



# THE CITY RECORD

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## THE CITY RECORD MICHAEL R. BLOOMBERG, Mayor

MARTHA K. HIRST, Commissioner, Department of Citywide Administrative Services.  
ELI BLACHMAN, Editor of The City Record.

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## PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

### BANKING COMMISSION

#### MEETING

PLEASE TAKE NOTICE THAT THERE WILL BE A Quarterly meeting of the Banking Commission on Tuesday, September 30, 2008 at 2:00 P.M. in Room 727, Municipal Building, Manhattan.

s24-26

### BROOKLYN BOROUGH PRESIDENT

#### PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Brooklyn Borough President Marty Markowitz will hold a meeting and public hearing of the Brooklyn Borough Board in the Community Room First Floor, Brooklyn Borough Hall, 209 Joralemon Street, Brooklyn, New York 11201, commencing at 6:00 P.M. on Tuesday, October 7, 2008.

Note: To request a sign language interpreter, or to request TTD services, call Mr. Andrew Steininger at (718) 802-3877 at least 5 business days before the day of the hearing.

s23-o7

### STATEN ISLAND BOROUGH PRESIDENT

#### PUBLIC MEETING

Staten Island Borough Board, Conference Room 122 at 5:30 P.M., Wednesday, October 1, 2008. Borough Hall - Stuyvesant Place, Staten Island, New York 10301.

s24-o1

### CITY PLANNING COMMISSION

#### PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT RESOLUTIONS Have been adopted by the City Planning Commission scheduling public hearings on the following matters to be held at Spector Hall, 22 Reade Street New York, New York, on Tuesday, October 7, 2008, commencing at 10:00 A.M.

### BOROUGH OF MANHATTAN

No. 1

#### DONA PETRA SANTIAGO APARTMENTS

CD 3 C 080504 HAM

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
  - a) the designation of property located at 723, 719, and 717 East 9th Street (Block 379, Lots 53, 54, and 56), as an Urban Development Action Area; and
  - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by HPD;

to facilitate development of an eight-story residential building, tentatively known as Dona Petra Santiago Apartments, with approximately 56 residential units, to be developed under the Department of Housing and Urban Development's Section 202 Program.

YVETTE V. GRUEL, Calendar Officer  
City Planning Commission  
22 Reade Street, Room 2E  
New York, New York 10007  
Telephone (212) 720-3370

s24-o7

### CITY PLANNING

#### PUBLIC HEARINGS

NYC Department of City Planning announces the PUBLIC COMMENT PERIOD and PUBLIC HEARING for the Proposed 2009 Consolidated Plan. The thirty-day PUBLIC COMMENT PERIOD will begin on OCTOBER 8, 2008, and will end NOVEMBER 6, 2008.

A PUBLIC HEARING will be held on WEDNESDAY, NOVEMBER 5, 2008, beginning at 4:00 p.m. at 22 Reade Street, Spector Hall, New York, N.Y. 10007. The Public Hearing will be followed by a question and answer session with City agency representatives in attendance.

The 2009 Proposed Consolidated Plan contains the City's annual application for four U.S. Department of Housing and Urban Development (HUD) Community Planning and Development programs: Community Development Block Grant (CDBG), HOME Investment Partnership (HOME), Emergency Shelter Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA).

Proposed Funding allocations for 2009 are as follows: CDBG \$265.643 million; HOME \$112.516 million; ESG \$7.969 million; HOPWA \$56.811 million totaling \$442.939 million.

The 2009 Proposed Consolidated Plan consists of three volumes: Volume 1. Contains an Executive Summary that

provides an overview of the proposed use of entitlement grant dollars during the calendar year and the public's comments to the proposal and the Action Plan: One-Year Use of Funds; Volume 2. Contains the City's Supportive Housing Continuum of Care for the Homeless and Other Non-Homeless Special Needs Populations, and Other Actions, which are the statutory requirements of the Cranston-Gonzalez Housing Act's Comprehensive Housing Affordability Strategy; and Volume 3. Summary of Citizens' Comments, and Appendices. The Appendices include: Definitions; Abbreviations and Acronyms; Maps of Areas for Directed Assistance and Minority Populations; Dictionary of Program Description Variables; Index of Programs; and Resources for Prospective Homebuyers, and the City of New York's unified response to the "Questionnaire for HUD's Initiative on Removal of Regulatory Barriers".

To obtain a free copy of the 2009 Proposed Consolidated Plan, please visit the City Planning Bookstore, 22 Reade Street, New York, N.Y. (M - F, 10:00 am to 4:00 pm).

Copies of the document can also be obtained at the following Department of City Planning Offices:

BRONX OFFICE  
1 Fordham Plaza, 5th fl.  
Bronx, New York 10458  
(718) 220-8500

BROOKLYN OFFICE  
16 Court Street, 7th fl.  
Brooklyn, New York 11241  
(718) 643-7550

QUEENS OFFICE  
120-55 Queens Boulevard, Room 201  
Queens, New York 11424  
(718) 286-3169

STATEN ISLAND OFFICE  
130 Stuyvesant Place, 6th fl.  
Staten Island, New York 10301  
(718) 556-7240

Also, the Proposed Plan will be made available for downloading through the internet via the Department's website at [www.nyc.gov/planning](http://www.nyc.gov/planning).

Furthermore, copies of the Proposed 2009 Consolidated Plan will be available for review at the main public library in each of the five boroughs. Please call (212) 720-3531 for information on the closest library.

Written comments may be sent to: Charles V. Sorrentino, New York City Consolidated Plan Coordinator, Department of City Planning, 22 Reade Street, 4N New York, New York 10007.

s25-o8

### COMMUNITY BOARDS

#### PUBLIC HEARINGS

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

#### BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 6 - Thursday, September 25, 2008, 6:30 P.M., P.S. 32 (Auditorium), 317 Hoyt Street, Brooklyn, NY

#### #C 090047ZMK

IN THE MATTER OF an application submitted by the Toll Brooklyn, L.P., pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map: changing from an M2-1 zoning district to an M1-4/R7-2 zoning district, establishing a Special Mixed-Use District.

#### #C 090048ZSK

IN THE MATTER OF an application submitted by the Toll Brooklyn, L.P. pursuant to Sections 197-c and 201 of the New

York City Charter for the grant of a special permit pursuant to Section 74-743(s) (2) of the Zoning Resolution to modify the height and setback regulations of Section 123-66 (Height and Setback Regulations), (Minimum Required Rear Yards), and the inner court regulations of Section 23-852, within a General Large Scale Development.

s19-25

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

#### BOROUGH OF THE BRONX

COMMUNITY BOARD NO. 1 - Thursday, September 25, 2008, 6:30 P.M., 3024 Third Avenue, Bronx, NY

#### #080533PCY

IN THE MATTER OF an application submitted by the Department of Transportation, the Department of Parks and Recreation and the Department of Citywide Administrative Services pursuant to Section 197-c of the New York City Charter for site selection and acquisition of easements for use as a pedestrian and bicycle pathway.

s19-25

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

#### BOROUGH OF MANHATTAN

COMMUNITY BOARD NO. 12 - Wednesday, October 1, 2008, 7:00 P.M., 711 West 168th Street (Enter on Haven Avenue), New York, NY

#### #736-45-BZ

Re: **Exxon Mobile Gas Station** - 3740 Broadway NEC W. 155th Street  
Host: Land Use Committee

s25-01

### ENVIRONMENTAL CONTROL BOARD

#### MEETING

The next meeting will take place on October 2, 2008 at 66 John Street, 10th Floor Conference Room, New York, NY 10038 at 9:15 A.M. at the call of the Chairman.

s24-26

### LANDMARKS PRESERVATION COMMISSION

#### PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN THAT pursuant to the provisions of Title 25, chapter 3 of the Administrative Code of the City of New York (Sections 25-307, 25-308, 25,309, 25-313, 25-318, 25-320) (formerly Chapter 8-A, Sections 207-6.0, 207-7.0, 207-12.0, 207-17.0, and 207-19.0), on Tuesday, **October 7, 2008** at 9:30 A.M. in the morning of that day, a public hearing will be held in the Conference Room at 1 Centre Street, 9th Floor, Borough of Manhattan with respect to the following properties and then followed by a public meeting. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting should call or write the Landmarks Commission no later than five (5) business days before the hearing or meeting.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 09-2161 - Block 529, lot 1-644 Broadway - NoHo Historic District

A Queen Anne Romanesque Revival style bank and loft building designed by Stephen D. Hatch and built in 1889-91. Application is to install new windows at an existing modern addition.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 09-3068 - Block 523, lot 44-627 Broadway, aka 196 Mercer Street - NoHo Historic District

A Renaissance Revival style warehouse building designed by Louis Korn and built in 1894-1895. Application is to legalize the installation of a painted wall sign without Landmark Preservation Commission permits.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 09-1105 - Block 473, lot 16-433 Broome Street - SoHo - Cast Iron Historic District

A building originally built in 1827, and converted to a French Renaissance style store and loft building in the 1870s. Application is to construct a rooftop addition. Zoned M1-5B.

#### MODIFICATION OF USE AND BULK

BOROUGH OF MANHATTAN 09-3467 - Block 473, lot 16-433 Broome Street - SoHo - Cast Iron Historic District

A building originally built in 1827, and converted to a French Renaissance style store and loft building in the 1870s. Application is to request that the Landmarks Preservation Commission issue a report to the City Planning Commission relating to an application for a Modification of Use Pursuant to Section 15-20(b) of the Zoning Resolution. Zoned M1-5B.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 09-0609 - Block 475, lot 7508-37 Greene Street - SoHo-Cast Iron Historic District

A store building designed by Richard Berger and built in 1883-1884. Application is to construct a rooftop addition and alter the rear facade. Zoned M1-5B.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 09-2534 - Block 610, lot 16-115-125 7th Avenue South - Greenwich Village Historic District

A building designed by the Liebman Melting Partnership and built in 1990-1994. Application is to alter the façade and construct a rooftop addition. Zoned CA-5.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 08-5051 - Block 621, lot 16-92 Perry Street - Greenwich Village Historic District

An apartment house designed by Charles J. Rheinschmidt and built in 1914. Application is to create new storefront and door openings and install signage.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 09-2511 - Block 698, lot 18-515-519 West 26th Street - West Chelsea Historic District

A brick factory building designed by Rouse & Goldstone and built in 1911. Application is to construct rooftop addition. Zoned M1-5.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 08-3634 - Block 1250, lot 91-601 West End Avenue - Riverside - West End Historic District

A Renaissance Revival style apartment building built in 1915-16. Application is to establish a master plan governing the future replacement of windows.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 09-1612 - Block 1249, lot 40-312 West 88th Street - Upper West Side/Central Park West Historic District

A Flemish-Revival style rowhouse designed by Joseph H. Taft and built in 1885-90. Application is to construct rear yard addition. Zoned R8.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 09-0226 - Block 1404, lot 67-110 East 70th Street - Upper East Side Historic District

A residence designed by James Santon in 1869 and altered by Robertson & Potter in 1905 in the simplified Beaux-Arts style. Application is to alter the facade, construct a rooftop, and rear yard addition, and modify the windows. Zoned R8B.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 090937 - Block 1386, lot 62-12-14 East 72nd Street - Upper East Side Historic District

A modern style apartment building designed by James E. Ware, originally built in 1890, altered in 1966; and a neo-Renaissance style residence designed by Rose and Store and built in 1892-94. Application is to the demolish 12 East 72nd Street and the rear façade of 14 East 72nd Street, construct a new building and a new rear façade at 14 East 72nd Street; and install a new entrance with marquee. Zoned R10/Pl.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF MANHATTAN 08-6586 - Block 1907, lot 29-241 Lenox Avenue - Mount Morris Park Historic District

A rowhouse designed by A.B. Van Dusen and built in 1883-85. Application is to construct a rooftop addition, and modify the storefront and areaway. Zoned R7-2, C1-4.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF QUEENS 09-2026 - Block 8046, lot 57-215 Hollywood Avenue, a.k.a. 237-15 34th Avenue - Douglaston Historic District

A freestanding Colonial Revival style house and garage designed by E. L. Maher and built in 1923. Application is to construct an addition, front entrance portico and enlarge the garage. Zoned R1-2.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF BROOKLYN 09-2514 - Block 243, lot 16-143 Montague Street - Brooklyn Heights Historic District

An Anglo-Italianate style rowhouse built between 1850 and 1860, and altered at the basement and parlor floors for commercial use in the early twentieth century. Application is to legalize an illuminated bracket sign installed without Landmarks Preservation Commission permits.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF BROOKLYN 06-1290 - Block 1319, lot 39-198 Sterling Street - Prospect Lefferts Gardens Historic District

A neo-Renaissance style rowhouse, designed by William Debus and built in 1910. Application is to legalize painting of the facade and the installation of ironwork without Landmarks Preservation Commission permits.

#### CERTIFICATE OF APPROPRIATENESS

BOROUGH OF BROOKLYN 08-0957, 08-0958 - Block 1063, lot 5, 6-

79-81 7th Avenue - Park Slope Historic District

Two one-story commercial buildings built prior to 1939.

Application is to demolish the buildings and construct a new building. Zoned C1-3.

s24-07

### SMALL BUSINESS SERVICES

#### PUBLIC HEARINGS

#### ON BEHALF OF THE CITY COUNCIL NOTICE OF A PUBLIC HEARING

The City Council, by resolution adopted on September 24, 2008 set October 7, 2008 as the date, 11 a.m. as the time, and the City Council Committee Room, 2nd Floor, City Hall, New York, New York 10007, as the place for a public hearing (the "Public Hearing") to hear all persons interested in the proposed legislation which would establish the Belmont Business Improvement District (the "District") in the Borough of the Bronx. The District shall be established in accordance with the district plan (the "District Plan") on file at the Office of the City Clerk. The City Council has authorized the New York City Department of Small Business Services to publish, on its behalf, this notice of the Public Hearing containing the information required by Section 25-06(c) of the Administrative Code of the City of New York and summarizing the resolution adopted.

The District Plan was submitted to, and reviewed by, the City Planning Commission and Bronx Community Board Number 6. The Community Board and the City Planning Commission have approved the District Plan.

The District Plan provides that the proposed District shall include properties along Arthur Avenue from Fordham Road to East 183rd Street, East 187th Street from Lorillard Place to Southern Boulevard, Crescent Avenue from East 187th Street to Arthur Avenue, East 186th Street from Arthur Avenue to Crescent Avenue, Belmont Avenue and Hughes Avenue from East 187th Street to Crescent Avenue, East 188th Street from Arthur Avenue to Hughes Avenue, Fordham Road from Lorillard Place to Southern Boulevard, East 189th Street from Arthur Avenue to Belmont Avenue, East 183rd Street from Arthur Avenue to Adams Place, and Crotona Avenue from East 189th Street to Fordham Road. It also includes 189th Street between Webster Avenue and Park Avenue.

Services to be provided in the District shall include, but not be limited to sanitation, security and public safety, marketing, promotion and advertising, parking maintenance, administration, and additional services required for the enjoyment and protection of the public and the promotion and enhancement of the District. Improvements are not anticipated during the first year of operation. During the existence of the BID, the maximum cost of the improvements, if any, shall not exceed \$5,000,000. The District shall be managed by the Belmont District Management Association, Inc.

To defray the cost of services and improvements provided in the District, all real property in the District shall be assessed in proportion to the benefit such property receives from the services and improvements. Each property shall be assessed at a rate, determined annually by the Belmont District Management Association, Inc., to yield an amount sufficient to meet the District's annual budget. The annual budget for the District's first year of operation is \$340,000.

Those properties within the District with ground floor commercial use containing a single commercial tenant occupying space of 350 square feet or more shall constitute Class A properties and shall be assessed at a base rate of \$600 and a front footage rate of \$15 per front foot.

Those properties with ground floor commercial use containing multiple commercial tenants occupying contiguous space of more than 350 square feet shall constitute Class B properties and shall be assessed at a base rate of \$1,200 and a front footage rate equal to the Class A rate of \$15 per front foot.

Those properties within the District with ground floor commercial use containing a single commercial tenant and second floor commercial use shall constitute Class C properties and shall be assessed at a base rate of \$900 and a front footage rate equal to 1 1/2 greater than the Class A rate of \$15 per front foot.

Those properties with ground floor commercial use containing multiple commercial tenants and second floor commercial use shall constitute Class D properties and shall be assessed at a base rate of \$1,500 and a front footage rate equal to 1 1/2 greater than the Class A rate of \$15 per front foot.

Those properties with ground floor commercial use containing a single commercial tenant occupying space of less than 350 square feet shall constitute Class E properties and shall be assessed at a base rate of \$300 and a front footage rate equal to 2/3 of the Class A rate of \$15 per front foot.

Those properties with ground floor commercial use containing a single commercial tenant occupying space of less than 350 square feet shall constitute Class E properties and shall be assessed at a base rate of \$300 and a front footage rate equal to 2/3 of the Class A rate of \$15 per front foot.

Those properties with ground floor commercial use containing multiple commercial tenants with non-contiguous units occupying less than 350 square feet shall constitute Class F properties and shall be assessed at a base rate of \$600 and a front footage rate equal to 2/3 of the Class A rate of \$15 per front foot.

Those properties with a single tenant gas station shall constitute Class G properties and shall be assessed at a base rate of \$1,000 and a front footage rate equal to 2/3 of the Class A rate of \$15 per front foot.

Those properties with a single tenant with an associated parking area shall constitute Class H properties and shall be assessed at a base rate of \$1,000 and a front footage rate equal to 2/3 of the Class A rate of \$15 per front foot.

Those properties designated as non-profit or publicly-owned by the NYC Department of Finance shall constitute Class N properties and shall be exempt from the assessment.

Those properties that contain only residential uses, including vacant parcels within a residential zoning district shall constitute Class R properties and shall be assessed at \$1 per year.

Those properties with an unimproved, vacant parcel that is situated within a commercial zoning district shall constitute Class V properties and shall be assessed at a base rate of \$300 and a front footage rate equal to 1/3 of the Class A rate of \$15 per front foot.

The BID assessment formula is as below:

(TOTAL ANNUAL BUDGET – Class A Base Rates Sum – Class B Base Rates Sum – Class C Base Rates Sum – Class D

Base Rates Sum – Class E Base Rate Sum – Class F Base Rates Sum – Class G Base Rates Sum – Class H Base Rate Sum - Class V Base Rate Sum – Class R Total)

[(Class A FFR + Class B FFR + (1.5 \*Class C FFR) + (1.5 \* Class D FFR) + (2/3 \* Class E FFR) + (2/3 \* Class F FFR) + (2/3 \* Class G FFR) + (2/3 \* Class H FFR) + (1/3 \*Class V FFR)]

The amount, exclusive of debt service, assessed and levied in any given year against benefited real property within the District may not exceed twenty percent (20%) of the total general City taxes levied in such year against such properties.

Copies of the resolution adopted by the City Council, which include a copy of the District Plan, are available for public inspection from 9:00 A.M. to 4:00 P.M. Monday through Friday at the Office of the City Clerk located at 265 Municipal Building (South Side), One Centre Street, New York, New York 10007. In addition, copies of the resolution are available free of charge to the public at the Office of the City Clerk.

Any owner of real property, deemed benefited and therefore within the District, objecting to the District Plan, must file an objection at the Office of the City Clerk, on forms made available by the City Clerk, within thirty (30) days of the close of the Public Hearing concerning the establishment of the proposed District. If owners of at least fifty-one percent (51%) of the assessed value of benefited real property situated within the boundaries of the District proposed for establishment, as shown on the latest completed assessment roll of the City, or at least fifty-one percent (51%) of the owners of benefited real property within the area included in the District proposed for establishment file objections with the City Clerk, the District shall not be established.

s25

**TRANSPORTATION**

**PUBLIC HEARING**

**COMMUTER VAN SERVICE AUTHORITY  
Six-Year Renewal**

NOTICE IS HEREBY GIVEN THAT the Department of Transportation is conducting a public hearing on the Six-Year Renewal of a Van Authority in the Borough of Brooklyn. The van company requesting renewal is Blackstreet Van Lines, Inc. The address is 310 Lenox Road, Apt. 4H, Brooklyn, NY 11226. The applicant utilizes 16 vans daily to provide service 24 hours a day.

There will be a public hearing held on Monday, October 6, 2008 at the Brooklyn Borough President's Office, 209 Joralemon Street, Community Room, Brooklyn, New York 11201, from 2:00 P.M. - 4:00 P.M. so that you may have an opportunity to voice your position on this application. In addition, written comments in support or in opposition to this application may be sent to Ms. Dorothy Szorc at the New York City Department of Transportation, Bureau of Traffic Operations, 40 Worth Street, Room 1035, New York, NY 10013 no later than October 6, 2008. Any written comments received after this date may not be considered. Those opposing the application must clearly specify why the proposed service will not meet present and/or future public convenience and necessity.

s22-26

**COURT NOTICE**

**SUPREME COURT  
NOTICE**

**RICHMOND COUNTY  
IA PART 74  
NOTICE OF PETITION  
INDEX NUMBER (CY) 4018/08**

In the Matter of Application of the CITY OF NEW YORK, relative to acquiring title in fee simple absolute to certain real property where not heretofore acquired for the

**GRANTWOOD RETENTION BASIN**

located in the area generally bounded by Shotwell Avenue to the east, Tyron Avenue to the south, Grantwood Avenue to the west, and Woodrow Road to the north, in the Borough of Staten Island, City and State of New York.

**PLEASE TAKE NOTICE** that the Corporation Counsel of the City of New York intends to make application to the Supreme Court of the State of New York, Richmond County, IA Part 74, for certain relief.

The application will be made at the following time and place: At 360 Adams Street, Brooklyn, New York, in the City and State of New York, on October 3, 2008, at 9:30 A.M., or as soon thereafter as counsel can be heard.

The application is for an order:

- 1) authorizing the City to file an acquisition map in the office of the Clerk of Richmond County;

- 2) directing that upon the filing of said map, title to the property sought to be acquired shall vest in the City;
- 3) providing that just compensation therefor be ascertained and determined by the Supreme Court without a jury; and
- 4) providing that notices of claim must be served and filed within one calendar year from the vesting date.

The City of New York, in this proceeding, intends to acquire title in fee simple absolute to certain real property where not heretofore acquired for the same purpose, for the Grantwood Retention Basin, situated in the Arden Heights watershed area, for the storage and conveyance of stormwater, in the Borough of Staten Island, City and State of New York.

The description of the real property to be acquired is as follows:

**Borough of Staten Island  
Block 5676, Lot 1**

**ALL** that certain plot, piece or parcel of land, situate, lying and being in the Borough of Staten Island, County of Richmond, City and State of New York, being more particularly bounded and described as follows:

**BEGINNING** at the point formed by the intersection of the easterly line of Grantwood Avenue and the southwesterly line of Woodrow Road;

**RUNNING THENCE** along the southwesterly line of Woodrow Road, North 39 degrees 20 minutes 00 seconds East, a distance of 387.18 feet to a point;

**THENCE** along the southeasterly line of Woodrow Road, South 74 degrees 48 minutes 30 seconds East, a distance of 20.00 feet to a point;

**THENCE** along the westerly line of Shotwell Avenue, South 8 degrees 56 minutes 55 seconds East, a distance of 420.00 feet to a point;

**THENCE** along the division line between the Tax Lots 1, 49 and 125 in the Tax Block 5676 as shown on the tax map of the City of New York for the Borough of Staten Island as said tax map existed on October 30, 2001, South 76 degrees 23 minutes 57 seconds West, a distance of 299.16 feet (as per survey) and 299.15 feet (as per tax map) to a point on the easterly line of Grantwood Avenue;

**THENCE** along said easterly line of Grantwood Avenue, North 11 degrees 37 minutes 00 seconds West, a distance of 195.00 feet to the point or place of **BEGINNING**.

Surveys, maps or plans of the property to be acquired are on file in the office of the Corporation Counsel of the City of New York, 100 Church Street, New York, New York 10007.

**PLEASE TAKE FURTHER NOTICE THAT**, pursuant to EDPL §402(B)(4), any party seeking to oppose the acquisition must interpose a verified answer, which must contain specific denial of each material allegation of the petition controverted by the opponent, or any statement of new matter deemed by the opponent to be a defense to the proceeding. Pursuant to CPLR 403, said answer must be served upon the office of the Corporation Counsel at least seven (7) days before the date that the petition is noticed to be heard.

Dated: August 19, 2008, New York, New York  
MICHAEL A. CARDOZO  
Corporation Counsel of the City of New York  
100 Church Street  
New York, New York 10007  
Tel. (212) 788-0710

SEE MAP ON BACK PAGE

s12-25

**PROPERTY DISPOSITION**

**CITYWIDE ADMINISTRATIVE SERVICES**

**DIVISION OF MUNICIPAL SUPPLY SERVICES**

**AUCTION**

**PUBLIC AUCTION SALE NUMBER 09001-G**

NOTICE IS HEREBY GIVEN of a bi-weekly public auction of City fleet vehicles consisting of cars, vans, light duty vehicles, trucks, heavy equipment and miscellaneous automotive equipment to be held on Wednesday, October 1, 2008 (SALE NUMBER 09001-G). This auction is held every other Wednesday unless otherwise notified. Viewing is on auction day only from 8:30 A.M. until 9:00 A.M. The auction begins at 9:00 A.M.

NOTE: Location: 570 Kent Avenue, Brooklyn, NY (in the Brooklyn Navy Yard between Taylor and Clymer Streets).

A listing of vehicles to be offered for sale in the next auction can be viewed on our web site, on the Friday prior to the sale date at: <http://www.nyc.gov/auctions>  
Terms and Conditions of Sale can also be viewed at this site.

For further information, please call (718) 417-2155 or (718) 625-1313.

s18-o1

**POLICE**

**OWNERS ARE WANTED BY THE PROPERTY CLERK DIVISION OF THE NEW YORK CITY POLICE DEPARTMENT.**  
The following listed property is in the custody, of the Property Clerk Division without claimants.

**Recovered, lost, abandoned property, property obtained from prisoners, emotionally disturbed, intoxicated and deceased persons; and property obtained from persons incapable of caring for themselves.**  
**Motor vehicles, boats, bicycles, business machines, cameras, calculating machines, electrical and optical property, furniture, furs, handbags, hardware, jewelry, photographic equipment, radios, robes, sound systems, surgical and musical instruments, tools, wearing apparel, communications equipment, computers, and other miscellaneous articles.**

**INQUIRIES**  
Inquiries relating to such property should be made in the Borough concerned, at the following office of the Property Clerk.

**FOR MOTOR VEHICLES**

(All Boroughs):

- \* College Auto Pound, 129-01 31 Avenue, College Point, NY 11354, (718) 445-0100
- \* Gowanus Auto Pound, 29th Street and 2nd Avenue, Brooklyn, NY 11212, (718) 832-3852
- \* Erie Basin Auto Pound, 700 Columbia Street, Brooklyn, NY 11231, (718) 246-2029

**FOR ALL OTHER PROPERTY**

- \* Manhattan - 1 Police Plaza, New York, NY 10038, (212) 374-4925.
- \* Brooklyn - 84th Precinct, 301 Gold Street, Brooklyn, NY 11201, (718) 875-6675.
- \* Bronx Property Clerk - 215 East 161 Street, Bronx, NY 10451, (718) 590-2806.
- \* Queens Property Clerk - 47-07 Pearson Place, Long Island City, NY 11101, (718) 433-2678.
- \* Staten Island Property Clerk - 1 Edgewater Plaza, Staten Island, NY 10301, (718) 876-8484.

j1-d31

**AUCTION**

**PUBLIC AUCTION SALE NUMBER 1142**

NOTICE IS HEREBY GIVEN of a ONE (1) day public auction of unclaimed salvage vehicles, motorcycles, automobiles, trucks, and vans. Inspection day is October 6, 2008 from 10:00 A.M. - 2:00 P.M. Salvage vehicles, motorcycles, automobiles, trucks, and vans will be auctioned on October 7, 2008 at approximately 9:30 A.M.

Auction will be held at the Erie Basin Auto Pound, 700 Columbia Street (in Redhook area of B'klyn., 2 blocks from Halleck St.)

For information concerning the inspection and sale of these items, call the Property Clerk Division's Auction Unit information line (646) 610-4614.

s24-o7

**PROCUREMENT**

*"The City of New York is committed to achieving excellence in the design and construction of its capital program, and building on the tradition of innovation in architecture and engineering that has contributed to the City's prestige as a global destination. The contracting opportunities for construction/construction services and construction-related services that appear in the individual agency listings below reflect that commitment to excellence."*

**CITYWIDE ADMINISTRATIVE SERVICES**

**DIVISION OF MUNICIPAL SUPPLY SERVICES**

**AWARDS**

Goods

**REBAR CUTTER** – Competitive Sealed Bids – PIN# 857801279 – AMT: \$170,104.40 – TO: Fascut Industries, Inc., 7248 Inama Road, Sauk City, WI 53583.  
● **BUILDING MAINTENANCE SUPPLIES I** – Competitive Sealed Bids – PIN# 857801265 – AMT: \$54,945.00 – TO: Supreme Chemical Company, Inc., 1518 Park Street, Atlantic Beach, NY 11509.

s25

**VENDOR LISTS**

Goods

**ACCEPTABLE BRAND LIST** – In accordance with PPB Rules, Section 2-05(c)(3), the following is a list of all food items for which an Acceptable Brands List has been established.

- 1. Mix, Biscuit - AB-14-1:92
- 2. Mix, Bran Muffin - AB-14-2:91
- 3. Mix, Corn Muffin - AB-14-5:91
- 4. Mix, Pie Crust - AB-14-9:91
- 5. Mixes, Cake - AB-14-11:92A
- 6. Mix, Egg Nog - AB-14-19:93
- 7. Canned Beef Stew - AB-14-25:97
- 8. Canned Ham Shanks - AB-14-28:91
- 9. Canned Corned Beef Hash - AB-14-26:94
- 10. Canned Boned Chicken - AB-14-27:91

11. Canned Corned Beef - AB-14-30:91
12. Canned Ham, Cured - AB-14-29:91
13. Complete Horse Feed Pellets - AB-15-1:92
14. Canned Soups - AB-14-10:92D
15. Infant Formula, Ready to Feed - AB-16-1:93
16. Spices - AB-14-12:95
17. Soy Sauce - AB-14-03:94
18. Worcestershire Sauce - AB-14-04:94

Application for inclusion on the above enumerated Acceptable Brand Lists for foods shall be made in writing and addressed to: Purchase Director, Food Unit, Department of Citywide Administrative Services, Division of Municipal Supply Services, 1 Centre Street, 18th Floor, New York, NY 10007. (212) 669-4207.

j4-jy17

**EQUIPMENT FOR DEPARTMENT OF SANITATION** – In accordance with PPB Rules, Section 2.05(c)(3), an acceptable brands list will be established for the following equipment for the Department of Sanitation:  
A. Collection Truck Bodies  
B. Collection Truck Cab Chassis  
C. Major Component Parts (Engine, Transmission, etc.)

Applications for consideration of equipment products for inclusion on the acceptable brands list are available from: Vendor Relations, Department of Citywide Administrative Services, Division of Municipal Supply Services, 1 Centre Street, 18th Floor, New York, NY 10007. (212) 669-8562.

j4-jy17

**OPEN SPACE FURNITURE SYSTEMS - CITYWIDE** – In accordance with PPB Rules, Section 2.05(c)(3), an Acceptable Brands List, #AB-17W-1:99, has been established for open space furniture systems.

Application for consideration of product for inclusion on this acceptable brands list shall be made in writing and addressed to: Vendor Relations, Department of Citywide Administrative Services, Division of Municipal Supply Services, 1 Centre Street, 18th Floor, New York, NY 10007, (212) 669-8562.

j4-jy17

## CORRECTION

### ■ SOLICITATIONS

*Construction Related Services*

**LABOR, MATERIAL AND EQUIPMENT FOR HVAC SERVICE** – Competitive Sealed Bids – PIN# 072200909EHS – DUE 10-21-08 AT 11:00 A.M. – Bid packages must be picked up in person with a \$25.00 check or money order made payable to: NYC Dept. of Finance, between 9:00 A.M. and 4:00 P.M., at the Central Office of Procurement, 4th Floor, NY, NY 10004. A pre-bid meeting and site visit will be on October 7, 2008 at 10:00 A.M. at 14-11 Hazen Street, Rikers Island, follow by a site visit. For admission to the pre-bid conference interested contractors must execute a “Clearance Request and Authorization Form” available in the bid package. This form must be faxed no later than 48 hours prior to the pre-bid conference to Sharon at (212) 487-7323 or 7324.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Department of Correction, 17 Battery Place, New York, NY 10004. Sharon Hall-Frey (212) 487-2703 sharon.hall-frey@doc.nyc.gov*

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## DESIGN & CONSTRUCTION

### AGENCY CHIEF CONTRACTING OFFICER

#### ■ INTENT TO AWARD

*Construction / Construction Services*

**LND-DYNIX, NEW YORK PUBLIC LIBRARY AUTOMATED INTEGRATION SYSTEMS** – Sole Source – Available only from a single source - PIN# 8502009LN0001P – DUE 10-10-08 AT 4:00 P.M. – The Department of Design and Construction intends to enter into a sole source contract with the New York Public Library, Astor, Lenox and Tilden Foundations for the above project. The contractor must have unique knowledge of the site, and must guarantee the assumption of all costs above the estimated cost of construction. Any firm which believes that it is also qualified to provide these services or would like to provide such services in the future is invited to indicate by letter, which must be received no later than October 1, 2008 to: Steven Wong, Program Director, 5th Floor, 30-30 Thomson Avenue, Long Island City, NY 11101, (718) 391-2550, wongs@ddc.nyc.gov

s25-o1

### CONTRACT SECTION

#### ■ SOLICITATIONS

*Construction / Construction Services*

**INSTALLATION OF WATER MAINS AND APPURTENANCES IN ASTOR PLACE AND COOPER SQUARE AREAS, MANHATTAN** – Competitive Sealed Bids – PIN# 8502009WMM0003C – DUE 10-23-08 AT 11:00 A.M. – PROJECT ID: MED595. Bid documents are available at: <http://www.nyc.gov/ddc> This bid solicitation includes M/WBE participation goal(s) for subcontracted work. For the M/WBE goals, please visit our website at [www.ddc.nyc.gov/buildnyc](http://www.ddc.nyc.gov/buildnyc) see “Bid Opportunities.” For more information about M/WBE certification, please call 311 or go to [www.nyc.gov/getcertified](http://www.nyc.gov/getcertified). Vendor Source ID#: 55561. Apprenticeship requirements apply to this contract.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Department of Design and Construction, 30-30 Thomson Avenue, 1st Floor, Long Island City, NY 11101. Ben Perrone (718) 391-2614.*

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## EDUCATION

### DIVISION OF CONTRACTS AND PURCHASING

#### ■ SOLICITATIONS

*Services*

**WOOD WINDOW REPAIRS** – CSB – PIN# B0827040 – DUE 10-28-08 AT 5:00 P.M. – To download, please go to <http://schools.nyc.gov/offices/dcp/vendor/requestsforbids/default.htm> If you cannot download, send an e-mail to [sepstei@schools.nyc.gov](mailto:sepstei@schools.nyc.gov) or fax to Shelley Epstein at (718) 935-3163 with your company name, address, phone, fax and e-mail address. There will be a pre-bid conference on October 8, 2008 at 10:00 A.M. at 65 Court Street, Brooklyn, New York 11201.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*NYCDOE, Division of Contracts and Purchasing, Room 1201, 65 Court Street, Brooklyn, NY 11201, (718) 935-2300, <http://schools.nyc.gov/dcp>*

s25

**BNPS DATA MANAGEMENT MODULES** – RFP – PIN# R0718040 – DUE 10-16-08 AT 5:00 P.M. – The New York City Department of Education (NYCDOE), on behalf of the Bureau of Non Public Schools (BNPS), seeks proposals from organizations experienced in developing and providing consulting services for the BNPS Data Management modules. To download this solicitation, click on the PDF icon. You will first be asked to provide company information. This allows us to inform you of updates to this solicitation. If you are unable to download this solicitation, please send an e-mail to [depit@schools.nyc.gov](mailto:depit@schools.nyc.gov) with solicitation number, solicitation title, your company name, address, phone, fax, e-mail address, and tax ID number.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*NYCDOE, Division of Contracts and Purchasing, 65 Court Street, Room 1201, Brooklyn, NY 11201 (718) 935-2300, <http://schools.nyc.gov/dcp>*

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## OFFICE OF EMERGENCY MANAGEMENT

#### ■ INTENT TO AWARD

*Services (Other Than Human Services)*

**MAINTENANCE FOR EMERGENCY OPERATIONS CENTER COMMAND AND CONTROL SOFTWARE** – Sole Source – Available only from a single source - PIN# 01709NC4001 – DUE 10-06-08 AT 10:00 A.M. – The New York City Office of Emergency Management intends to enter into sole source negotiations with NC4 Public Sector, LLC to provide maintenance and support for the Emergency Operations Center Command and Control Software (“E Team”) currently used by the agency. OEM uses the proprietary software to manage communication and information flow within the command center, which is a critical part of operations.

Any vendor interested in providing this service is invited to submit an expression of interest in writing to: NYC OEM, 165 Cadman Plaza East, Brooklyn, NY 11201. Attention: Erika Yan, or via email at [procurement@oem.nyc.gov](mailto:procurement@oem.nyc.gov).

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Office of Emergency Management, 165 Cadman Plaza East, Brooklyn, NY 11201. Erika Yan (718) 422-4845, [procurement@oem.nyc.gov](mailto:procurement@oem.nyc.gov)*

s19-25

## HEALTH AND HOSPITALS CORPORATION

**The New York City Health and Hospitals Corporation is regularly soliciting bids for supplies and equipment at its Central Purchasing Offices, 346 Broadway, New York City, Room 516, for its Hospitals and Diagnostic and Treatment Centers. All interested parties are welcome to review the bids that are posted in Room 516 weekdays between 9:00 a.m. and 4:30 p.m. For information regarding bids and the bidding process, please call (212) 442-3863.**

j1-d31

#### ■ SOLICITATIONS

*Goods*

**DUAL AND SINGLE LUMEN VAXCEL PASV PERIPHERALLY INSERTED CENTRAL CATHETER** – CSB – PIN# 11109000050 – DUE 10-08-08 AT 3:00 P.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Bellevue Hospital Center, Purchasing Department, 462 First Avenue, Room 12E26, New York, NY 10016. Prasanna Vidyasagar, Procurement Analyst, (212) 562-2885.*

s25

*Goods & Services*

**REPLACEMENT OF CONCRETE SIDEWALK** – Competitive Sealed Bids – PIN# 11209013 – DUE 10-09-08 AT 3:00 P.M. – In front of 1727 Amsterdam Avenue, Bldg. Plaza. A pre-bid conference will be held on 10/03/2008 at 10:00 A.M. at the Lower Washington Heights Center at 1727 Amsterdam Avenue, Room 106, New York, N.Y.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents,

vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Generations+ / Northern Manhattan Health Network for Harlem Hospital Center clo Lincoln Hospital Center 234 East 149th Street, Bronx, NY 10451. Junior Cooper (718) 579-5096.*

s25

**REPAIR WORK ON VARIOUS HOUSEKEEPING MACHINES** – Competitive Sealed Bids – PIN# 11209014 – DUE 10-09-08 AT 3:00 P.M.  
● **PICK-UP CLEAN AND DELIVERY OF TOOLS** – Competitive Sealed Bids – PIN# 11209015 – DUE 10-09-08 AT 3:00 P.M.  
● **LEASING AND REMOVAL OF CONTAINER** – Competitive Sealed Bids – PIN# 11209016 – DUE 10-10-08 AT 3:00 P.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Generations+ / Northern Manhattan Health Network for Harlem Hospital clo Lincoln Hospital Center 234 East 149th Street, Bronx, NY 10451. Dorothy Barnes, Procurement Analyst II, (718) 579-5021.*

s25

**PREVENTIVE MTCE-HVAC PACKAGE UNITS** – Competitive Sealed Bids – PIN# 11209017 – DUE 10-09-08 AT 3:00 P.M. – Site visit will be held on 10/08/08 at Harlem Hospital, Old Nurses Residence, on the 3rd Fl. at 136th Street between 5th Ave. and Lenox Ave. Any further questions, please call Julian at (212) 939-2342. Site visit will begin at 11:00 A.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Generations+ / Northern Manhattan Health Network for Harlem Hospital clo Lincoln Hospital Center 234 East 149th Street, Bronx, NY 10451. Erik Bryan, Procurement Analyst II, (718) 579-5532.*

s25

*Services*

**ANNUAL FLOW TEST ON TWO (2) FIRE PUMPS AND ANNUAL MAIN DRAIN SYSTEM RISER TEST ON ONE (1) UNIT** – CSB – PIN# 21-09-030 – DUE 10-03-08 AT 2:00 P.M. – Voluntary walk thru scheduled 10/01/08, 10:00 A.M. at North Central Bronx Hospital at 3424 Kossuth Avenue, Bronx, NY 10467, Engineering Dept., Dennis Stivella.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Jacobi Medical Center, Purchasing Department, Nurses Residence, Rm. 7S17, 1400 Pelham Parkway South and Eastchester Road, Bronx, NY 10461. Karyn Hill (718) 918-3149. Request bid packages by fax: (718) 918-7823.*

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## HEALTH AND MENTAL HYGIENE

### AGENCY CHIEF CONTRACTING OFFICER

#### ■ AWARDS

**NY/NY III SCATTER-SITE OPT II AND III-932** – Request for Proposals – PIN# 08PO082506R0X00 – AMT: \$5,254,951.00 – TO: CAMBA, Inc., 1720 Church Avenue, 2nd Floor, Brooklyn, NY 11220.  
● **CRYSTAL METH** – BP/City Council Discretionary – PIN# 08PO181301R0X00 – AMT: \$112,324.00 – TO: People of Color in Crisis, Inc., 468 Bergen Street, Brooklyn, NY 11217.  
● **MENTAL RETARDATION** – Required Method (including Preferred Source) – PIN# 06AZ011901R1X00 – AMT: \$185,949.00 – TO: Carl Fenichel Community Services, 30 Washington Street, Brooklyn, NY 11201.  
● **SCHOOL BASED MENTAL HEALTH** – Request for Proposals – PIN# 07E1032905R0X00 – AMT: \$252,608.00 – TO: Saint Vincent Catholic Medical Centers of NY, 153 West 11th Street, New York, NY 10011.  
● **MENTAL HEALTH SERVICES** – Renewal – PIN# 06AZ005501R1X00 – AMT: \$3,955,809.00 – TO: Lutheran Social Services of Metropolitan NY, 510 Atlantic Avenue, Brooklyn, NY 11217.  
● **GERIATRIC MENTAL HEALTH INITIATIVE** – BP/City Council Discretionary – PIN# 08PO178401R0X00 – AMT: \$100,000.00 – TO: Visiting Nurse Service of New York, 107 East 70th Street, New York, NY 10021.

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## HOMELESS SERVICES

### OFFICE OF CONTRACTS AND PROCUREMENT

#### ■ SOLICITATIONS

*Human / Client Service*

**SAFE HAVEN OPEN-ENDED RFP** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 071-08S-04-1164 – DUE 08-27-10 – The Department of Homeless Services has issued an Open Ended Request for Proposals (PIN 071-08S-04-1164) as of August 27, 2007 seeking appropriately qualified vendors to develop and operate a stand-alone Safe Haven for chronic street homeless single adults and/or adult couples without minor children.

There is no due date for proposals under this RFP. Proposals will be reviewed by the Department as they are received and contracts will be awarded on an on-going basis until the Department's needs are met.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Department of Homeless Services, 33 Beaver Street 13th Floor, New York, NY 10004. Suellen Schulman (212) 361-8400, [ssschulma@dhs.nyc.gov](mailto:ssschulma@dhs.nyc.gov)*

a27-f12

**CORRECTION: TRANSITIONAL RESIDENCES FOR HOMELESS/DROP-IN CENTERS** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 071-00S-003-262Z – DUE 01-02-09 AT 2:00 P.M. **CORRECTION:** The Department of Homeless Services is soliciting proposals from organizations interested in developing and operating transitional residences for homeless adults and families including the Neighborhood Based Cluster Residence and drop-in centers for adults. This is an open-ended solicitation; there is no due date for submission.

Request for proposals is also available on-line at [www.nyc.gov/cityrecord](http://www.nyc.gov/cityrecord)

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
 Department of Homeless Services, 33 Beaver Street  
 13th Floor, New York, NY 10004.  
 Marta Zmoira (212) 361-0888, [mzoita@dhs.nyc.gov](mailto:mzoita@dhs.nyc.gov)

**f29-d31**

**HOUSING AUTHORITY**

■ SOLICITATIONS

*Construction / Construction Services*

**REPLACEMENT OF FIRE ALARM SYSTEM AT VANDALIA COMMUNITY CENTER** – Competitive Sealed Bids – PIN# SP8003587 – DUE 10-14-08 AT 10:30 A.M.  
**● PLAY AREA, BASKETBALL COURT UPGRADE AND RELATED WORK** – Competitive Sealed Bids – PIN# GD6016099 – DUE 10-14-08 AT 10:00 A.M.

Bid documents are available for a \$25.00 fee in the form of a money order or certified check made payable to NYCHA.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
 Housing Authority, 90 Church Street, 11th Floor.  
 Gloria Guillo (212) 306-3121. [gloria.guillo@nycha.nyc.gov](mailto:gloria.guillo@nycha.nyc.gov)

**s23-29**

**JUVENILE JUSTICE**

■ SOLICITATIONS

*Human / Client Service*

**CORRECTION: PROVISION OF NON-SECURE DETENTION CENTERS** – Negotiated Acquisition – Judgment required in evaluating proposals - PIN# 13007DJJ001 – DUE 11-14-08 AT 3:00 P.M. – **CORRECTION:** The NYC Department of Juvenile Justice (DJJ) is seeking one or more appropriately qualified vendors to provide non-secure detention services for youth. Services shall include, but not be limited to, custody, basic youth care, food, clothing, shelter, education, health care, recreation, court related services, social work and case management services, social skills instruction, group sessions and monitoring and supervision of these services. In addition, the contract will require that a defibrillator shall be located in each program facility and that all staff requiring CPR training shall be certified in use of said defibrillator.

Each program facility will provide at least 10 and no more than 12 beds in accordance with the applicable regulations promulgated by the New York State Office of Children and Family Services (NYS OCFS), 9 N.Y.C.R.R. Section 180 et seq. The Department is seeking to provide services at facilities that will be operational at any time from January 1, 2007 to December 31, 2010. A vendor may submit an offer for more than one Facility Option. Current Agency vendors operating non-secure group homes that have contracts expiring in calendar year 2006 are urged to respond to this solicitation.

All program facilities shall be appropriately equipped to provide services for male or female youth as required by the Department, and be located in one of the five boroughs. The term of the contracts awarded from this solicitation will be for three years and will include an additional three-year option to renew. The anticipated maximum average annual funding available for each contract will be \$1,067,000, excluding start-up costs. Proposed start-up costs will be considered in addition to the proposed annual line item budget. Greater consideration will be given to applicants offering more competitive prices.

If your organization is interested in being considered for award of the subject contract, please hand deliver a written expression of interest addressed to my attention at 110 William Street, 13th Floor, New York, NY 10038. The expression of interest should specifically address the following:

1. Indicate each program facility for which the vendor is submitting.
2. Describe each proposed facility, its location, and proposed date of operation.
3. Attach appropriate documentation demonstrating the current use of each proposed facility and the vendor's site control of the facility for a period of at least 3 years.
4. For each proposed facility,
  - a) Indicate the number of beds to be provided and demonstrate that the facility has the capacity to provide the indicated number of beds.
  - b) Demonstrate that the facility will be appropriately equipped to provide services for male or female youth.
5. Demonstrate the vendor's organizational capability to:
  - a) Provide the indicated number of beds at each proposed facility. (If the vendor is a current provider, also demonstrate the capability to provide the indicated number of beds in addition to those already provided.)
  - b) Ensure that each proposed facility will be fully operational by required date in accordance with the applicable regulations promulgated by the New York State Office of Children and Family Services (NYS OCFS), 9 N.Y.C.R.R. Section 180 et seq.
6. Demonstrate the quantity and quality of the vendor's successful relevant experience.

7. Attach for each proposed facility three-year annual line item operating budget. Include staffing details. Proposed start up costs should be included in addition to the proposed three-year annual line item operating budget.

All expressions of interest received in the manner set forth will be reviewed to determine if they are responsive to the material requirements of this solicitation. Expressions of interest determined to be non-responsive will not be further considered. Expressions of interest determined to be responsive will be considered in terms of the following factors:

- Appropriateness of each proposed facility.
- Demonstrated site control of each proposed facility.
- Demonstrated level of organizational capability to provide the proposed number of beds and to ensure that each proposed facility if fully operational by the applicable requisite date.
- Demonstrated quantity and quality of successful relevant experience.
- Annual budget amount and cost effectiveness of the budget.

The Department will enter into negotiations with the vendor(s) determined to be the best qualified at the time of evaluation, based on consideration of the above-cited factors. A contract will be awarded to the responsible vendor(s) whose offer(s) is/are determined to be the most advantageous to the City, taking into consideration the price and the other factors set forth in this solicitation. In the case that a vendor is eligible for award of more than one program facility, the Department reserves the right, based upon the vendor's demonstrated organizational capability and the best interest of the City, respectively, to determine how many and for which program facility(ies) the vendor will be awarded a contract.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
 Department of Juvenile Justice, 110 William Street  
 13th Floor, New York, NY 10038.  
 Chuma Uwechia (212) 442-7716, [cuwechia@djj.nyc.gov](mailto:cuwechia@djj.nyc.gov)

**n20-13**

**LAW**

■ SOLICITATIONS

*Services (Other Than Human Services)*

**INDEPENDENT MEDICAL EXAMINATIONS, INDEPENDENT MEDICAL RECORD REVIEW AND RELATED SERVICES** – Negotiated Acquisition – PIN# 02508X100025 – DUE 10-21-08 AT 5:00 P.M. – The New York City Law Department (the "Department") invites qualified independent medical evaluation firms to submit Expressions of Interest in the provision of Independent Medical Examinations ("IMEs"), Independent Medical Record Reviews ("IMRs"), Reports Summarizing the results of the IMEs and IMRs, Face to Face or Telephonic Consultations with Examining Physicians on an as-needed bases, especially before trial, and, as-needed, expert Testimony related to IMEs and/or IMRs. The Reports, Reviews, Consultations and Testimony are sought to assist the City of New York in the investigation, litigation and/or settlement of personal injury claims brought against it. As the need for these services is extensive, the Department anticipates awarding at least two contracts pursuant to this solicitation. The source selection method of Negotiated Acquisition will be utilized because this procurement is for consulting services in support of litigation. It is anticipated that the term of the proposed contracts will commence as of March 1, 2009 and continue through February 29, 2012 with an option to renew for an additional term of two years. However, the City may decide to contract for a shorter term. Providers of IME/IMR and Related Services wishing to be considered for the award of a contract must submit an Expression of Interest ("EOI") in conformity with the Department's Request for EOIs ("RFEI") in the Provision of Independent Medical Examinations, Independent Medical Record Reviews and Related Services. The RFEI can be picked up at the Fourth Floor East Reception Desk, Fourth Floor, New York City Law Department, 100 Church Street, New York, New York 10007 between the hours of 9:00 A.M. and 5:00 P.M., Monday through Friday, exclusive of holidays observed by the City of New York. The RFEI provides clear instructions regarding the manner in which the Expression of Interest is to be structured, prepared and submitted. The Department intends to enter into negotiations with those firms whose EOIs are determined to be within a competitive range of technical merit. The deadline for the submission of EOIs is 5:00 P.M., Tuesday, October 21, 2008. EOIs that are not prepared and submitted in conformity with the RFEI are at risk of being determined non-responsive and eliminated for further consideration as the basis for the award of a contract. Interested firms are advised to prepare their EOI only after they have obtained the RFEI, which is available at the Law Department, as indicated above. The Department's intent is to select firms for the provision of these services on the basis of its evaluation of the EOIs received in response to this solicitation.

The source selection method of Negotiated Acquisition is being used because the services to be procured are consultant services in support of litigation.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
 Law Department, Service of Legal Process Window,  
 Communications and Docketing Services Unit,  
 100 Church Street, Room 4-313, Fourth Floor, New York, NY 10007. Tom Dowling (212) 788-1008, [tdowling@law.nyc.gov](mailto:tdowling@law.nyc.gov)

**s22-26**

**PARKS AND RECREATION**

**CAPITAL PROJECTS DIVISION**

■ INTENT TO AWARD

*Construction Related Services*

**THE RECONSTRUCTION OF PORTIONS OF THE PICNIC HOUSE IN PROSPECT PARK, BROOKLYN** – Sole Source – Available only from a single source -

PIN# 8462008B073D01 – DUE 09-29-08 AT 10:00 A.M. – The Department of Parks and Recreation, Capital Projects Division, intends to enter into Sole Source negotiations with Prospect Park Alliance, a not-for-profit organization, to provide Design Services for the Reconstruction of Portions of the Picnic House, located near Prospect West, opposite 5th Street in Prospect Park, Brooklyn.

Any firms that would like to express their interest in providing services for similar projects in the future may do so. All expressions of interest must be in writing to the address listed here and received by September 29, 2008. You may join the City Bidders list by filling out "NYC-FMS Vendor Enrollment Application" available on-line at "NYC.gov/selltonyc" and in hard copy by calling the Vendor Enrollment Center at (212) 857-1680.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
 Parks and Recreation, Olmsted Center, Room 61  
 Flushing Meadows Corona Park, Flushing, NY 11368.  
 Grace Fields-Mitchell (718) 760-6687  
[grace.fieldsmitchell@parks.nyc.gov](mailto:grace.fieldsmitchell@parks.nyc.gov)

**s19-25**

**CONSTRUCTION OF A COMFORT STATION AT THE PARADE GROUNDS, BROOKLYN** – Sole Source – Available only from a single source - PIN# 8462008B068D03 – DUE 09-29-08 AT 10:00 A.M. – The Department of Parks and Recreation, Capital Projects Division, intends to enter into Sole Source negotiations with Prospect Park Alliance, a not-for-profit organization, to provide Design Services for the Construction of a Comfort Station located on the Prolongation of Argyle Road at the Parade Grounds bounded by Parade Place, Brooklyn.

Any firms that would like to express their interest in providing services for similar projects in the future may do so. All expressions of interest must be in writing to the address listed here and received by September 29, 2008. You may join the City Bidders list by filling out "NYC-FMS Vendor Enrollment Application" available on-line at "NYC.gov/selltonyc" and in hard copy by calling the Vendor Enrollment Center at (212) 857-1680.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
 Parks and Recreation, Olmsted Center, Room 61  
 Flushing Meadows Corona Park, Flushing, NY 11368.  
 Grace Fields-Mitchell (718) 760-6687  
[grace.fieldsmitchell@parks.nyc.gov](mailto:grace.fieldsmitchell@parks.nyc.gov)

**s19-25**

**REVENUE AND CONCESSIONS**

■ SOLICITATIONS

*Services (Other Than Human Services)*

**OPERATION OF THREE (3) MOBILE FOOD UNITS AND THE RENOVATION, OPERATION, AND MANAGEMENT OF A PARKING LOT, SNACK BAR, AND BEACH SHOP** – Competitive Sealed Bids – PIN# B251-SB,PL – DUE 10-27-08 AT 3:00 P.M. – At Manhattan Beach, Brooklyn.

Parks will hold a recommended bidder meeting on Friday, October 3, 2008 at 11:00 A.M. at the parking lot entrance at Oriental Blvd. and Irwin Street in Brooklyn. All interested parties are urged to attend.

Telecommunication Device for the Deaf (TDD) 212-504-4115.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
 Parks and Recreation, The Arsenal-Central Park  
 830 Fifth Avenue, Room 407, New York, NY 10021.  
 Joel Metlen (212) 360-1397, [joel.metlen@parks.nyc.gov](mailto:joel.metlen@parks.nyc.gov)

**s15-26**

**POLICE**

**CONTRACT ADMINISTRATION UNIT**

■ INTENT TO AWARD

*Services (Other Than Human Services)*

**IBM LICENSE AGREEMENT** – Sole Source – Available only from a single source - PIN# 056090000618 – DUE 09-29-08 AT 11:00 A.M.  
**● NOVELL MASTER LICENSE AGREEMENT** – Sole Source – Available only from a single source - PIN# 056090000627 – DUE 09-29-08 AT 11:00 A.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
 Police Department, 51 Chambers Street, Room 310  
 New York, NY 10007. Howard Babich (646) 610-5214  
[howard.babich@nypd.org](mailto:howard.babich@nypd.org)

**s22-26**

**SCHOOL CONSTRUCTION AUTHORITY**

**CONTRACT ADMINISTRATION**

■ SOLICITATIONS

*Construction / Construction Services*

**GYM UPGRADE/ELECTRICAL SYSTEMS** – Competitive Sealed Bids – PIN# SCA09-11358D-1 – DUE 09-16-08 AT 11:30 A.M. – IS 285 (Brooklyn). Project Range: \$1,670,000.00 to \$1,755,000.00. Non-refundable bid document charge: \$100.00, certified check or money order only. Make payable to

the New York City School Construction Authority. Bidders must be pre-qualified by the SCA.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

School Construction Authority, Plans Room Window Room #1046, 30-30 Thomson Avenue, 1st Floor Long Island City, New York 11101, (718) 752-5854.

☛ s25-29

## TRIBOROUGH BRIDGE & TUNNEL AUTHORITY

### ■ SOLICITATIONS

#### Services

#### MAINTENANCE AND REPAIR OF OVERHEAD ROLLING DOORS

Competitive Sealed Bids – PIN# 08MNT2829000 – DUE 10-21-08 AT 3:00 P.M. – Located at Various Triborough Bridge and Tunnel Authority and Long Island Bus Facilities.

A pre-bid conference is scheduled for 10/06/08 at 10:30 A.M. Reservations must be made with Janet Lebron, Contract Manager, at (646) 252-7322, no later than noon the preceding work day.

#### ● AERIAL TRAFFIC SURVEYS AT VARIOUS AUTHORITY FACILITIES

Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# PSC08284400 – DUE 10-22-08 AT 3:30 P.M. – A pre-proposal conference is scheduled for 10/07/08 at 10:00 A.M. Reservations must be made by contacting Robin Golubow at (646) 252-7340 no later than noon the preceding work day.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Triborough Bridge and Tunnel Authority, 2 Broadway Bid Suite, New York, NY 10004, Bid Administration, (646) 252-7092, vprocure@mtabt.org

All proposals must be delivered to the 2 Broadway, Bid Suite, located at the 3 Stone Street entrance. Please allow extra time for delivery.

☛ s25

## AGENCY PUBLIC HEARINGS ON CONTRACT AWARDS

“These Hearings may be cablecast on NYC TV Channel 74 on Sundays, from 5:00 p.m. to 7:00 p.m. For more information, visit: [www.nyc.gov/tv](http://www.nyc.gov/tv)” **NOTE: Individuals requesting Sign Language Interpreters should contact the Mayor’s Office of Contract Services, Public Hearings Unit, 253 Broadway, 9th Floor, New York, N.Y. 10007, (212) 788-7490, no later than SEVEN (7) BUSINESS DAYS PRIOR TO THE PUBLIC HEARING. TDD users should call Verizon relay services.**

## DESIGN & CONSTRUCTION

### ■ PUBLIC HEARINGS

**NOTICE IS HEREBY GIVEN** that a Contract Public Hearing will be held on Thursday, September 25, 2008, in Spector Hall, 22 Reade Street, Main Floor, Borough of Manhattan, commencing at 10:00 A.M. on the following:

**IN THE MATTER** of a proposed contract between the Department of Design and Construction of the City of New York and 1100: Architect and Ricci Greene Associates (JV), 475 10th Avenue, 10th Floor, New York, N.Y. 10018, for C114NEWF2, Architectural and Engineering Design Services for Renovation and Expansion of the Brooklyn Detention Center, Borough of Brooklyn. The contract amount shall be \$32,500,000. The contract term shall be 578 Consecutive Calendar Days from the date of written notice to proceed. PIN #: 8502008CR0014P.

The proposed consultant has been selected by means of the Competitive Sealed Proposal Method, pursuant to Section 3-03 of the Procurement Policy Board Rules.

A draft copy of the proposed contract is available for public inspection at the Department of Design and Construction, Professional Contracts Section, 30-30 Thomson Avenue, Fourth Floor, Long Island City, New York 11101, from September 23, 2008 to September 25, 2008, excluding Saturdays, Sundays and Holidays, from 9:00 A.M. to 4:00 P.M. Contact Kareem Alibocas at (718) 391-3038.

s23-25

## AGENCY RULES

## HEALTH AND MENTAL HYGIENE

### ■ NOTICE

#### NOTICE OF ADOPTION OF AMENDMENTS TO ARTICLE 115 OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the “Charter”) and pursuant to the authority granted to the

Board of Health by §558 of said Charter, notice of intention to amend Article 115 (Prescription Formula Preparation Facilities) of the New York City Health Code (the “Health Code”) was published in the City Record on June 20, 2008, and a public hearing was held on July 21, 2008. No written comments were received and no testimony was given. At its meeting on September 17, 2008, the Board of Health adopted the following resolution.

### STATUTORY AUTHORITY

These amendments to the Health Code are promulgated pursuant to §§558 and 1043 of the Charter. 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 grants the Department rule-making authority.

### STATEMENT OF BASIS AND PURPOSE

The Board of Health, at its meeting on October 24, 2007, adopted a resolution repealing and reenacting Article 115 of the New York City Health Code (Prescription Formula Preparation Facilities). At the request of the Department’s Bureau of Food Safety and Community Sanitation (BFSCS), the Board of Health further amended §115.17 (g) and §115.21(f) of the Health Code to enable prepared powdered infant formula to be held in storage at temperatures of 40°F or lower.

The Production and Clinical Services Department of Food and Nutrition, Presbyterian Hospital, brought to the attention of the BFSCS that Article 115’s required temperature for holding prepared powdered infant formula at 37°F is lower than that prescribed by the American Dietetic Association’s guidelines. The Administrator of Presbyterian’s Department of Food and Nutrition wrote that:

Our clinical care practice needs to be evidence based. The major reference we have used is the 2004 publication by the American Dietetic Association Infant Feedings: Guidelines for Preparation of formula and Breastmilk in Health care Facilities. This reference states in Chapter 4 - Formula Preparation and Handling: Dedicated refrigerators with adequate chill capacity (4°C, 40°F) for infant feedings in the formula room and on the patient care units are recommended. This reference also states: Care should be taken to avoid freezing temperatures (0°C, 32°F) or excessive heat (35°C, 95°F) in stock storage areas. While the code addresses mixed infant formula (not shelf stable products) we have found that attempting to maintain refrigerators at <37°F has resulted in freezing of the mixed formula in our refrigerators.

Further review by the Department found that both the ADA guidelines and the UN Food and Agriculture Organization and World Health Organization recommendations for cooling and maintaining reconstituted powdered infant formula to prevent infection with certain microorganisms, including, but not limited to, *E. sakazakii*, are to initially cool prepared powdered formula to 35°F to 40°F (2°C to 4°C) within one hour of preparation, and then to store formula under refrigeration at temperatures below 41°F (5°C). Refrigerated storage, at temperatures lower than 41°F (5°C), is sufficient to prevent or slow growth of harmful bacteria.

Currently, Health Code §115.21(f) provides that “prescription infant formula prepared from a powdered food base shall be cooled to 37 degrees Fahrenheit (2.8 degrees Celsius) within one hour of preparation, and maintained at 37 degrees Fahrenheit (2.8 degrees Celsius).” In addition, labeling requirements in Health Code §115.17(g) provide that prescription formula be labeled with information that it be kept “under refrigeration at or below 40 degrees Fahrenheit (4.4 degrees Celsius), except that prescription formula for infants prepared with a powdered food base shall be maintained at temperatures below 37 degrees Fahrenheit (2.8 degrees Celsius)...”

Accordingly, to be consistent with WHO and ADA guidelines, and to maintain nutritional quality of prepared formula, the Board of Health amended the required holding temperature for prepared powdered formula from 37°F (2.8°C) to 40°F (4°C). The Department believes this amendment will continue to promote a safe and nutritional product

### References:

*Infant Feedings: Guidelines for Preparation of Formula and Breastmilk in Health Care Facilities*, Robbins, Beker, ed.; Pediatrics Nutrition Practice Group, American Dietetic Association, 2004.

*Safe Preparation, Storage, and Handling of Powdered Infant Formula*. World Health Organization with Food and Agriculture Organization of the United Nations, 2007.

International Food Safety Authorities Network, *INFOSAN Information Note No. 1/2005-Enterobacter sakazakii, Enterobacter sakazakii in powdered infant milk formula*

US Centers for Disease Control and Prevention, *MMWR*, April 12, 2002/51(14); 298-300: Enterobacter sakazakii Infections Associated with the Use of Powdered Infant Formula -- Tennessee, 2001.

### Statement Pursuant to Charter §1043

This proposal was not included in the Department’s regulatory agenda because the need for the amendment became known after publication of the regulatory agenda.

The amendment is as follows:  
Matter underlined is new

Matter to be deleted is indicated by [brackets].

RESOLVED, that subdivision (g) of §115.17 of Article 115

(Prescription Formula Preparation Facilities) of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, adopted by resolution on the twenty-fourth of October, two thousand seven, be, and the same hereby is, amended, to be printed together with explanatory notes, to read as follows:

**§115.17 Labeling of containers.** Each container of prepared prescription formula for an individual shall be labeled with the following information:

\* \* \*

(g) A statement that the prescription formula shall be kept under refrigeration at or below 40 degrees Fahrenheit (4.4 degrees Celsius)[, except that prescription formula for infants prepared with a powdered food base shall be maintained at temperatures below 37 degrees Fahrenheit (2.8 degrees Celsius)];

\* \* \*

Notes: Subdivision (g) of §115.17 was amended by resolution adopted on xxxx deleting the labeling requirement for holding prepared powdered formula at temperatures lower than other prepared formula.

RESOLVED, that subdivision (f) of §115.21 of Article 115 (Prescription Formula Preparation Facilities) of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, adopted by resolution on the twenty-fourth of October, two thousand seven, be, and the same hereby is, amended, to be printed together with explanatory notes, to read as follows:

**§115.21 Packaging and sterilization.**

\* \* \*

(f) Prepared infant prescription formula shall be properly cooled to and maintained at or below 40 degrees Fahrenheit (4.4 degrees Celsius) within one hour of preparation, except that prescription infant formula prepared from a powdered food base shall be cooled to 37 degrees Fahrenheit (2.8 degrees Celsius) within one hour of preparation, and maintained at [37 degrees Fahrenheit (2.8 degrees Celsius)] or below 40 degrees Fahrenheit (4.4 degrees Celsius).

Notes: Subdivision (f) of §115.21 was amended by resolution adopted on xxxx deleting the requirement for holding prepared powdered formula at temperatures lower than other prepared formula.

☛ s25

### NOTICE OF ADOPTION OF A RESOLUTION TO REPEAL AND REENACT ARTICLE 11 OF THE NEW YORK CITY HEALTH CODE

In compliance with Section 1043(b) of the New York City Charter and pursuant to the authority granted to the Board of Health by Section 558 of said Charter, notice of intention to repeal and reenact Article 11 (Reportable Diseases and Conditions) of the New York City Health Code (the “Health Code”) was published in the City Record on June 20, 2008, and a public hearing was held July 22, 2008. No testimony was given, and one written comment was received. Minor changes have been made to the resolution since it was published for public comment and are explained in the Statement of Basis and Purpose below. At a meeting on September 17, 2008, the Board of Health adopted the following resolution.

### STATUTORY AUTHORITY

These amendments to the New York City Health Code (“Health Code” or “Code”) are promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter (the “Charter”). Section 556 of the Charter provides the Department of Health and Mental Hygiene (“DOHMH” or “Department”) with jurisdiction to regulate all matters affecting the health in the city of New York. Section 558(b) and (c) of the Charter empower the Board of Health (the “Board”) to amend the Health Code and to include in the Health Code all matters to which the DOHMH’s authority extends. Section 1043 of the Charter grants the DOHMH rulemaking powers.

### STATEMENT OF BASIS AND PURPOSE INTRODUCTION

The DOHMH proposed to repeal and reenact Article 11 pursuant to a comprehensive review and revision of the Health Code. Several of the proposed changes are not substantive but the text has been reorganized for clarity and consistency. The revisions reflect current thinking about public health, public health law and the efficacious control of communicable diseases and conditions of public health interest. The revisions also reflect the current practices of the DOHMH, enforcement needs within the Department, advances in science and technology and the continuing concerns regarding new or re-emerging pathogens and potential bioterrorism. Because some of the provisions of Article 11 are substantively connected to provisions of Article 13 (clinical laboratories), the resolution to repeal and reenact Article 11 has been changed to specify that it shall be effective as of February 1, 2009, by which time it is expected that the revisions to Article 13 will also be effective. As a result of this assessment of the Health Code, Article 11 was repealed and re-enacted as set forth in the resolution below. The substance of the salient changes is as follows:

#### Section 11.01

The DOHMH proposes to modernize certain of the definitions in existing §11.01. The significant changes are described below.

- “Case” is redefined to simplify and make clear that a person with a disease or condition which is

reportable pursuant to this Code or any other law, based on clinical, laboratory, and/or epidemiological evidence or other recognized public health criteria, will be recognized as a case. The resolution has been changed to indicate that a "case" may also be an instance of such a disease or condition occurring in an individual.

- The resolution has been changed with regard to the definition of "clinical laboratory" to clarify that the definition applies to the term "laboratory" and that these terms include a blood bank.
- The definition of "child" is added to clarify that a person under the age of 18 will be recognized as a child, in accordance with New York State Law.
- A new term, "condition of public health interest", is added in recognition of the fact that Article 11 requires the reporting, and provides authority for the control, of more than communicable diseases.
- A definition of "contagious disease" is added and would specify that it is a communicable disease which is directly or indirectly transmissible from one individual to another.
- The definition of "directly observed therapy", heretofore applicable specifically to tuberculosis as set forth in former § 11.47, is moved to this general definition section. The definition has general applicability both to tuberculosis treatment as well as to any other contagious disease situation as may become necessary.
- The definition of "exclude" is modified to clarify that it applies to attendance at a day care, school, child care setting, worksite or other place specified in the Code or as may be directed by the Department.
- The definition of "household contact" is revised to clarify that a person who has significant exposure to an infected person based on residence in the same household or residential premises so as to have the potential to acquire the infection will be considered a "household contact".
- A definition of "quarantine" is added to acknowledge that it is an available and effective method of contagious disease control, especially in light of the potential for pandemic influenza, bioterrorism and other potentially new or re-emerging contagious diseases.
- A definition of "suspect case" is added to clarify who will be considered a suspect case by the DOHMH.

#### Subdivision (a) of §11.03

The list of reportable diseases and conditions of public health interest is amended to ensure that it is consistent with New York State's list of reportable diseases. It should be noted that the list of diseases and conditions which are reportable pursuant to the Health Code is not intended to in any way limit or impact what is reportable to the State Health Department pursuant to state law or regulation. Several new diseases or conditions, including drownings, Lymphocytic choriomeningitis virus, and Ricin poisoning would be added to the list of reportable conditions in New York City. In addition, the disease formerly identified as Ehrlichiosis has been reclassified into two new diseases, Human Granulocytic Anaplasmosis and Human Monocytic Ehrlichiosis. The resolution has been revised to incorporate technical changes, add clarifying language or correct unintended errors. Accordingly, the words "genitourinary and perinatal" have been deleted from the listing for *Chlamydia trachomatis* infections; the word "virus" has been added to the listing for Herpes simplex; the listing for "Poisoning by drugs or other toxic agents" has been modified to make clear that the poisonings which are required to be reported are not limited to lead, carbon monoxide and pesticide poisonings; the listing for Syphilis has been clarified to indicate that "all stages, including congenital" are reportable; and the listing for Urethritis was eliminated because it had been repealed previously by the Board of Health. Furthermore, the resolution has been changed to indicate that food poisoning occurring in two or more people, as opposed to three or more, is a reportable event in order to comport with CDC recommendations.

#### Subdivision (b) of §11.03

A new paragraph (b)(1) specifies which of the diseases and conditions set forth in subdivision (a) must be reported to the Department by telephone immediately, both when they are suspected and when they are confirmed. The resolution has been changed to conform the listings for "Influenza" and "Meningococcal" in (b)(1) to the exact wording and spelling set forth in subdivision (a). A new paragraph (b)(2) mandates that all of the other diseases and conditions set forth in subdivision (a) be reported within 24 hours of a confirmed diagnosis.

#### Subdivision (c) of § 11.03

This subdivision (c) is the successor provision to former subdivision (b) and requires that outbreaks or suspected outbreaks of any disease or condition, unusual manifestations of disease or conditions, or unusual diseases -- regardless of whether they are listed in subdivisions (a) or (b) -- be reported to the Department immediately by telephone.

#### Subdivision (d) of §11.03

Subdivision (d) is added to clarify and reaffirm the Department's authority to conduct syndromic surveillance

activities. In connection with this revision, a clarifying note has been added to §11.03 defining "syndromic surveillance." The Department already conducts such activities under its existing duty to exercise due diligence to ascertain the existence of outbreaks. This provision enhances that authority.

#### Subdivision (e) of §11.03

A new subdivision (e), derived in part from the current §11.03(b), elaborates upon the Department's broad authority to conduct epidemiological investigations to help control the spread of disease and to prevent and mitigate morbidity or mortality. In the course of conducting an investigation to verify diagnosis, or identify additional cases, contacts or carriers, or in attempting to ascertain the sources or causes of infection, injury or illness, the Department may require additional information beyond that which is routinely reported, and may collect or require the submission of clinical and environmental specimens, including isolates from clinical laboratories, for examination.

#### Section 11.05

Section 11.05 is revised to require additional groups of persons to submit the reports required by §11.03 (including dentists, licensed chiropractors, doctors of osteopathy, physician's assistants, nurse practitioners, persons in charge of hospitals, clinics and laboratories or their designees). By broadening the scope of persons reporting the Department would obtain a more comprehensive monitoring of reportable diseases and conditions. The resolution was changed to cross-reference Article 13 with regard to reporting by clinical laboratories.

#### Sections 11.07 and 11.09

These sections, providing for the reporting, respectively, of immunizations and blood lead test results and for the establishment of immunization and children's blood lead test registries, are substantially the same as their existing Health Code sections 11.04 and 11.06.

#### Section 11.11

Section 11.11 (former §11.07) provides for the strict confidentiality of epidemiological and surveillance information which is reported to the Department or which is obtained or generated by DOHMH in the course of its investigations. Subdivision (a) specifies that the disclosure of such information, including an individual's medical or identifying information, cannot be compelled, and that dissemination of such information must be as aggregated statistical data. The resolution has been changed to clarify that such information may be made available to the State Department of Health pursuant to the State Sanitary Code. The resolution has also been changed to delete, as unnecessary, the sentence specifying that such records shall not be deemed public records under the New York State Freedom of Information Law because it did not increase or diminish the confidentiality provided for by this section.

Subdivision (b) allows, to the extent permissible under applicable law, persons who are the subject of epidemiological reports and records to consent to the disclosure of information that is limited to their own patient information.

Subdivision (c), similar to former §11.07(c), allows for the disclosure of minimally necessary identifiable information, notwithstanding subdivisions (a) and (b), when the Department determines that such is necessary for the protection of public health.

Subdivision (d), substantially similar to former §11.07(d), provides for the confidentiality of the immunization and children's lead registries established by sections 11.07 and 11.09, respectively. The resolution has been changed, at paragraph (1) of subdivision (d), to delete language which limited the sharing of children's blood lead registry information with treating providers or public health agencies to only "test results and the dates of such testing". Programmatically, at times it may be necessary to share other information from said registry with a treating provider or a public health agency.

#### Section 11.13

Section 11.09 is replaced by a new §11.13, which requires physicians to advise not only cases, carriers and contacts, but to also advise a suspect case, of the applicable precautionary requirements necessary to prevent the spread of disease. It would include a reference to quarantine as a possible preventive and protective measure, should such be directed by the DOHMH in a particular case.

#### Section 11.15

Sections 11.15 and 11.17, which generally relate to exclusion and isolation, respectively, replace a number of disease-specific sections of the former Article 11.

Subdivision (a) of §11.15 requires the persons in charge of institutions to exclude from attendance certain individuals, such as cases, contacts or carriers of specified diseases, who may be food handlers or children under the age of six in a child care setting. These individuals would be excluded until the Department determines that they no longer present a risk to others.

Subdivision (b) makes it a violation of the Code for the owner or person in charge of the institutions specified in §11.15 to knowingly or negligently permit an individual to work in or attend such a place when required to be isolated or excluded pursuant to Article 11.

Subdivision (c) provides general authority for the Department to issue exclusion orders when necessary to protect the public health. Individuals excluded pursuant to such orders would be provided with an opportunity to be heard in accordance with §11.23(k) of this article.

#### Section 11.17

Subdivision (a) requires hospitals, clinics, nursing homes or other medical facilities to isolate, in accordance with recognized infection control principles and State Department of Health regulations or guidance, cases, carriers and suspected cases and carriers of listed contagious diseases or of other contagious diseases, which in the opinion of the Commissioner present an imminent and significant threat to the public health. The resolution has been changed to make reference to the State Department of Health regulations or guidelines.

Subdivision (b) requires the person in charge of a shelter, correctional facility or other places providing medical care on site, but which do not have the capability to implement appropriate isolation precautions, to isolate such cases or carriers of contagious disease as directed by the Department until the individual can be transported to an appropriate healthcare facility. The resolution has been changed to delete reference to attending physicians in hospitals, clinics or nursing homes because such facilities are adequately regulated by the State Department of Health in regard to operational standards for isolation.

Subdivision (c) requires institutions such as schools and congregate child care settings to similarly isolate such cases and carriers as directed by the Department until the individual can be safely transported to an appropriate facility.

Subdivision (d) authorizes the Department to issue home isolation or quarantine orders to suspect or confirmed cases, carriers or contacts of contagious disease who are not hospitalized. Such persons would have an opportunity to be heard in accordance with §11.23(k) of this Article.

#### Section 11.19

Section 11.19 is substantially the same as former §11.49, except that the requirements now apply to both typhoid and paratyphoid fever. It updates the exclusion and control measures applicable to typhoid and paratyphoid fever to reflect more modern terminology and medical practice.

#### Section 11.21

This renumbered §11.21, providing for the reporting, examination, exclusion, removal and detention of cases and suspected cases of tuberculosis, is substantively the same as former §11.47 of this Article. Subdivision (a) is revised to require the submission of the telephone contact number of the case so as to enable communicating with or contacting the case as may be necessary.

In addition, the definition of "directly observed therapy" is moved to the general definition section (§11.01) of Article 11 and generalized to apply to both tuberculosis and other diseases as may be necessary.

#### Section 11.23

This new section is derived from former §11.55. The section clarifies that the Commissioner may issue removal and detention orders for individuals or for a group who may present a danger to others because they are or may be infected with a contagious disease, and provides for necessary flexibility with regard to the implementation of such authority.

With respect to subdivision (k) of §11.23, the resolution has been changed to also address the prevention of illnesses other than contagious diseases, such as the danger to others that may be posed by persons who have been exposed to radiation or chemicals. Included in subdivision (k) are references to the Commissioner's ability to order (1) exclusion; (2) home isolation or quarantine; (3) testing or medical examination of a person who may have been exposed to, infected by or contaminated with a contagious disease or dangerous amounts of radioactive materials or toxic chemicals that may pose a significant risk or danger to others; (4) a person who has been exposed to a contagious disease that poses a significant risk or danger to others to complete an appropriate, prescribed course of preventive medication or vaccination or through directly observed therapy to treat the disease, and follow infection control provisions for the disease, as may be necessary to control the spread of disease; or (5) an individual who has been contaminated with dangerous amounts of radioactive materials or toxic chemicals to undergo decontamination procedures. The Commissioner's right to order a prescribed course of preventive medication, vaccination or directly observed therapy does not mean or suggest that there would be forcible administration of medication against a person's will; a court order would be obtained as necessary. Persons who are the subject of such non-custodial orders would be afforded an opportunity to be heard.

#### Section 11.25

Section 11.25 is substantially similar to former §11.64 but now includes Rocky Mountain spotted fever and tuberculosis as reportable diseases in animals and it allows for the possibility of reporting by telephone. The resolution has been changed to include salmonellosis as a reportable disease in animals. The resolution has also been changed to prohibit animals infected with any disease which is transmissible to humans and a threat to the public's health from being brought into or kept in the City.

#### Section 11.27

Section 11.27 is substantially similar to former §11.65 but it includes a new subdivision (h) that allows the Commissioner to modify the application of its provisions in specific instances of undue or unreasonable hardship. With respect to paragraph 2 of subdivision (d) of this section, the resolution

has been changed to delete the reference to animals “over four months of age” because there is now at least one vaccine that can be administered as early as eight weeks of age. Such an animal would be considered “actively vaccinated” as defined by this section and therefore the reference to “over four months of age” is unnecessary.

#### Section 11.29

Section 11.29 is substantially similar to former §11.66 but changes the age at which a dog or a cat must be vaccinated from three to four months of age.

#### Section 11.31

New §11.31 is substantially similar to former §11.67 but also provides that no person shall intentionally or negligently cause or promote the spread of disease by failing to observe disease control measures including but not limited to isolation, exclusion or treatment.

**RESOLVED**, that, effective February 1, 2009, the Introductory Notes to Title II, the list of section headings for Article 11, the Introductory Notes to Article 11 and Article 11 of the New York City Health Code be and the same hereby are repealed and reenacted, to be printed together with explanatory notes, to read as follows:

### Title II

#### Control of Disease

##### Introductory Notes:

Title II of the New York City Health Code provides for the reporting and control of communicable diseases and other conditions. Although advances in the prevention and treatment of infectious diseases now permit the Department of Health and Mental Hygiene (“DOHMH” or “Department”) to focus more attention on other areas, the control of communicable diseases remains one of its core functions. Many of the provisions in other titles of this Code reflect the policies and principles established in Title II.

Reporting of cases is the first step in the public health control of communicable disease or conditions of public health interest. Initial reporting can lead to potentially valuable public health responses: (1) the Department’s laboratory facilities may be made available to confirm the diagnosis of a disease, test specimens collected from close contacts to screen for the causative organism, provide additional information of public health importance such as molecular and seroepidemiologic characteristics and antibiotic susceptibilities of the causative organism, and conduct repeat testing to determine whether persistent evidence of infection indicates that the patient has developed a carrier state; (2) epidemiologic investigations can be conducted to determine the manner of transmission and the source of infection or illness, identify others at risk who may need treatment and take measures to prevent further spread or additional cases; and (3) statistical information can be compiled and analyzed to monitor the incidence and prevalence of diseases on a city-wide basis, identify potential outbreaks and to determine the need for and assess the effectiveness of public health measures to prevent or control the disease or condition.

Article 11, “Reportable Diseases and Conditions”, not only contains the basic reporting requirements but also addresses the control measures that may need to be put in place with regard to suspect and confirmed cases, contacts and carriers of certain reportable diseases. The public health control measures that may be utilized include exclusion of suspect or confirmed cases, carriers or their contacts from childcare, school, work or other settings where transmission may occur; isolation of cases; screening, prophylaxis and quarantine of contacts; and supervision of convalescent and chronic carriers. The article also addresses infection control measures required in clinics treating communicable diseases; control of animals infected with communicable diseases; and a general provision prohibiting persons from intentionally or negligently spreading disease.

Article 13 regulates the public health aspects of reporting by clinical laboratories and laboratory examinations for tuberculosis.

Article 15 provides controls designed to prevent the spread of disease by persons handling pathogenic organisms.

#### Article 11 Reportable Diseases and Conditions

##### §11.01 Definitions.

##### §11.03 Diseases and conditions of public health interest that are reportable.

##### §11.05 Reports.

##### §11.07 Immunization registry.

##### §11.09 Blood Lead Reporting and Children’s Blood Lead Registry.

##### §11.11 Confidentiality of reports and records.

##### §11.13 Duty of physician to advise case, carrier, suspect case and contact.

##### §11.15 Control measures; duty to exclude; exclusion orders.

##### §11.17 Control measures; duty to isolate, and isolation, quarantine, and examination orders.

##### §11.19 Typhoid and paratyphoid fever; exclusion.

##### §11.21 Tuberculosis; reporting, examination, exclusion, removal and detention.

##### §11.23 Removal and detention of cases, contacts and carriers who are or may be a danger to public health; other orders.

##### §11.25 Reports and control of animal diseases communicable to humans.

##### §11.27 Control of animals affected with rabies.

##### §11.29 Rabies; compulsory vaccination.

##### §11.31 Acts likely to spread disease prohibited.

#### Introductory Notes:

As part of a comprehensive review of the Health Code to provide adequate legal tools to address the City’s public health needs, Article 11, which covers the subject matter of diseases and conditions in humans and diseases in animals that are communicable to humans, was repealed and reenacted on September 17, 2008 to improve the reporting and control of communicable diseases and other conditions of public health interest that may affect the public health of the City. To that end, Article 11 has been revised to recognize and reflect changes and advancements in science and technology, emerging pathogens and contemporary concepts in public health.

#### §11.01 Definitions.

When used in this article:

(a) “Carrier” means an individual who, without showing any evidence of clinical disease, harbors and is capable of transmitting an infectious agent and may be a potential source of infection to others.

(b) “Case” means, depending on the context, (1) an individual who, based on clinical, laboratory and/or epidemiologic evidence or other recognized public health criteria, has a disease or condition of public health interest that is reportable to the Department pursuant to this article or any other applicable law or regulation, or (2) an instance of such a reportable disease or condition occurring in an individual.

(c) “Child” means a person under the age of 18 years.

(d) “Clinical laboratory” or “laboratory” means a facility, including a blood bank, regulated pursuant to Public Health Law, Title V, Article 5, holding a permit issued by the New York State Department of Health, and operating in the City or testing a specimen from a City resident.

(e) “Communicable disease” means an illness caused by an infectious agent or its toxins that occurs through the direct or indirect transmission of the infectious agent or its products from an infected individual or via an animal, vector or the inanimate environment to a susceptible animal or human host.

(f) “Condition of public health interest” or “condition” means a disease, illness, syndrome or injury, or other threat to health that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community.

(g) “Contact” means an individual who has been identified as having been exposed, or potentially exposed, to a contagious or possibly contagious disease through such close, prolonged or repeated association with another individual or animal that, in the opinion of the Department, there is a risk of such individual contracting the contagious disease. A contact can be a household or non-household contact.

(h) “Contagious disease” means a communicable disease that is transmissible from one individual to another individual by direct or indirect contact.

(i) “Directly observed therapy” means a course of treatment, or preventive treatment, for a contagious disease in which the prescribed medication is administered to the person or taken by the person under direct observation as specified by the Department.

(j) “Epidemiological and surveillance reports and records” shall mean the reports of diseases and conditions of public health interest required to be reported to the Department that are received by the Department, and records of the case and contact investigations conducted and maintained by the Department related to such reports. Epidemiological and surveillance reports and records shall not include information contained in the immunization registry nor in the children’s blood lead registry created pursuant to §§11.07 and 11.09 of this Code, respectively.

(k) “Exclude” means to keep from attendance at a day care or other childcare setting, school, worksite, shelter, or other place as specified in this Code or as may be directed by the Department.

(l) “Food handler” or “food worker” means a person who works in any place where food or drink is prepared, manufactured, handled, bottled, packed, stored, offered for sale, sold or provided free of charge, whose duties or the circumstances under which the food handler works, in the opinion of the Department, involve a risk that the food handler or food worker may cause the spread of disease.

(m) “Household contact” means an individual who has been or may have been exposed to another individual or animal with a contagious disease, based on residence in the same household or residential premises, sufficient to, in the opinion of the Department, put such individual at risk for acquiring the contagious disease.

(n) “Individual” means a natural human being.

(o) “Isolate” or “isolation” means the physical separation of persons who have a contagious disease or are suspected of having a contagious disease from other persons who do not have such contagious disease.

(p) “Outbreak” means an increased incidence of a disease or condition of public health interest above the expected or baseline level for that disease or condition.

(q) “Quarantine” means the physical confinement, separation, detention, or restriction of activities, including entry or exit to or from premises or other places, of individuals who have been or are suspected of having been exposed to a contagious disease or possibly contagious disease, from other persons who have not been exposed to that contagious disease.

(r) “Suspect case” means an individual with clinical, laboratory or epidemiologic evidence suggesting the existence of a disease or condition that is reportable to the Department pursuant to this article or any other applicable law or regulation, but which has not yet been confirmed.

#### §11.03 Diseases and conditions of public health interest that are reportable.

(a) Cases and carriers affected with any of the following diseases and conditions of public health interest, and persons who at the time of their death were apparently so affected, shall be reported to the Department as specified in this article:

Amebiasis

Anaplasmosis (Human granulocytic anaplasmosis)

Animal bite, or exposure to rabies

Anthrax

Arboviral infections, acute (including but not limited to the following viruses:

Chikungunya virus, dengue, Eastern equine encephalitis virus, Jamestown Canyon virus, Japanese encephalitis virus, La Crosse virus, Powassan virus, Rift Valley fever virus, St. Louis encephalitis virus, Western or Venezuelan equine encephalitis virus, West Nile virus and yellow fever)

Babesiosis

Botulism (including infant, foodborne and wound botulism)

Brucellosis (undulant fever)

Campylobacteriosis

Chancroid

Chlamydia trachomatis infections

Cholera

Creutzfeldt-Jakob Disease

Cryptosporidiosis

Cyclosporiasis

Diphtheria

Drownings, defined as the process of experiencing respiratory impairment from submersion/immersion in liquid whether resulting in death or not

Ehrlichiosis (Human monocytic ehrlichiosis)

Encephalitis

Escherichia coli 0157:H7 infections

Falls from windows in multiple dwellings by children sixteen (16) years of age and under

Food poisoning occurring in a group of two or more individuals, including clusters of diarrhea or other gastrointestinal symptoms; or sore throat which appear to be due to exposure to the same consumption of spoiled, contaminated or poisonous food, or to having eaten at a common restaurant or other setting where such food was served. Also includes one or more suspected cases of neurologic symptoms consistent with foodborne toxin-mediated, including but not limited to botulism, scombroid or ciguatera fish poisoning, or neurotoxic or paralytic shellfish poisoning.

Giardiasis

Glanders

Gonococcal infection (gonorrhea)

Granuloma inguinale

Hantavirus disease

Hemolytic uremic syndrome

Hemophilus influenzae (invasive disease)

Hepatitis A; B; C; D (“Delta Hepatitis”); E; and other suspected infectious viral hepatitis

Herpes simplex virus, neonatal infections (in infants 60 days or younger)

Hospital associated infections as defined in Title 10 New York Codes, Rules and Regulations (NYCRR) Section 2.2 (New York State Sanitary Code) or its successor law, rule or regulation

Influenza, novel strain with pandemic potential

Influenza, laboratory-confirmed (only required through the Department’s electronic reporting mechanism set forth in §13.03(c) of this Code)

Influenza-related deaths of a child less than 18 years of age

Kawasaki syndrome

Legionellosis

Leprosy

Leptospirosis

Listeriosis

Lyme disease

Lymphocytic choriomeningitis virus

Lymphogranuloma venereum

Malaria

Measles (rubeola)

Melioidosis

Meningitis, including aseptic, viral and other bacterial causes (specify type)

Meningococcal, invasive disease

Monkeypox

Mumps

Norovirus, laboratory-confirmed (only required through the Department’s electronic reporting mechanism set forth in §13.03(c) of this Code)

Pertussis (Whooping cough)

Plague

Poisoning by drugs or other toxic agents, including but not limited to lead poisoning consisting of a blood lead level of 10 micrograms per deciliter or higher (see also §11.09(a) of this Code); carbon monoxide poisoning and/or a carboxyhemoglobin level above 10%; and including confirmed or suspected pesticide poisoning as demonstrated by:

- (1) Clinical symptoms and signs consistent with a diagnosis of pesticide poisoning; or
- (2) Clinical laboratory findings of blood cholinesterase levels below the normal range; or
- (3) Clinical laboratory findings or pesticide levels in human tissue above the normal range.

Poliomyelitis

Psittacosis

Q fever

Rabies

Respiratory syncytial virus, laboratory-confirmed

(only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)

Ricin poisoning  
 Rickettsialpox  
 Rocky Mountain spotted fever  
 Rotavirus, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)  
 Rubella (German measles)  
 Rubella syndrome, congenital  
 Salmonellosis  
 Severe Acute Respiratory Syndrome (SARS)  
 Shiga toxin producing *Escherichia coli* (STEC) (which includes but is not limited to *E. coli* O157:H7)  
 Shigellosis  
 Smallpox (variola)  
 Staphylococcal enterotoxin B poisoning  
*Staphylococcus aureus*, methicillin-resistant, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)  
*Staphylococcus aureus*, vancomycin intermediate and resistant (VISA and VRSA)  
 Streptococcus, Group A (invasive infections)  
 Streptococcus, Group B (invasive infections)  
*Streptococcus pneumoniae* invasive disease  
 Syphilis, all stages, including congenital  
 Tetanus  
 Toxic shock syndrome  
 Trachoma  
 Transmissible spongiform encephalopathy  
 Trichinosis  
 Tuberculosis, as demonstrated by:  
 (1) Positive culture for *Mycobacterium tuberculosis* complex; or  
 (2) Positive DNA probe, polymerase chain reaction (PCR), or other technique for identifying *Mycobacterium tuberculosis* from a clinical or pathology specimen; or  
 (3) Positive smear for acid-fast bacillus, with final culture results pending or not available, on either a microbiology or a pathology specimen; or  
 (4) Clinically suspected pulmonary or extrapulmonary (meningeal, bone, kidney, etc.) tuberculosis, such that the physician or other health care professional attending the case has initiated or intends to initiate isolation or treatment for tuberculosis, or to continue or resume treatment for previously incompletely treated disease, or, if the patient is not available, that the physician or other health care professional would initiate isolation or treatment if the patient were available; or  
 (5) Biopsy, pathology, or autopsy findings in lung, lymph nodes or other tissue specimens, consistent with active tuberculosis disease including, but not limited to presence of acid-fast bacilli, caseating and non-caseating granulomas, caseous matter, tubercles and fibre-caseous lesions; or  
 (6) Positive reaction to the purified protein derivative (PPD) Mantoux test or other recognized diagnostic test in a child less than five years of age, regardless of whether such child has had a BCG vaccination.  
 Tularemia  
 Typhoid fever  
 Vaccinia disease, defined as  
 (1) Persons with vaccinia infection due to contact transmission; and  
 (2) Persons with the following complications from smallpox vaccination: eczema vaccinatum, erythema multiforme major or Stevens-Johnson syndrome, fetal vaccinia, generalized vaccinia, inadvertent inoculation, myocarditis or pericarditis, ocular vaccinia, post-vaccinal encephalitis or encephalomyelitis, progressive vaccinia, pyogenic infection of the vaccination site, and any other serious adverse events (i.e., those resulting in hospitalization, permanent disability, life-threatening illness or death)  
 Varicella, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)  
*Vibrio* species, non-cholera (including *parahaemolyticus* and *vulnificus*)  
 Viral hemorrhagic fever  
 Yersiniosis  
 (b)(1) Suspected and confirmed cases or carriers of the following diseases or conditions of public health interest, and cases of persons who at the time of death were apparently so affected, shall be immediately reported to the

Department by telephone and immediately in writing by submission of a report form via facsimile, mail or in an electronic transmission format acceptable to the Department, unless the Department determines that a written report is unnecessary.

Animal bites, from vector species at higher risk for rabies (including raccoons, skunks, foxes and bats) or any other animal with illness suggestive of rabies  
 Anthrax  
 Acute arboviral infections, as defined in subdivision (a) of this section (other than dengue)  
 Botulism  
 Brucellosis  
 Carbon monoxide poisoning  
 Cholera  
 Diphtheria  
 Food poisoning, as defined in subdivision (a) of this section  
 Glanders  
 Hantavirus  
 Hepatitis A in a food handler, or in an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or any other congregate setting with children under the age of six, or in a health care practitioner in a hospital or medical facility who provides oral care, or in an inmate of a correctional facility, or in a resident of a homeless facility or any other congregate residential setting  
 Influenza, novel strain with pandemic potential  
 Measles  
 Melioidosis  
 Meningococcal, invasive disease  
 Monkeypox  
 Plague  
 Poliomyelitis  
 Q fever  
 Rabies  
 Ricin  
 Rubella (German measles)  
 SARS  
 Smallpox  
 Staphylococcal enterotoxin B poisoning  
*Staphylococcus aureus*, vancomycin intermediate and resistant (VISA and VRSA)  
 Tularemia  
 Vaccinia disease  
 Viral hemorrhagic fever  
 Any enteric disease (amebiasis, campylobacteriosis, cryptosporidiosis, *E. coli* O157: H7 and other shiga toxin producing *Escherichia coli* (STEC) infections, giardiasis, salmonellosis, shigellosis, typhoid fever or yersiniosis) occurring in a food handler, or in an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or any other congregate setting with children under six, or in a health care practitioner in a hospital or medical facility who provides oral care, or in an inmate of a correctional facility, or in a resident of a homeless facility or any other congregate residential setting.  
 (2) All other diseases or conditions of public health interest that are required to be reported in subdivision (a) shall be reported to the Department within 24 hours of a diagnosis confirmed by laboratory or clinical criteria, by telephone, or in writing by submission of the appropriate Departmental report form via facsimile, mail or in an electronic transmission format acceptable to and approved by the Department.  
 (c)(1) An outbreak or suspected outbreak of any disease, condition of public health interest or syndrome of known or unknown etiology, that may be a danger to public health and occurs in three or more persons, or (2) any unusual manifestation of a disease or condition of public health interest in an individual or (3) an unusual disease defined as a newly apparent or emerging disease or a syndrome of uncertain etiology that could possibly be communicable, shall be reported to the Department immediately by telephone and in writing by submission of a report form via facsimile, mail or in an electronic transmission format acceptable to the Department within 24 hours after diagnosis unless the Department determines that a written report is unnecessary. An outbreak may be detected based on clinical, laboratory or epidemiologic evidence.  
 (d) Authority for syndromic surveillance. To ascertain the existence or monitor the progress of an outbreak, or the occurrence of unusual manifestations of disease, or of unusual diseases or conditions of public health interest, the Department may require reports by emergency departments, urgent care facilities, hospitals and clinics, and health information organizations which are comprised of such health care providers, as such terms are defined in Article 28 of the New York State Public Health Law or regulation promulgated thereunder, of all patient visits during each 24-hour period. Such reports shall be made electronically and in a form, manner and frequency as may be specified by the Department. Reports required by this subdivision may include age, gender, date and time of visit, zip code of residence, chief complaint, diagnosis or diagnosis code, disposition, radiographic results, laboratory results and a unique identification number adequate to access the patient's medical record if deemed necessary by the Department to investigate a suspected outbreak. In the event of a suspected or confirmed outbreak, and upon request by the Department, the identity of a patient shall be promptly reported to the Department.  
 (e) Upon receipt of a report submitted pursuant to this section or any other provision of this article or other applicable law, the Department may conduct such

surveillance, epidemiologic and laboratory investigation activities as it shall deem necessary to verify the diagnosis, ascertain the source or cause of infection, injury or illness, identify additional cases, contacts, carriers or others at risk, and implement public health measures to control the disease or condition and prevent additional morbidity or mortality. Such investigations may include, but are not limited to, collecting or requiring collection of such clinical or environmental specimens for laboratory examination as the Department considers necessary, including the collection of specimens or isolates from clinical laboratories for testing by the Department or as designated by the Department. When deemed necessary for the protection of public health, the Department may require any person required to submit a report pursuant to this article or other applicable law, or an agent of such person, to provide reasonably necessary additional information not otherwise required to be reported by this Code, including but not limited to information on household contact and non-household contact names and contact information, clinical signs and symptoms, treatment, including records of treatment, laboratory, radiological, or other diagnostic procedures as specified by the Commissioner.

#### Notes:

This section is derived from its predecessor §11.03. In addition to provisions addressing reportable diseases and conditions, § 11.03 provides for additional methods of detection and monitoring of outbreaks, including, as necessary, syndromic surveillance pursuant to subdivision (d). "Syndromic surveillance" is the systematic ongoing collection, collation, analysis and interpretation in near real-time of existing health data essential for the planning, implementation and evaluation of public health practice and emergency response. Syndromic surveillance applies to surveillance using health-related data that provides information on clinical syndromes, such as fever, rash, gastrointestinal illness, and respiratory conditions that may precede a definitive clinical or laboratory diagnosis. If a particular clinical syndrome is increasing citywide or clustering in a specific geographic area, this may signal a sufficient probability of an outbreak to warrant further public health response. If an outbreak is suspected, syndromic surveillance data may be utilized to determine whether an outbreak may be occurring. If so, further epidemiologic investigation may be conducted to identify suspect cases and to determine the cause, sources of exposures, and recommend necessary interventions on the part of the health officer.

#### §11.05 Reports.

(a) Reports required by §11.03 shall be made by a physician; dentist; licensed chiropractor; doctor of osteopathy; physician's assistant; nurse practitioner; a person in charge of a hospital, clinic, or other institution providing care or treatment; a clinical laboratory in accordance with Article 13 of this Code; or such persons' designees unless otherwise specified. Individual cases of those diseases that subdivision (a) of §11.03 indicates are to be reported only through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code, shall be reported by clinical laboratories only and no additional reporting pursuant to said subdivision (a) shall be required of others specified herein, unless an outbreak is suspected or confirmed.

(b) Reports required by §11.03 shall contain all the information concerning the disease or condition of public health interest and all the information concerning the case, carrier or suspect case required by the Department for the protection of public health. Reports shall be made on forms furnished by the Department and shall contain all the information required by such forms.

(c) In addition to any other requirement to report set forth in this Code, when no physician or other person specified in subdivision (a) is in attendance, it shall be the duty of the head of a private household or of the person in charge of any institution, including but not limited to a day care or other congregate care setting with children under the age of six, school, college, university, hotel, shelter, correctional facility or camp, having knowledge of an individual likely to be affected with a disease or condition reportable under §11.03 of this Code, to report the name and address of such individual to the Department.

#### §11.07 Immunization Registry.

(a)(1) All immunizations administered to any individual age eighteen and under shall be reported to the Department, within 14 days of such immunization, by any person authorized by law to administer an immunization, or a person in charge of a hospital, clinic or other institution where such immunization is administered. Upon application of a person required to report pursuant to this section, the Department in its discretion and when deemed necessary may extend the period of time within which such a person shall report immunizations. Any person required to report pursuant to this section shall also report to the Department any occurrences or matters which are reportable to the Secretary of Health and Human Services pursuant to the Vaccine Adverse Event Reporting System established by 42 U.S.C. Section 300aa-25(b) or any successor statute and any rules adopted pursuant thereto. The reporting of such occurrences or matters to the Department shall be made at the same time as made to the Secretary of Health and Human Services.

(2) Reports submitted to the Department pursuant to this section shall contain the name, address, and any other information required by the Department for the proper identification of the individual, demographic and epidemiological information and the immunization record, including past immunizations administered to the individual, in the possession of the person required to report pursuant to this section. Such reports shall be made in an electronic transmission format acceptable to the Department or, with the specific approval of the Department, in writing on a form prescribed by the Department via facsimile or by mail.

(3) Reports of an immunization administered to any individual age nineteen and above may be submitted to the Department provided that the person administering the immunization or the person in charge of the hospital, clinic or

other institution where the immunization is administered, has obtained written consent to report such immunization from the person to whom such immunization information relates

(b) All records of immunization created or received by the Department shall be maintained in an immunization registry and shall be subject to the confidentiality provisions of §11.11(d) of this Code.

#### **§11.09 Blood Lead Reporting and Children's Blood Lead Registry.**

(a) In addition to the reports of lead poisoning made pursuant to §11.03 of this Code, results of blood lead analyses which are less than 10 micrograms per deciliter for any resident of the City of New York shall be reported as follows:

(1) Except as provided in paragraph (2), clinical laboratories shall report blood lead test results which are less than 10 micrograms per deciliter to the Department.

(2) A clinical laboratory which reports blood lead test results less than 10 micrograms per deciliter electronically to the New York State Department of Health shall not be required to make any additional report to the Department of such test results.

(3) A person or entity who orders or performs blood lead tests but does not submit the specimen to a clinical laboratory for analysis shall report results of less than 10 micrograms per deciliter to the Department.

(4) Results required to be reported pursuant to this section shall be submitted to the Department in an electronic transmission format acceptable to the Department or in writing via facsimile or by mail, within five (5) business days after such results are known by such person or entity. Reports required pursuant to this section shall contain all the information required by the Department for the protection of public health, and shall be made on forms furnished by the Department or shall contain all the information required by such forms.

(b) Children's blood lead registry. All records of blood lead tests created or received by the Department pursuant to §11.03 and this section for children shall be maintained in a registry in accordance with and subject to the limitations on disclosure of §11.11(d) of the Code.

#### **Notes:**

This section is derived from its predecessor §11.06, which was originally adopted to clarify requirements for directly reporting blood lead test results under 10 mcg/dL and to establish a children's blood lead registry. Results of tests showing a blood level of 10 mcg/dL or greater must be reported to the Department pursuant to §11.03(a) of the Health Code by the persons and entities indicated in §11.05 of such Code. The additional reporting requirement in §11.09 is intended to ensure that the Department receives reports of blood lead analyses showing blood lead levels of less than 10 mcg/dL performed by or on behalf of health care providers in their office practices, or by clinical laboratories which do not report these test results electronically to the New York State Department of Health. The test results in the children's blood lead registry will be accessible to children's health care providers in accordance with §11.11(d) of the Health Code.

#### **§11.11 Confidentiality of reports and records.**

(a)(1) Epidemiological and surveillance reports and records of cases, contacts, carriers, suspect cases or suspect contacts of diseases and conditions of public health interest that are reported to the Department, including but not limited to additional information it may obtain, develop or prepare in the course of an epidemiological investigation, shall be confidential and shall not be subject to inspection by persons other than authorized personnel or agents of the Department or by the State Department of Health pursuant to the State Sanitary Code. The disclosure of such reports, records or information shall not be compelled. No individual's medical or individually identifiable information shall be disclosed from any epidemiological report or record, and no disclosure thereof may be compelled, regarding any individual who is the subject of, or identified in, such a report, or regarding an individual or entity that has made such a report.

(2) Epidemiological or surveillance information that is disseminated as aggregated statistical data shall be prepared as determined by the Department in a manner that does not reasonably enable re-identification of any person whose personal health or individually identifiable information is contained in such data.

(b) Notwithstanding subdivision (a) hereof, to the extent permissible under applicable law and in accordance with the provisions of §3.25 of this Code, the person to whom any such epidemiological and surveillance report or record relates, or in the case of a minor or incompetent such person's parent, legal guardian or custodial guardian, may sign a written consent authorizing the Commissioner to disclose such person's own patient information or records of diagnosis or treatment. The consensual disclosure of such information shall only be made to the person to whom the information relates, or to such person's current treating medical provider, or to a court upon receipt of such a written consent and a court order from that court. A disclosure pursuant to this subdivision shall not include the identity of persons who reported the case, investigative or epidemiological information related to the case or the identities and epidemiologic, surveillance and laboratory information on the person's contacts or other suspect or confirmed cases, contacts or carriers associated with the same epidemiologic investigation.

(c) Subdivisions (a) and (b) of this section shall not prevent the Commissioner or authorized personnel of the Department from furnishing what the Department determines to be appropriate information to a physician or institution providing examination or treatment to a person suspected of or affected with a disease or condition of public health interest, to an agency approved by the Department for prevention, treatment or social service, or to any person when necessary for the protection of public health. Only the minimum information necessary for the intended purpose shall be disclosed. A person, institution or agency to whom

such information is furnished or to whom access to records has been given shall not divulge any part thereof so as to disclose the identity of the person to whom such information or record relates, except insofar as such disclosure is necessary for the treatment of a case or carrier or for the protection of the health of others.

(d)(1) Information contained in the immunization registry created pursuant to §11.07 of this Article and the children's blood lead registry established pursuant to §11.09 of this Article shall be confidential and not subject to inspection by persons other than authorized personnel or agents of the Department and persons or agencies authorized herein. The Department may disclose information contained in said immunization registry in accordance with the provisions of §2168 of the New York State Public Health Law, and the regulations promulgated pursuant thereto. Information contained in the children's blood lead registry may be disclosed and the Department may permit access to such information by a person, authorized by law to administer or order a blood test, who is treating or testing the individual to whom said information relates, or to a public health agency for the protection of health. The Department may also disclose what it considers appropriate and necessary information from such immunization or children's blood lead registries to a person or agency concerned with immunization or blood lead testing of children authorized by the Department when (i) such person or agency provides sufficient identifying information satisfactory to the Department to identify the individual to whom such information relates and (ii) such disclosure is in the best interests of such individual and, in the case of a child, his or her family, or will contribute to the protection of the public health. Notwithstanding the foregoing, the person to whom any immunization or blood lead test record relates, or his or her custodial parent, guardian, or other person in parental or custodial relation to such person, may, by signing a written consent, authorize the Commissioner to disclose such record.

(2) A person, institution or agency to whom such immunization or blood lead registry information is furnished or to whom access to records or information has been given, shall not divulge any part thereof so as to disclose the identity of the person to whom such information or record relates, except insofar as such disclosure is necessary for the protection of the health of the person or other person.

#### **§11.13 Duty of physician to advise case, suspect case, carrier, suspect carrier and contact.**

A physician who attends a case, carrier or suspect case shall inform the case, carrier or suspect case and the case, carrier or suspect case's contacts of the applicable requirements of isolation, exclusion, quarantine, screening, treatment or prophylactic measures and other precautions necessary to prevent the spread of disease.

#### **§11.15 Control measures; duty to exclude; exclusion orders.**

(a) Any individual required to be isolated pursuant to provisions of this Article, and certain cases, suspect cases, contacts and carriers, as indicated in this subdivision, shall be excluded by the operator, employer or person in charge of the applicable institution, facility or place as set forth in this subdivision.

(1) A case or carrier of the diseases listed in this paragraph who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care, shall be excluded until two negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department and until determined by the Department to no longer be a risk to others; provided that, if the patient has received antimicrobial therapy, the first stool sample shall be taken no less than 48 hours after the last dose:

Campylobacteriosis  
Cholera  
*E. coli* 0157:H7 and other Shiga toxin producing  
*Escherichia coli* (STEC) infections  
Salmonellosis (other than typhoid)  
Shigellosis  
Yersiniosis

(2) A case or carrier of the diseases listed in this paragraph who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care, shall be excluded until three negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department and until determined by the Department to no longer be a risk to others; provided, however, that, if the patient has received antimicrobial therapy, the first stool sample shall be taken no less than 48 hours after the last dose:

Amebiasis  
Cryptosporidiosis  
Giardiasis

(3) A case or household contact of Hepatitis A who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care, shall be excluded until determined by the Department to no longer be a risk to others.

(b) An owner or person in charge of a work place, school, day care, camp or other congregate setting with children under the age of six, shelter or other congregate residential setting, or any other institution, facility or place specified in this section or this article, shall not knowingly or negligently permit a case, suspect case, contact or carrier to work in or attend such place when required by this article to be isolated or excluded.

(c) The Department may, in accordance with the provisions of subdivision (k) of § 11.23 of this Article, order any case, contact, or carrier, or suspected case contact or carrier of a contagious disease to be excluded from any setting when necessary for the protection of public health.

#### **§11.17 Control measures; duty to isolate; and isolation, quarantine and examination orders.**

(a) In a hospital, clinic, nursing home or other medical facility a case, carrier, suspect case or suspect carrier of diphtheria, rubella (German measles), influenza with pandemic potential, invasive meningococcal disease, measles, monkeypox, mumps, pertussis, poliomyelitis, pneumonic form of plague, SARS, vancomycin intermediate or resistant *Staphylococcus aureus* (VISA/VRSA), smallpox, tuberculosis (active), vaccinia disease, viral hemorrhagic fever or any other contagious disease that in the opinion of the Commissioner may pose an imminent and significant threat to the public health, shall be isolated in a manner consistent with recognized infection control principles and isolation procedures in accordance with State Department of Health regulations or guidelines.

(b) Whenever the person in charge of a shelter, group residence, correctional facility, or other place providing medical care on site is not capable of implementing appropriate isolation precautions for the specific disease, upon discovering a case, carrier, suspect case or suspect carrier of a contagious disease of the kind as set forth in subdivision (a), such person in charge shall mask such individual, if indicated, and shall isolate the individual by placing him or her in a single room as instructed by the Department until such time as the individual can be transported to an appropriate healthcare facility that is capable of implementing appropriate isolation precautions for the specific disease.

(c) The person in charge of a school, day care facility, camp or other congregate care setting with children under the age of six, homeless shelter, correctional facility, group residence or other congregate residential setting providing care or shelter shall, upon discovering a case, carrier, suspect case or suspect carrier of a contagious disease set forth in subdivision (a) shall mask such person, if indicated, and isolate the individual by placing him or her in a single room as instructed by the Department until the person can be safely transferred to an appropriate medical facility for evaluation.

(d) A case, contact, carrier or suspect case, contact or carrier of a contagious disease set forth in subdivision (a) who is not hospitalized may, in accordance with the provisions of subdivision (k) of §11.23 of this Article, be ordered by the Department to remain in isolation or quarantine at home or other residence of his or her choosing that is acceptable to the Department, under such conditions and for such duration as the Department may specify to prevent transmission of the disease to others.

#### **§11.19 Typhoid and paratyphoid fever; exclusion.**

(a) A case of typhoid or paratyphoid fever who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; a health care practitioner in a hospital or medical facility who provides oral care; a resident of a congregate homeless facility or shelter or any other congregate residential setting; or any other person who in the opinion of the Department represents a risk to the health of the public, shall be excluded until the end of the febrile period and until four stool specimens are submitted to the Department, found to be free of typhoid and paratyphoid bacteria, and until released from exclusion by the Department. Stool specimens shall be submitted as specified herein. The initial two specimens shall be taken no less than 48 hours after the cessation of antibiotic therapy and 24 hours apart. A second set of two specimens shall be taken thirty (30) days later, and no less than 24 hours apart. The case shall be instructed not to prepare food for other members of the household or others, nurse the sick, or care for children until it is determined that the patient is non-infectious and a non-carrier as per subdivision (c) of this section. Members of the household shall be advised by the physician in attendance of precautions to be taken to prevent further spread of the disease and shall be informed as to the appropriate specific preventive measures.

(b) A household contact who is a food handler; an enrollee or attendee under the age of six or staff member of a school, day care facility or other congregate care setting with children under the age of six; a health care practitioner in a hospital or medical facility who provides oral care; or any other person who in the opinion of the Department represents a risk to the health of the public, shall be excluded until two successive stool specimens, taken no less than 24 hours apart are examined by the Department and found free of typhoid and paratyphoid bacilli.

(c) If the initial four stool specimens obtained pursuant to subdivision (a) of this section are negative for typhoid and paratyphoid bacteria, no further stool specimens shall be required, and the case shall be released from exclusion. If any of the four stool specimens obtained pursuant to subdivision (a) of this section are positive for typhoid or paratyphoid bacteria, then the case shall be recommended for further treatment which may include a longer course of an antibiotic to which the bacterial isolate is sensitive or surgery to remove the nidus of infection (e.g., the gallbladder). After completion of this treatment, such a case of typhoid or paratyphoid fever shall continue to submit to the Department two stool specimens taken no less than 48 hours after repeat antibiotic treatment or gallbladder removal and then one specimen taken no less than 30 days apart for three successive months. If all five stools are free of typhoid and paratyphoid bacilli, he or she shall be considered non-infectious and a non-carrier. If any of the stool specimens submitted contains typhoid or paratyphoid bacilli, he or she shall be considered to be a typhoid or paratyphoid carrier and, the convalescent typhoid or paratyphoid carrier shall comply with paragraphs (d)(1) through (6) of this section.

(d) A chronic typhoid or paratyphoid carrier is a person who has not shown clinical evidence of typhoid or

paratyphoid fever within a period of 12 months, or who has never shown clinical evidence of typhoid or paratyphoid fever, but who continues to harbor typhoid bacilli, as determined by examination by the Department pursuant to subdivision (c) of this section. A household contact who tests positive for typhoid or paratyphoid bacilli, however, shall not be considered a chronic typhoid or paratyphoid carrier if the household contact no longer lives in the same household as the case or carrier and if, after two months of ceasing to live in the same household, the contact tests negative for typhoid and paratyphoid bacilli on two successive stool specimens taken no less than 48 hours after completion of an appropriate course of therapy with an antibiotic to which the bacterial isolate was sensitive and no less than 24 hours apart. A chronic typhoid carrier shall:

(1) Submit specimens of his or her stool or urine whenever the Department requires;

(2) Report his or her address, occupation and place of employment, in person or in writing, whenever the Department requires;

(3) Promptly notify the Department of any temporary or permanent change of address or place of employment;

(4) Refrain from cooking or handling any food, drink or eating utensils to be eaten or used by others, and refrain from nursing the sick or from caring for children;

(5) Clean toilet seats used by him or her immediately after use; and

(6) Thoroughly wash his or her hands with soap and water after using the toilet.

(e) Supervision by the Department of a chronic typhoid or paratyphoid carrier shall end:

(1) In the instance of a chronic carrier who underwent surgery to remove a nidus of typhoid or paratyphoid infection, or who has completed an appropriate course of therapy to eradicate the carrier state with an antibiotic to which the bacterial isolate was sensitive, when two successive stool specimens, taken no less than 48 hours after surgery or completion of antibiotic treatment, followed by three successive stool specimens taken no less than 30 days apart, are examined by the Department and found free of typhoid and paratyphoid bacilli; or

(2) In the instance of a chronic carrier who has not undergone surgery to remove a nidus of typhoid or paratyphoid infection, or who has not completed an appropriate course of therapy to eradicate the carrier state with an antibiotic to which the bacterial isolate was sensitive, when six successive stool specimens, taken no less than 30 days apart, are examined by the Department and found free of typhoid and paratyphoid bacilli; or

(3) In the instance of a carrier other than the fecal type, when evidence is furnished which satisfies the Department that he or she is no longer a carrier.

#### **§11.21 Tuberculosis; reporting, examination, exclusion, removal and detention.**

(a) A physician who attends a case of active tuberculosis, or the person in charge of a hospital, dispensary or clinic giving out-patient treatment to such a case, shall report to the Department at such times that the Department requires. The report shall state whether the case is still under treatment, the address of the case, the telephone contact number(s) of the case, the stage, clinical status and treatment of the disease and the dates and results of sputum and X-ray examinations and any other information required by the Department. The physician who attends the case or the person in charge of a hospital, dispensary or clinic giving out-patient care to such a case shall report promptly to the Department when the case ceases to receive treatment and the reason for the cessation of treatment.

(b) A physician who attends a case of active tuberculosis shall examine or cause all household contacts to be examined or shall refer them to the Department for examination. The physician shall promptly notify the Department of such referral. When required by the Department, non-household contacts and household contacts not examined by a physician shall submit to examination by the Department. An examination required by this section shall include such tests as may be necessary to diagnose the presence of tuberculosis, including but not limited to tuberculin tests, serologic tests for tuberculosis infection, and where indicated, laboratory examinations, and x-rays. If any suspicious abnormality is found, steps satisfactory to the Department shall be taken to refer the person promptly to a physician or appropriate medical facility for further investigation and, if necessary, treatment. Contacts shall be re-examined at such times and in such manner as the Department may require. When requested by the Department, a physician shall report the results of any examination of a contact.

(c) A person with active tuberculosis that is infectious shall be excluded from attendance at the workplace or school. Such person may also be excluded from such other premises or facilities as the Department determines cannot be maintained in a manner adequate to protect others against spread of the disease.

(d) Where the Commissioner determines that the public health or the health of any other person is endangered by a case of tuberculosis or a suspect case of tuberculosis, the Commissioner may issue any orders he or she deems necessary to protect the public health or the health of any other person, and may make application to a court for enforcement of such orders. In any court proceeding for enforcement, the Commissioner shall demonstrate the particularized circumstances constituting the necessity for an order. Such orders may include, but shall not be limited to:

(1) An order authorizing the removal to and/or detention in a hospital or other treatment facility for appropriate examination for tuberculosis of a person who has active tuberculosis or who is suspected of having active tuberculosis and who is unable or unwilling voluntarily to submit to such examination by a physician or by the Department;

(2) An order requiring a person who has active tuberculosis to complete an appropriate prescribed course of medication for tuberculosis and, if necessary, to follow required contagion precautions for tuberculosis;

(3) An order requiring a person who has active tuberculosis and who is unable or unwilling otherwise to complete an appropriate prescribed course of medication for tuberculosis to follow a course of directly observed therapy;

(4) An order for the removal to and/or detention in a hospital or other treatment facility of a person (i) who has active tuberculosis that is infectious or who presents a substantial likelihood of having active tuberculosis that is infectious, based upon epidemiologic evidence, clinical evidence, x-ray readings or laboratory test results; and (ii) where the Department finds, based on recognized infection control principles, that there is a substantial likelihood such person may transmit to others tuberculosis because of his or her inadequate separation from others; and

(5) An order for the removal to and/or detention in a hospital or other treatment facility of a person (i) who has active tuberculosis, or who has been reported to the Department as having active tuberculosis with no subsequent report to the Department of the completion of an appropriate prescribed course of medication for tuberculosis; and (ii) where there is a substantial likelihood, based on such person's past or present behavior, that he or she can not be relied upon to participate in and/or to complete an appropriate prescribed course of medication for tuberculosis and/or, if necessary, to follow required contagion precautions for tuberculosis. Such behavior may include, but is not limited to, refusal or failure to take medication for tuberculosis, or refusal or failure to keep appointments for treatment of tuberculosis, or refusal or failure to complete treatment for tuberculosis, or disregard for contagion precautions for tuberculosis.

(e) The Commissioner may remove to or detain in a hospital or other place for examination or treatment a person who is the subject of an order of removal or detention issued pursuant to subdivision (d) of this section without prior court order; provided however that when a person detained pursuant to subdivision (d) of this section has requested release, the Commissioner shall make an application for a court order authorizing such detention within three (3) business days after such request by the end of the first business day following such Saturday, Sunday or legal holiday, which application shall include a request for an expedited hearing. After any such request for release, detention shall not continue for more than five (5) business days in the absence of a court order authorizing detention. Notwithstanding the foregoing provisions, in no event shall any person be detained for more than sixty (60) days without a court order authorizing such detention. The Commissioner shall seek further court review of such detention within ninety (90) days following the initial court order authorizing detention and thereafter within ninety (90) days of each subsequent court review. In any court proceeding to enforce a Commissioner's order for the removal or detention of a person issued pursuant to this subsection or for review of the continued detention of a person, the Commissioner shall prove the particularized circumstances constituting the necessity for such detention by clear and convincing evidence. Any person who is subject to a detention order shall have the right to be represented by counsel and upon the request of such person, counsel shall be provided.

(f)(1) An order of the Commissioner issued pursuant to subdivision (d) of this section shall set forth:

(i) the legal authority pursuant to which the order is issued, including the particular sections of this Article or other law or regulation;

(ii) an individualized assessment of the person's circumstances and/or behavior constituting the basis for the issuance of such orders; and

(iii) the less restrictive treatment alternatives that were attempted and were unsuccessful and/or the less restrictive treatment alternatives that were considered and rejected, and the reasons such alternatives were rejected.

(2) In addition, an order for the removal and detention of a person shall:

(i) include the purpose of the detention;

(ii) advise the person being detained that he or she has the right to request release from detention by contacting a person designated on the Commissioner's order at a telephone number stated on such order, and that the detention shall not continued for more than five (5) business days after such request in the absence of a court order authorizing such detention;

(iii) advise the person being detained that, whether or not he or she requests release from detention, the Commissioner must obtain a court order authorizing detention within sixty (60) days following the commencement of detention and thereafter must further seek court review of the detention within ninety (90) days of such court order and within ninety (90) days of each subsequent court review;

(iv) advise the person being detained that he or she has the right to arrange to be represented by counsel or to have counsel provided, and that if he or she chooses to have counsel provided, that such counsel will be notified that the person has requested legal representation;

(v) be accompanied by a separate notice which shall include but not be limited to the following additional information: (A) that the person being detained has the right to request release from detention by contacting a person designated on the Commissioner's order at a telephone number stated on such order, and that the detention shall not continue for more than five (5) business days after such request in the absence of a court order authorizing such detention; (B) that he or she has the right to arrange to be advised and represented by counsel or to have counsel provided, and that if he or she chooses to have counsel provided, that such counsel will be notified that the person has requested legal representation; and (C) that he or she may supply the addresses and/or telephone numbers of friends and/or relatives to receive notification of the person's detention, and that the Department shall, at the patient's request, provide notice to a reasonable number of such people that the person is being detained.

(g) Notwithstanding any inconsistent provision of this section:

(1) A person who is detained solely pursuant to paragraph one of subdivision (d) of this section shall not continue to be detained beyond the minimum period of time

required, with the exercise of all due diligence, to make a medical determination of whether a person who is suspected of having tuberculosis has active tuberculosis or whether a person who has active tuberculosis is infectious. Further detention of such person shall be authorized only upon the issuance of a Commissioner's order pursuant to paragraph four or paragraph five of subdivision (d) of this section.

(2) A person who is detained pursuant to this section solely for the reasons described in paragraph four of subdivision (d) of this section shall not continue to be detained after he or she ceases to be infectious or after the Department ascertains that changed circumstances exist that permit him or her to be adequately separated from others so as to prevent transmission of tuberculosis after his or her release from such place of detention as designated by the Commissioner pursuant to this section.

(3) A person who is detained pursuant to this section for the reasons described in paragraph five of subdivision (d) of this section shall not continue to be detained after he or she has completed an appropriate prescribed course of medication.

(h) Where necessary, language interpreters and person skilled in communicating with vision and hearing impaired individuals shall be provided in accordance with applicable law.

(i) The provisions of this section shall not be construed to permit or require the forcible administration of any medication without a prior court order.

(j) For the purposes of this section, a person has active tuberculosis when (A) a sputum smear or culture taken from a pulmonary or laryngeal source has tested positive for tuberculosis and the person has not completed an appropriate prescribed course of medication for tuberculosis, or (B) a smear or culture from an extra-pulmonary source has tested positive for tuberculosis and there is clinical evidence or clinical suspicion of pulmonary tuberculosis disease and the person has not completed an appropriate prescribed course of medication for tuberculosis. A person also has active tuberculosis when, in those cases where sputum smears or cultures are unobtainable, the radiographic evidence, in addition to current clinical evidence and/or laboratory tests, is sufficient to establish a medical diagnosis of pulmonary tuberculosis for which treatment is indicated. A person who has active tuberculosis shall be considered infectious until three consecutive sputum smears from a pulmonary or laryngeal source collected on separate days at medically appropriate intervals have tested negative for tuberculosis and the clinical symptoms of tuberculosis have resolved or significantly improved.

#### **Notes:**

This section is derived without substantive change from its predecessor §11.47 of the Code. This section details the compulsory measures available to the Department to control the spread of tuberculosis and infection of new cases; to articulate the standards by which the Department will be guided in exercising compulsory measures; to ensure that the framework in which the Department acts is governed and guided by sound principles of procedural due process; and to modernize the medical elements and terminology for evaluation of patients for tuberculosis. To that end, the Board has adopted the following, continuing resolution:

**Resolution and Finding of the Board of Health of the Department of Health of the City of New York:** Whereas the Board of Health recognizes that the City of New York is in the midst of an epidemic of tuberculosis; that this epidemic is characterized by strains of tuberculosis resistant to therapeutic drugs; and that tuberculosis is an airborne disease contracted from prolonged exposure to persons who have active infectious pulmonary tuberculosis; and whereas, the Board of Health further recognizes that the failure of a tuberculosis patient to complete an effective course of therapy creates the likelihood of relapse into infectiousness and, in addition, facilitates the development of drug resistance strains of tuberculosis and the infection of previously uninfected persons with multi-drug resistant tuberculosis; now, therefore, be it resolved, that the Board of Health finds that the potential reactivation of tuberculosis and the development and spread of drug resistant tuberculosis caused by the failure of tuberculosis patients, whether or not infectious, to complete a course of anti-tuberculosis therapy create a significant threat to the public health. Transmitted to the City Council March 25, 1993.

Courts have upheld the Department's authority to detain a person who was shown by clear and convincing evidence to be unable to comply with prescribed course of treatment for tuberculosis. See *Best v. St. Vincent's Hospital*, 2003 U.S. Dist. LEXIS 11354 (S.D.N.Y. 2003), *complaint dsmd.* at *Best v. Bellevue*, 2003 U.S. Dist. LEXIS 13188 (S.D.N.Y. 2003); *City of New York v. Doe*, 205 A.D.2d 469; 614 N.Y.S.2d 8 (1st Dept. 1994); *In the Matter of City of New York v. Antoinette R.*, 165 Misc. 2d 1014; 630 N.Y.S.2d 1008 (Sup. Ct. Qns. Cty. 1995).

#### **§11.23 Removal and detention of cases, contacts and carriers who are or may be a danger to public health; other orders.**

(a) Upon determining by clear and convincing evidence that the health of others is or may be endangered by a case, contact or carrier, or suspected case, contact or carrier of a contagious disease that, in the opinion of the Commissioner, may pose an imminent and significant threat to the public health resulting in severe morbidity or high mortality, the Commissioner may order the removal and/or detention of such a person or of a group of such persons by issuing a single order, identifying such persons either by name or by a reasonably specific description of the individuals or group being detained. Such person or group of persons shall be detained in a medical facility or other appropriate facility or premises designated by the Commissioner and complying with subdivision (d) of this section.

(b) A person or group removed or detained by order of the Commissioner pursuant to subdivision (a) of this section shall be detained for such period and in such manner

as the Department may direct in accordance with this section.

(c) Notwithstanding any inconsistent provision of this section:

(1) A confirmed case or a carrier who is detained pursuant to subdivision (a) of this section shall not continue to be detained after the Department determines that such person is no longer contagious.

(2) A suspected case or suspected carrier who is detained pursuant to subdivision (a) of this section shall not continue to be detained after the Department determines, with the exercise of due diligence, that such person is not infected with or has not been exposed to such a disease, or if infected with or exposed to such a disease, no longer is or will become contagious.

(3) A person who is detained pursuant to subdivision (a) of this section as a contact of a confirmed case or a carrier shall not continue to be detained after the Department determines that the person is not infected with the disease or that such contact no longer presents a potential danger to the health of others.

(4) A person who is detained pursuant to subdivision (a) of this section as a contact of a suspected case shall not continue to be detained:

(i) after the Department determines, with the exercise of due diligence, that the suspected case was not infected with such a disease, or was not contagious at the time the contact was exposed to such individual; or

(ii) after the Department determines that the contact no longer presents a potential danger to the health of others.

(d) A person who is detained pursuant to subdivision (a) of this section shall, as is appropriate to the circumstances:

(1) have his or her medical condition and needs assessed and addressed on a regular basis, and

(2) be detained in a manner that is consistent with recognized isolation and infection control principles in order to minimize the likelihood of transmission of infection to such person and to others.

(e) When a person or group is ordered to be detained pursuant to subdivision (a) of this section for a period not exceeding three (3) business days, such person or member of such group shall, upon request, be afforded an opportunity to be heard. If a person or group detained pursuant to subdivision (a) and this subdivision needs to be detained beyond three (3) business days, they shall be provided with an additional Commissioner's order pursuant to subdivisions (f) and (g) of this section.

(f) When a person or group is ordered to be detained pursuant to subdivision (a) of this section for a period exceeding three (3) business days, and such person or member of such group requests release, the Commissioner shall make an application for a court order authorizing such detention within three (3) business days after such request by the end of the first business day following such Saturday, Sunday, or legal holiday, which application shall include a request for an expedited hearing. After any such request for release, detention shall not continue for more than five (5) business days in the absence of a court order authorizing detention. Notwithstanding the foregoing provisions, in no event shall any person be detained for more than sixty (60) days without a court order authorizing such detention. The Commissioner shall seek further court review of such detention within ninety (90) days following the initial court order authorizing detention and thereafter within ninety (90) days of each subsequent court review. In any court proceeding to enforce a Commissioner's order for the removal or detention of a person or group issued pursuant to this subdivision or for review of the continued detention of a person or group, the Commissioner shall prove the particularized circumstances constituting the necessity for such detention by clear and convincing evidence.

(g)(1) A copy of any detention order of the Commissioner issued pursuant to subdivision (a) of this section shall be given to each detained individual; however, if the order applies to a group of individuals and it is impractical to provide individual copies, it may be posted in a conspicuous place in the detention premises. Any detention order of the Commissioner issued pursuant to subdivision (a) of this section shall set forth:

(i) the purpose of the detention and the legal authority under which the order is issued, including the particular sections of this article or other law or regulation;

(ii) a description of the circumstances and/or behavior of the detained person or group constituting the basis for the issuance of the order;

(iii) the less restrictive alternatives that were attempted and were unsuccessful and/or the less restrictive alternatives that were considered and rejected, and the reasons such alternatives were rejected;

(iv) a notice advising the person or group being detained that they have a right to request release from detention, and including instructions on how such request shall be made;

(v) a notice advising the person or group being detained that they have a right to be represented by legal counsel and that upon request of such person or group access to counsel will be facilitated to the extent feasible under the circumstances; and

(vi) a notice advising the person or group being detained that they may supply the addresses and/or telephone numbers of friends and/or relatives to receive notification of the person's detention, and that the Department shall, at the detained person's request and to the extent feasible, provide notice to a reasonable number of such people that the person is being detained.

(2) In addition, an order issued pursuant to subdivisions (a) and (f) of this section, requiring the detention of a person or group for a period exceeding three (3) business days, shall:

(i) advise the person or group being detained that the detention shall not continue for more than five (5) business days after a request for release has been made in the absence of a court order authorizing such detention;

(ii) advise the person or group being detained that, whether or not they request release from detention, the

Commissioner must obtain a court order authorizing detention within sixty (60) days following the commencement of detention and thereafter must further seek court review of the detention within ninety (90) days of such court order and within ninety (90) days of each subsequent court review; and

(iii) advise the person or group being detained that they have the right to request that legal counsel be provided, that upon such request counsel shall be provided if and to the extent possible under the circumstances, and that if counsel is so provided, that such counsel will be notified that the person or group has requested legal representation.

(h) A person who is detained in a medical facility, or other appropriate facility or premises, shall not conduct himself or herself in a disorderly manner, and shall not leave or attempt to leave such facility or premises until he or she is discharged pursuant to this section.

(i) Where necessary and feasible under the circumstances, language interpreters and persons skilled in communicating with vision and hearing impaired individuals shall be provided.

(j) The provisions of this section shall not apply to the issuance of orders pursuant to §11.21 of this article.

(k) In addition to the removal or detention orders referred to in subdivision (a) of this section, and without affecting or limiting any other authority that the Commissioner may otherwise have, the Commissioner may, in his or her discretion, issue and seek enforcement of any other orders that he or she determines are necessary or appropriate to prevent dissemination or transmission of contagious diseases or other illnesses that may pose a threat to the public health including, but not limited to, orders requiring any person or persons who are not in the custody of the Department to be excluded; to remain isolated or quarantined at home or at a premises of such person's choice that is acceptable to the Department and under such conditions and for such period as will prevent transmission of the contagious disease or other illness; to require the testing or medical examination of persons who may have been exposed to or infected by a contagious disease or who may have been exposed to or contaminated with dangerous amounts of radioactive materials or toxic chemicals; to require an individual who has been exposed to or infected by a contagious disease to complete an appropriate, prescribed course of treatment, preventive medication or vaccination, including directly observed therapy to treat the disease and follow infection control provisions for the disease; or to require an individual who has been contaminated with dangerous amounts of radioactive materials or toxic chemicals such that said individual may present a danger to others, to undergo decontamination procedures deemed necessary by the Department. Such person or persons shall, upon request, be afforded an opportunity to be heard, but the provisions of subdivisions (a) through (j) of this section shall not otherwise apply.

(l) The provisions of this section shall not be construed to permit or require the forcible administration of any medication without a prior court order.

#### Notes:

This section is derived from its predecessor §11.55 of the Code. It authorizes the removal and detention of an individual who is a confirmed case, a contact or a carrier, or of a suspect case or suspected contact of a suspect case of any contagious disease that, in the opinion of the Commissioner, may pose an imminent and significant threat to the public health. This section now contemplates the removal and detention of a group of such individuals, and provides greater flexibility with regard to its implementation. The detention of persons for the control of contagious diseases, other than tuberculosis, is an extremely rare event. However, with the concern over new and re-emerging diseases, as well as with bioterrorism and pandemic influenza, it is a contingency for which public health officials must be prepared. This section also clarifies the Commissioner's power to issue and seek enforcement of orders, other than orders referred to in subdivision (a) of this section, to control the spread of disease, including non-custodial orders requiring a person or persons to remain at home or other mutually agreed upon premises or to be decontaminated when contaminated with dangerous amounts of radioactive materials or toxic chemicals. In addition, the other provisions of the section do not apply to such non-custodial orders.

#### **§11.25 Reports and control of animal diseases communicable to humans.**

(a) Diseases reportable.

(1) Animals infected with or suspected of having any of the following diseases shall be reported to the Department immediately both by telephone and in writing within 24 hours of diagnosis by submission of a report form via facsimile, mail or electronic transmission acceptable to the Department unless the Department determines that a written report is unnecessary:

Anthrax  
Brucellosis  
Glanders  
Influenza caused by novel influenza viral strain with pandemic potential

Monkeypox  
Plague  
Q Fever  
Severe Acute Respiratory Syndrome (SARS)  
Tularemia

(2) Animals infected with any of the diseases set forth in this paragraph shall be reported to the Department within 24 hours of confirmed diagnosis by telephone or in writing by submission of a report form via facsimile, mail or in an electronic transmission acceptable to the Department:

Arboviral Encephalitis, acute, (including but not limited to the following viruses:  
Eastern equine encephalitis virus,  
Jamestown Canyon virus, La Crosse  
virus, Powassan virus, Rift Valley fever,  
St. Louis encephalitis virus, Western  
equine encephalitis virus, West Nile virus  
and yellow fever)  
Avian Chlamydiosis (Psittacosis)

Leptospirosis

Rocky Mountain spotted fever

Salmonellosis

Tuberculosis

(3) Rabies. An animal infected with or suspected of having rabies, or an animal capable of contracting rabies which has been bitten by, exposed to, or has been kept together with a rabid animal, shall be reported to the Department immediately by telephone and the report shall be confirmed in writing, either by mail, facsimile or electronic transmission acceptable to the Department, within 24 hours after diagnosis unless the Department determines that a written report is unnecessary.

(4) An outbreak or suspected outbreak of any disease, condition or syndrome, of known or unknown etiology, that may be a danger to public health and that occurs in three or more animals, or (b) any unusual manifestation of a disease in an individual animal, shall be reported to the Department immediately by telephone, and confirmed in writing, either by mail, facsimile or electronic transmission acceptable to the Department, within 24 hours after diagnosis unless the Department determines that a written report is not necessary.

(b) Reports.

(1) Reports required by this section shall be made by a veterinarian or veterinary technician, a person in charge of an animal hospital, rehabilitation facility, animal shelter, zoological park, other institution or facility providing or responsible for animal care or treatment, a veterinary diagnostic laboratory, or such persons' designees.

(2) In addition to the institutions and persons required to report the diseases specified in this section, every person having knowledge of the existence of an animal exhibiting clinical signs suggestive of rabies or knowledge of an animal which has died or is suspected of having died of rabies, or which was killed because it was suspected of being rabid, shall immediately report to the Department by telephone the existence of the animal, the current location of the animal or where it was kept or seen, the owner's name, if known, and such other information as may be required by the Department.

(3) Reports required by this section shall contain all the information concerning the disease, and all information regarding the infected animal and its owner, required by the Department for the protection of public health. Information shall include, but not be limited to, name of the disease, type of animal involved, location of the animal and the name, telephone number and address of the owner. Such reports shall be prepared using forms furnished by the Department and contain all the information required by such forms.

(c) Infected and exposed animals prohibited. No person shall bring into the City, or keep, or cause or allow to be kept an animal infected with or exposed to any of the diseases listed in this section, or any other diseases which are transmissible from an animal to a human and are a threat to the public's health as determined by the Department, other than for the purpose of receiving care by a licensed veterinarian or animal hospital, unless such animal is used for scientific research in a laboratory approved pursuant to §504 of the New York State Public Health Law.

(d) Investigation and management.

(1) Upon receiving a report required by this section, the Department shall make such investigation as the Department considers necessary for the purpose of verifying diagnosis, ascertaining source of infection and discovering other animals and humans exposed to the animal which is the subject of the report. The Department may collect or require to be collected for laboratory examination such specimens as the Department considers to be necessary to assist in diagnosis or ascertaining the source of infection, and shall order the owner or other person harboring or having control of the animal to take such measures as may be necessary to prevent further spread of the disease and to reduce morbidity and mortality in animals and humans.

(2) An animal infected with or suspected of having any disease listed in this section may be seized or impounded by the Department, a peace officer or other authorized person or agency and be ordered held or isolated at the owner's expense under such conditions as may be specified by the Department. Where the Department has determined that an animal presents an imminent and substantial threat to the public health, such animal may be humanely destroyed immediately upon the order of the Commissioner, sent for necropsy and pathologic examination, and its body, and any specimens derived from it, shall be disposed of in a manner approved by the Department.

(e) Confidentiality of reports and records. Reports and records on animals affected with or suspected of having any disease required to be reported to the Department in accordance with this section shall not be subject to inspection by persons other than authorized personnel of the Department. The owner of the animal to whom any such record relates or the owner's legal representative may, however, by signing a written consent, authorize disclosure of the record to identified individuals or entities. This section shall not prevent authorized personnel of the Department from furnishing appropriate information to a veterinarian, physician or institution providing examination or treatment to a person or animal suspected of or infected with a disease, to an agency approved by the Department for prevention or treatment, or to any person when necessary for the protection of public health and safety. A person, institution or agency to whom such information is furnished or to whom access to records has been given shall not divulge any part thereof so as to disclose the identity of the person or institution to whom such information or record relates, except insofar as such disclosure is necessary for the treatment of persons or animals or for the protection of human and animal health.

#### **§11.27 Control of animals affected with rabies.**

(a) Definitions. As used in this article with regard to animals:

(1) "Actively vaccinated" or "currently vaccinated" animal shall mean an animal which has received a rabies vaccine approved by the United States Department of Agriculture (U.S.D.A.) for interstate sale and use in a

particular animal species and administered according to the manufacturer's instructions by or under the direct supervision of a duly licensed veterinarian. Active vaccination may be the result of primary and/or revaccinations administered in accordance with the vaccine manufacturer's recommended revaccination schedule.

(2) "Primary" vaccination shall mean the first administration of an approved rabies vaccine.

(3) "Revaccination" or "booster vaccination" shall mean a vaccination administered no later than one year after the primary vaccination and revaccinations administered at intervals thereafter, in accordance with the recommendations of the manufacturer of a U.S.D.A. approved rabies vaccine intended to maintain active immunization.

(4) "Exposure" to rabies shall mean introduction of the rabies virus into the body of a human or animal by a skin-piercing bite or by scratch, abrasion, open wound, or contamination of mucous membranes with saliva, or other potentially infectious material from a rabid animal, or as otherwise defined in the New York State Sanitary Code, 10 N.Y.C.R.R. §2.14, or successor rule.

(5) "Isolate" or "isolation" shall mean the physical separation of animals which have, or are suspected of having, a zoonotic disease communicable to humans from humans or other animals which do not have that disease.

(b) Reports by owners, exposed persons and others. When a person, or an animal capable of contracting rabies, is bitten by a dog, cat or other animal capable of transmitting rabies, or is otherwise exposed to the rabies virus, such person, his or her parent or guardian if he or she is a minor; the person who owns, possesses or controls the biting animal; the person who owns, possesses or controls the animal bitten or exposed to the rabies virus; and any other person having knowledge of the bite or other exposure shall immediately notify the Department by telephone.

(c) Surrender of suspected rabid animals. An animal which, upon examination by a licensed veterinarian, is found to be rabid or is suspected of being rabid, or the body of an animal that died or is suspected of having died of rabies or which was killed because it was suspected of being rabid, shall be surrendered to the Department by the person who owns, possesses or controls it.

(d) Management of exposed animals. A dog, cat, domestic livestock as defined in the New York State Sanitary Code, 10 N.Y.C.R.R. §2.14, or successor rule, or other animal capable of contracting rabies, which has been bitten by, has been exposed to or has been kept together with a known or suspected rabid animal, and where the animal which inflicted the bite or is the source of exposure is not available for observation or testing, shall be managed as follows:

(1) Unvaccinated animals. An animal which is not currently vaccinated as defined herein shall be kept isolated, at the owner's expense, in a manner prescribed by the Department in a veterinary hospital or other place approved by the Department, under daily veterinary supervision, for a period of 6 months, and shall be vaccinated against rabies upon entry into isolation or one month prior to release, or shall be surrendered to the Department and destroyed with the owner's consent or by order of the Commissioner.

(2) Actively vaccinated animals. An animal which is actively vaccinated against rabies as defined herein shall be immediately revaccinated and shall be closely observed by its owner for a period of forty-five (45) days, and while in public, prevented from having physical contact with other animals or persons.

(e) Management of biting animals. The person who owns, possesses or controls a dog, cat, a ferret permissible under this Code, or domestic livestock as defined in the New York State Sanitary Code, 10 N.Y.C.R.R. §2.14, or successor rule, that has bitten or may have otherwise exposed another animal or a person to rabies shall closely observe the animal in his or her custody for a period of ten (10) days, and a person who owns, possesses or controls any other biting animal capable of transmitting rabies shall follow the directions of the Department with regard to observation or with regard to surrendering the biting animal for humane destruction and testing. During such period of observation, if any, a report must be made to the Department as specified herein:

(1) If the animal dies during this period, the owner shall immediately telephone the Department and immediately cause the animal's remains to be delivered to the Department's Public Health Laboratory, or other facility designated by the Department, for rabies examination.

(2) If the animal exhibits symptoms of illness or distress during this period, the owner shall immediately telephone the Department and follow the Department's instructions to either:

(i) transport the animal to the Department or place designated by it; or

(ii) transport the animal to a private licensed veterinarian, who shall immediately report his or her findings to the Department by telephone, and confirm such findings in writing to the Department within 24 hours.

(3) If the animal escapes custody during this period, the owner shall immediately telephone the Department.

(4) If the animal appears normal and healthy on the final day of the observation period required by this subdivision, the owner shall immediately telephone the Department and return the Department-supplied postcard stating that the animal is alive and presents no indication of disease.

(f) Management of unowned biting animals. If no owner can be identified for a biting dog, cat, ferret or domestic livestock capable of transmitting rabies, such animal may be held at a place designated by the Department for ten (10) days, or may be ordered humanely destroyed after being held for two days. Any other biting animals capable of transmitting rabies whose owners cannot be identified may be immediately humanely destroyed. The remains of animals humanely destroyed pursuant to this subdivision prior to expiration of the ten-day observation period specified herein shall be transported to the Department's Public Health Laboratory, or other facility designated by the Department, for rabies examination.

(g) Impoundment. When the Commissioner determines that the potential for rabies epizootic exists in any area, the Commissioner may declare that a dog, cat or other animal capable of transmitting rabies that has bitten a human being or any dog found unrestrained or restrained by a chain or leash exceeding six feet in length on any street or in any public park or place or on any open, unfenced area or lot abutting upon a street, public park or place within such area shall be impounded by the Department, a police officer or other authorized person or agency and managed in accordance with subsection (d) of this section.

(h) When the strict application of any provision of this section presents undue, unusual or unreasonable hardships the Commissioner may, in a specific instance and in his or her discretion, modify the application of such provision consistent with the general purpose and intent of this section and upon such conditions as in his or her opinion are necessary to protect the public health.

#### **§11.29 Rabies: compulsory vaccination.**

(a) Any person who owns or harbors in New York City a dog or cat four months of age or older, other than a dog or cat exempt from vaccination requirements pursuant to subdivision (d) of this section, shall have such animal actively vaccinated against rabies, as defined in §11.27 of this Article.

(b) The veterinarian either administering the vaccine or responsible for supervising the vaccination shall give to the dog or cat's owner a rabies vaccination certificate. Within five days of performing a vaccination, the veterinarian shall report such vaccination to the Department by forwarding to the Department a completed form designed by the Commissioner via facsimile, mail or electronic transmission acceptable to the Department. In the case of a dog or cat whose health would be adversely affected as a result of a vaccination, the veterinarian shall give to the dog or cat's owner a signed and dated statement indicating this. In addition, the veterinarian shall, on a form prescribed by the Commissioner, report this information to the Department via facsimile, mail or electronic submission acceptable to the Department within five days of having determined that the administration of a vaccine would adversely affect the health of the dog or cat.

(c) The rabies vaccination certificate and the form prescribed by the Commissioner to be forwarded to the Department shall be dated and signed by the veterinarian and shall include the following information: a description of the dog or cat, its age, color, sex, and breed; the dog's license number; the name and address of the owner; whether the dog or cat was vaccinated or exempted from vaccination by reason of the adverse effect such vaccination would have on the health of such dog or cat, and, if vaccinated, the type of vaccine injected, its duration of immunity, the amount and manner of injection, the name of the manufacturer, and the lot number and expiration date of the vaccine. The vaccination certificate shall be effective for the duration of immunity. Upon the expiration of the certificate, the owner shall have his or her dog or cat revaccinated in accordance with this section.

(d) Active vaccination against rabies shall not be required for dogs or cats actually confined to the premises of incorporated societies, devoted to the care or hospital treatment of lost, strayed or homeless animals, or confined to the premises of public or private hospitals devoted to the treatment of sick animals, or confined for the purposes of research to the premises of colleges or other educational or research institutions, or for dogs or cats actually confined to the premises of a person, firm or corporation actually engaged in the business of breeding or raising dogs or cats for profit and are so licensed as a class A dealer under the Federal Laboratory Animal Welfare Act or if such vaccination would adversely affect the health of the dog or cat as determined by a duly licensed veterinarian.

#### **§11.31 Acts likely to spread disease prohibited.**

(a) No person shall intentionally or negligently cause or promote the spread of disease:

(1) By failure to observe, or by improper observance of, applicable requirements of isolation, quarantine, exclusion, treatment or other preventive measures, or by failing to take other precautions in caring for cases or carriers, or suspect cases or carriers of a contagious disease; or

(2) By unnecessarily exposing himself or herself to other persons, knowing himself or herself to be a case or carrier, or suspect case or carrier of a contagious disease; or

(3) By unnecessarily exposing a person in his or her charge or under his or her care, knowing such person to be a case or carrier or suspect case or carrier of a contagious disease, to other persons; or

(4) By unnecessarily exposing a person in his or her charge or under his or her care to another person who is known to be a case or carrier, or suspect case or carrier of a contagious disease; or

(5) By unnecessarily exposing the remains of a person in his or her charge or under his or her care, knowing such person to have been a case or carrier or suspect case or carrier of a contagious disease at the time of his or her death, to other persons.

(b) Nothing contained in this section shall prevent the exposure of a child to specific contagious diseases under such conditions and safeguards as the Department may specify, when there is adequate medical reason for such exposure.

#### **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 regulate all aspects of ionizing radiation within the 5 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 (i.e., 10 NYCRR §16.1(b)(3)) delegates radiation licensure regulation to those localities that have a population of more than 2,000,000, provided that said requirements are consistent with the New York State Sanitary Code requirements. Section 274 of the federal Atomic Energy Act of 1954 (the Act) (codified at 42 USC §2021) 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 Act, and the New York City Department of Health and Mental Hygiene is a component of and a party to the relevant Agreement.

#### **STATEMENT OF BASIS AND PURPOSE**

New York State is an Agreement State, which means that this State and the United States Nuclear Regulatory Commission (NRC) have entered into an agreement under the Atomic Energy Act, which delegates authority to New York State to regulate radioactive material at non-reactor sites within its jurisdiction. The New York State Agreement is comprised of three regulatory programs – 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 this Agreement State structure, the New York City Department of Health and Mental Hygiene, through the Office of Radiological Health (ORH), regulates radioactive material for medical, research and academic purposes within the five boroughs of New York City.

ORH licenses and inspects radioactive materials facilities for compliance with Article 175 of the New York City Health Code 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 at frequencies of once every one, two or three years depending on the type of usage.

Each Agreement State program is required to maintain compatibility with the NRC regulatory program. The NRC ensures an adequate level of compatibility through its Integrated Materials Performance Evaluation Program (IMPEP) and conducts a quadrennial review of Agreement State programs. The latest IMPEP review of the NYS program took place in November of 2006.

In their November 2006 IMPEP review, the NRC evaluated each of the three components of the New York State Agreement State structure. NRC findings were presented in their Final Report, dated January 31, 2007.

The NRC IMPEP Final Report concluded that NRC requirements (Items 1 and 2 below) needed to be incorporated into Article 175 of the New York City Health Code in order to maintain appropriate compatibility with applicable federal regulations. Item 3 below is an NRC requirement that must be incorporated into the Health Code pursuant to NRC Order EA-07-305 (72 FR 70901).

#### **1. "Financial Assurance for Materials Licensees," (published in 68 FR 57327) that became effective on December 3, 2003 and was due for Agreement State adoption by December 3, 2006.**

The NRC amended its regulations (located at 10 CFR Parts 30, 40, and 70) in 2003 for financial assurance for certain materials licensees, including all waste brokers, to bring the amount of financial assurance required more in line with current decommissioning costs. The objective of this action was to ensure that licensees maintain adequate financial assurance so that timely decommissioning can be carried out following shutdown of a licensed facility. Therefore, language in Health Code §175.101(n) is now being modified accordingly.

#### **2. "Compatibility with IAEA Transportation Safety Standards and other Transportation Safety Amendments," (published in 69 FR 3698) that became effective on October 1, 2004 and was due for Agreement State adoption by October 1, 2007.**

The NRC amended its regulations (located at 10 CFR Part 71) in 2004 on packaging and transporting radioactive material. This rulemaking was designed to ensure that federal regulations would be compatible with the latest version of the International Atomic Energy Agency (IAEA) standards and to codify other applicable requirements. Therefore, language in Health Code §§ 175.02, 175.105 and 175.105 Appendix A is now being modified accordingly.

#### **3. NRC Order EA-07-305 (published in 72 FR 70901) imposing fingerprinting and criminal history records check requirements for unescorted access to certain radioactive materials that became effective for Agreement States on December 5, 2007.**

Pursuant to its Order EA-07-305, the NRC has determined that a fingerprinting and criminal history records check

#### **NOTICE OF ADOPTION TO AMEND ARTICLE 175 OF THE NEW YORK CITY HEALTH CODE**

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, the Notice of Intention was published in the City Record on June 20, 2008. A public hearing was held on July 21, 2008. One person testified and the Department received 2 written comments. The Board of Health at its September 17, 2008 meeting adopted the following resolution.

requirement shall be imposed on all licensees, including Agreement State licensees, who are subject to Increased Controls (see NRC Order EA 05-090). Agreement States are charged with issuing their equivalent fingerprinting and criminal history records check requirements by June 5, 2008. Section 652 of the Energy Policy Act of 2005 (EPA), which became law on August 8, 2005, amended Section 149 of the Atomic Energy Act (AEA) to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check for "any individual who is permitted unescorted access to radioactive materials or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks." Section 149 of the AEA also requires that "all fingerprints obtained by a licensee or applicant \* \* \* shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check." NRC has decided to implement this requirement, prior to the completion of a future rulemaking, which will implement these provisions of the EPA, because a deliberate malevolent act by an individual with unescorted access to these radioactive materials has the potential to result in significant adverse impacts to the public health and safety.

Pursuant to a previous NRC Order EA 05-090 (located at 70 FR 72128, December 1, 2005), the NRC ordered all licensees who, at any given time, possess certain radioactive sources in certain quantities to comply with certain Increased Controls (ICs). The purpose of the ICs Order for radioactive sources was to enhance control of radioactive material in order to reduce the risk of unauthorized use of radioactive materials, through access controls to aid prevention, and prompt detection, assessment, and response to mitigate potentially high consequences that would be detrimental to public health and safety. These ICs for radioactive sources and quantities were established to delineate licensee responsibility to maintain control of said licensed material and secure it from unauthorized removal or access.

This NRC Order EA-07-305 (72 FR 70901), imposing fingerprinting and criminal history records check requirements for unescorted access to certain radioactive materials, extends its security requirements applicable to those same IC licensees and became effective on December 5, 2007. Licensees will now be required to submit fingerprints of each individual who the licensee wishes to permit unescorted access to certain licensed materials. The fingerprints would be submitted to the NRC which would then forward them to the FBI. Results of the FBI criminal history record check would be sent to NRC which would then forward them to the licensee. Each licensee shall be responsible for determining whether to allow an individual unescorted access to radioactive materials in quantities of concern. Therefore, Health Code §175.101 is now being modified to add these NRC security requirements.

The proposal is as follows:

Note - Matter in brackets [ ] is to be 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 June 14, 2007, be and the same hereby is amended to update certain definitions relating to the transportation and packaging of radioactive material, 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:

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(92) "Fissile material" means [plutonium-238,] plutonium-239, plutonium-241, uranium-233, uranium-235 or any combination of these radionuclides. Fissile material means the fissile nuclides themselves, not material containing fissile nuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only are not included in this definition. Certain exclusions from fissile material controls are provided in 10 CFR 71.53] 15

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(119) "Licensed material" means byproduct, source, or special nuclear material received, possessed, produced, used, transferred or disposed of under a general or specific license issued by the Department or any radioactive material which is subject to the licensure requirement of this Code.

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(126) "Low specific activity (LSA) material" means radioactive material with limited specific activity which is nonfissile or is excepted under § 175.105(b)(2) that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

(1) LSA-I.

- (i) [Ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores;] Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radioactive radionuclides that

are not intended to be processed for the use of these radionuclides; or

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(3) LSA-III. Solids (e.g., consolidated wastes, activated materials) excluding powders, that satisfy the requirements of § 71.77 in which:

- (iii) The estimated average specific activity of the solid does not exceed  $2 \times 10^{-3}$  A2/g.

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(147) "Package" means the packaging together with its radioactive contents as presented for transport.

- (i) "Fissile material package" or Type AF package, Type BF package, Type B(U)F package, or Type B(M)F package means a fissile material packaging together with its fissile material contents.
- (2) Type A package means a Type A packaging together with its radioactive contents. A Type A package is defined and must comply with DOT regulations in 49 CFR Part 173.

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(232) "Transport index (TI)" means the dimensionless number, rounded up to the next tenth, placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is determined [as follows:

(i) For non-fissile material packages, the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at one meter (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one meter (3.3 ft)); or

(ii) For fissile material packages, the number determined by multiplying the maximum radiation level in millisievert per hour at one meter (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one meter (3.3 ft)), or, for criticality control purposes, the number obtained as described in 10 CFR 71.59, whichever is larger.] by multiplying the maximum radiation level in millisievert (mSv) per hour at 1 meter (3.3ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at 1 meter (3.3 ft)).

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Notes: On September 17, 2008, the Board of Health amended certain definitions contained in §175.02(a) in order to maintain compatibility with NRC definitions found in 10 CFR § 71.4 relating to the transportation and packaging of radioactive material.

**RESOLVED**, that subdivisions (k) and (n) of Section 175.101 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 10, 2005, be and the same hereby is amended to impose fingerprinting and criminal history records check requirements for certain licensees for individuals allowed unescorted access to certain radioactive materials and to update requirements for financial assurance and decommissioning of licensed facilities, to be printed together with explanatory notes, to read as follows:

#### §175.101 General requirements for radioactive materials licenses.

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(k) *Conditions of specific licenses.*

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(3) All licensees subject to the criteria to implement Increased Controls pursuant to the U.S. Nuclear Regulatory Commission (NRC) Order EA 05-090, 70 FR 72128, dated December 1, 2005, shall have as part of their Increased Control Program, a Fingerprinting and Criminal History Records Check procedure established for all individuals whom the licensee wishes to allow unescorted access to radioactive material quantities of concern. Such Fingerprinting and Criminal History Records Check procedures shall adhere to the requirements in NRC Order EA-07-305, 72 FR 70901, or any successor order, law or regulation. The requirements of this provision shall apply to all affected licensees upon its effective date.

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(n) *Financial assurance and recordkeeping for decommissioning.*

(1)(a) Each applicant for a specific license authorizing the possession and use of unsealed radioactive material of half-life greater than 120 days and in quantities exceeding  $10^5$  times the applicable quantities set forth in Appendix B to this section shall submit a decommissioning funding plan as described in §175.101(n)(5). The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by  $10^5$  is greater than one (1) (unity rule), where R is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in Appendix B to this section.

(1)(b) Each holder of, or applicant for, any specific license authorizing the possession and use of sealed

sources or plated foils of half-life greater than 120 days and in quantities exceeding  $10^{12}$  times the applicable quantities set forth in Appendix B to this section shall submit a decommissioning funding plan as described in §175.101(n)(5). The decommissioning funding plan must also be submitted when a combination of isotopes is involved [of] if R, as defined in §175.101(n)(1)(a), divided by  $10^5$  is greater than one (1) (unity rule)], where R is defined as the sum of the ratios of the quantity of each isotope to the applicable value in Appendix B]. The decommissioning funding plan must be submitted to the Department within 2 years of the effective date of this provision. (1)(c) Each applicant for a specific license authorizing the possession and use of more than 100 mCi of source material in a readily dispersible form shall submit a decommissioning funding plan as described in §175.101(n)(5).

(1)(d) Each applicant for a specific license authorizing possession and use of quantities of source material greater than 10 mCi but less than or equal to 100 mCi in a readily dispersible form shall either:

(i) Submit a decommissioning funding plan as described in §175.101(n)(5); or

(ii) Submit a certification that financial assurance for decommissioning has been provided in the amount of \$225,000 within eighteen months of the effective date of this provision using one of the methods described in §175.101(n)(6). For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued but before the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of paragraph §175.101(n)(6) of this section must be submitted to the Department prior to receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the Department as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of paragraph §175.101(n)(6) of this section.

(1)(e) Each applicant for a specific license authorizing the possession and use of unsealed special nuclear material in quantities exceeding  $10^5$  times the applicable quantities set forth in Appendix B to this section shall submit a decommissioning funding plan as described in §175.101(n)(5). A decommissioning funding plan must also be submitted when a combination of isotopes is involved if R, as defined in §175.101(n)(1)(a), divided by  $10^5$  is greater than one (1) (unity rule).

(2) Each applicant for a specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in § 175.101(n)(4) shall either:

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(ii) submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by §175.101(n)(4) using one of the methods described in §175.101(n)(6). For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued[,] but [prior to]before the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of paragraph §175.101(n)(6) of this section must be submitted to the Department prior to receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to the Department [As] as part of the certification, a [copy] signed original of the financial instrument obtained to satisfy the requirements of paragraph §175.101(n)(6) of this section. [is to be submitted to the Department.]

(3)(i) Each holder of a specific license issued on or after [August 1, 1994]July 27, 1990, which is of a type described in §175.101(n)(1) or (2), shall provide financial assurance for decommissioning in accordance with the criteria set forth [herein] in this section.

(ii) Each holder of a specific license issued before [August 1, 1994]July 27, 1990, and of a type described in §175.101(n)(1) or (2), shall submit[, by January 1, 1995,] a decommissioning funding plan as described in §175.101(n)(5) or a certification of financial assurance for decommissioning in an amount at least equal to [\$750,000] \$1,125,000 in accordance with the criteria set forth [herein] in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan [at this time], the licensee shall include a decommissioning funding plan in any application for license renewal.

(iii) Each holder of a specific license issued before [August 1, 1994] July 27, 1990, and of a type described in §175.101(n)(2), shall submit [, by January 1, 1995,] a certification of financial

assurance for decommissioning or a decommissioning funding plan in accordance with the criteria set forth [herein] in this section.

(4) Table of required amounts of financial assurance for decommissioning by quantity of material. Licensees required to submit the \$1,125,000 amount must do so within 1 year of the effective date of this provision. Licensees required to submit the \$113,000 or \$225,000 amount must do so within 18 months of the effective date of this provision. Licensees having possession limits exceeding the upper bounds of this table must base financial assurance on a decommissioning funding plan.

(i) Greater than  $10^4$  but less than or equal to  $10^5$  times the applicable quantities of Appendix B to this section in unsealed form (for a combination of isotopes, if R, as defined in §175.101(n)(1)(a) [herein], divided by  $10^5$  is greater than 1, but R divided by  $10^5$  is less than or equal to 1) - [\$750,000] \$1,125,000.

(ii) Greater than  $10^3$  but less than or equal to  $10^4$  times the applicable quantities of Appendix B to this section in unsealed form (for a combination of isotopes, if R, as defined in §175.101(n)(1)(a) [herein], divided by  $10^4$  is greater than 1, but R divided by  $10^4$  is less than or equal to 1) - [\$150,000] \$225,000.

(iii) Greater than  $10^{10}$  but less than or equal to  $10^{12}$  times the applicable quantities of Appendix B to this section in sealed sources or plated foils (for a combination of isotopes, if R, as defined in §175.101(n)(1)(a) [herein], divided by  $10^{10}$  is greater than 1, but R divided by  $10^{12}$  is less than or equal to 1) - [\$75,000] \$113,000.

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Notes: On September 17, 2008, the Board of Health amended Health Code §175.101(k) pursuant to NRC Order EA-07-305 to incorporate a fingerprinting and criminal history records check requirement on licensees, who possess certain radioactive materials in quantities of concern. This requirement applies to those employees of affected licensees who are allowed unescorted access to certain radioactive materials in quantities of concern. Also, the Board amended several provisions of §175.101(n) of the Health Code, including the addition of new §175.101(n)(1) (c)-(e), in order to assure compatibility with applicable NRC regulations concerning financial assurance and decommissioning of a licensed facility. The NRC amended its regulations (e.g., 10 CFR §§ 30.35, 40.36, and 70.25) for financial assurance for certain materials licensees to bring the amount of financial assurance required more in line with current decommissioning costs. The objective of this action is to ensure that licensees maintain adequate financial assurance so that timely decommissioning can be carried out following shutdown of a licensed facility.

**RESOLVED**, that Section 175.105 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 April 26, 1999, be and the same hereby is amended to update requirements for the transport and packaging of radioactive materials and that Appendix A of Section 175.105 be repealed and reenacted in its entirety, to be printed together with explanatory notes, to read as follows:

#### § 175.105. Transportation and Packaging of Radioactive Materials.

(a) *General Provisions.*

(1) *Purpose and Scope.*

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(ii) This section applies to any [person who delivers licensed material to a carrier for transport, transports the material outside the confines of the person's facility, plant or authorized site of usage, or transport that material on public highways or into any public area] licensee authorized by specific or general license issued by the Department to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the Department license, or transports that material on public highways. No provision of this section authorizes possession of licensed material.

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(5) *Definitions.*

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(ii) "Certificate of Compliance (CoC)" means the certificate issued by the NRC which approves the design of a package for the transportation of radioactive material.

[(ii)] (iii) "Close reflection by water" means immediate contact by water of sufficient thickness for maximum reflection of neutrons.

[(iii)] (iv) "Containment system" means the assembly of components of the packaging intended to retain the radioactive material during transport.

(v) "Criticality Safety Index (CSI)" means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages containing fissile material during transportation. Determination of the criticality safety index is described in 10 CFR §§71.22, 71.23, and 71.59.

(vi) "Deuterium" means, for the purposes of 10 CFR §§71.15 and 71.22, deuterium and any deuterium compounds, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

(vii) "Graphite" means, for the purposes of 10 CFR §§ 71.15 and 71.22, graphite with a boron equivalent content less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

[(iv)] (viii) "Low toxicity alpha emitters" means natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than 10 days.

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[(vii)] (xi) "Optimum interspersed hydrogenous moderation" means the presence of hydrogenous material between packages to such an extent that the maximum nuclear reactivity results.

(xii) "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, has undergone at least 1 year's decay since being used as a source of energy in a power reactor, and has not been chemically separated into its constituent elements by reprocessing. Spent fuel includes the special nuclear material, byproduct material, source material, and other radioactive materials associated with fuel assemblies.

[(viii)] (xiii) "Surface Contaminated Object (SCO)" means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCO must be in one of two groups with surface activity not exceeding the following limits:

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(xiv) "Unirradiated uranium" means uranium containing not more than  $2 \times 10^3$  Bq of plutonium per gram of uranium-235, not more than  $9 \times 10^6$  Bq of fission products per gram of uranium-235, and not more than  $5 \times 10^{-3}$  g of uranium-236 per gram of uranium-235.

[xi] (xv) Uranium – natural, depleted, enriched

(6) *Transportation of licensed material.*

(1) Each [person] licensee who transports licensed material outside the site of usage, as specified in the license or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the USDOT regulations in 49 CFR Parts [170 through 189] 107, 171 through 180 and 390 through 397 appropriate to the mode of transport.

(A) The [person] licensee shall particularly note USDOT regulations in the following areas:

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(b) Marking and labeling—49 CFR Part 172: Subpart D; and Sections 172.400 through 172.407 and Sections 172.436 through 172.44[0]1 of Subpart E.

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(g) Security plans—49 CFR Part 172: subpart I. [(g)] (h) Hazardous material shipper/carrier registration—49 CFR Part 107: Subpart G.

(B) The [person] licensee shall also note USDOT regulations pertaining to the following modes of transportation:

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(ii) If USDOT regulations are not applicable to a shipment of licensed material, the [person] licensee shall conform to the [requirements to the] standards and requirements of the USDOT specified in §175.105(a)(6)(i) to the same extent as if the shipment or transportation were subject to USDOT regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

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(b) *Exemption.*

(1) *Exemption of physicians.* Any physician licensed by a State to dispense drugs in the practice of medicine is exempt from § 175.105(a)(6) with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under applicable sections of this Code[.], 10 CFR Part 35 or the equivalent Agreement State regulations. Such transport must not be by public modes of transportation including, but not limited to, buses, subways, trams, taxicabs, car services, trains, ferries, or other means which would be returned immediately to public use after transporting licensed material.

(2) *Exemption for low-level materials.*

(i) A licensee is exempt from all requirements of this section with respect

to shipment or carriage of [a package containing radioactive material having a specific activity not greater than 70 Bq/g (0.002 ;gmCi/g).]the following low-level materials:

(A) Natural material and ores containing naturally occurring radionuclides that are not intended to be processed for use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the values specified in Appendix A, Table A-2 of this section.

(B) Materials for which the activity concentration is not greater than the activity concentration values specified in Appendix A, Table A-2 of this section, or for which the consignment activity is not greater than the limit for an exempt consignment found in Appendix A, Table A-2 of this section.

(ii) A licensee is exempt from all requirements of this section, other than § 175.105(a)(6) and § 175.105(d)(4), with respect to shipment or carriage of the following packages, provided the packages contain no fissile material, or the fissile material exemption standards of 10 CFR 71.53 are satisfied:

(A) A package containing no more than a Type A quantity of radioactive material;

(B) A package in which the only radioactive material is low specific activity (LSA) material or surface contaminated objects (SCO), provided the external radiation level at 3 m from the unshielded material or objects does not exceed 10 mSv/h (1rem/h); or

(C) A package transported within locations within the United States which contains only americium or plutonium in special form with an aggregate radioactivity not to exceed 20 curies.

(iii) A licensee is exempt from all requirements of this section, other than § 175.105(a)(6) and § 175.105(d)(4), with respect to shipment or carriage of low-specific-activity (LSA) material in group LSA-1, or surface contaminated objects (SCOs) in group SCO-1.]

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(3) *Exemption from classification as fissile material.*

(i) Fissile material meeting the requirements of at least one of the paragraphs of this section are exempt from classification as fissile material and from the fissile material package standards of 10 CFR §§ 71.55 and 71.59, but are subject to all other requirements of this part, except as noted.

(ii) Individual package containing 2 grams or less of fissile material

(iii) Individual or bulk packaging containing 15 grams or less of fissile material provided the package has at least 200 grams of solid nonfissile material for every gram of fissile material. Lead, beryllium, graphite and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass for solid nonfissile material.

(iv) Low concentrations of solid fissile material commingled with solid nonfissile material provided that:

(A) There is a least 2000 grams of solid nonfissile material for every gram of fissile material, and

(B) There is no more than 180 grams of fissile material distributed within 360 kg of contiguous nonfissile material.

(C) Lead, beryllium, graphite, and hydrogenous material may be present in the package but must not be included in determining the required mass of solid nonfissile material.

(v) Uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with a total plutonium and uranium-233 content of up to 1 percent of the mass of the uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass.

(vi) Liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2 percent by mass, with a total plutonium and uranium-233 content not exceeding 0.002 percent of the mass of uranium, and with a minimum nitrogen to uranium atomic ratio (N/U) of 2. The material must be contained in at least a DOT Type A package.

(vii) Packages containing, individually, a total plutonium mass of not more than 1000 grams, of which not more than 20 percent by mass may consist of plutonium-239, plutonium-241, or any combination of these radionuclides.

(c) *General licenses.*

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(3) *General license: U.S. Department of Transportation specification container.*

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(v) The requirements of §175.105(c)(3) shall expire October 1, 2008.

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(5) *General License: Fissile Material.*

(i) A general license is issued to any licensee of the

Department to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped in accordance with this section. The fissile material need not be contained in a package which meets the standards of subparts E and F of 10 CFR 71.22; however the material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a).

(ii) The general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the provisions of §175.105(e) of this part

(iii) The general license applies only when a package's contents:

- (A) Contain less than a Type A quantity of fissile material; and
- (B) Contains less than 500 total grams of beryllium, graphite, or hydrogenous material enriched in deuterium.

(iv) The general license applies only to packages containing fissile material that are labeled with a CSI which:

- (A) Has been determined in accordance with section (5) of this section
- (B) Has a value less than or equal to 10; and
- (C) For a shipment of multiple packages containing fissile material, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance).

(v) (A) The value for the CSI must be greater than or equal to the number calculated by the following equation:

$$CSI = 10 \left[ \frac{\text{grams of } ^{235}\text{U}}{X} + \frac{\text{grams of } ^{233}\text{U}}{Y} + \frac{\text{grams of Pu}}{Z} \right]$$

- (B) The calculated CSI must be rounded up to the first decimal place;
- (C) The values of X, Y, and Z used in the CSI equation must be taken from Tables-71.1 or 71.2, as appropriate;
- (D) If Table 71-2 is used to obtain the value of X, then the values of the terms in the equation for uranium-233 and plutonium must be assumed to be zero; and,
- (E) Table 71-1 values for X, Y, and Z must be used to determine the CSI if:
  - (a) Uranium-233 is present in the package;
  - (b) The mass of plutonium exceeds 1 percent of the mass of uranium-235;
  - (c) The uranium is of unknown uranium-235 enrichment or greater than 24 weight percent enrichment; or
  - (d) Substances having a moderating effectiveness (i.e., an average hydrogen density greater than H<sub>2</sub>O) (e.g., certain hydrocarbon oils or plastics) are present in any form, except as polyethylene used for packing or wrapping.

(6) General license: Plutonium/Beryllium special form material.

(i) A general license is issued to any licensee of the Department to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver Pu-Be sealed sources to a carrier for transport, if the material is shipped in accordance with this section. This material need not be contained in a package which meets the standards of subparts E and F of 10 CFR Part 71; however, the material must be contained in a Type A package. The Type A package must also meet the USDOT requirements of 49 CFR § 173.417(a).

(ii) The general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying § 175.105(e)(1) of this section.

(iii) The general license applies only when a package's contents:

- (A) Contain less than a Type A quantity of material; and
- (B) Contain less than 1000 g of plutonium, provided that: plutonium-239, plutonium-241, or any combination of these radionuclides, constitute less than 240 g of the total quantity of plutonium in the package.

(iv) The general license applies only to packages labeled with a CSI which:

- (A) Has been determined in accordance with part (v) of this section;
- (B) Has a value less than or equal to 100;
- (C) For a shipment of multiple packages containing Pu-Be sealed sources, the sum of the CSI must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance).

(v) (A) The value for the CSI must be greater than or equal to the number calculated by the following equation:

$$CSI = 10 \left[ \frac{\text{grams of } ^{239}\text{Pu} + \text{grams of } ^{241}\text{Pu}}{24} \right]; \text{ and}$$

(B) The calculated CSI must be rounded up to the first decimal place.

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(d) Operating Controls and Procedures.

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(3) Routine determinations.

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(xii) When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties have credible values that will cause the maximum neutron multiplication.

(4) Air transport of plutonium

(i) Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this section or included indirectly by citation of 49 CFR chapter I, as may be applicable, the licensee shall assure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:

(A) The plutonium is contained in a medical device designed for individual human application; or

(B) The plutonium is contained in a material in which the specific activity is [not greater than 70 Bq/g (0.002 gmCi/g) of material] less than or equal to the activity concentration values for plutonium specified in Appendix A, Table A-2, of this section and in which the radioactivity is essentially uniformly distributed; or

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(9) Advance notification of shipment of irradiated reactor fuel and nuclear waste.

(iii) Procedures for submitting advance notification.

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(C) A notification delivered by [messenger] any means other than mail must reach the office of the governor or of the governor's designee and the Department at least 4 days before the beginning of the 7-day period during which departure of the shipment is estimated to occur.

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(e) Quality Assurance.

(1) Quality assurance requirements.

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(iv) Existing package designs. The provisions of this paragraph apply to packages that have been approved for use by the NRC before January 1, 1979, and which have been designed in accordance with the provisions of 10 CFR Part 71 in effect at the time of application for package approval. Those packages will be accepted as having been designed in accordance with a quality assurance program that satisfies the provisions of § 175.105(e)(1)(ii) of this Code.]

(v) Existing packages. The provisions of this paragraph apply to packages that have been approved for use by the NRC before January 1, 1979; have been at least partially fabricated prior to that date; and for which the fabrication is in accordance with the provisions of 10 CFR Part 71 in effect at the time of application for approval of package design. These packages will be accepted as having been fabricated and assembled in accordance with a quality assurance program that satisfies the provisions of § 175.105(e)(1)(ii) of this Code.]

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Appendix A - Determination of A<sub>1</sub> and A<sub>2</sub>

I. Values of A<sub>1</sub> and A<sub>2</sub> for individual radionuclides, which are the bases for many activity limits elsewhere in this Code, are given in Table A-1. The curie (Ci) values specified are obtained by converting from the Terabecquerel (TBq) value. The Terabecquerel values are the regulatory standard. The curie values are for information only and are not intended to be the regulatory standard. Where values of A<sub>1</sub> and A<sub>2</sub> are unlimited, it is for radiation control purposes only. For nuclear criticality safety, some materials are subject to controls placed on fissile material.

II. a. For individual radionuclides whose identities are known, but which are not listed in Table A-1, the A<sub>1</sub> and A<sub>2</sub> values contained in Table A-3 may be used. Otherwise, the licensee shall obtain prior Department approval of the A<sub>1</sub> and A<sub>2</sub> values for radionuclides not listed in Table A-1, before shipping the material.

b. For individual radionuclides whose identities are known, but which are not listed in Table A-2, the exempt material activity concentration and exempt consignment activity values contained in Table A-3 may be used. Otherwise, the licensee shall obtain prior Department approval of the exempt material activity concentration and exempt consignment activity values for radionuclides not listed in Table A-2, before shipping the material.

c. The licensee shall submit requests for prior approval, described under paragraphs II(a) and II(b) of this Appendix, to the Department.

III. In the calculations of A<sub>1</sub> and A<sub>2</sub> for a radionuclide not in Table A-1, a single radioactive decay chain, in which radionuclides are present in their naturally occurring proportions, and in which no daughter radionuclide has a half-life either longer than 10 days, or longer than that of the parent radionuclide, shall be considered as a single radionuclide, and the activity to be taken into account, and the A<sub>1</sub> or A<sub>2</sub> value to be applied, shall be those corresponding to the parent radionuclide of that chain. In the case of radioactive decay chains in which any daughter radionuclide has a half-life either longer than 10 days, or greater than that of the parent radionuclide, the parent and those daughter radionuclides shall be considered as mixtures of different radionuclides.

IV. For mixtures of radionuclides whose identities and respective activities are known, the following conditions apply:

a. For special form radioactive material, the maximum quantity transported in a Type A package is as follows:

$$\sum_i \frac{B(i)}{A_1(i)} \leq 1$$

where B(i) is the activity of radionuclide i, and A<sub>1</sub>(i) is the A<sub>1</sub> value for radionuclide i.

b. For normal form radioactive material, the maximum quantity transported in a Type A package is as follows:

$$\sum B(i)/A_2(i) \leq 1$$

where B(i) is the activity of radionuclide i, and A<sub>2</sub>(i) is the A<sub>2</sub> value for radionuclide i.

c. Alternatively, the A<sub>1</sub> value for mixtures of special form material may be determined as follows:

$$A_1 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_1(i)}}$$

where f(i) is the fraction of activity for radionuclide i in the mixture, and A<sub>1</sub>(i) is the appropriate A<sub>1</sub> value for radionuclide i.

d. Alternatively, the A<sub>2</sub> value for mixtures of normal form material may be determined as follows:

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

where f(i) is the fraction of activity for radionuclide i in the mixture, and A<sub>2</sub>(i) is the appropriate A<sub>2</sub> value for radionuclide i.

e. The exempt activity concentration for mixtures of nuclides may be determined as follows:

$$\text{Exempt activity concentration for mixture} = \frac{1}{\sum_i \frac{f(i)}{|A|(i)}}$$

where f(i) is the fraction of activity concentration of radionuclide i in the mixture, and |A| is the activity concentration for exempt material containing radionuclide i.

f. The activity limit for an exempt consignment for mixtures of radionuclides may be determined as follows:

$$\text{Exempt consignment activity limit for mixture} = \frac{1}{\sum_i \frac{f(i)}{A(i)}}$$

where f(i) is the fraction of activity of radionuclide i in the mixture, and A is the activity limit for exempt consignments for radionuclide i.

V. When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped, and the lowest A<sub>1</sub> or A<sub>2</sub> value, as appropriate, for the radionuclides in each group may be used in applying the formulas in paragraph IV. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A<sub>1</sub> or A<sub>2</sub> values for the alpha emitters and beta/gamma emitters.

Table A-1-A<sub>1</sub> and A<sub>2</sub> VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A <sub>1</sub> (TBq)	A <sub>1</sub> (Ci) <sup>a</sup>	A <sub>2</sub> (TBq)	A <sub>2</sub> (Ci) <sup>b</sup>	Specific activity (TBq/g)	Specific activity (Ci/g)
Ac-225 (a)	Actinium (89)	8.0X10 <sup>-1</sup>	2.2X10 <sup>1</sup>	6.0X10 <sup>-3</sup>	1.6X10 <sup>-2</sup>	2.1X10 <sup>3</sup>	5.8X10 <sup>4</sup>
Ac-227 (a)		9.0X10 <sup>-1</sup>	2.4X10 <sup>1</sup>	9.0X10 <sup>-5</sup>	2.4X10 <sup>-3</sup>	2.7	7.2X10 <sup>1</sup>
Ac-228		6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	5.0X10 <sup>-1</sup>	1.4X10 <sup>1</sup>	8.4X10 <sup>4</sup>	2.2X10 <sup>6</sup>
Ag-105	Silver (47)	2.0	5.4X10 <sup>1</sup>	2.0	5.4X10 <sup>1</sup>	1.1X10 <sup>3</sup>	3.0X10 <sup>4</sup>
Ag-108m (a)		7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>1</sup>	9.7X10 <sup>1</sup>	2.6X10 <sup>1</sup>
Ag-110m (a)		4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>1</sup>	1.8X10 <sup>2</sup>	4.7X10 <sup>2</sup>
Ag-111		2.0	5.4X10 <sup>1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>1</sup>	5.8X10 <sup>3</sup>	1.6X10 <sup>5</sup>
Al-26	Aluminum (13)	1.0X10 <sup>-1</sup>	2.7	1.0X10 <sup>-1</sup>	2.7	7.0X10 <sup>-4</sup>	1.9X10 <sup>-2</sup>
Am-241	Americium (95)	1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	1.3X10 <sup>-1</sup>	3.4
Am-242m (a)		1.0X10 <sup>1</sup>	2.7X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	3.6X10 <sup>-1</sup>	1.0X10 <sup>1</sup>
Am-243 (a)		5.0	1.4X10 <sup>2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	7.4X10 <sup>-3</sup>	2.0X10 <sup>-1</sup>

Ar-37	Ar-39	Ar-41	As-72	As-73	As-74	As-76	As-77	At-211 (a)	Au-193	Au-194	Au-195	Au-198	Au-199	Ba-131 (a)	Ba-133	Ba-133m	Ba-140 (a)	Be-7	Be-9	Bi-205	Bi-206	Bi-207	Bi-210	Bi-210m (a)	Bi-212 (a)	Bk-247	Bk-249 (a)	Br-76	Br-77	Br-82	C-11	C-14	Ce-41	Ce-43	Ce-47 (a)	Cd-109	Cd-113m	Cd-115 (a)	Cd-115m	Ce-139	Ce-141	Ce-143	Ce-144 (a)	CF-248	CF-249	CF-250	CF-251	CF-252 (h)	CF-253 (a)	CF-254	Cl-36	Cl-38	Cm-240	Cm-241	Cm-242	Cm-243	Cm-244	Cm-245	Cm-246	Cm-247 (a)	Cm-248	Co-55	Co-56	Co-57	Co-58	Co-58m	Co-60	Cr-51	Cr-52	Cr-53	Cr-54	Cr-55	Cr-56	Cr-57	Cr-58	Cr-59	Cr-60	Dy-159	Dy-161	Dy-166 (a)	Dy-169	Er-171	Eu-147	Eu-148	Eu-149	Eu-150 (short lived)	Eu-150 (long lived)	Eu-152	Eu-152m	Eu-154	Eu-155	Eu-156	F-18	Fe-52 (a)	Fe-55	Fe-59	Fe-60 (a)	Ga-67	Ga-68	Ga-72	Gd-146 (a)	Gd-148	Gd-153	Gd-159	Ge-68 (a)	Ge-71	Ge-77	Hf-172 (a)	Hf-178	Hf-181	Hf-182	Hg-194 (a)	Hg-195m (a)	Hg-197	Hg-197m	Ho-203	Ho-166	Ho-166m	I-123	I-124	I-125	I-126	I-129	I-131	I-132	I-133	I-134	I-135 (a)	In-111	In-113m	In-114m (a)	In-115m	In-119 (a)	In-190	In-192 (a)	In-194	K-40	K-42	K-43	Kr-81	Kr-85	Kr-85m	Kr-87	La-137	La-140	La-172	La-174	La-174m	La-177	Mg-28 (a)	Mn-52	Mn-53	Mn-54	Mn-56	Mn-59	Mn-59 (a) (f)	N-13	Na-22	Na-24	Nb-93m	Nb-94	Nb-95	Nb-97	Nd-147	Nd-149	Ni-52	Ni-62	Ni-65	Np-235	Np-236 (short-lived)	Np-236 (long-lived)	Np-237	Np-239	Os-185	Os-191	Os-191m	Os-193	Os-194 (a)	P-32	P-33	Pa-230 (a)	Pa-231	Pa-233	Pb-201	Pb-202	Pb-203	Pb-205	Pb-210 (a)	Pb-212 (a)	Pd-103 (a)	Pd-107	Pd-109	Pm-143	Pm-144	Pm-145	Pm-147	Pm-148m (a)	Pm-149	Pm-151	Po-210	Pr-142	Pr-143	Pr-188 (a)	Pr-191	Pt-193	Pt-193m	Pt-195m	Pt-197	Pt-197m	Pu-236	Pu-237	Pu-238	Pu-239	Pu-240	Pu-241 (a)	Pu-242	Pu-244 (a)	Ra-223 (a)	Ra-224 (a)	Ra-225 (a)	Ra-226 (a)	Ra-228 (a)	Rb-81	Rb-83 (a)	Rb-84	Rb-86	Rb-87	Rb(m)	Re-184	Re-184m	Re-186	Re-187	Re-188	Re-189 (a)	Re(m)	Rh-99	Rh-101	Rh-102	Rh-102m	Rh-103m	Rh-105	Rn-222 (a)	Ru-97	Ru-103 (a)	Ru-105	Ru-106 (a)	S-32	Sb-122	Sb-124	Sb-125	Sb-126	Sc-44	Sc-46	Sc-47	Sc-48	Se-75	Se-79	Si-31	Si-32	Sm-145	Sm-147	Sm-151	Sm-153	Sn-113 (a)	Sn-117m	Sn-119m	Sn-121m (a)	Sn-123	Sn-125	Sn-126 (a)	Sr-82 (a)	Sr-85	Sr-85m	Sr-87m	Sr-88	Sr-90 (a)	Sr-91 (a)	Sr-92 (a)	Ti-3	Ta-178 (long-lived)	Ta-179	Ta-182	Tb-157	Tb-158	Tb-160	Tc-95m (a)	Tc-96	Tc-96m (a)	Tc-97	Tc-97m	Tc-98	Tc-99	Tc-99m	Te-121	Te-121m	Te-123m	Te-127	Te-127m (a)	Te-129	Te-129m (a)	Te-131m (a)	Te-132 (a)	Th-227	Th-228 (a)	Th-229	Th-230	Th-231	Th-232	Th-232 (a)	Th(m)	Ti-44 (a)	Tl-209
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TI-201		1.0X10 <sup>-1</sup>	2.7X10 <sup>-2</sup>	4.0	1.1X10 <sup>-2</sup>	7.9X10 <sup>-3</sup>	2.1X10 <sup>-5</sup>
TI-202		2.0	5.4X10 <sup>-1</sup>	2.0	5.4X10 <sup>-1</sup>	2.0X10 <sup>-2</sup>	5.3X10 <sup>-4</sup>
TI-204		1.0X10 <sup>-1</sup>	2.7X10 <sup>-2</sup>	2.0X10 <sup>-1</sup>	1.9X10 <sup>-1</sup>	1.7X10 <sup>-1</sup>	4.6X10 <sup>-2</sup>
Tm-167	Thulium (69)	7.0	1.9X10 <sup>-2</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>-1</sup>	3.1X10 <sup>-3</sup>	8.5X10 <sup>-4</sup>
Tm-170		3.0	8.1X10 <sup>-1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>-1</sup>	2.2X10 <sup>-2</sup>	6.0X10 <sup>-3</sup>
Tm-171		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>
U-230 (fast lung absorption) (d,k)	Uranium (92)	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	1.0X10 <sup>-1</sup>	2.7	1.0X10 <sup>-3</sup>	2.7X10 <sup>-4</sup>
U-230 (medium lung absorption) (d,k)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	4.0X10 <sup>-3</sup>	1.1X10 <sup>-1</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-4</sup>
U-230 (slow lung absorption) (d,k)		3.0X10 <sup>-1</sup>	8.1X10 <sup>-2</sup>	3.0X10 <sup>-3</sup>	8.1X10 <sup>-2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-4</sup>
U-232 (fast lung absorption) (d)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	1.0X10 <sup>-2</sup>	2.7X10 <sup>-1</sup>	8.3X10 <sup>-1</sup>	2.2X10 <sup>-1</sup>
U-232 (medium lung absorption) (e)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	7.0X10 <sup>-3</sup>	1.9X10 <sup>-1</sup>	8.3X10 <sup>-1</sup>	2.2X10 <sup>-1</sup>
U-232 (slow lung absorption) (f)		1.0X10 <sup>-1</sup>	2.7X10 <sup>-2</sup>	1.0X10 <sup>-3</sup>	2.7X10 <sup>-2</sup>	8.3X10 <sup>-1</sup>	2.2X10 <sup>-1</sup>
U-233 (fast lung absorption) (d)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	9.0X10 <sup>-2</sup>	2.4	3.6X10 <sup>-4</sup>	9.7X10 <sup>-3</sup>
U-233 (medium lung absorption) (e)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	3.6X10 <sup>-4</sup>	9.7X10 <sup>-3</sup>
U-233 (slow lung absorption) (f)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	6.0X10 <sup>-3</sup>	1.6X10 <sup>-1</sup>	3.6X10 <sup>-4</sup>	9.7X10 <sup>-3</sup>
U-234 (fast lung absorption) (d)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	9.0X10 <sup>-2</sup>	2.4	2.3X10 <sup>-4</sup>	6.2X10 <sup>-3</sup>
U-234 (medium lung absorption) (e)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	2.3X10 <sup>-4</sup>	6.2X10 <sup>-3</sup>
U-234 (slow lung absorption) (f)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	6.0X10 <sup>-3</sup>	1.6X10 <sup>-1</sup>	2.3X10 <sup>-4</sup>	6.2X10 <sup>-3</sup>
U-235 (all lung absorption types) (a),(d),(e),(f)		Unlimited	Unlimited	Unlimited	Unlimited	8.0X10 <sup>-8</sup>	2.2X10 <sup>-6</sup>
U-236 (fast lung absorption) (d)		Unlimited	Unlimited	Unlimited	Unlimited	2.4X10 <sup>-6</sup>	6.5X10 <sup>-5</sup>
U-236 (medium lung absorption) (e)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	2.0X10 <sup>-2</sup>	5.4X10 <sup>-1</sup>	2.4X10 <sup>-6</sup>	6.5X10 <sup>-5</sup>
U-236 (slow lung absorption) (f)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	6.0X10 <sup>-3</sup>	1.6X10 <sup>-1</sup>	2.4X10 <sup>-6</sup>	6.5X10 <sup>-5</sup>
U-238 (all lung absorption types) (d),(e),(f)		Unlimited	Unlimited	Unlimited	Unlimited	1.2X10 <sup>-8</sup>	3.4X10 <sup>-7</sup>
U (nat)		Unlimited	Unlimited	Unlimited	Unlimited	2.6X10 <sup>-8</sup>	7.1X10 <sup>-7</sup>
U (enriched to 20% or less) (g)		Unlimited	Unlimited	Unlimited	Unlimited	See Table A-4	See Table A-4
U (depleted)		Unlimited	Unlimited	Unlimited	Unlimited	See Table A-4	See Table A-3
V-48	Vanadium (23)	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	6.3X10 <sup>-3</sup>	1.7X10 <sup>-5</sup>
V-49		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	3.0X10 <sup>-2</sup>	8.1X10 <sup>-3</sup>
W-178 (a)	Tungsten (74)	9.0	2.4X10 <sup>-2</sup>	5.0	1.4X10 <sup>-2</sup>	1.3X10 <sup>-3</sup>	3.4X10 <sup>-4</sup>
W-181		3.0X10 <sup>-1</sup>	8.1X10 <sup>-2</sup>	3.0X10 <sup>-1</sup>	8.1X10 <sup>-2</sup>	2.2X10 <sup>-2</sup>	6.0X10 <sup>-3</sup>
W-185		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>-1</sup>	3.5X10 <sup>-2</sup>	9.4X10 <sup>-3</sup>
W-187		2.0	5.4X10 <sup>-1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>-1</sup>	2.6X10 <sup>-4</sup>	7.0X10 <sup>-5</sup>
W-188 (a)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	3.0X10 <sup>-1</sup>	8.1	3.7X10 <sup>-2</sup>	1.0X10 <sup>-4</sup>
Xe-122 (a)	Xenon (54)	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	4.8X10 <sup>-4</sup>	1.3X10 <sup>-6</sup>
Xe-122		2.0	5.4X10 <sup>-1</sup>	7.0X10 <sup>-1</sup>	1.9X10 <sup>-1</sup>	4.4X10 <sup>-5</sup>	1.2X10 <sup>-7</sup>
Xe-127		4.0	1.1X10 <sup>-2</sup>	2.0	5.4X10 <sup>-1</sup>	1.0X10 <sup>-3</sup>	2.8X10 <sup>-4</sup>
Xe-131m		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	3.1X10 <sup>-3</sup>	8.4X10 <sup>-4</sup>
Xe-133		2.0X10 <sup>-1</sup>	5.4X10 <sup>-2</sup>	1.0X10 <sup>-1</sup>	2.7X10 <sup>-2</sup>	6.9X10 <sup>-3</sup>	1.9X10 <sup>-5</sup>
Xe-135		3.0	8.1X10 <sup>-1</sup>	2.0	5.4X10 <sup>-1</sup>	9.5X10 <sup>-4</sup>	2.6X10 <sup>-6</sup>
Y-87 (a)	Yttrium (39)	1.0	2.7X10 <sup>-1</sup>	1.0	2.7X10 <sup>-1</sup>	1.7X10 <sup>-4</sup>	4.5X10 <sup>-5</sup>
Y-88		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	5.2X10 <sup>-2</sup>	1.4X10 <sup>-4</sup>
Y-90		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	2.0X10 <sup>-4</sup>	5.4X10 <sup>-5</sup>
Y-91		6.0X10 <sup>-1</sup>	1.6X10 <sup>-1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>-1</sup>	9.1X10 <sup>-2</sup>	2.5X10 <sup>-4</sup>
Y-91m		2.0	5.4X10 <sup>-1</sup>	2.0	5.4X10 <sup>-1</sup>	1.5X10 <sup>-6</sup>	4.2X10 <sup>-7</sup>
Y-92		2.0X10 <sup>-1</sup>	5.4	2.0X10 <sup>-1</sup>	5.4	3.6X10 <sup>-5</sup>	9.6X10 <sup>-6</sup>
Y-93		3.0X10 <sup>-1</sup>	8.1	3.0X10 <sup>-1</sup>	8.1	1.2X10 <sup>-5</sup>	3.3X10 <sup>-6</sup>
Yb-169	Ytterbium (70)	4.0	1.1X10 <sup>-2</sup>	1.0	2.7X10 <sup>-1</sup>	8.9X10 <sup>-2</sup>	2.4X10 <sup>-4</sup>
Yb-175		3.0X10 <sup>-1</sup>	8.1X10 <sup>-2</sup>	9.0X10 <sup>-1</sup>	2.4X10 <sup>-1</sup>	6.6X10 <sup>-3</sup>	1.8X10 <sup>-5</sup>
Zn-65	Zinc (30)	2.0	5.4X10 <sup>-1</sup>	2.0	5.4X10 <sup>-1</sup>	3.0X10 <sup>-2</sup>	8.2X10 <sup>-3</sup>
Zn-69		3.0	8.1X10 <sup>-1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>-1</sup>	1.8X10 <sup>-6</sup>	4.9X10 <sup>-7</sup>
Zn-69m (a)		3.0	8.1X10 <sup>-1</sup>	6.0X10 <sup>-1</sup>	1.6X10 <sup>-1</sup>	1.2X10 <sup>-5</sup>	3.3X10 <sup>-6</sup>
Zr-88	Zirconium (40)	3.0	8.1X10 <sup>-1</sup>	3.0	8.1X10 <sup>-1</sup>	6.6X10 <sup>-2</sup>	1.8X10 <sup>-4</sup>
Zr-93		Unlimited	Unlimited	Unlimited	Unlimited	9.3X10 <sup>-5</sup>	2.5X10 <sup>-3</sup>
Zr-95 (a)		2.0	5.4X10 <sup>-1</sup>	8.0X10 <sup>-1</sup>	2.2X10 <sup>-1</sup>	7.9X10 <sup>-2</sup>	2.1X10 <sup>-4</sup>
Zr-97 (a)		4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	4.0X10 <sup>-1</sup>	1.1X10 <sup>-2</sup>	7.1X10 <sup>-4</sup>	1.9X10 <sup>-6</sup>

<sup>a</sup> A<sub>1</sub> and/or A<sub>2</sub> values include contributions from daughter nuclides with half-lives less than 10 days.

<sup>b</sup> The values of A<sub>1</sub> and A<sub>2</sub> in Curies (Ci) are approximate and for information only; the regulatory standard units are Terabecquerels (TBq). (see Appendix A to §175.105 - Determination of A<sub>1</sub> and A<sub>2</sub>, Section I.)

<sup>c</sup> The quantity may be determined from a measurement of the rate of decay or a measurement of the radiation level at a prescribed distance from the source.

<sup>d</sup> These values apply only to compounds of uranium that take the chemical form of UF<sub>6</sub>, UO<sub>2</sub>F<sub>2</sub> and UO<sub>2</sub>(NO<sub>3</sub>)<sub>2</sub> in both normal and accident conditions of transport.

<sup>e</sup> These values apply only to compounds of uranium that take the chemical form of UO<sub>3</sub>, UF<sub>4</sub>, UCl<sub>4</sub> and hexavalent compounds in both normal and accident conditions of transport.

<sup>f</sup> These values apply to all compounds of uranium other than those specified in notes (d) and (e) of this table.

<sup>g</sup> These values apply to unirradiated uranium only.

<sup>h</sup> A<sub>1</sub> = 0.1 TBq (2.7 Ci) and A<sub>2</sub> = 0.001 TBq (0.027 Ci) for Cf-252 for domestic use.

<sup>i</sup> A<sub>2</sub> = 0.74 TBq (20 Ci) for Mo-99 for domestic use.

**Table A-2 - EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES**

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt consignment (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Ac-225	Actinium (89)	1.0X10 <sup>-1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>-4</sup>	2.7X10 <sup>-7</sup>
Ac-227		1.0X10 <sup>-1</sup>	2.7X10 <sup>-12</sup>	1.0X10 <sup>-5</sup>	2.7X10 <sup>-8</sup>
Ac-228		1.0X10 <sup>-1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>-6</sup>	2.7X10 <sup>-9</sup>
Ag-105	Silver (47)	1.0X10 <sup>-2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>-6</sup>	2.7X10 <sup>-9</sup>
Ag-108m (b)		1.0X10 <sup>-1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>-6</sup>	2.7X10 <sup>-9</sup>
Ag-110m		1.0X10 <sup>-1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>-6</sup>	2.7X10 <sup>-9</sup>
Ag-111		1.0X10 <sup>-1</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>-6</sup>	2.7X10 <sup>-9</sup>
Al-26	Aluminum (13)	1.0X10 <sup>-1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>-5</sup>	2.7X10 <sup>-8</sup>
Am-241	Americium (95)	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>-4</sup>	2.7X10 <sup>-7</sup>
Am-242m (b)		1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>-4</sup>	2.7X10 <sup>-7</sup>
Am-243 (b)		1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>-4</sup>	2.7X10 <sup>-7</sup>

Ar-37	Argon (18)	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>	1.0X10 <sup>8</sup>	2.7X10 <sup>-3</sup>
Ar-39		1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Ar-41		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>9</sup>	2.7X10 <sup>-2</sup>
As-72	Arsenic (33)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
As-73		1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>2</sup>	2.7X10 <sup>-4</sup>
As-74		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
As-76		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
As-77		1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
At-211	Astatine (85)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Au-193	Gold (79)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Au-194		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Au-195		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Au-198		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Au-199		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ba-131	Barium (56)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ba-133		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ba-133m		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ba-140 (b)		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Be-7	Beryllium (4)	1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Be-10		1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bi-205	Bismuth (83)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bi-206		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Bi-207		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bi-210		1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bi-210m		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Bi-212 (b)		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Bk-247	Berkelium (97)	1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>
Bk-249		1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bk-250		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Bk-251		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bk-252		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bk-253		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Bk-254		1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-6</sup>
Bk-255		1.0	2.7X10 <sup>-11</sup>	1.0X10 <sup>3</sup>	2.7X10 <sup>-6</sup>
Br-75	Bromine (35)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>
Br-77		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Br-82		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
C-11	Carbon (6)	1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
C-14		1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ca-41	Calcium (20)	1.0X10 <sup>5</sup>	2.7X10 <sup>-6</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ca-45		1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ca-47		1.0X10 <sup>1</sup>	2.7X10 <sup>-10</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cd-109	Cadmium (48)	1.0X10 <sup>4</sup>	2.7X10 <sup>-7</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cd-113m		1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cd-115		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Cd-115m		1.0X10 <sup>3</sup>	2.7X10 <sup>-8</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ce-132	Cerium (58)	1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>6</sup>	2.7X10 <sup>-5</sup>
Ce-141		1.0X10 <sup>2</sup>	2.7X10 <sup>-9</sup>	1.0X10 <sup>7</sup>	2.7X10 <sup>-4</sup>
Ce-143		1.0X10 <sup></sup>			

Table of radionuclides with columns for isotope symbol, element name, and four activity values (A1, A2, A3, A4).

Table of radionuclides with columns for isotope symbol, element name, and four activity values (A1, A2, A3, A4).

d These values apply only to compounds of uranium that take the chemical form of UF6, UO2F2 and UO2(NO3)2 in both normal and accident conditions of transport.
e These values apply only to compounds of uranium that take the chemical form of UO3, UF4, UCl4 and hexavalent compounds in both normal and accident conditions of transport.
f These values apply to all compounds of uranium other than those specified in notes (d) and (e) of this table.
g These values apply to unirradiated uranium only.

TABLE A-3 - GENERAL VALUES FOR A1 AND A2

Table with columns: Contents, A1 (Tb), A1 (Cl), A2 (Tb), A2 (Cl), Activity concentration for exempt material (Bq/g), Activity concentration for exempt material (Ci/g), Activity limits for exempt consignments (Bq), Activity limits for exempt consignments (Ci).

TABLE A-4 - ACTIVITY-MASS RELATIONSHIPS FOR URANIUM

Table with columns: Uranium Enrichment (wt % U-235 present), Specific Activity (TBq/g, Ci/g).

1 The figures for uranium include representative values for the activity of the uranium-234 that is concentrated during the enrichment process. (60 FR 50264, Sept. 28, 1995 as amended at 61 FR 28724, June 6, 1996; 69 FR 3800, Jan. 26, 2004).

Notes: On September 17, 2008, the Board of Health amended multiple provisions of Health Code §175.105, including the repeal and reenactment of §175.105 Appendix A, in order to maintain compatibility with applicable NRC regulations found in various provisions of 10 CFR Part 71 relating to the transportation and packaging of radioactive material.

a [Reserved]
b Parent nuclides and their progeny included in secular equilibrium are listed in the following:

- Sr-90 Y-90
Zr-93 Nb-93m
Zr-97 Nb-97
Ru-106 Rh-106
Cs-137 Ba-137m
Ce-134 La-134
Ce-144 Pr-144
Ba-140 La-140
Bi-212 Tl-208 (0.36), Po-212 (0.64)
Pb-210 Bi-210, Po-210
Pb-212 Bi-212, Tl-208 (0.36), Po-212 (0.64)
Rn-220 Po-216
Rn-222 Po-218, Pb-214, Bi-214, Po-214
Ra-223 Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224 Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Ra-226 Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Ra-228 Ac-228
Th-226 Ra-224, Rn-218, Po-214
Th-228 Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-229 Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209
Th-nat Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-234 Pa-234m
U-230 Th-226, Ra-222, Rn-218, Po-214
U-232 Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
U-235 Th-231
U-238 Th-234, Pa-234m
U-nat Th-234, Pa-234m, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
U-240 Np-240m
Np-237 Pa-233
Am-242m Am-242
Am-243 Np-239

c [Reserved]

LATE NOTICE

LANDMARKS PRESERVATION COMMISSION PUBLIC MEETING

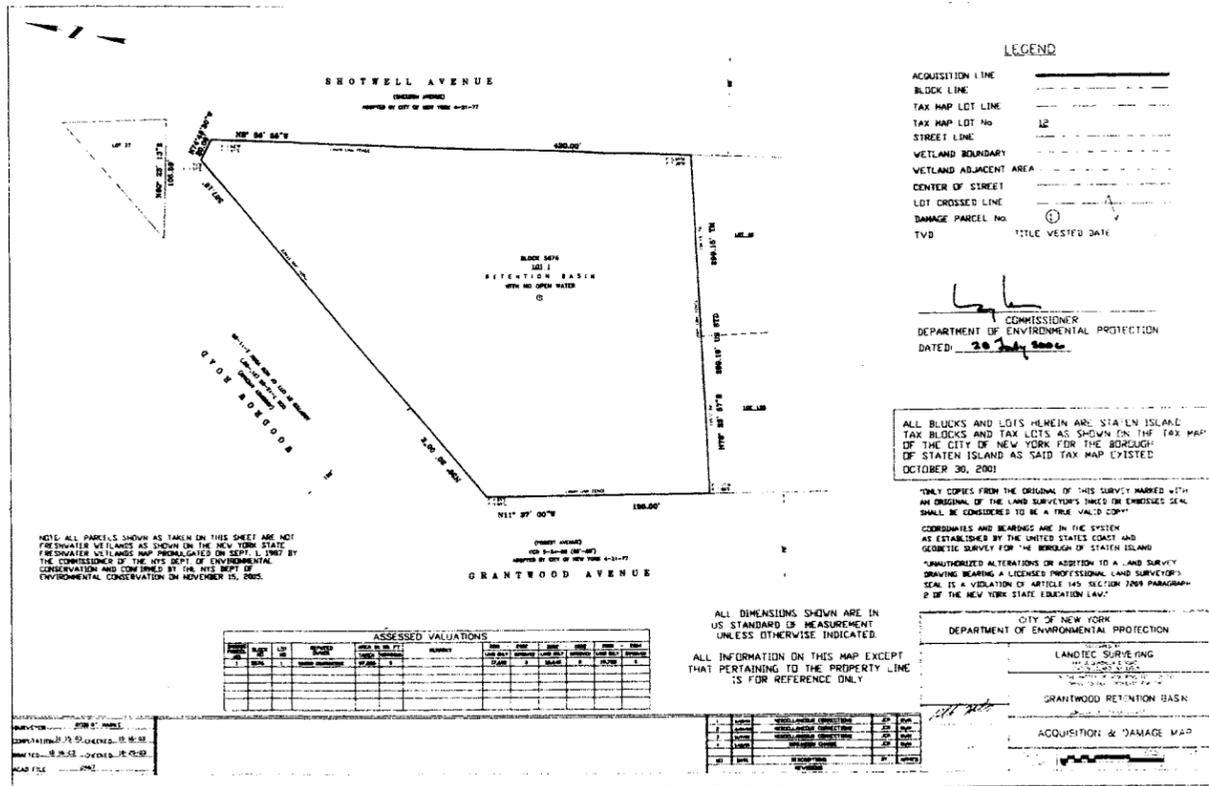
Please note that the meeting for the St. Vincent's Hospital hardship application will take place at the Swayduck Auditorium at the New School, 65 Fifth Avenue at (14th Street), Borough of Manhattan. Since this is a Public Meeting item, there will be no public testimony. Please bring a picture ID for entrance into the building.

Preservation Department Public Meeting Item Tuesday, October 07, 2008

CERTIFICATE OF APPROPRIATENESS BOROUGH OF MANHATTAN 08-8617 - Block 617, lot 55-20 7th Avenue - Greenwich Village Historic District A contemporary institutional building designed by Arthur A. Schiller and Albert Ledner and built in 1962-63. Application is to demolish the existing building and construct a new hospital building on the site pursuant to Section 25-309 of the New York City Administrative Code.

Please note: After the St. Vincent's presentation the Public Hearing will reconvene at the Landmarks Preservation Commission Hearing Room at 1 Centre Street, 9th Floor, Borough of Manhattan.

COURT NOTICE MAP FOR GRANTWOOD RETENTION BASIN, STATEN ISLAND



READER'S GUIDE

The City Record (CR) is published each business day and includes notices of proposed New York City procurement actions, contract awards, and other procurement-related information.

NOTICE TO ALL NEW YORK CITY CONTRACTORS

The New York State Constitution ensures that all laborers, workers or mechanics employed by a contractor or subcontractor doing public work are to be paid the same wage rate that prevails in the trade.

New York City's "Burma Law" (Local Law No. 33 of 1997) No Longer to be Enforced. In light of the United States Supreme Court's decision in Crosby v. National Foreign Trade Council, 530 U.S. 363 (2000), the City has determined that New York City's Local Law No. 33 of 1997 is unconstitutional.

CONSTRUCTION/CONSTRUCTION SERVICES OR CONSTRUCTION RELATED SERVICES

The City of New York is committed to achieving excellence in the design and construction of its capital program, and building on the tradition of innovation in architecture and engineering that has contributed to the City's prestige as a global destination.

VENDOR ENROLLMENT APPLICATION

New York City procures approximately \$7 billion worth of goods, services, construction and construction-related services every year. The NYC Procurement Policy Board Rules require that agencies primarily solicit from established mailing lists called bidder/proposer lists.

- Online at NYC.gov/selltency
To request a hardcopy application, call the Vendor Enrollment Center at (212) 857-1680.

Attention Existing Suppliers:

Even if you already do business with NYC agencies, be sure to fill out an application. We are switching over to citywide, centralized Bidders Lists instead of the agency-specific lists previously used to issue notices about upcoming contract opportunities.

SELLING TO GOVERNMENT TRAINING WORKSHOP

New and experienced vendors are encouraged to register for a free training course on how to do business with New York City. "Selling to Government" workshops are conducted by the Department of Small Business Services, 110 William Street, New York, NY 10038.

PRE-QUALIFIED LIST

New York City procurement policy permits agencies to develop and solicit from pre-qualified lists of vendors, under prescribed circumstance. When it is decided by an agency to develop a pre-qualified list, criteria for pre-qualification must be clearly explained in the solicitation and notice of the opportunity to pre-qualify for that solicitation must be published in at least five issues of the CR.

Information and qualification questionnaires for inclusion on such list may be obtained directly from the Agency Chief Contracting Officer at each agency, (see Vendor Information Manual). A completed qualification Questionnaire may be submitted to the Chief Contracting Officer at any time, unless otherwise indicated and action (approval or denial) shall be taken by the agency within 90 days from the date of submission.

NON-MAYORAL ENTITIES

The following agencies are not subject to Procurement Policy Board rules and do not follow all of the above procedures: City University, Department of Education, Metropolitan Transportation Authority, Health & Hospitals Corporation, Housing Authority, Suppliers interested in applying for inclusion on bidders list should contact these entities directly (see Vendor Information Manual) at the addresses given.

PUBLIC ACCESS CENTER

The Public Access Center is available to suppliers and the public as a central source for supplier-related information through on-line computer access. The Center is located at 253 Broadway, 9th floor, in lower Manhattan, and is open Monday through Friday from 10:00 A.M. to 3:00 P.M.

ATTENTION: NEW YORK CITY MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES

Join the growing number of Minority and Women Owned Business Enterprises (M/WBEs) that are competing for New York City's business. In order to become certified for the program, your company must substantiate that it: (1) is at least fifty-one percent (51%) owned, operated and controlled by a minority or woman and (2) is either located in New York City or has a significant tie to New York City's business community.

PROMPT PAYMENT

It is the policy of the City of New York to pay its bills promptly. The Procurement Policy Board Rules generally require that the City pay its bills within 30 days after the receipt of a proper invoice. The City now pays interest on all late invoices. The grace period that formerly existed was eliminated on July 1, 2000.

PROCUREMENT POLICY BOARD RULES

The Rules may also be accessed on the City Website, http://NYC.GOV.Selltency

COMMON ABBREVIATIONS USED IN THE CR

The CR contains many abbreviations. Listed below are simple explanations of some of the most common ones appearing in the CR:

- AB.....Acceptable Brands List
AC.....Accelerated Procurement
AMT.....Amount of Contract
BL.....Bidders List
CSB.....Competitive Sealed Bidding (including multi-step)
CB/PQ.....CB from Pre-qualified Vendor List
CP.....Competitive Sealed Proposal (including multi-step)
CP/PQ.....CP from Pre-qualified Vendor List
CR.....The City Record newspaper
DA.....Date bid/proposal documents available
DUE.....Bid/Proposal due date; bid opening date
EM.....Emergency Procurement
IG.....Intergovernmental Purchasing
LBE.....Locally Based Business Enterprise
M/WBE.....Minority/Women's Business Enterprise
NA.....Negotiated Acquisition
NOTICE.....Date Intent to Negotiate Notice was published in CR
OLB.....Award to Other Than Lowest Responsible & Responsive Bidder/Proposer
PIN.....Procurement Identification Number
PPB.....Procurement Policy Board
PQ.....Pre-qualified Vendors List
RS.....Source required by state/federal law or grant
SCE.....Service Contract Short-Term Extension
DP.....Demonstration Project
SS.....Sole Source Procurement
ST/FED.....Subject to State &/or Federal requirements

KEY TO METHODS OF SOURCE SELECTION

The Procurement Policy Board (PPB) of the City of New York has by rule defined the appropriate methods of source selection for City procurement and reasons justifying their use. The CR procurement notices of many agencies include an abbreviated reference to the source selection method utilized. The following is a list of those methods and the abbreviations used:

- CSB.....Competitive Sealed Bidding (including multi-step)
Special Case Solicitations / Summary of Circumstances:
CP.....Competitive Sealed Proposal (including multi-step)
CP/1.....Specifications not sufficiently definite
CP/2.....Judgement required in best interest of City
CP/3.....Testing required to evaluate
CB/PQ/4.....
CP/PQ/4.....CB or CP from Pre-qualified Vendor List/ Advance qualification screening needed
DP.....Demonstration Project
SS.....Sole Source Procurement/only one source
RS.....Procurement from a Required Source/ST/FED
NA.....Negotiated Acquisition
For ongoing construction project only:
NA/8.....Compelling programmatic needs
NA/9.....New contractor needed for changed/additional work
NA/10.....Change in scope, essential to solicit one or limited number of contractors
NA/11.....Immediate successor contractor required due to termination/default
For Legal services only:
NA/12.....Specialized legal devices needed; CP not advantageous

WA.....Solicitation Based on Waiver/Summary of Circumstances (Client Services/BSB or CP only)

- WA1.....Prevent loss of sudden outside funding
WA2.....Existing contractor unavailable/immediate need
WA3.....Unsuccessful efforts to contract/need continues
IG.....Intergovernmental Purchasing (award only)
IG/F.....Federal
IG/S.....State
IG/O.....Other
EM.....Emergency Procurement (award only) An unforeseen danger to:
EM/A.....Life
EM/B.....Safety
EM/C.....Property
EM/D.....A necessary service
AC.....Accelerated Procurement/markets with significant short-term price fluctuations
Award to Other Than Lowest Responsible & Responsive Bidder / Proposer / Reason (award only)
SCE.....Service Contract Extension/insufficient time; necessary service; fair price
Award to Other Than Lowest Responsible & Responsive Bidder / Proposer / Reason (award only)
OLB/a.....anti-apartheid preference
OLB/b.....local vendor preference
OLB/c.....recycled preference
OLB/d.....other: (specify)

HOW TO READ CR PROCUREMENT NOTICES

Procurement Notices in the CR are arranged by alphabetically listed Agencies, and within Agency, by Division if any. The notices for each Agency (or Division) are further divided into three subsections: Solicitations, Awards; and Lists & Miscellaneous notices. Each of these subsections separately lists notices pertaining to Goods, Services, or Construction.

Notices of Public Hearings on Contract Awards appear at the end of the Procurement Section. At the end of each Agency (or Division) listing is a paragraph giving the specific address to contact to secure, examine and/or to submit bid or proposal documents, forms, plans, specifications, and other information, as well as where bids will be publicly opened and read. This address should be used for the purpose specified UNLESS a different one is given in the individual notice. In that event, the directions in the individual notice should be followed. The following is a SAMPLE notice and an explanation of the notice format used by the CR.

SAMPLE NOTICE:

POLICE

DEPARTMENT OF YOUTH SERVICES

SOLICITATIONS

Services (Other Than Human Services)

BUS SERVICES FOR CITY YOUTH PROGRAM - Competitive Sealed Bids - PIN# 056020000293 - DUE 04-21-03 AT 11:00 A.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

NYPD, Contract Administration Unit, 51 Chambers Street, Room 310, New York, NY 10007. Manuel Cruz (646) 610-5225.

ITEM

EXPLANATION

- POLICE DEPARTMENT Name of contracting agency
DEPARTMENT OF YOUTH SERVICES Name of contracting division
SOLICITATIONS Type of Procurement action
Services (Other Than Human Services) Category of procurement
BUS SERVICES FOR CITY YOUTH PROGRAM Short Title
CSB Method of source selection
PIN # 056020000293 Procurement identification number
DUE 04-21-03 AT 11:00 am Bid submission due 4-21-03 by 11:00 am; bid opening date/time is the same.
Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents; etc. Paragraph at the end of Agency Division listing giving contact information or submit bid/information and Agency Contact address
NYPD, Contract Administration Unit 51 Chambers Street, Room 310 New York, NY 10007. Manuel Cruz (646) 610-5225.
Indicates New Ad
m27-30 Date that notice appears in City Record

NUMBERED NOTES

Numbered Notes are Footnotes. If a Numbered Note is referenced in a notice, the note so referenced must be read as part of the notice. 1. All bid deposits must be by company certified check or money order made payable to Agency or Company.