New York State Department of Environmental Protection and this Department. An authorized representative of the waste generator shall sign and date the manifest.

III. Control and Tracking. (a) Any radioactive waste generator who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in III. (a)(1) through (8). Any radioactive waste generator who transfers waste to a licensed waste processor who treats or repackages waste shall comply with the requirements of III. (a)(4) through (8). A licensee shall:

- (1) Prepare all wastes so that the waste is classified according to Section I of Appendix B and meets the waste characteristics requirements in Section II of Appendix B;
 - (2) Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with Section I of Appendix B;
 - (3) Conduct a quality control program to ensure compliance with Section I and II of Appendix B; the program shall include management evaluation of audits;
 - (4) Prepare shipping manifests to meet the requirements of Section I and II;
 - (5) Forward a copy of the manifest to the intended recipient, at the time of shipment, or deliver to a collector at the time the waste is collected, obtaining acknowledgment of receipt in the form of a signed copy of the manifest or equivalent documentation from the collector;
 - (6) Include one copy of the manifest with the shipment;
 - (7) Retain a copy of the manifest and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by §175.101 of this Code; and
 - (8) For any shipments or any portion of a shipment for which acknowledgment of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with Section III. (e).
- (b) Any waste collector licensee who handles only prepackaged waste shall:
- (1) Acknowledge receipt of the waste from the generator within 1 week of receipt by returning a signed copy of the manifest or equivalent documentation;
 - (2) Prepare a new manifest to reflect consolidated shipments; the new manifest shall serve as a listing or index for the detailed generator manifests. Copies of the generator manifests shall be a part of the new manifest. The waste collector may prepare a new manifest without attaching the generator manifests, provided the new manifest contains for each package the information specified in Section I of this appendix. The collector licensee shall certify that nothing has been done to the waste that would invalidate the generator's certification;
 - (3) Forward a copy of the new manifest to the land disposal facility operator at the time of shipment;
 - (4) Include the new manifest with the shipment to the disposal site;
 - (5) Retain a copy of the manifest and documentation of acknowledgment of receipt as the record of transfer of licensed material as required by §175.101 of this Code, and retain information from generator manifest until disposition is authorized by the Department; and
 - (6) For any shipments or any portion of a shipment for which acknowledgment of receipt is not received within the times set forth in this section, conduct an investigation in accordance with Section III. (e).
- (c) Any licensed waste processor who treats or repackages wastes shall:
- (1) Acknowledge receipt of the waste from the generator within 1 week of receipt by returning a signed copy of the manifest or equivalent documentation;
 - (2) Prepare a new manifest that meets the requirements of Sections I and II of this appendix. Preparation of the new manifest reflects that the processor is responsible for the waste;
 - (3) Prepare all wastes so that the waste is classified according to Section I of Appendix B and meets the waste characteristics requirements in Section II of Appendix B;
 - (4) Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with Sections I and III of Appendix B;
 - (5) Conduct a quality control program to ensure compliance with Sections I and II of Appendix B. The program shall include management evaluation of audits;
 - (6) Forward a copy of the new manifest to the disposal site operator or waste collector at the time of shipment, or deliver to a collector at the time the waste is collected, obtaining acknowledgment of receipt in the form of a signed copy of the manifest or equivalent documentation by the collector;
 - (7) Include the new manifest with the shipment;
 - (8) Retain copies of original manifests and new manifests and documentation of acknowledgment of receipt as the record of transfer of licensed material required by §175.101 of this Code; and
 - (9) For any shipment or portion of a shipment for which acknowledgment is not received within the times set forth in this section, conduct an investigation in accordance with Section III. (e).

(d) The land disposal facility operator shall:

(1) Acknowledge receipt of the waste within 1 week of receipt by returning a signed copy of the manifest or equivalent documentation to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. The returned copy of the manifest or equivalent documentation shall indicate any discrepancies between materials listed on the manifest and materials received;

(2) Maintain copies of all completed manifests or equivalent documentation until the Agency authorizes their disposition; and

(3) Notify the shipper, that is, the generator, the collector, or processor, and the Agency when any shipment or portion of a shipment has not arrived within 60 days after the advance manifest was received.

(e) Any shipment or portion of a shipment for which acknowledgment is not received within the times set forth in this section shall:

(1) Be investigated by the shipper if the shipper has not received notification or receipt within 20 days after transfer.

(i) Such investigation shall include tracing the shipment and filing a report with the Department. Each licensee who conducts a trace investigation shall file a written report with the Department within 2 weeks of completion of the investigation] (Reserved).

Notes: The Department proposes that the Board of Health amend Health Code §175.104 and its Appendix A to ensure compatibility with applicable federal regulations concerning the transfer or disposal of radioactive waste.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-0428**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Radiation Control Rules (Health Code Article 175)

REFERENCE NUMBER: 2013 RG 038

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: June 25, 2013

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Radiation Control Rules (Health Code Article 175)

REFERENCE NUMBER: DOHMH-30

RULEMAKING AGENCY: DOHMH

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

June 25, 2013
Date