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THE CITY RECORD
BILL DE BLASIO
Mayor

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Commissioner, Department of Citywide Administrative Services

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Editor, The City Record

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PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

CHARTER REVISION COMMISSION

■ MEETING

The City's Charter Revision Commission will hold a public meeting on Tuesday, June 12, 2018. The issue forum will feature experts to discuss Election Administration, Voter Participation, and Voting Access. The meeting will be held, at 125 Worth Street, 2nd Floor Auditorium. This meeting is open to the public. Because this is a public meeting and not a public hearing, the public will have the opportunity to observe the Commission's discussions, but not testify before it.

What if I need assistance to participate in the meeting? This location is accessible to individuals using wheelchairs, or other mobility devices. Induction loop systems and ASL interpreters will be available. In addition, with advance notice, members of the public may request language interpreters. Please make language interpretation requests or additional accessibility requests by 5:00 P.M., no later than Friday, June 8, 2018, by emailing the Commission, at requests@charter.nyc.gov or calling (212) 386-5350.

A livestream video of this meeting will be available at nyc.gov/charter.

Accessibility questions: requests@charter.nyc.gov (212) 386-5350, by Friday, June 8, 2018, 5:00 P.M

j7-12

NOTICE OF ISSUE FORUM

The City's Charter Revision Commission will hold an issue forum, on Thursday, June 14, 2018. The issue forum will feature experts to discuss Campaign Finance. The meeting will be held at NYU's D'Agostino Hall, 108 West Third Street. This meeting is open to the public. Because this is a public meeting and not a public hearing, the public will have the opportunity to observe the Commission's discussions, but not testify before it.

What if I need assistance to participate in the meeting? This location is accessible to individuals using wheelchairs or other mobility devices. Induction loop systems, ASL interpreters, and Spanish interpreters will be available. In addition, with advance notice, members of the public may request language interpreters. Please make language interpretation requests or additional accessibility requests by 5:00 P.M., no later than Monday, June 11, 2018, by emailing the Commission at requests@charter.nyc.gov or calling (212) 386-5350.

A livestream video of this meeting will be available at nyc.gov/charter.

Accessibility questions: requests@charter.nyc.gov, (212) 386-5350, by: Monday, June 11, 2018, 5:00 P.M.

j8-14

CITY PLANNING COMMISSION

■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN, that resolutions have been adopted by the City Planning Commission, scheduling a public hearing on the following matters, to be held at NYC City Planning Commission Hearing Room, Lower Concourse, 120 Broadway, New York, NY, on Wednesday, June 13, 2018, at 10:00 A.M.

BOROUGH OF THE BRONX
No. 1
LSSNY EARLY LIFE CENTER 1/BRONXWORKS SENIOR CENTER

CD 5 **C 150314 PQX**

IN THE MATTER OF an application submitted by the Administration for Children's Services, the Department for the Aging, and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at 80 East 181st Street (Block 3178, Lot 32) for continued use as a child care center and a senior center.

BOROUGH OF MANHATTAN
No. 2
BALTON COMMONS

CD 10 **C 180249 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 263-267 West 126th Street (Block 1932, Lots 5, 7 and 107), 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 a 7-story building containing residential, community facility and commercial space.

BOROUGH OF BROOKLYN
Nos. 3 & 4
1601 DEKALB AVENUE REZONING
No. 3

CD 4 **C 180148 ZMK**

IN THE MATTER OF an application submitted by 1601 DeKalb Avenue Owner LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 13b:

1. changing from an R6 District to an R6B District property, bounded by Hart Street, a line 400 feet northeasterly of Irving Avenue, DeKalb Avenue, and a line 350 feet northeasterly of Irving Avenue;
2. changing from an M1-1 District to an R7A District property, bounded by Hart Street, Wyckoff Avenue, DeKalb Avenue, and a line 400 feet northeasterly of Irving Avenue; and
3. establishing within the proposed R7A District a C2-4 District bounded by Hart Street, Wyckoff Avenue, DeKalb Avenue, and a line 100 feet southwesterly of Wyckoff Avenue;

as shown on a diagram (for illustrative purposes only), dated February 12, 2018, and subject to the conditions of CEQR Declaration E-465.

No. 4

CD 4 **N 180149 ZRK**

IN THE MATTER OF an application submitted by 1601 DeKalb Avenue Owner, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

Matter underlined is new, to be added;
Matter ~~struck out~~ is to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution.

* * *

APPENDIX F
Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

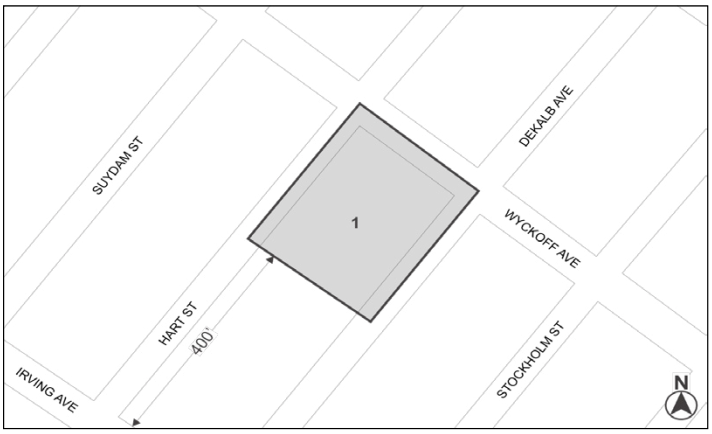
BROOKLYN

* * *

Brooklyn Community District 4

* * *

Map 2 - [date of adoption]



Mandatory Inclusionary Housing Program Area *see Section 23-154(d)(3)*

Area **1** [date of adoption] — MIH Program Option 1 and Option 2

Portion of Community District 4, Brooklyn

* * *

Nos. 5, 6 & 7
80 FLATBUSH AVENUE REZONING
No. 5

CD 2 **C 180216 ZMK**

IN THE MATTER OF an application submitted by New York City Educational Construction Fund and 80 Flatbush Avenue, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c, changing from a C6-2 District to a C6-9 District property, bounded by the southeasterly centerline prolongation of Schermerhorn Street, Flatbush Avenue, State Street and 3rd Avenue, as shown on a diagram (for illustrative purposes only) dated February 26th, 2018.

No. 6

CD 2 **N 180217 ZRK**

IN THE MATTER OF an application submitted by the New York City Education Construction Fund and 80 Flatbush Avenue, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Article VII, Chapter 4 (Special Permits by the City Planning Commission) relating to modifications of the special permit for school construction in the Special Downtown Brooklyn District, modifying Article X, Chapter 1 (Special Downtown Brooklyn District) and modifying Appendix F (Inclusionary Housing Designated Areas) for the purpose of establishing a Mandatory Inclusionary Housing area.

Matter underlined is new, to be added;
Matter ~~struck out~~ is to be deleted;
Matter within # # is defined in Section 12-10;
*** indicates where unchanged text appears in the Zoning Resolution

ARTICLE VII
ADMINISTRATION
Chapter 4
Special Permits by the City Planning Commission

* * *

74-75
Educational Construction Fund Projects

74-751
Educational Construction Fund in certain districts

In R5, R6, R7, R8, R9 or R10 Districts, in C1 or C2 Districts mapped within such #Residence Districts#, or in C1-6, C1-7, C1-8, C1-9, C2-6, C2-7, C2-8, C4, C5, C6 or C7 Districts, for combined #school# and #residences# including air rights over #schools# built on a #zoning lot# owned by the New York City Educational Construction Fund, the City Planning Commission may permit utilization of air rights; modify the requirements that open area be accessible to and usable by all persons occupying a #dwelling unit# or #rooming unit# on the #zoning lot# in order to qualify as #open space#; permit ownership, control of access and maintenance of portions of the #open space# to be vested in the New York City Educational Construction Fund or City agency successor in title; permit modification of #yard# regulations and height and setback regulations; permit the distribution of #lot coverage# without regard for #zoning lot lines# for a #zoning lot# containing the Co-Op Tech High School in Manhattan Community District 11; authorize the total #floor area#, #open space#, #dwelling units# or

#rooming units# permitted by the applicable district regulations on such site to be distributed without regard for district boundaries; and authorize an increase of 25 percent in the number of #dwelling units# or #rooming units# permissible under the applicable district regulations. For the purposes of this Section, a #zoning lot# owned by the New York City Educational Construction Fund may also include a tract of land under single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section 12-10, when such tract of land includes a parcel which was the site of a public school listed in the following table.

School	Community District
P.S. 151	CD 8, Manhattan

The total number of #dwelling units# or #rooming units# and #residential floor area# shall not exceed that permissible for a #residential building# on the same #zoning lot#.

The distribution of #bulk# on the #zoning lot# shall permit adequate access of light and air to the surrounding #streets# and properties.

As further conditions for such modifications:

(a) the #school# and the #residence# shall be #developed# as a unit in accordance with a plan approved by the Commission;

(b) at least 25 percent of the total #open space# required by the applicable district regulations, or such greater percentage as may be determined by the Commission to be the appropriate minimum percentage, shall be accessible exclusively to the occupants of such #residence# and under the direct control of its management;

(c) notwithstanding the provisions of Section 23-12 (Permitted Obstructions in Open Space), none of the required #open space# shall include driveways, private streets, open #accessory# off-street parking spaces or open #accessory# off-street loading berths; and

(d) the Commission shall find that:

(1) a substantial portion of the #open space# which is not accessible exclusively to the occupants of such #residence# will be accessible and usable by them on satisfactory terms part-time;

(2) playgrounds, if any, provided in conjunction with the #school# will be so designed and sited in relation to the #residence# as to minimize any adverse effects of noise; and

(3) all #open space# will be arranged in such a way as to minimize friction among those using #open space# of the #buildings or other structures# on the #zoning lot#.

The Commission shall give due consideration to the landscape design of the #open space# areas. The Commission shall also give due consideration to the relationship of the #development# to the #open space# needs of the surrounding area and may require the provision of a greater amount of total #open space# than the minimum amount required by the applicable district regulation where appropriate for the purpose of achieving the #open space# objectives of the #Residence District# regulations.

The Commission may prescribe other appropriate conditions and safeguards to enhance the character of the surrounding area.

74-752
Educational Construction Fund projects in certain areas

In C6-9 Districts within the #Special Downtown Brooklyn District#, for #developments#, #enlargements# or #conversions# that include one or more #schools# on a tract of land owned by the New York City Educational Construction Fund, the City Planning Commission may permit the modifications set forth in Paragraph (a) of this Section. For the purposes of this Section, a tract of land owned by the New York City Educational Construction Fund may also include a tract of land under single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section 12-10, when such tract of land includes a parcel which was the site of a public school.

(a) Modifications

The Commission may modify:

(1) applicable ground floor #use# regulations;

(2) in a #Mandatory Inclusionary Housing area#, the affordable housing requirements of Paragraph (d) of Section 23-154 (Inclusionary Housing);

(3) other #bulk# regulations, except that the maximum permitted #floor area ratio# may not be increased; and

(4) #accessory# off-street parking and loading berth requirements.

(b) Findings

To grant a special permit, pursuant to this Section, the Commission shall find that:

(1) such modifications will facilitate the construction of one or more #schools# on the #zoning lot#;

(2) such ground floor #use# modifications will improve the layout and design of the #school# or #schools#, shall not have an adverse effect on the #uses# located within any portion of the #zoning lot# and will not impair the essential character of the surrounding area;

(3) such modifications to the affordable housing requirements in a #Mandatory Inclusionary Housing area# will facilitate significant public infrastructure or public facilities, including one or more #schools#, addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#;

(4) such #bulk# modifications will result in a better site plan for the #school# or #schools# and will have minimal adverse effects on the surrounding area;

(5) such parking and loading modifications will improve the layout and design of the school and will not create serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not impair or adversely affect the development of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

ARTICLE X
SPECIAL PURPOSE DISTRICTS

Chapter 1
Special Downtown Brooklyn District

* * *

101-05
Applicability of Special Permits by the Board of Standards and Appeals

Within the #Special Downtown Brooklyn District#, Section 73-68 (Height and Setback and Yard Modifications) shall not be applicable.

* * *

101-21
Special Floor Area and Lot Coverage Regulations

R7-1 C6-1 C6-4.5 C6-6 C6-9

* * *

(e) In C6-9 Districts

In C6-9 Districts, the maximum permitted #floor area ratio# for #commercial# or #community facility uses# shall be 18.0, and the maximum #residential floor area ratio# shall be 12.0. No #floor area# bonuses shall be permitted.

* * *

101-22
Special Height and Setback Regulations

The height of all #buildings or other structures# shall be measured from the #base plane#. The provisions of Section 101-221 (Permitted Obstructions) shall apply to all #buildings# within the #Special Downtown Brooklyn District#.

In R7-1, C5-4, C6-1, ~~and~~ C6-4 and C6-9 Districts, except C6-1A Districts, the underlying height and setback regulations shall not apply. In lieu thereof, all #buildings or other structures# shall comply with the provisions of Section 101-222 (Standard height and setback regulations) or, as an option where applicable, Section 101-223 (Tower regulations). #Buildings or other structures# within the Flatbush Avenue Extension and Schermerhorn Street Height Limitation Areas shall comply with the provisions of Section 101-30 (SPECIAL PROVISIONS WITHIN HEIGHT LIMITATION AREAS). However, the underlying height and setback regulations shall apply to any #Quality Housing building#, except that Quality Housing height and setback regulations shall not be applicable within any R7-1 District mapped within a C2-4 District.

* * *

101-222
Standard Height and Setback Regulations

C2-4/R7-1 C6-1 C6-4.5 C6-6 C6-9

* * *

MAXIMUM BASE HEIGHTS AND MAXIMUM BUILDING HEIGHTS IN C2-4/R7-1, C6-1, C6-4.5, ~~AND~~ C6-6 AND C6-9 DISTRICTS

	Maximum Base Height		Maximum #building# Height	
District	Beyond 100 feet of a #wide street#	Within 100 feet of a #wide street#	Beyond 100 feet of a #wide street#	Within 100 feet of a #wide street#
C2-4/R7-1	85	85	160	160
C6-1	125	150	185	210
C6-4.5 C6-6 C6-9	125	150	250	250

* * *

101-223
Tower regulations

C5-4 C6-1 C6-4 C6-6 C6-9

* * *

(d) Maximum #building# height

In C6-1 Districts, the maximum height of a #building or other structure# shall be 495 feet. No height limit shall apply within a C5-4, C6-4, ~~or~~ C6-6 or C6-9 District.

* * *

APPENDIX F

Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

BROOKLYN

* * *

Brooklyn Community District 2

* * *

Map 8 – [date of adoption]

Mandatory Inclusionary Housing Area (MIHA) - *see Section 23-154(d)(3)*

Area **5** — [date of adoption] — MIH Program Option 1 and Option 2

Portion of Community District 2, Brooklyn

* * *

No. 7

CD 2 **C 180218 ZSK**

IN THE MATTER OF an application submitted by New York City Educational Construction Fund and 80 Flatbush Avenue, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit, pursuant to Sections 74-752* of the Zoning Resolution to modify:

1. the use regulations of Section 101-11 (Special Ground Floor Use Regulations);
2. the affordable housing requirements of Section 23-154 (Inclusionary Housing) and Section 23-90 (Inclusionary Housing);
3. the bulk requirements of Section 101-223* (Tower Regulations) and Section 101-41 (Special Street Wall Location Regulations);
4. the requirements of Section 101-50 (Off-Street Parking and Off-Street Loading Regulations) and Section 25-23 (Requirements Where Group Parking Facilities Are Provided) to waive all required accessory parking; and
5. the requirements of Section 36-62 (Required Accessory Off-street Loading Berths) to waive one required loading berth;

in connection with a proposed mixed-use development, on property located at 80 Flatbush Avenue (Block 174, Lots 1, 9, 13, 18, 23 & 24), in a C6-9** District, within the Special Downtown Brooklyn District.

*Note: A zoning text amendment is proposed to create a new Section 74-752 and to change Section 101-223 of the Zoning Resolution under a concurrent related application (N 180217 ZRK).

**Note: This site is proposed to be rezoned by changing a C6-2 District to C6-9 District under a concurrent related application for a Zoning Map change (C 180216 ZMK).

Plans for this proposal are on file with the City Planning Commission and may be seen at 120 Broadway, 31st Floor, New York, NY 10271-0001.

NOTICE

On Wednesday June 13, 2018, at 10:00 A.M., at the CPC Public Hearing Room, located at 120 Broadway, Lower Concourse in Lower Manhattan, a public hearing is being held by the City Planning Commission to receive comments related to a Draft Environmental Impact Statement (DEIS) concerning an application by the New York City Educational Construction Fund (ECF) for approval of several discretionary actions (ULURP Nos. C180216 ZMK, N180217 ZRK and C180218 ZSK), including a zoning map amendment, zoning text amendments, and a special permit.

The proposed actions would facilitate a proposal by the applicant to construct an approximately 1.1 million square foot mixed-use development containing two schools, retail, office and residential units at 80 Flatbush Avenue (Block 174, Lots 1, 9, 13, 18, 23, 24) in Brooklyn, Community District 2.

Written comments on the DEIS are requested and will be received and considered by ECF, the Lead Agency, through Monday, June 25, 2018.

This hearing is being held, pursuant to the State Environmental Quality Review Act (SEQRA) and City Environmental Quality Review (CEQR), CEQR No. 17ECF001K.

YVETTE V. GRUEL, Calendar Officer
City Planning Commission
120 Broadway, 31st Floor, New York, NY 10271
Telephone (212) 720-3370

m30-j13

COMMUNITY BOARDS

■ **PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN that the following matters have been scheduled for public hearing by Community Board:

BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 10 - Monday, June 18, 2018, 7:00 P.M., Fort Hamilton Senior Center, 9941 Fort Hamilton Parkway, Brooklyn, NY.

DCA Application #2037225-DCA
IN THE MATTER OF a renewal application for an enclosed sidewalk cafe with 7 tables and 14 chairs, for Pasticceria Rocco, 9402 4th Avenue.

BSA Calendar No. 2018-67-BZ, 7406 5th Avenue, Brooklyn, NY. Application submitted for the property, at 7406 5th Avenue, filed to seek a special permit to legalize a one story horizontal enlargement at the rear of an existing three story and cellar mixed use commercial and residential building, located within a R6B/Cl-3 zoning district. The enlargement is contrary to the maximum floor area ratio (FAR} permitted, pursuant to ZR Section 23-153.

☛ **j12-18**

NOTICE IS HEREBY GIVEN that the following matters have been scheduled for public hearing by Community Board:

BOROUGH OF MANHATTAN

COMMUNITY BOARD NO. 11 - Wednesday, June 13, 2018, 6:00 P.M., Bonifacio Senior Center, 7 East 116th Street, New York City, NY.

N180349 ZRY
M1 Hotel Text Amendment
IN THE MATTER OF an application submitted by the New York City Department of City Planning who proposes a zoning text amendment,

to establish restrictions on new hotel developments with in M1 (light manufacturing) districts Citywide, to ensure that sufficient opportunities to support industrial, commercial, and institutional growth remain, and that hotels are built on appropriate sites. The proposed text amendment would apply to all M1 districts, excluding MX or paired M1/R districts, as well as M1 districts that include or are adjacent to airport property. In addition, M1 districts with existing hotel Special Permit provisions would be excluded.

j7-13

NOTICE IS HEREBY GIVEN that the following matters have been scheduled for public hearing by Community Board:

BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 12 - Thursday, June 14, 2018, 7:00 P.M., 5910 13th Avenue, Brooklyn, NY.

IN THE MATTER OF an application submitted by 39 Group Inc., pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 22c: changing from an M1-2 district to an R7A district property bounded by 39th Street, New Utrecht Avenue a line midway between 39th Street and 40th Street and 9th Avenue; and establishing within the proposed R7A district a C2-4 district bounded by 39th Street New Utrecht Avenue, a line midway between 39th Street and 40th Street and 9th Avenue.

j8-14

NOTICE IS HEREBY GIVEN that the following matters have been scheduled for public hearing by Community Board:

BOROUGH OF QUEENS

COMMUNITY BOARD NO. 04 - Tuesday, June 12, 2018, 7:00 P.M., VFW Post #150, 51-11 108th Street, Corona, NY.

Pursuant to S1731 of the New York City School Construction Authority Act, notice has been filed for the proposed site selection of a portion of Block 2108, portion of Lot l, located in the Borough of Queens, for the construction of a new, approximately 306-seat Universal Pre-Kindergarten facility in Community School District 24. The proposed site is located within Flushing Meadows-Corona Park and contains approximately 43,515 square feet of lot area, it is located just northwest of the New York Hall of Science building, at 46-01 111th Street, in the Corona section of Queens.

j6-12

NOTICE IS HEREBY GIVEN that the following matters have been scheduled for public hearing by Community Board:

BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 08 - Thursday, June 14, 2018, 7:00 P.M., Concern Rochester, 151 Rochester Avenue, Brooklyn, NY.

#C160363 PQK
Friends of Crown Heights 16
IN THE MATTER OF an application submitted by the Administration for Children's Services and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at, 963 Park Place (Block 1235, Lot 58) for continued use as a child care facility.

j8-14

NOTICE IS HEREBY GIVEN that the following matters have been scheduled for public hearing by Community Board:

BOROUGH OF THE BRONX

COMMUNITY BOARD NO. 10 - Monday, June 18, 2018, 7:00 P.M., 2049 Bartow Avenue, Room 31, Bronx, NY.

#C180346 PSX
Bronx Full Service Animal Shelter
IN THE MATTER OF an application submitted by the Department of Health and Mental Hygiene and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the site selection of property, located at 2050 Bartow Avenue (Block 5141, p/o Lot 1085), for a full service animal shelter, veterinary clinic and accompanying office space.

#N180349 ZRY
IN THE MATTER OF proposed M1 Hotel Text Amendment which would introduce a Special Permit under the Jurisdiction of the City Planning Commission for new hotels, motels, tourist cabins, and boatels in Light Manufacturing (M1) districts Citywide.

☛ **j12-18**

BOARD OF CORRECTION

■ **MEETING**

Please take note that the next meeting of the Board of Correction, will be held on June 12th, at 9:00 A.M. The location of the meeting, will be 125 Worth Street, New York, NY 10013, in the Auditorium, on the 2nd Floor.

At that time, there will be a discussion of various issues concerning New York City's correctional system.

j6-12

EMERGENCY MANAGEMENT

■ **MEETING**

NOTICE OF PUBLIC MEETING

Annual Meeting of the Local Emergency Planning Committee (LEPC)

Friday, June 15, 2018
10:00 A.M. to 12:00 P.M.
New York City Emergency Management
165 Cadman Plaza East
Brooklyn, NY 11201

Due to limited space, you must **RSVP** to attend this event.

To RSVP and request an accommodation, please email nycoemlegal@oem.nyc.gov, or call (718) 422-4800.

Photo identification is required for admission.

j8-15

EMPLOYEES' RETIREMENT SYSTEM

■ **MEETING**

Please be advised that the next Regular Meeting of the Board of Trustees of the New York City Employees' Retirement System has been scheduled for Thursday, June 14, 2018, at 9:30 A.M.

To be held at the New York City Employees' Retirement System, 335 Adams Street, 22nd Floor, Boardroom, Brooklyn, NY 11201-3751.

Melanie Whinnery, Executive Director

j7-13

HOUSING AUTHORITY

■ **MEETING**

The next Board Meeting of the New York City Housing Authority is scheduled for Wednesday, June 27, 2018, at 10:00 A.M., in the Board Room, on the 12th Floor, of 250 Broadway, New York, NY (unless otherwise noted). Copies of the Calendar are available on NYCHA's website, or can be picked up at the Office of the Corporate Secretary, at 250 Broadway, 12th Floor, New York, NY, no earlier than 24 hours before the upcoming Board Meeting. Copies of the Minutes are also available on NYCHA's website, or can be picked up at the Office of the Corporate Secretary, no earlier than 3:00 P.M., on the Thursday after the Board Meeting.

Any changes to the schedule will be posted here and on NYCHA's website, at http://www1.nyc.gov/site/nycha/about/board-calendar.page, to the extent practicable, at a reasonable time before the meeting.

The meeting is open to the public. Pre-Registration at least 45 minutes before the scheduled Board Meeting, is required by all speakers. Comments are limited to the items on the Calendar. Speaking time will be limited to three minutes. The public comment period will conclude upon all speakers being heard or at the expiration of 30 minutes allotted by law for public comment, whichever occurs first.

Accessibility questions: Office of the Corporate Secretary (212) 306-6088, corporate.secretary@nycha.nyc.gov, by: Wednesday, June 13, 2018, 5:00 P.M.

Large Print

j6-27

The next Audit Committee Meeting of the New York City Housing Authority is scheduled for Thursday, June 14, 2018, at 10:00 A.M., in the Board Room on the 12th Floor of 250 Broadway, New York, NY. Copies of the Agenda are available on NYCHA's website or can be picked up at the Office of the Audit Director, at 250 Broadway, 3rd Floor, New York, NY, no earlier than 24 hours before the upcoming Audit Committee Meeting. Copies of the Minutes are also available on NYCHA's website or can be picked up at the Office of the Audit Director, no later than 3:00 P.M. on the Monday after the Audit Committee approval in a subsequent Audit Committee Meeting.

Accessibility questions: Paula Mejia - (212) 306-3441, by: Wednesday, June 13, 2018, 3:00 P.M.

♿

j4-14

INDEPENDENT BUDGET OFFICE

■ **NOTICE**

The New York City Independent Budget Office Advisory Board, will hold a meeting on Wednesday, June 20, beginning at 8:30 A.M., at the offices of the NYC Independent Budget Office, 110 William Street, 14th Floor. There will be an opportunity for the public to address the advisory board during the public portion of the meeting.

Accessibility questions: Doug Turetsky (212) 442-0629, dougt@ibo.nyc.ny.us, by: Monday, June 18, 2018, 4:00 P.M.

♿

j11-19

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 25-303, 25-307, 25-308, 25-309, 25-313, 25-318, 25-320) on Tuesday, June 19, 2018, a public hearing will be held, at 1 Centre Street, 9th Floor, Borough of Manhattan with respect to the following properties and then followed by a public meeting. The final order and estimated times for each application will be posted on the Landmarks Preservation Commission website, the Friday before the hearing. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting should contact the Landmarks Commission no later than five (5) business days before the hearing or meeting.

181 Lincoln Place - Park Place Historic District
LPC-19-26180 - Block 1059 - Lot 64 - **Zoning:** R7B
CERTIFICATE OF APPROPRIATENESS
A complex of school buildings including the original Neo-Jacobean style Berkeley Institute, designed by Walker and Morris and built in 1896, and a gymnasium designed by John Burke and built in 1937-38. Application is to construct a security booth adjacent to the entrance of a c. 1990 addition.

630 Bergen Street - Prospect Heights Historic District
LPC-19-23891 - Block 1144 - Lot 47 - **Zoning:** R7A
CERTIFICATE OF APPROPRIATENESS
A Romanesque Revival style flats building, designed by Timothy A. Remsen and built c. 1894. Application is to legalize the replacement of windows without Landmarks Preservation Commission permits.

626 Vanderbilt Avenue - Prospect Heights Historic District
LPC-19-21958 - Block 1158 - Lot 45 - **Zoning:** R7A
CERTIFICATE OF APPROPRIATENESS
A Renaissance Revival style flats building with a commercial ground floor, designed by Henry Pohlman and built c. 1902. Application is to replace storefront infill, and reclad an existing awning.

877 Southern Boulevard - Individual Landmark
LPC-19-26059 - Block 2722 - Lot 63 - **Zoning:** R7-1
BINDING REPORT
A Classical style library building, designed by Carrère & Hastings and Built in 1929. Application is to install a rooftop stair bulkhead, rooftop mechanical equipment, replace windows, and install barrier-free access ramps.

176 Lafayette Street - SoHo-Cast Iron Historic District Extension
LPC-19-19849 - Block 473 - Lot 45 - **Zoning:** M1-5B
CERTIFICATE OF APPROPRIATENESS
An Italianate style store and tenement building, designed by Detlef Lienau and built in 1879. Application is to establish a Master Plan governing the future installation of painted wall signs.

254 West 4th Street - Greenwich Village Historic District
LPC-19-20358 - Block 621 - Lot 61 - **Zoning:** R6
CERTIFICATE OF APPROPRIATENESS
A garage, designed by J.M. Felson and built in 1923. Application is to legalize rooftop fencing and ground floor infill installed without Landmarks Preservation Commission Permit(s); and to install a planter box.

281 Park Avenue South - Individual Landmark
LPC-19-26124 - Block 877 - Lot 89 - **Zoning:** C6-4A
CERTIFICATE OF APPROPRIATENESS
A Gothic style religious and charitable-institution building, designed by Robert Williams Gibson and Edward J. Neville Stent and built in 1892-94. Application is to remove a stained glass window, modify a fire stair, and construct a rear elevator enclosure and rooftop mechanical additions.

186 Fifth Avenue - Ladies' Mile Historic District
LPC-19-26073 - Block 824 - Lot 7501 - **Zoning:** C6-4M
CERTIFICATE OF APPROPRIATENESS
A Queen Anne style office building, designed by Henry J. Hardenbergh and built in 1883. Application is to replace the storefront and install signage.

78 Irving Place - Gramercy Park Historic District
LPC-19-24865 - Block 874 - Lot 7505 - **Zoning:** R8B
CERTIFICATE OF APPROPRIATENESS
A Classical American style apartment building, designed by Israels & Harden and built in 1899. Application is to replace windows.

600 West End Avenue - Riverside - West End Historic District
LPC-19-24505 - Block 1237 - Lot 1 - **Zoning:** R10A
CERTIFICATE OF APPROPRIATENESS
A Neo-Renaissance style apartment building, designed by Schwartz and Gross and built in 1910-11. Application is to install HVAC equipment.

341 West 87th Street - Riverside - West End Historic District
LPC-19-21667 - Block 1249 - Lot 15 - **Zoning:** R8
CERTIFICATE OF APPROPRIATENESS
A Renaissance Revival style rowhouse, designed by Alexander M. Welch and built in 1895-96. Application is to replace a door and transom.

47 West 94th Street - Upper West Side/Central Park West Historic District
LPC-19-24355 - Block 1208 - Lot 16 - **Zoning:** R7-2
CERTIFICATE OF APPROPRIATENESS
A Queen Anne style rowhouse, designed by Henry Palmer and built in 1890-91. Application is to construct rooftop and rear yard additions.

381 West End Avenue - West End - Collegiate Historic District
LPC-19-20490 - Block 1186 - Lot 74 - **Zoning:** R10A
CERTIFICATE OF APPROPRIATENESS
A Flemish Renaissance Revival Style rowhouse, designed by Frederick White and built in 1885-1886. Application is to construct a rooftop addition and replace windows.

122 East 93rd Street - Expanded Carnegie Hill Historic District
LPC-19-24168 - Block 1521 - Lot 163 - **Zoning:** R8B
CERTIFICATE OF APPROPRIATENESS
A Neo-Grec style rowhouse, designed by Thomas H. McAvoy, built in 1877-1878 and altered in 1929. Application is to alter the front façade and install a wall and fence at the areaway.

435 West 147th Street - Hamilton Heights/Sugar Hill Historic District
LPC-19-24386 - Block 2062 - Lot 120 - **Zoning:** R6A
CERTIFICATE OF APPROPRIATENESS
A Renaissance/Romanesque Revival style rowhouse, designed by F. S. Schlesinger and built in 1892-3. Application is to modify masonry openings and construct a rear deck.

125 West 120th Street - Mount Morris Park Historic District Extension
LPC-19-22442 - Block 1905 - Lot 18 - **Zoning:** R7-2
CERTIFICATE OF APPROPRIATENESS
A Renaissance Revival/Romanesque Revival style rowhouse, designed by Theodore E. Thomson and built c. 1895-96. Application is to construct rear yard additions.

203 West 138th Street - St. Nicholas Historic District
LPC-19-20643 - Block 2024 - Lot 28 - **Zoning:** R7-2, C1-4
CERTIFICATE OF APPROPRIATENESS
A Georgian Eclectic style rowhouse, designed by Bruce Price and Clarence S. Luce and built in 1891. Application is to replace a rear garden wall and install a vehicular door.

234 West 139th Street - St. Nicholas Historic District
LPC-19-7981 - Block 2024 - Lot 49 - **Zoning:** R7-2
CERTIFICATE OF APPROPRIATENESS
An Eclectic Georgian style rowhouse, designed by Bruce Price and Clarence S. Luce and built in 1891. Application is to legalize the construction of a garage without Landmarks Preservation Commission permits(s).

j6-19

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 25-303, 25-307, 25-308, 25-309, 25-313, 25-318, 25-320) on Tuesday, June 12, 2018, a public hearing will be held, at 1 Centre Street, 9th Floor, Borough of Manhattan with respect to the following properties and then followed by a public meeting. The final order and estimated times for each application will be posted on the Landmarks Preservation Commission website the Friday before the hearing. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting should contact the Landmarks Commission no later than five (5) business days before the hearing or meeting.

34-47 87th Street - Jackson Heights Historic District
LPC-18-7842 - Block 1448 - Lot 43 - **Zoning:**
CERTIFICATE OF APPROPRIATENESS
An Anglo-American Garden Home/Neo-Georgian style house, designed by Robert Tappan and built in 1925. Application is to legalize window replacement, areaway alterations and installation of mechanical equipment without Landmarks Preservation Commission permit(s).

147 St. Felix Street - Brooklyn Academy of Music Historic District
LPC-19-25436 - Block 2112 - Lot 1 - **Zoning:** R6B
MISCELLANEOUS - AMENDMENT
A vacant lot. Application is to modify the design of a previously approved building.

434 Vanderbilt Avenue - Fort Greene Historic District
LPC-19-21789 - Block 1959 - Lot 70 - **Zoning:** R6B
CERTIFICATE OF APPROPRIATENESS
A French Second Empire style house built c. 1866. Application is to legalize and modify façade reconstruction, and window replacement in non-compliance with Landmarks Preservation Commission approvals.

55 Washington Street - DUMBO Historic District
LPC-19-18116 - Block 38 - Lot 1 - **Zoning:** M1-2/RSA
CERTIFICATE OF APPROPRIATENESS
A Neo-Classical style factory building, designed by William Higginson and built in 1904. Application is to legalize construction of a rooftop terrace without Landmarks Preservation Commission permit(s).

14A St. James Place - Clinton Hill Historic District
LPC-17-3944 - Block 1932 - Lot 32 - **Zoning:** R6B
CERTIFICATE OF APPROPRIATENESS
A Neo-Grec style residence built between 1882 and 1886. Application is to legalize the recladding, modification, and expansion of a historic rear yard extension without Landmarks Preservation Commission permit(s).

471 Henry Street - Cobble Hill Historic District
LPC-19-20608 - Block 323 - Lot 12 - **Zoning:** R6
CERTIFICATE OF APPROPRIATENESS
An Italianate style rowhouse, built c. 1850. Application is to alter the front façade, stoop, and areaway walls.

475 8th Street - Park Slope Historic District Extension
LPC-18-7203 - Block 1088 - Lot 54 - **Zoning:** R6B
CERTIFICATE OF APPROPRIATENESS
A Neo-Grec style rowhouse, designed by Jefferson F. Wood and built in 1885. Application is to construct a rear yard addition.

851 Park Place - Crown Heights North Historic District II
LPC-19-18061 - Block 1234 - Lot 70 - **Zoning:** R6
CERTIFICATE OF APPROPRIATENESS
A Colonial Revival single-family residence, designed by Frank S. Lowe and built c. 1908. Application is to construct a rooftop addition, install a fire escape, and alter the rear façade.

552 Carlton Avenue - Prospect Heights Historic District
LPC-19-21442 - Block 1136 - Lot 52 - **Zoning:** R6B
CERTIFICATE OF APPROPRIATENESS
A Neo-Grec style rowhouse, designed by the Parfitt Brothers and built in 1877. Application is to construct rooftop and rear additions.

80-82 White Street, aka 5 Cortlandt Alley - Tribeca East Historic District
LPC-19-25588 - Block 195 - Lot 30 - **Zoning:** C6-2A
CERTIFICATE OF APPROPRIATENESS
An Italianate/Neo-Grec style store and loft building, designed by Henry Englebert and built in 1867-1868. Application is to install an entrance and modify a loading platform.

51 Greene Street - SoHo-Cast Iron Historic District
LPC-19-19633 - Block 475 - Lot 7504 - **Zoning:** M1-5B
CERTIFICATE OF APPROPRIATENESS
A store and loft building built in 1853-54. Application is to extend the fire escape and install a roof ladder.

224 Centre Street - Individual Landmark
LPC-19-22918 - Block 235 - Lot 13 - **Zoning:** M1-5B
CERTIFICATE OF APPROPRIATENESS
An Anglo-Italianate style institutional building, designed by Trench & Snook and built in 1847-48. Application is to install a barrier-free ramp, and replace storefront infill and doors.

14-16 Cornelia Street, aka 323-327 6th Avenue - Greenwich Village Historic District Extension II
LPC-19-25117 - Block 589 - Lot 19, 30, 31 - **Zoning:** R6, R7-2/C1-5
MISCELLANEOUS - AMENDMENT
A movie theater originally built as a church c. 1853 and subsequently altered; a residential and commercial two-story building built c. 1845, and later combined and altered as part of the adjacent movie theater; and a vacant lot. Application is to modify a Commission-approved new building, at 14-16 Cornelia Street, construct a rooftop addition on 327 6th Avenue, and alter the façades of 323-327 6th Avenue.

114 Prince Street - SoHo-Cast Iron Historic District
LPC-19-24002 - Block 500 - Lot 19 - **Zoning:** M1-5A
CERTIFICATE OF APPROPRIATENESS
A Neo-Grec style store building, designed by Richard Berger and built in 1889-90. Application is to alter the storefront and install signage.

430 West Broadway - SoHo-Cast Iron Historic District Extension
LPC-19-24580 - Block 502 - Lot 25 - **Zoning:** M1-5B
CERTIFICATE OF APPROPRIATENESS
A commercial building built in 1986 and redesigned, by Greenberg Farrow Architects in 1997. Application is to demolish the building and construct a new building.

405-409 West 13th Street - Gansevoort Market Historic District
LPC-19-24635 - Block 646 - Lot 49 - **Zoning:** M1-5
CERTIFICATE OF APPROPRIATENESS
An Arts and Crafts style store and loft building, designed by Charles H. Cullen and built in 1909. Application is to construct a rooftop addition and replace storefront infill.

209 West 23rd Street - Individual Landmark
LPC-19-18699 - Block 773 - Lot 38 - **Zoning:** C2-7A C6-3X
BINDING REPORT
A Neo-Classical style library building, designed by Carrere and Hastings and built in 1906. Application is to install rooftop mechanical equipment.

m30-j12

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 25-303, 25-307, 25-308, 25-309, 25-313, 25-318, 25-320) on Tuesday, June 26, 2018, at 9:30 A.M., a public hearing will be held, at 1 Centre Street, 9th Floor, Borough of Manhattan, with respect to the following properties and then followed by a public meeting. The final order and estimated times for each application will be posted on the Landmarks Preservation Commission website the Friday before the hearing. Please note that the order and estimated times are subject to change. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting, should contact the Landmarks Preservation Commission no later than five (5) business days before the hearing or meeting.

ITEMS FOR PUBLIC HEARING

Item No. 1
LP-2611
Hans S. Christian Memorial Kindergarten, 236 President Street, Brooklyn
Landmark Site: Borough of Brooklyn Tax Map, Block 351, Lot 10

Item No. 2
LP-2612
238 President Street House, 238 President Street, Brooklyn
Landmark Site: Borough of Brooklyn, Tax Map, Block 351, Lot 12.

Accessibility questions: Lorraine Roach-Steele (212) 669-7815, lroach-steele@lpc.nyc.gov, by: Tuesday, June 19, 2018, 4:00 P.M.

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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 25-303, 25-307, 25-308, 25-309, 25-313, 25-318, 25-320) on Tuesday, June 19, 2018, at 9:30 A.M., a public hearing will be held at 1 Centre Street, 9th Floor, Borough of Manhattan with respect to the following properties and then followed by a public meeting. The final order and estimated times for each application will be posted on the Landmarks Preservation Commission website the Friday before the hearing. Please note that the order and estimated times are subject to change. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting should contact the Landmarks Preservation Commission no later than five (5) business days before the hearing or meeting.

ITEM FOR PUBLIC HEARING

Item No. 1
LP-2600
550 MADISON AVENUE (former AT&T Corporate Headquarters Building later Sony Building), 550 Madison Avenue (aka 550-570 Madison Avenue, 13-29 East 55th Street, 14-28 East 56th Street), Manhattan
Landmark Site: Borough of Manhattan Tax Map Block 1291, Lot 10.

Accessibility questions: Lorraine Roach-Steele (212) 669-7815, by: Thursday, June 14, 2018, 4:00 P.M.

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j5-18

MAYOR'S OFFICE OF CONTRACT SERVICES

■ **MEETING**

FRANCHISE AND CONCESSION REVIEW COMMITTEE

-NOTICE OF MEETING-

PUBLIC NOTICE IS HEREBY GIVEN that the Franchise and Concession Review Committee, will hold a public meeting on Wednesday, June 13, 2018, at 2:30 P.M., at 2 Lafayette Street, 14th Floor Auditorium, New York, NY 10007.

NOTE: This location is accessible to individuals using wheelchairs or other mobility devices. For further information on accessibility or to make a request for accommodations, such as sign language interpretation services, please contact the Mayor's Office of Contract Services (MOCS), via email at DisabilityAffairs@mocs.nyc.gov, or via phone at (212) 788-0010. Any person requiring reasonable accommodation for the public meeting should contact MOCS at least three (3) business days in advance of the meeting to ensure availability

j4-13

RENT GUIDELINES BOARD

■ **NOTICE**

NOTICE IS HEREBY GIVEN that the New York City Rent Guidelines Board, will hold a public hearing **June 19, 2018,** at The Great Hall at Cooper Union, 7 East 7th Street (at the corner of 3rd Avenue), New York, NY, from 4:00 P.M. to 8:00 P.M., to consider public comments concerning proposed rent adjustments for renewal leases for apartments, lofts, hotels (including class A and class B hotels, SROs, rooming houses and lodging houses), and other housing units subject to the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974. These adjustments will affect renewal leases commencing between October 1, 2018 through September 30, 2019.

Registration of speakers is required and pre-registration is now being accepted and is advised. Pre-Registration requests for the hearing must be received before 12:00 P.M., one business day **prior** to the public hearing date. Speakers may also register to speak in person at the hearing until 8:00 P.M. For further information and to pre-register for the public hearing, call the Board at (212) 669-7480, or write to the NYC Rent Guidelines Board, 1 Centre Street, Suite 2210, New York, NY 10007. Spanish and Mandarin interpreters will be provided. Persons who request that a sign language interpreter, language interpreter other than Spanish or other form of reasonable accommodation for a disability be provided at the hearing, are requested to notify the RGB by June 12, 2018, at 4:30 P.M. This hearing venue is wheelchair accessible.

Proposed rent guidelines for all of the above classes of stabilized housing units were adopted on **April 26, 2018,** and published in the City Record on **May 7, 2018**. Copies of the proposed guidelines are available from the NYC Rent Guidelines Board office, at the above listed address, at the Board's website nyc.gov/rgb, or at rules.cityofnewyork.us.

j7-18

NOTICE IS HEREBY GIVEN that the New York City Rent Guidelines Board, will hold a public hearing on **June 21, 2018**, at the Oberia D. Dempsey Multi Service Center, Auditorium, 127 West 127th Street, New York, NY, from 5:00 P.M. to 8:00 P.M., to consider public comments concerning proposed rent adjustments for renewal leases for apartments, lofts, hotels (including class A and class B hotels, SROs, rooming houses and lodging houses) and other housing units subject to the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974. These adjustments will affect renewal leases commencing between October 1, 2018 through September 30, 2019.

Registration of speakers is required and pre-registration is now being accepted and is advised. Pre-Registration requests for the hearing must be received before 12:00 P.M., one business day **prior** to the public hearing date. Speakers may also register to speak in person at the hearing until 8:00 P.M. For further information and to pre-register for the public hearing, call the Board at (212) 669-7480, or write to the NYC Rent Guidelines Board, 1 Centre Street, Suite 2210, New York, NY 10007. A Spanish interpreter will be provided. Persons who request that a sign language interpreter, language interpreter other than Spanish or other form of reasonable accommodation for a disability be provided at the hearing are requested to notify the RGB by June 14, 2018, at 4:30 P.M. This hearing venue is wheelchair accessible.

Proposed rent guidelines for all of the above classes of stabilized housing units were adopted on **April 26, 2018,** and published in the City Record on **May 7, 2018**. Copies of the proposed guidelines are available from the NYC Rent Guidelines Board office at the above listed address, at the Board's website nyc.gov/rgb, or at rules.cityofnewyork.us.

j11-20

NOTICE IS HEREBY GIVEN THAT THE NEW YORK CITY RENT GUIDELINES BOARD will hold a public hearing **June 13, 2018,** at Saint Francis College, Founders Hall, 180 Remsen Street, Brooklyn, NY, from 5:00 P.M. to 8:00 P.M., to consider public comments concerning proposed rent adjustments for renewal leases for apartments, lofts, hotels (including class A and class B hotels, SROs, rooming houses and lodging houses) and other housing units subject to the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974. These adjustments will affect renewal leases commencing between October 1, 2018 through September 30, 2019.

Registration of speakers is required and pre-registration is now being accepted and is advised. Pre-Registration requests for the hearing must be received before 12:00 P.M., one business day **prior** to the public hearing date. Speakers may also register to speak in person at the hearing until 8:00 P.M. For further information and to pre-register for the public hearing call the Board, at (212) 669-7480, or write to the NYC Rent Guidelines Board, 1 Centre Street, Suite 2210, New York, NY 10007. A Spanish interpreter will be provided. Persons who request that a sign language interpreter, language interpreter other than Spanish or other form of reasonable accommodation for a disability be provided at the hearing are requested to notify the RGB by June 6, 2018, at 4:30 P.M. This hearing venue is wheelchair accessible.

Proposed rent guidelines for all of the above classes of stabilized housing units were adopted on **April 26, 2018,** and published in the City Record on **May 7, 2018**. Copies of the proposed guidelines are available from the NYC Rent Guidelines Board office at the above listed address, at the Board's website nyc.gov/rgb, or at rules.cityofnewyork.us..

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j1-13

TRANSPORTATION

■ **PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN, pursuant to law, that the following proposed revocable consents, have been scheduled for a public hearing by the New York City Department of Transportation. The hearing will be held, at 55 Water Street, 9th Floor, Room 945 commencing, at 2:00 P.M., on Wednesday, June 27, 2018. Interested parties can obtain copies of proposed agreements or request sign-language interpreters (with at least seven days prior notice), at 55 Water Street, 9th Floor SW, New York, NY 10041, or by calling (212) 839-6550.

#1 IN THE MATTER OF a proposed revocable consent authorizing 136 Dean Street Brooklyn Corporation, to construct, maintain and use a planted area with fence on the west sidewalk of Hoyt Street, between Dean Street and Bergen Street, in the Borough of Brooklyn. The proposed revocable consent is for a term of ten years from Approval Date by the Mayor and provides among other terms and conditions for compensation payable to the City according to the following schedule:
R.P. # 2443

From the date of the final approval by the Mayor (the "Approval Date") to June 30, 2029 - $25/per annum

the maintenance of a security deposit in the sum of $15,000 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence for bodily injury and property damage, One Million Dollars ($1,000,000) for personal and advertising injury, Two Million Dollars ($2,000,000) aggregate, and Two Million Dollars ($2,000,000) products/ completed operations.

#2 IN THE MATTER OF a proposed revocable consent authorizing 701 Seventh property owner LLC, to construct, maintain and use an electrical conduit with sidewalk lights on the south sidewalk of West 47th Street, between 7th Avenue and 6th Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from Approval

Date by the Mayor and provides among other terms and conditions for compensation payable to the City according to the following schedule: **R.P. #2442**

From the approval Date by the Mayor to June 30, 2019 - $950/per annum
For the period July 1, 2019 to June 30, 2020 - $967
For the period July 1, 2020 to June 30, 2021 - $984
For the period July 1, 2021 to June 30, 2022 - $1,001
For the period July 1, 2022 to June 30, 2023 - $1,018
For the period July 1, 2023 to June 30, 2024 - $1,035
For the period July 1, 2024 to June 30, 2025 - $1,052
For the period July 1, 2025 to June 30, 2026 - $1,069
For the period July 1, 2026 to June 30, 2027 - $1,086
For the period July 1, 2027 to June 30, 2028 - $1,103
For the period July 1, 2028 to June 30, 2029 - $1,120

the maintenance of a security deposit in the sum of $5,000 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence for bodily injury and property damage, One Million Dollars ($1,000,000) for personal and advertising injury, Two Million Dollars ($2,000,000) aggregate, and Two Million Dollars ($2,000,000) products/completed operations.

#3 IN THE MATTER OF a proposed revocable consent authorizing American Youth Hostels, Inc., to continue to maintain and use a stairway and a ramp on the east sidewalk of Amsterdam Avenue, between West 103rd and West 104th Streets, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2017 to June 30, 2027, and provides among other terms and conditions for compensation payable to the City according to the following schedule: **R.P. # 1274**

For the period July 1, 2017 to June 30, 2018 - $514
For the period July 1, 2018 to June 30, 2019 - $526
For the period July 1, 2019 to June 30, 2020 - $538
For the period July 1, 2020 to June 30, 2021 - $550
For the period July 1, 2021 to June 30, 2022 - $562
For the period July 1, 2022 to June 30, 2023 - $574
For the period July 1, 2023 to June 30, 2024 - $586
For the period July 1, 2024 to June 30, 2025 - $598
For the period July 1, 2025 to June 30, 2026 - $610
For the period July 1, 2026 to June 30, 2027 - $622

the maintenance of a security deposit in the sum of $104,000 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence for bodily injury and property damage, One Million Dollars ($1,000,000) for personal and advertising injury, Two Million Dollars ($2,000,000) aggregate, and Two Million Dollars ($2,000,000) products/completed operations.

#4 IN THE MATTER OF a proposed revocable consent modification authorizing New York University, to continue to maintain and use pipes and conduits under and across West 3rd Street, east of MacDougal Street and under and across Bleecker Street, west of Greene Street; and use additional pipes and conduits under and across West 3rd Street and Bleecker Street, west of Mercer Street, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from the Approval Date by the Mayor and provides among other terms and conditions for compensation payable to the City according to the following schedule: **R.P. #899**

For the period July 1, 2018 to June 30, 2019 - $42,968 + $41,893/per annum (prorated from the date of Approval by the Mayor)
For the period July 1, 2019 to June 30, 2020 - $86,539
For the period July 1, 2020 to June 30, 2021 - $88,217
For the period July 1, 2021 to June 30, 2022 - $89,895
For the period July 1, 2022 to June 30, 2023 - $91,573
For the period July 1, 2023 to June 30, 2024 - $93,251
For the period July 1, 2024 to June 30, 2025 - $94,929
For the period July 1, 2025 to June 30, 2026 - $96,607
For the period July 1, 2026 to June 30, 2027 - $98,285

the maintenance of a security deposit in the sum of $16,000 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence for bodily injury and property damage, One Million Dollars ($1,000,000) for personal and advertising injury, Two Million Dollars ($2,000,000) aggregate, and Two Million Dollars ($2,000,000) products/completed operations. No additional security deposit is required.

#5 IN THE MATTER OF a proposed revocable consent authorizing The Trustees of Columbia University, to continue to maintain and use two conduits under and across Fort Washington Avenue, south of West 168th Street, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2018 to June 30, 2028 and provides among other terms and conditions for compensation payable to the City according to the following schedule: **R.P. #1313**

For the period July 1, 2018 to June 30, 2019 - $4,890
For the period July 1, 2019 to June 30, 2020 - $4,976
For the period July 1, 2020 to June 30, 2021 - $5,062
For the period July 1, 2021 to June 30, 2022 - $5,148
For the period July 1, 2022 to June 30, 2023 - $5,234
For the period July 1, 2023 to June 30, 2024 - $5,320
For the period July 1, 2024 to June 30, 2025 - $5,406
For the period July 1, 2025 to June 30, 2026 - $5,492
For the period July 1, 2026 to June 30, 2027 - $5,578
For the period July 1, 2027 to June 30, 2028 - $5,664

the maintenance of a security deposit in the sum of $5,700 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence for bodily injury and property damage, One Million Dollars ($1,000,000) for personal and advertising injury, Two Million Dollars ($2,000,000) aggregate, and Two Million Dollars ($2,000,000) products/completed operations.

#6 IN THE MATTER OF a proposed revocable consent authorizing The Trustees of Columbia University, to continue to maintain and use conduits under, across and along West 113th Street, West 114th Street, West 115th Street, Claremont Avenue, West 120th Street and Amsterdam Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2018 to June 30, 2028 and provides among other terms and conditions for compensation payable to the City according to the following schedule: **R.P. #1317**

For the period July 1, 2018 to June 30, 2019 - $106,851
For the period July 1, 2019 to June 30, 2020 - $108,732
For the period July 1, 2020 to June 30, 2021 - $110,613
For the period July 1, 2021 to June 30, 2022 - $112,494
For the period July 1, 2022 to June 30, 2023 - $114,375
For the period July 1, 2023 to June 30, 2024 - $116,256
For the period July 1, 2024 to June 30, 2025 - $118,137
For the period July 1, 2025 to June 30, 2026 - $120,018
For the period July 1, 2026 to June 30, 2027 - $121,899
For the period July 1, 2027 to June 30, 2028 - $123,780

the maintenance of a security deposit in the sum of $123,700 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence for bodily injury and property damage, One Million Dollars ($1,000,000) for personal and advertising injury, Two Million Dollars ($2,000,000) aggregate, and Two Million Dollars ($2,000,000) products/completed operations.

#7 IN THE MATTER OF a proposed revocable consent authorizing The Trustee of Columbia University, to continue to maintain and use pipes and conduits under and across Broadway, north of West 116th Street, and under and across West 116th Street, east of Claremont Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2018 to June 30, 2028 and provides among other terms and conditions for compensation payable to the City according to the following schedule: **R.P. #1322**

For the period July 1, 2018 to June 30, 2019 - $30,601
For the period July 1, 2019 to June 30, 2020 - $31,140
For the period July 1, 2020 to June 30, 2021 - $31,679
For the period July 1, 2021 to June 30, 2022 - $32,218
For the period July 1, 2022 to June 30, 2023 - $32,757
For the period July 1, 2023 to June 30, 2024 - $33,296
For the period July 1, 2024 to June 30, 2025 - $33,835
For the period July 1, 2025 to June 30, 2026 - $34,374
For the period July 1, 2026 to June 30, 2027 - $34,913
For the period July 1, 2027 to June 30, 2028 - $35,452

the maintenance of a security deposit in the sum of $35,500 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence for bodily injury and property damage, One Million Dollars ($1,000,000) for personal and advertising injury, Two Million Dollars ($2,000,000) aggregate, and Two Million Dollars ($2,000,000) products/completed operations.

#8 IN THE MATTER OF a proposed revocable consent authorizing The Trustees of Columbia University, to continue to maintain and use conduits under, across and along West 131st Street, west of Broadway, under, across and along West 132nd Street and across Broadway, and under and along riverside Drive, south of St. Clair Place, all in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2018 to June 30, 2028 and provides among other terms and conditions for compensation payable to the City according to the following schedule: **R.P. #2027**

For the period July 1, 2018 to June 30, 2019 - $15,949
For the period July 1, 2019 to June 30, 2020 - $16,230
For the period July 1, 2020 to June 30, 2021 - $16,511
For the period July 1, 2021 to June 30, 2022 - $16,792
For the period July 1, 2022 to June 30, 2023 - $17,073
For the period July 1, 2023 to June 30, 2024 - $17,354
For the period July 1, 2024 to June 30, 2025 - $17,635
For the period July 1, 2025 to June 30, 2026 - $17,916
For the period July 1, 2026 to June 30, 2027 - $18,197
For the period July 1, 2027 to June 30, 2028 - $18,478

the maintenance of a security deposit in the sum of $21,000 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence for bodily injury and property damage, One Million Dollars ($1,000,000) for personal and advertising injury, Two Million Dollars ($2,000,000) aggregate, and Two Million Dollars ($2,000,000) products/completed operations.

#9 IN THE MATTER OF a proposed revocable consent authorizing The Trustee of Columbia University, to continue to maintain and use pipes and conduits under, across and along West 131st Street, west of Broadway, under, across and along Amsterdam Avenue, south of West 118th Street, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2018 to June 30, 2028 and provides among other terms and conditions for compensation payable to the City according to the following schedule: **R.P. #1658**

For the period July 1, 2018 to June 30, 2019 - $31,506
For the period July 1, 2019 to June 30, 2020 - $32,060
For the period July 1, 2020 to June 30, 2021 - $32,614
For the period July 1, 2021 to June 30, 2022 - $33,168
For the period July 1, 2022 to June 30, 2023 - $33,722
For the period July 1, 2023 to June 30, 2024 - $34,276
For the period July 1, 2024 to June 30, 2025 - $34,830
For the period July 1, 2025 to June 30, 2026 - $35,384
For the period July 1, 2026 to June 30, 2027 - $35,938
For the period July 1, 2027 to June 30, 2028 - $36,492

the maintenance of a security deposit in the sum of $36,500 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence for bodily injury and property damage, One Million Dollars ($1,000,000) for personal and advertising injury, Two Million Dollars ($2,000,000) aggregate, and Two Million Dollars ($2,000,000) products/completed operations.

#10 IN THE MATTER OF a proposed revocable consent authorizing the Trustees of Columbia University, to continue to maintain and use geothermal wells, together with piping in the south sidewalk of West 122nd Street, east of Claremont Avenue, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2018 to June 30, 2028, and provides among other terms and conditions for compensation payable to the City according to the following schedule: **R.P. #2035**

For the period July 1, 2018 to June 30, 2019 - $3,860
For the period July 1, 2019 to June 30, 2020 - $3,928
For the period July 1, 2020 to June 30, 2021 - $3,996
For the period July 1, 2021 to June 30, 2022 - $4,064
For the period July 1, 2022 to June 30, 2023 - $4,132
For the period July 1, 2023 to June 30, 2024 - $4,200
For the period July 1, 2024 to June 30, 2025 - $4,268
For the period July 1, 2025 to June 30, 2026 - $4,336
For the period July 1, 2026 to June 30, 2027 - $4,404
For the period July 1, 2027 to June 30, 2028 - $4,472

the maintenance of a security deposit in the sum of $8,000 and the insurance shall be in the amount of Two Million Dollars ($2,000,000) per occurrence for bodily injury and property damage, One Million Dollars ($1,000,000) for personal and advertising injury, Two Million Dollars ($2,000,000) aggregate, and Two Million Dollars ($2,000,000) products/completed operations.

j7-27

PROPERTY DISPOSITION

CITYWIDE ADMINISTRATIVE SERVICES

■ SALE

The City of New York in partnership with PropertyRoom.com posts vehicle and heavy machinery auctions online every week at:
https://www.propertyroom.com/s/nyc+fleet

All auctions are open to the public and registration is free.

Vehicles can be viewed in person by appointment at:
Kenben Industries Ltd., 1908 Shore Parkway, Brooklyn, NY 11214.
Phone: (718) 802-0022

m30-s11

OFFICE OF CITYWIDE PROCUREMENT

■ NOTICE

The Department of Citywide Administrative Services, Office of Citywide Procurement is currently selling surplus assets on the internet. Visit http://www.publicsurplus.com/sms/nycdcas.ny/browse/home

To begin bidding, simply click on 'Register' on the home page.

There are no fees to register. Offerings may include but are not limited to: office supplies/equipment, furniture, building supplies, machine tools, HVAC/plumbing/electrical equipment, lab equipment, marine equipment, and more.

Public access to computer workstations and assistance with placing bids is available at the following locations:

- DCAS Central Storehouse, 66-26 Metropolitan Avenue, Middle Village, NY 11379
- DCAS, Office of Citywide Procurement, 1 Centre Street, 18th Floor, New York, NY 10007

j2-d31

POLICE

■ NOTICE

OWNERS ARE WANTED BY THE PROPERTY CLERK DIVISION OF THE NEW YORK CITY POLICE DEPARTMENT

The following list of properties is in the custody of the Property Clerk Division without claimants:
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.

Items are recovered, lost, abandoned property obtained from prisoners, emotionally disturbed, intoxicated and deceased persons; and property obtained from persons incapable of caring for themselves.

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):
- Springfield Gardens Auto Pound, 174-20 North Boundary Road, Queens, NY 11430, (718) 553-9555
- Erie Basin Auto Pound, 700 Columbia Street, Brooklyn, NY 11231, (718) 246-2030

FOR ALL OTHER PROPERTY
- Manhattan - 1 Police Plaza, New York, NY 10038, (646) 610-5906
- 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

j2-d31

PROCUREMENT

"Compete To Win" More Contracts!

Thanks to a new City initiative - "Compete To Win" - the NYC Department of Small Business Services offers a new set of FREE services to help create more opportunities for minority and women-owned businesses to compete, connect and grow their business with the City. With NYC Construction Loan, Technical Assistance, NYC Construction Mentorship, Bond Readiness, and NYC Teaming services, the City will be able to help even more small businesses than before.

● *Win More Contracts at nyc.gov/competetowin*

"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."

HHS ACCELERATOR

To respond to human services Requests for Proposals (RFPs), in accordance with Section 3-16 of the Procurement Policy Board Rules of the City of New York ("PPB Rules"), vendors must first complete and submit an electronic prequalification application using the City's Health and Human Services (HHS) Accelerator System. The HHS Accelerator System is a web-based system maintained by the City of New York for use by its human services Agencies to manage procurement. The process removes redundancy by capturing information about boards, filings, policies, and general service experience centrally. As a result, specific proposals for funding are more focused on program design, scope, and budget.

Important information about the new method

- Prequalification applications are required every three years.
- Documents related to annual corporate filings must be submitted on an annual basis to remain eligible to compete.
- Prequalification applications will be reviewed to validate compliance with corporate filings, organizational capacity, and relevant service experience.
- Approved organizations will be eligible to compete and would submit electronic proposals through the system.

The Client and Community Service Catalog, which lists all Prequalification service categories and the NYC Procurement Roadmap, which lists all RFPs to be managed by HHS Accelerator may be viewed at http://www.nyc.gov/html/hhsaccelerator/html/roadmap/roadmap.shtml. All current and prospective vendors should frequently review information listed on roadmap to take full advantage of upcoming opportunities for funding.

Participating NYC Agencies

HHS Accelerator, led by the Office of the Mayor, is governed by an Executive Steering Committee of Agency Heads who represent the following NYC Agencies:

Administration for Children's Services (ACS)
Department for the Aging (DFTA)
Department of Consumer Affairs (DCA)
Department of Corrections (DOC)
Department of Health and Mental Hygiene (DOHMH)
Department of Homeless Services (DHS)
Department of Probation (DOP)
Department of Small Business Services (SBS)
Department of Youth and Community Development (DYCD)
Housing and Preservation Department (HPD)
Human Resources Administration (HRA)
Office of the Criminal Justice Coordinator (CJC)

To sign up for training on the new system, and for additional information about HHS Accelerator, including background materials, user guides and video tutorials, please visit www.nyc.gov/hhsaccelerator

ADMINISTRATION FOR CHILDREN'S SERVICES

■ **AWARD**

Human Services/Client Services

NON-SECURE DETENTION - Negotiated Acquisition - Available only from a single source - PIN# 13010N0001CNVN003 - AMT: $331,604.85 - TO: Lutheran Social Services of Metropolitan NY, 475 Riverside Drive, New York, NY 10115.

☛ **j12**

CITYWIDE ADMINISTRATIVE SERVICES

OFFICE OF CITYWIDE PROCUREMENT

■ **AWARD**

Goods

BACK-UP OFFICE CLEANING SERVICES, CITYWIDE - Renewal - PIN# 8571200552 - AMT: $2,797,039.85 - TO: Quality Floorshine Corp., 199 Lee Avenue, Suite 297, Brooklyn, NY 11211.

● **DECAL MATERIAL AND RELATED ITEMS (BRAND SPECIFIC)** - Competitive Sealed Bids - PIN# 8571800028 - AMT: $1,107,751.45 - TO: Beacon Graphics, LLC, 189 Meister Avenue, Branchburg, NJ 08876.

● **LOCKSMITH SERVICES, RESIDENTIAL, COMMERCIAL AND AUTO** - Renewal - PIN# 8571300205 - AMT: $1,679,220.00 - TO: Maximum Security Group Inc., 31-03 51st Street, Woodside, NY 11377.

● **DEMAND RESPONSE SERVICES** - Renewal - PIN# 8571300558 - AMT: $786,460.00 - TO: Nuenergen, LLC, 10 Bank Street, Suite 600, White Plains, NY 10606.

● **VEHICLE, SUV, HYBRID ELECTRIC** - Competitive Sealed Bids - PIN# 8571800065 - AMT: $2,503,500.00 - TO: Hudson Motors Partnership DBA Hudson Toyota, 585 Route 440 South, Jersey City, NJ 07305.

☛ **j12**

PROCESSED FRESH AND FROZEN FOODS (GP) - Competitive Sealed Bids - PIN# 8571800198 - AMT: $225,946.04 - TO: Jamac Frozen Food Corporation, 570 Grand Street, Jersey City, NJ 07302.

☛ **j12**

Services (other than human services)

PROVIDE THIRD PARTY TRANSLATION REVIEW FOR DOCUMENTS AND MATERIALS FOR MOIA - Innovative Procurement - Other - PIN# 85618RQ1853 - AMT: $99,000.00 - TO: Eriksen Translations Inc., 50 Court Street, Suite 700, Brooklyn, NY 11201.
M/WBE innovative procurement awarded only to certified MWBEs.

☛ **j12**

PROCUREMENT

■ **SOLICITATION**

Goods

STANLEY HANDHELD HYDRAULIC TOOLS (BRAND SPECIFIC) - Competitive Sealed Bids - PIN# 8571700258 - Due 7-12-18 at 10:30 A.M.

A copy of the bid can be downloaded from the City Record Online site at www.nyc.gov/cityrecord. Enrollment is free. Vendor may also request the bid by contacting Vendor Relations via email at dcasdmssbids@dcas.nyc.gov, by telephone (212) 386-0044 or by fax at (212) 669-7585.

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.
Citywide Administrative Services, 1 Centre Street, 18th Floor, New York, NY 10007. Yuriy Reznik (212) 386-0458; Fax: (646) 500-6718; yreznik@dcas.nyc.gov

☛ **j12**

CONSUMER AFFAIRS

FINANCE

■ **AWARD**

Goods and Services

ELECTRIC WORK - Innovative Procurement - Available only from a single source - PIN# NO PIN - AMT: $4,485.92 - TO: B and S Construction Inc., 442 Madison Street, Suite 2B, Brooklyn, NY 11221.

NYC Department of Consumer Affairs (DCA) on behalf of all New York City agencies and entities subject to the New York City Procurement Policy Board (PPB) Rules, utilized the Innovative Pro Method, under Section 3-12 of the Procurement Policy Board Rules.

☛ **j12**

BOARD OF CORRECTION

■ AWARD

Goods

NETWORK SWITCHES - Innovative Procurement - Other - PIN# 073-2018 - AMT: $43,263.30 - TO: World Wide Technology, 60 Weldon Parkway, Maryland Heights, MO 63043.

Innovative Procurement Method, under PPB Rule 3-12 (M/WBE Purchase Method).

☛ **j12**

CORRECTION

■ AWARD

Services (other than human services)

SNAPP II DEVELOPMENT - Innovative Procurement - Other - PIN# 20181425261 - AMT: $43,592.00 - TO: Garic Inc., 26 Broadway - Suite 961, New York, NY 10004 (MWBE).

☛ **j12**

EDUCATION

CONTRACTS AND PURCHASING

■ SOLICITATION

Goods and Services

REPAIR AND REPLACEMENT OF SPLIT AIR CONDITIONING SYSTEMS - Competitive Sealed Bids - PIN# B3259040 - Due 7-30-18 at 4:00 P.M.
Description: The Contractor shall provide all labor, material and supervision required and necessary to test, maintain, repair, modify, make addition to and/or replace Split Air Conditioning systems, which have previously been installed in compliance with all applicable codes. This contract will not be used to install new systems. The Contractor will leave in place the refrigerant tubing, existing wire connections and controls, except when specifically required to repair damage to these components.
There will be a Pre-Bid Conference on Tuesday, June 26, 2018, at 11:30 A.M., at 65 Court Street, 12th Floor, Conference Room 1201, Brooklyn, NY 11201.
BID OPENS ON JULY 31, 2018, at 11:00 A.M.

● **TESTING AND BALANCING OF AIR AND WATER SYSTEMS** - Competitive Sealed Bids - PIN# B3262040 - Due 7-23-18 at 4:00 P.M.
The Contractor shall provide all labor, equipment, instruments, services, and supervision required and necessary to completely test, adjust, balance and report on air and water systems, to achieve required air and water flow rates and to make repairs to facilitate the testing and balancing process. While the testing and balancing proceeds, repairs may be needed to provide optimum performance of a part of a system, so that other system components receive the proper flow and may be properly tested and balanced.
There will be a Pre-Bid Conference on Tuesday, June 26, 2018, at 2:30 P.M., at 65 Court Street, 12th Floor, Conference Room 1201, Brooklyn, NY 11201.
BID OPENS ON JULY 24, 2018, at 11:00 A.M.

To download, please go to http://schools.nyc.gov/Offices/DCP/Vendor/RequestsforBids/Default.htm. If you cannot download, send an email to vendorhotline@schools.nyc.gov, with the RFB number and title in the subject line.

For all questions related to this RFB, please email krodrig7@schools.nyc.gov, with the RFB number and title in the subject line of your email.

The New York City Department of Education (DOE) strives to give all businesses, including Minority and Women-Owned Business Enterprises (MWBEs), an equal opportunity to compete for DOE procurements. The DOE's mission is to provide equal access to procurement opportunities for all qualified vendors, including MWBEs, from all segments of the community. The DOE works to enhance the ability of MWBEs to compete for contracts. DOE is committed to ensuring that MWBEs fully participate in the procurement process.

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.
Education, 65 Court Street, Room 1201, Brooklyn, NY 11201. Vendor Hotline (718) 935-2300; vendorhotline@schools.nyc.gov

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☛ **j12**

FIRE DEPARTMENT

■ AWARD

Services (other than human services)

DRUG AND ALCOHOL SCREENING AND MEDICAL PROFILE TESTING SERVICES - Competitive Sealed Bids - PIN# 057180000529 - AMT: $2,495,164.50 - TO: Quest Diagnostics, Inc., 1 Malcolm Avenue, Teteboro, NJ 07608.

ePin No. 05717B0004001
CT No.: 20181424601
Term of Contract: May 14, 2018 - May 13, 2023

☛ **j12**

HEALTH AND MENTAL HYGIENE

■ AWARD

Goods and Services

LOGI AD HOC SOFTWARE - Innovative Procurement - Other - PIN# IITD-19-0032-N00 - AMT: $34,373.00 - TO: Shi International Corp., 290 Davidson Avenue, Somerset, NJ 08873.

☛ **j12**

Services (other than human services)

PILOT SERVICES FOR AERIAL LARVICIDING OPERATIONS - Competitive Sealed Bids - PIN# 18EN002901R0X00 - AMT: $811,000.00 - TO: North Fork Helicopters Ltd., PO Box 1160, Cutchogue, NY 11935-0874.

☛ **j12**

AGENCY CHIEF CONTRACTING OFFICER

■ INTENT TO AWARD

Services (other than human services)

PURCHASE OF WOLTERS KLUWER FINANCIAL SERVICES INC TEAMMATE AUDIT SYSTEM - Sole Source - Available only from a single source - PIN# 19MA009501R0X00 - Due 6-28-18 at 11:00 A.M.

DOHMH intends to enter into a sole source contract with Wolters Kluwer Financial Services Inc., for the provision of the software package, "TeamMate". "TeamMate" is an audit tracking system that will support DOHMH's Bureau of Audit Service's key processes, which will enable management of the full audit cycle from risk assessment to reporting. Audit Services aims to act in accordance with established control and security guidelines outlined by the National Institute of Science and Technology (NIST) and HIPAA, amongst others, to ensure that reasonable steps are taken to both protect DOHMH data and comply with professional standards.

DOHMH has determined that Wolters Kluwer Financial Services Inc., is the sole source vendor to provide this audit tracking system as they are the owner and has full rights and title to license the software package "TeamMate". Any vendor who believes they can provide these products are welcome to submit an expression of interest via email, no later than June 28, 2018, by 11:00 A.M., to cminer@health.nyc.gov. All questions and concerns regarding this sole source should also be submitted via email.

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.
Health and Mental Hygiene, 42-09 28th Street, 17th Floor, Long Island City, NY 11101. Chassid Miner (347) 396-6754; Fax: (347) 396-6758; cminer@health.nyc.gov

☛ **j12-18**

■ SOLICITATION

Services (other than human services)

ON-CALL MEDICAL COURIER SERVICES - Negotiated Acquisition - Other - PIN# 18DA043500R0X00 - Due 8-1-18 at 2:00 P.M.

The New York City Department of Health and Mental Hygiene (DOHMH), is soliciting applications from vendors with experience as a

medical courier service to have "on-call" a pool of vendors who would provide vehicular transport of clinical specimens (e.g., blood, urine, stool samples), and medical supplies (such as medication and specimen collection kits) throughout New York City and surrounding counties with tight turnaround times. As-Requested, on a routine or emergency basis, the contractors would transport these items to and from DOHMH facilities, patients' homes, hospitals, and clinical and reference laboratories. The contractors would need to follow specific protocols for transport, including the use of containers that can maintain temperature control. Contractors would also be required to demonstrate at least one year of successful experience transporting medical specimens in New York City.

The Negotiated Acquisition solicitation document will be available to access online at: http://www1.nyc.gov/site/doh/business/opportunities/contracting-opportunities.page, or for pick up at the address listed below weekdays from 10:00 A.M. - 4:00 P.M.

There will be a Pre-Proposal Conference at 11:00 A.M., on June 22, 2018, at 42-09 28th Street, Room 10-14, Long Island City, NY 11101. Attendance by proposers is optional, but strongly recommended. Please RSVP for the conference by 2:00 P.M., on June 21, 2018, by emailing the name, title, and affiliation of each attendee to NA@health.nyc.gov. Please state "Medical Courier Pre-Proposal Attendee" in the subject line.

Any questions regarding this solicitation must be submitted in writing by 2:00 P.M., on June 29, 2018, to NA@health.nyc.gov.

Expressions of Interest must conform with the requirements indicated in the solicitation document, and must be received by August 1, 2018, at 2:00 P.M.

The agency has determined that there is a limited number of vendors available and able to perform the work.

This procurement is subject to participation goals for MBEs and/or WBEs as required by Section 6-129 of the New York City Administrative Code.

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.
Health and Mental Hygiene, 42-09 28th Street-17th Floor, CN30A, Long Island City, NY 11101. Dara Lebwohl (347) 396-4390; na@health.nyc.gov

Accessibility questions: Dara Lebwohl (347) 396-4390, dlebwohl@health.nyc.gov, by: Thursday, June 21, 2018, 2:00 P.M.

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j11-15

HOUSING AUTHORITY

■ **SOLICITATION**

Construction / Construction Services

SMD INDEFINITE DELIVERY INDEFINITE QUANTITY (IDIQ) CONTRACT FOR FDNY 505 RULE MARKINGS VARIOUS NYCHA DEVELOPMENTS IN ALL FIVE (5) BOROUGHS OF NEW YORK CITY - Competitive Sealed Bids - Due 7-12-18

PIN# 67034 - Due at 10:00 A.M.
PIN# 67035 - Due at 10:05 A.M.
PIN# 67036 - Due at 10:10 A.M.
PIN# 67037 - Due at 10:15 A.M.
PIN# 67038 - Due at 10:20 A.M.
PIN# 67039 - Due at 10:25 A.M.

This is an indefinite-delivery, indefinite-quantity ("IDIQ") Contract, and the work shall consist of furnishing all labor, materials, and other incidental items required at various Developments within all five (5) Boroughs of New York City. This requirement is for the placement of Fire Safety Signage in NYCHA Buildings, known as FDNY Rule 505, as provided in Exhibit #2 to this Contract. The design and placement of entrance door room number markings and signs for dwelling units, (apartments, guest rooms and sleeping rooms), in Group R-1 and Group R-2 buildings and occupancies, and the lobby and hallway corridor Directional Signs, which serve to assist emergency response to fire, medical emergencies and other emergencies in such dwelling units. A Pre-Bid Conference will be held on June 21, 2018, from 10:00 A.M., to 11:00 A.M., at 23-02 49th Avenue, Long Island City, NY 11101, in the 5th Floor, Conference Room. Please contact Ms. Fiona Carbin, by 6/19/2018, at (718) 707-5702 to confirm your attendance.

Interested firms are invited to obtain a copy on NYCHA's website. To conduct a search for the RFQ number; vendors are instructed to open the link: http://www1.nyc.gov/site/nycha/business/isupplier-vendor-registration.page. Once on that page, please make a selection from the first three links highlighted in red: New suppliers for those who have never registered with iSupplier, current NYCHA suppliers and vendors for those who have supplied goods or services to NYCHA in the past but never requested a login ID for iSupplier, and Login for registered suppliers if you already have an iSupplier ID and password. Once you are logged into iSupplier, select "Sourcing Supplier," then "Sourcing" followed by "Sourcing Homepage" and then reference the applicable RFQ PIN/solicitation number.

Suppliers electing to obtain a non-electronic paper document will be subject to a $25 non-refundable fee; payable to NYCHA by USPS-Money Order/Certified Check only for each set of RFQ documents requested. Remit payment to NYCHA Finance Department, at 90 Church Street, 6th Floor; obtain receipt and present it to the Supply Management Procurement Group; RFQ package will be generated at the time of request.

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, New York, NY 10007. La-Shondra Arnold (212) 306-3223; la-shondra.arnold@nycha.nyc.gov

☛ **j12**

ROOFING REPLACEMENT AND ROOFTOP STRUCTURE RENOVATION - Competitive Sealed Bids - PIN# RF1721661 - Due 7-9-18 at 11:00 A.M.

There will be a Pre-Bid Meeting on June 19, 2018, at 10:00 A.M., at Eastchester Gardens Development Management Office, 1130 Burke Avenue, Bronx, NY 10469. Although attendance is not mandatory, it is strongly recommended that you attend. NYCHA staff will be available to address all inquiries relevant to this contract.

Bid documents are available Monday through Friday, 9:00 A.M. to 4:00 P.M., for a $25.00 fee in the form of a money order or certified check made payable to NYCHA. Documents can also be obtained by registering with I-supplier and downloading documents. Please note that original bid bonds are due at time of bid opening.

Please note that in the event only one bidder has submitted a bid in connection with the contract on or before the original bid submission deadline, the bid submission deadline shall automatically be extended for fourteen (14) calendar days. The foregoing extension does not in any way limit NYCHA's right to extend the bid submission deadline for any other reason.

This contract shall be subject to the New York City Housing Authority's Project Labor Agreement if the Bidder's price exceeds $250,000.00.

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, New York, NY 10007. Latrena Johnson (212) 306-3223; latrena.johnson@nycha.nyc.gov

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☛ **j12**

SUPPLY MANAGEMENT

■ **SOLICITATION**

Goods and Services

SMD GRAFFITI REMOVAL -VARIOUS DEVELOPMENTS WITHIN ALL FIVE (5) BOROUGHS OF NYC - Request for Quote - PIN# 67188 - Due 7-12-18

Perform all graffiti removal work with qualified and trained staff in a professional manner. For the purpose of this service, graffiti is defined as the unauthorized drawing or marking on surfaces of a City property, including placing of adhesive stickers.

Interested firms are invited to obtain a copy on NYCHA's website. To conduct a search for the RFQ number; vendors are instructed to open the link: http://www1.nyc.gov/site/nycha/business/isupplier-vendor-registration.page. Once on that page, please make a selection from the first three links highlighted in red: New suppliers for those who have never registered with iSupplier, current NYCHA suppliers and vendors for those who have supplied goods or services to NYCHA in the past but never requested a login ID for iSupplier, and Login for registered suppliers if you already have an iSupplier ID and password. Once you are logged into iSupplier, select "Sourcing Supplier," then "Sourcing" followed by "Sourcing Homepage" and then reference the applicable RFQ PIN/solicitation number.

Suppliers electing to obtain a non-electronic paper document will be subject to a $25 non-refundable fee; payable to NYCHA by USPS-Money Order/Certified Check only for each set of RFQ documents requested. Remit payment to NYCHA Finance Department, at 90 Church Street, 6th Floor; obtain receipt and present it to the Supply Management Procurement Group; RFQ package will be generated at the time of request.

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, 6th Floor, New York, NY 10007. Mimose Julien (212) 306-8141; Fax: (212) 306-5109; mimose.julien@nycha.nyc.gov

☛ **j12**

HUMAN RESOURCES ADMINISTRATION

■ **AWARD**

Services (other than human services)

PROVISION OF SHARED SERVICES/SAVE FOR BUSINESS CONSULTANT SERVICES FOR HHS AGENCIES, CATEGORY 4 - Renewal - PIN# 09613P0005027R001 - AMT: $259,459.00 - TO: Metis Associates Inc., 55 Broad Street, 25th Floor, New York, NY 10004. Contract Term: 3/15/2017 - 3/14/2020

☛ **j12**

OFFICE OF CONTRACTS

■ **INTENT TO AWARD**

Human Services / Client Services

PROVISION OF COUNSELING AND LEGAL REPRESENTATION FOR BROADWAY TRIANGLE AREA RESIDENTS - Negotiated Acquisition - Other - PIN# 09618N0008 - Due 6-14-18 at 2:00 P.M.

HRA intends to enter into Negotiated Acquisition with Brooklyn Legal Services Corp. A, to provide legal services for residents in the Broadway Triangle area.
E-PIN: 09618N0008
Contract Term: 7/1/2018 - 6/30/2021
Contract Amount: $2,400,000.00

The Broadway Triangle Community Coalition, an alliance of advocacy groups and residents in the Broadway Triangle section of Brooklyn, filed a suit against the City in 2009 following a zoning and housing proposal for a five lot site, located at the convergence of the Williamsburg, Bushwick and Bedford Stuyvesant sections of Brooklyn. New York City reached a settlement. The City is mandated by court order to enter into a three year agreement, $2.4 million contract, with Brooklyn Legal Services Corp. A, to provide counseling and legal representation for Broadway Triangle area residents who believe they were discriminated against while seeking housing.

Vendors interested in responding to this or other future solicitations for these types of services, may express their interest by filing with the New York City Vendor Enrollment Center, at (212) 857-1680, or via email, at vendorenrollmen@cityhall.nyc.gov. For Human Service contracts go to http://www.nyc.gov/html/hhsaccelerator/html/roadmap/roadmap.shtml.

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.
Human Resources Administration, 150 Greenwich Street, 37th Floor, New York, NY 10007. Jacques Frazier (929) 221-5554; frazierjac@hra.nyc.gov

j7-13

■ **AWARD**

Services (other than human services)

JANITORIAL SERVICES AT 2547-51 BAINBRIDGE AV, 555 E. TREMONT AV. - Required Method (including Preferred Source) - PIN# 17QSEGS14201 - AMT: $2,118,516.75 - TO: New York State Industries for The Disabled, Inc., 11 Columbia Circle Drive, Albany, NY 12203-5156. EPIN 09616M0012

☛ **j12**

INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

■ **AWARD**

Goods and Services

CITYWIDE TELECOMMUNICATION SERVICES - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# 85813P0002006 - AMT: $10,000,000.00 - TO: CenturyLink Communications, LLC, 100 Centurylink Drive, Monroe, LA 71203.
● **CITYWIDE TELECOMMUNICATION SERVICES** - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# 85813P0002007 - AMT: $279,000,000.00 - TO: Verizon Business Network Services Inc., 140 West Street, New York, NY 10007.
● **CITYWIDE TELECOMMUNICATION SERVICES** - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# 85813P0002002 - AMT: $11,000,000.00 - TO: LighTower Fiber Networks LLC, 80 Central Street, Boxborough, MA 01719-1245.
● **CITYWIDE TELECOMMUNICATION SERVICES** - Competitive Sealed Proposals - Judgment required in evaluating proposals - PIN# 85813P0002005 - AMT: $15,000,000.00 - TO: T-Mobile USA Inc., 1 Park Avenue, Suite 1412, New York, NY 10016.

Citywide Voice and Data Services-Wireless Services.

☛ **j12**

PARKS AND RECREATION

■ **VENDOR LIST**

Construction Related Services

PREQUALIFIED VENDOR LIST: GENERAL CONSTRUCTION, NON-COMPLEX GENERAL CONSTRUCTION SITE WORK ASSOCIATED WITH NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION ("DPR" AND/OR "PARKS") PARKS AND PLAYGROUNDS CONSTRUCTION AND RECONSTRUCTION PROJECTS.

DPR is seeking to evaluate and pre-qualify a list of general contractors (a "PQL") exclusively to conduct non-complex general construction site work involving the construction and reconstruction of DPR parks and playgrounds projects not exceeding $3 million per contract ("General Construction").

By establishing contractor's qualification and experience in advance, DPR will have a pool of competent contractors from which it can draw to promptly and effectively reconstruct and construct its parks, playgrounds, beaches, gardens and green-streets. DPR will select contractors from the General Construction PQL for non-complex general construction site work of up to $3,000,000.00 per contract, through the use of a Competitive Sealed Bid solicited from the PQL generated from this RFQ.

The vendors selected for inclusion in the General Construction PQL will be invited to participate in the NYC Construction Mentorship. NYC Construction Mentorship focuses on increasing the use of small NYC contracts, and winning larger contracts with larger values. Firms participating in NYC Construction Mentorship will have the opportunity to take management classes and receive on-the-job training provided by a construction management firm.

DPR will only consider applications for this General Construction PQL from contractors who meet any one of the following criteria:

1) The submitting entity must be a Certified Minority/Woman Business enterprise (M/WBE)*;

2) The submitting entity must be a registered joint venture or have a valid legal agreement as a joint venture, with at least one of the entities in the joint venture being a certified M/WBE*;

3) The submitting entity must indicate a commitment to sub-contract no less than 50 percent of any awarded job to a certified M/WBE for every work order awarded.

* Firms that are in the process of becoming a New York City-Certified M/WBE, may submit a PQL application and submit a M/WBE Acknowledgement Letter, which states the Department of Small Business Services has begun the Certification process.

Application documents may also be obtained online at: http://a856-internet.nyc.gov/nycvendoronline/home.asap.; or http:www.nycgovparks.org/opportunities/business.

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 Annex, Flushing Meadows–Corona Park, Flushing, NY 11368. Alicia H. Williams (718) 760-6925; Fax: (718) 760-6885; dmwbe.capital@parks.nyc.gov

j2-d31

■ **INTENT TO AWARD**

Construction Related Services

LANDSCAPE ARCHITECTURE SERVICES: FRESH KILLS PARK END USE MASTER PLAN - Negotiated Acquisition - Available only from a single source - PIN# 84618N0001 - Due 6-29-18 at 2:00 P.M.

The Department of Parks and Recreation, Capital Projects Division, intends to enter into a Negotiated Acquisition with James Corner Field Operations, LLC, located at 475 Tenth Avenue, 9th Floor, New York, NY 10018, for Landscape Architecture Design Services in relation to the Fresh Kills Park End Use Master Plan.

Any firms that would like to express their interest in providing services to similar projects in the future, may do so by writing to the address listed here and received by June 29, 2018. Firm's may join New York City's Bidders Lists by contacting the City of New York's Mayor's Office of Contract Services (MOCS), the NYC Department of Small Business Services (NYC SBS) and the NYC Department of Citywide Administrative Services (NYC DCAS) for instructions.

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 Annex, Flushing Meadows-Corona Park, Flushing, NY 11368. Hector Balderas (718) 760-6867; Fax: (718) 760-6885; hector.balderas@parks.nyc.gov

j11-15

Services (other than human services)

SOIL ANALYSIS - Government to Government - PIN# 84618T0006 - Due 6-29-18 at 4:00 P.M.

NYC Parks intends to enter into an Agreement with USDA US Forest Service Northern Research Station. This contract is intended to provide soil analysis services required by NYC Parks Forestry, Horticulture and Natural Resources Division. Any firm which believes it can also provide these services IN THE FUTURE is invited to do so, indicated by letter no later than June 29, 2018, 4:00 P.M.

Written requests should be sent to Laverne Andrews, Deputy Director of Contracts, 3rd Floor, 24 West 61st Street, New York, NY 10023, or laverne.andrews@parks.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.
Parks and Recreation, 24 West 61 Street, 3rd Floor, New York, NY 10023. Sandra Williams (212) 830-7974; Fax: (917) 849-6791; sandra.williams@parks.nyc.gov

j8-14

CONTRACTS

■ **AWARD**

Construction / Construction Services

PROCUREMENT OF CONTAINER TREES - Competitive Sealed Bids - PIN# 84617B0070001 - AMT: $477,600.00 - TO: SiteOne Landscape Supply Company, 1385 East 36th Street, Cleveland, OH 44114. CNYG-3716MA.

● **PARTIAL RECONSTRUCTION OF SORRENTINO RECREATION CENTER** - Competitive Sealed Bids - PIN# 84617B0118001 - AMT: $865,580.00 - TO: Sandhu Contracting Inc., 18-07 38th Street, Astoria, NY 11105. Contract Q446-116MA.

● **RECONSTRUCTION OF THE 2ND AVE ENTRANCE PATH** - Competitive Sealed Bids - PIN# 84617B0163001 - AMT: $1,106,737.50 - TO: Prestige Pavers of NYC Inc., 162-48A 14th Avenue, Whitestone, NY 11357. Contract M230-116M.

● **RECONSTRUCTION OF A PORTION OF THE WESTERN SHORE ON RANDALL'S ISLAND** - Competitive Sealed Bids - PIN# 84617B0047001 - AMT: $1,824,590.68 - TO: Aspen Landscaping Contracting Inc., 1121 Springfield Road, Union, NJ 07083. Contract M104-116M.

☛ **j12**

REVENUE

■ **SOLICITATION**

Services (other than human services)

RENOVATION, OPERATION AND MAINTENANCE OF A SNACK BAR AT THE HECKSCHER BALLFIELDS IN CENTRAL PARK, MANHATTAN - Request for Proposals - PIN# M10-65-SB-2018 - Due 7-16-18 at 3:00 P.M.

In accordance with Section 1-13 of the Concession Rules of the City of New York, the New York City Department of Parks and Recreation ("Parks") is issuing, as of the date of this notice a significant Request for Proposals ("RFP") for the renovation, operation and maintenance of a snack bar at the Heckscher Ballfields in Central Park, Manhattan.

There will be a recommended proposer meeting and site tour on Wednesday, June 20, 2018 at 11:30 A.M. We will be meeting at the proposed concession site (Block #1111 and Lot #1), which is located north of the Heckscher Ballfields and south of the West 65 Transverse. We will be meeting in front of the Snack Bar. If you are considering responding to this RFP, please make every effort to attend this recommended meeting and site tour. All proposals submitted in response to this RFP must be submitted no later than Monday, July 16, 2018 at 3:00 P.M.

Hard copies of the RFP can be obtained, at no cost, commencing on June 1, 2018 through July 16, 2018, between the hours of 9:00 A.M. and 5:00 P.M., excluding weekends and holidays, at the Revenue Division of the New York City Department of Parks and Recreation, which is located at, 830 Fifth Avenue, Room 407, New York, NY 10065.

The RFP is also available for download, on June 1, 2018 through July 16, 2018, on Parks' website. To download the RFP, visit http://www.nyc.gov/parks/businessopportunities and click on the "Concessions Opportunities at Parks" link. Once you have logged in, click on the "download" link that appears adjacent to the RFP's description.

For more information or to request to receive a copy of the RFP by mail, prospective proposers may contact Jocelyn Lee, Project Manager, at (212) 360-3407 or at jocelyn.lee@parks.nyc.gov.

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 10065. Jocelyn Lee (212) 360-3407; Fax: (212) 360-3434; jocelyn.lee@parks.nyc.gov

j1-14

PROBATION

■ **AWARD**

Goods

CISCO TELEPRESENCE MEETING SERVER AND MAINTENANCE - Innovative Procurement - Other - PIN# 781-18-0716 - AMT: $35,137.00 - TO: Derive Technologies LLC, 110 William Street, 14th Floor, New York, NY 10038.

Certified M/WBE vendors may contact acco@probation.nyc.gov, to obtain information on such future M/WBE Purchases offered by the Department of Probation.

The Department of Information Technology and Telecommunications, on behalf of all New York City agencies and entities subject to the New York City Procurement Policy Board (PPB) Rules, utilized the Innovative Procurement Method under Section 3-12 of the Procurement Policy Board Rules. This proposed method was originally advertised by DoITT on February 1, 2018, and will be used to procure goods, standard services and professional services from $20,000 to $150,000 exclusively from City-Certified M/WBEs for goods and services. This Method will be used as advertised until such time the City has evaluated the use of this proposed method and determined whether it is in the City's best interest to be codified and used within the PPB rules.

☛ **j12**

Human Services / Client Services

ARCHES RENEWAL - Renewal - PIN# 78116I0001008R001 - AMT: $193,000.00 - TO: Harlem Commonwealth Council, Inc., 261 West 125th Street, New York, NY 10027.
Exercise of one-year option to renew from 7/1/18 - 6/30/19.

● **ARCHES RENEWAL** - Renewal - PIN# 78116I0001010R001 - AMT: $193,000.00 - TO: Sheltering Arms Children and Family Services, Inc., 305 Seventh Avenue, 4th Floor, New York, NY 10001.
Exercise of one-year option to renew from 7/1/18 - 6/30/19.

☛ **j12**

YOUTH AND COMMUNITY DEVELOPMENT

PROCUREMENT

■ **INTENT TO AWARD**

Services (other than human services)

FY19 NEGOTIATED ACQUISITION FOR YOUNG ADULT LITERACY - Negotiated Acquisition - Specifications cannot be made sufficiently definite - PIN# 26018N0003 - Due 6-15-18 at 9:00 A.M.

Pursuant to Section 3-04 (d)(1) of the Procurement Policy Boards Rules, the New York City Department of Youth and Community Development (DYCD), is posting this intent to enter into negotiations with Workforce Professionals Training Institute (WPTI) by way of Fund for the City of New York through a Negotiated Acquisition, under PPB rule 3-04 (b)(2)(ii), EPIN: 26018N0003, for continued support and maintenance of curriculum developed by WPTI. This curriculum was developed by WPTI to help support the Young Adult Literacy Programs (YALP) Bridge program, that was launched back in fiscal Year 2016. Therefore, DYCD has determined that it is in the best interest to enter into negotiations with the curriculum developers through a Negotiated Acquisition given their extensive knowledge of the program and curriculum.

The amount of the anticipated contract shall be $90,000.00 with an anticipated term of July 1, 2018 to June 30, 2019, with no option to renew.

Fund for the City of New York (Workforce Professionals Training Institute)
121 6th Avenue, 6th Floor
New York, NY 10013

If you are interested in receiving additional information regarding this procurement or any future procurements, please send an email to ACCO@dycd.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.
Youth and Community Development, 2 Lafayette Street, 14th Floor, New York, NY 10007. Renise Ferguson (646) 343-6320; referguson@dycd.nyc.gov

j8-14

AGENCY RULES

HEALTH AND MENTAL HYGIENE

■ **NOTICE**

Notice of Public Hearing and Opportunity to Comment on Proposed Amendments

What are we proposing? The New York City Department of Health and Mental Hygiene ("Department" or "DOHMH") is proposing that the Board of Health ("Board") amend Section 207.05 of Article 207 the New York City Health Code to eliminate the requirement that a person requesting a change to the sex designation on a birth certificate present proof from a health professional, and instead require self-attestation. Additionally, the Department is proposing that the Board approve "X" as an additional sex designation option that is not exclusively female or male for birth certificate sex change requests.

When and where is the hearing? The Department will hold a public hearing on the proposal at 10:00 A.M. on July 24, 2018. The hearing will be held at:

New York City Department of Health and Mental Hygiene
Gotham Center
42-09 28th Street, 3rd Floor, Room 3-32
Long Island City, NY 11101-4132

How do I comment on the proposed amendments to the Health Code? Anyone can comment on the proposed amendments by:

- **Website.** You can submit comments to the Department through the NYC Rules website at http://rules.cityofnewyork.us.
- **Email.** You can email written comments to resolutioncomments@health.nyc.gov
- **Mail.** You can mail written comments to:

  New York City Department of Health and Mental Hygiene
  Gotham Center, 42-09 28th Street, CN 31
  Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to New York City Department of Health and Mental Hygiene at (347)396-6087.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed amendments at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at (347) 396-6078. You can also sign up in the hearing room before or during the hearing on July 24, 2018. You can speak for up to five minutes.

Is there a deadline to submit written comments? Written comments must be received on or before 5:00 P.M. on July 24, 2018.

You must tell us if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (347) 396-6078. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by July 10, 2018.

This location is wheelchair-accessible.

Can I review the comments made on the proposed amendment? You may review the comments made online at http://rules.cityofnewyork.us/ on the proposed amendments by going to the website at http://rules.cityofnewyork.us/. All written comments and a summary of the oral comments received by the Department will be made available to the public within a reasonable period of time by the Department's Office of the General Counsel.

What authorizes the Department to make this amendment? Section 558(b), (c), and (g) of the Charter empowers the Board to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 558(c) of the Charter authorizes the Board to include in the Health Code provisions related to maintaining a registry of births and deaths. Section 556(c)(1) of the Charter authorizes the Department to supervise and control the registration of births and deaths. Section 17-167.1 of the New York City Administrative Code authorizes the Department to correct sex designations on birth records. Section 1043(a) of the Charter grants rulemaking powers to the Department.

Where can I find the Department's rules? The Department's rules and the Health Code are located in Title 24 of the Rules of the City of New York.

What laws govern the rulemaking process? The Department must satisfy the requirements of Section 1043 of the Charter when adding or amending rules. This notice is made according to the requirements of Section 1043(b) of the Charter.

The proposed amendment of these provisions were not included in the Department's regulatory agenda for this fiscal year because it was not contemplated when the Department published the agenda.

Statement of Basis and Purpose of Proposed Rule

Background
In 1971, the Board of Health amended Section 207.05 of the New York City Health Code to allow the Department to file a new birth certificate with a corrected gender marker of male or female for a person who both obtained a court order changing his or her name and who underwent "convertive" surgery. The Department had, generally but not exclusively, interpreted the requirement for convertive surgery to mean genital surgery. As a result, transgender applicants requesting new birth certificates were required to submit medical records demonstrating that they had undergone genital surgery to change sex and the number of requests for a corrected birth certificate was relatively small. For example, in 2012, the number of new birth certificates approved and issued to transgender applicants was 20 and, in 2013, only 22 new birth certificates were issued.

In 2014, the Board of Health amended Section 207.05(a)(5) to eliminate the requirement for convertive surgery. This amendment allowed the Department to issue a new birth certificate with a changed gender marker of male or female based on an affirmation from a physician licensed to practice in the United States, or an affidavit from a doctoral-level psychologist clinical social worker, physician assistant, nurse practitioner, marriage and family therapist, mental health counselor, or midwife, licensed to practice in the United States. Eliminating the surgery requirement led to a dramatic increase in

requests for new birth certificates; from January 2015, when the amendment became effective, through February 2018, the Department issued 1,047 new birth certificates to transgender applicants.

Proposed Amendment
The Department is now proposing to eliminate the requirement that a person requesting a change to the sex designation on a birth certificate present proof from a health professional. Instead, applicants would be able to self-attest as to their gender. Additionally, the Department is proposing that the Board approve "X" as an additional sex designation for persons who do not identify as exclusively female or male.

The Department, in discussion with other states and advocates, has found that having practitioners affirm or attest to a person applicant's gender identity is both a potential barrier for persons without access to a practitioner and does not add sufficient value in the process of deciding whether a new birth certificate should be issued. Anecdotal evidence suggests that practitioners simply comply with their patients' requests when asked to affirm or attest to a patient's request for a change of gender. Consequently, the Department proposes to rely on the applicant's attestation that would require notarization.

The Department is also proposing that the Board approve "X" as an additional sex designation option that is not exclusively female or male for birth certificate sex change requests. The sex designation on the US Standard Certificate of Live Birth is completed by the hospital or attendant at the time of birth. The four choices are male, female, unknown and undetermined. These are "sex" categories and not gender categories. The original public health data reported by the hospital is not changed under this proposal.

"Gender" categories are only applied on the birth certificate during an amendment process. When the gender on a birth certificate is amended the original record is placed under seal and a new record is created. There is no indication on the record of the amendment history. The Department is proposing to allow "X" for those applicants who want a designation other than female or male on their birth certificate.

The amendment is as follows:

New material is underlined.
[Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

RESOLVED, that Subparagraph (i) of Paragraph (5) of Subdivision (a) of Section 207.05 of Article 207 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

(i)(A) A person [files either an affirmation from a physician (MD or DO) licensed to practice medicine in the United States and who is in good standing, to affirm that in keeping with contemporary expert standards regarding gender identity, the applicant's requested correction of sex designation of male or female more accurately reflects the applicant's sex or gender identity] who is at least 18 years old and named as the registrant on a birth record provides a notarized statement requesting that the sex designation on such birth record be changed to female, male, or X, to conform to the person's gender identity, where X signifies a sex designation that is not exclusively female nor exclusively male; or
(B) [an affidavit from a doctoral level psychologist (PhD or PsyD) in clinical or counseling psychology, master social worker, clinical social worker, physician assistant, nurse practitioner, marriage and family therapist, mental health counselor, or midwife, licensed to practice in the United States and who is in good standing to attest that in keeping with contemporary expert standards regarding gender identity, the applicant's requested correction of sex designation of male or female more accurately reflects the applicant's sex or gender identity] The living parents named on the birth certificate of a registrant who is less than 18 years old or the legal guardians of such registrant provide a notarized statement or statements requesting that the sex designation on such birth record be changed to female, male, or X, where X signifies a sex designation that is not exclusively female nor exclusively male.

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

CERTIFICATION/ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Rules Governing Birth Certificate Changes
REFERENCE NUMBER: DOHMH-93
RULEMAKING AGENCY: Board of Health

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

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ *ALEXANDRA OZOLS* *May 31, 2018*
Mayor's Office of Operations Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
(212) 356-4028

CERTIFICATION, PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Amendment of Rules Governing Birth Certificate Changes
REFERENCE NUMBER: 2018 RG 066
RULEMAKING AGENCY: Board of Health

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

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: May 31, 2018
Acting Corporation Counsel

Accessibility questions: Svetlana Burdeynik (347) 396-6078, ResolutionComments@health.nyc.gov, by: Tuesday, July 10, 2018, 5:00 P.M.

☛ **j12**

Notice of Public Hearing and Opportunity to Comment on a Proposed Amendment of Article 11 of the Health Code

What are we proposing? The New York City Department of Health and Mental Hygiene (Department) is proposing the Board of Health amend Article 11 of the Health Code, lowering the age of required reporting of first-episode psychosis, adding race and ethnicity to the list of required information when reporting first-episode psychosis, and removing the time limit that the Department can hold information of those reported with first-episode psychosis.

When and where is the hearing? The Department will hold a public hearing on the proposal at 2:00 P.M., on July 12, 2018. The hearing will be held at:

New York City Department of Health and Mental Hygiene
Gotham Center
42-09 28th Street, 14th Floor, Room 14-43
Long Island City, NY 11101-4132

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website**. You can submit comments to the Department through the NYC rules website at http://rules.cityofnewyork.us
- **Email.** You can email written comments to resolutioncomments@health.nyc.gov
- **Mail.** You can mail written comments to

  New York City Department of Health and Mental Hygiene
  2 Gotham Plaza – 42-09 28th Street, CN 31
  Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to New York City Department of Health and Mental Hygiene at (347) 396-6087.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (347) 396-6078. You can

also sign up in the hearing room before the hearing begins on July 12, 2018. You can speak for up to three minutes.

Is there a deadline to submit written comments? Written comments must be received on or before 5:00 P.M. on July 12, 2018.

What if I need assistance to participate in the hearing? You must tell the Department's Office of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (347) 396-6078. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by June 28, 2018.

This location is wheelchair accessible.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at http://rules.cityofnewyork.us/. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the Department's Office of the General Counsel.

What authorizes the Department of Health and Mental Hygiene to make these rules? Sections 556, 558 and 1043 of the City Charter authorize the Department to make this proposed rule. This proposal was not included in the Department's Regulatory Agenda for 2019 because the Department did not anticipate this amendment at that time.

Where can I find the Department's rules? The rules of the Department are in Title 24 of the Rules of the City of New York.

What laws govern the rulemaking process? The Department must meet the requirements of §1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of City Charter §1043.

Statement of Basis and Purpose

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 authority of the Department of Health and Mental Hygiene (the "Department" or "DOHMH") extends. Section 1043 grants the Department rule-making authority.

Background
The Department is responsible under the Charter for supervising matters affecting the health of New Yorkers. This includes supervision of the reporting and control of chronic diseases and conditions hazardous to life and health.[1] The Department also has specific responsibilities with regard to mental health., pursuant to section 552 of the Charter, the Department's Division of Mental Hygiene (MHy) is the local government unit (LGU) for the City of New York under New York State Mental Hygiene Law, and the executive deputy commissioner who directs the Division is the City's director of community services. As the LGU, MHy is responsible for administering, planning, contracting, monitoring, and evaluating community mental health and substance use services within the City of New York. It also is charged with identifying needs and planning for the provision of services for high-need individuals, such as persons with schizophrenia and other psychotic illnesses. In 2013, the Board of Health amended the Health Code to require hospitals to report when persons between the age of 18 and 30 are first admitted with a psychotic illness so that DOHMH can make appropriate linkages to services through the NYC Supportive Transition and Recovery Team (NYC START). The Department of Health and Mental Hygiene has successfully implemented hospital reporting with time-limited linkage to care for individuals 18 – 30 years of age with a first-episode psychosis hospital admission. However, in order to best account for and intervene in episodes of early psychosis and address health disparities, it is necessary to expand the age criteria for the reporting requirement to those aged 16 and over, collect data on race and ethnicity, and retain collected information past the current 30 day time limit.

Current Linkages to Care for First-Episode Psychosis
When the Health Code was amended in 2013 to address inadequate linkages to care for people with first-episode psychosis, we pointed out that New Yorkers with psychotic illnesses often do not seek care or become disengaged from care in part due to:

- Fragmentation in the current mental health treatment system (patients being lost to care in transitions from hospitalization);
- Exchange of patient information unsupported by technology infrastructure or current administrative practices;
- Mental health treatment providers lacking resources to ensure links are established between patients and community supports; and
- Challenges such as stigma, denial, fear, lack of support, and confusion related to benefits and insurance

While NYC START has improved these linkages to care for those who are reported with first-episode psychosis and accept services, we seek to further amend the Health Code to improve the health of all New Yorkers with first-episode psychosis. In particular, there are three areas that need to be addressed in order to more fully account for the needs of individuals with psychosis:

1. Currently, the Department may only retain identifiable information of individuals reported with first-episode psychosis for 30 days unless they accept care through NYC START, making psychosis the only reportable illness that places a limit on the amount of time the information can be seen by the Department. After 30 days, this information must be de-identified and cannot be used to follow up with the individual or to identify possible re-reporting. Given the many reasons that people with first-episode psychosis disengage from care, it is necessary to retain this information past 30 days to ensure that outreach can continue to those who have been unreachable during the initial 30-day period, to comprehensively assess the needs of communities, and to work with providers to develop successful interventions.
2. DOMMH estimates that approximately *2,000* new cases of psychotic illness develop each year in New York.[2,3] Our analysis of NYC hospital admissions found that 6 % of probable first-episode admissions occurred among persons between 16 and 17 years of age.[4] There has been an expansion in the availability of specialized services for individuals 16 to 30 years of age. However, due to restrictions in the Health Code limiting the reporting age to between 18 and 30, we do not currently account for individuals who develop first-episode psychosis before the age of 18.
3. Race and ethnicity are currently not among the list of required information that hospitals must identify when making a report of first-episode psychosis. Because there are racial disparities in the diagnosis and treatment of psychotic disorders, however, this information is especially pertinent to collect and utilize to improve interventions and address health inequity.[5]

Proposed Rule
To improve interventions, linkages to care, and outcomes for New Yorkers experiencing first-episodes of psychosis, the Department proposes that the Board of Health amend Article 11 of the Health Code. The proposed changes would facilitate participation in early intervention services by requiring hospitals to report when individuals over 16 and under 31 years of age are admitted with a first-episode of psychotic illness. The proposed changes would further facilitate the creation of a database of reported cases of first-episode psychosis that would permit the Department to monitor trends of the illness.

Evaluating these trends can be used to:

- Develop targeted, culturally-competent interventions in the NYC START program
- Measure outcomes of first-episode psychosis care, and thereby direct more efficient interventions to health care institutions, health care providers and people with psychosis.

Reporting will continue to be required within 24 hours of admission and will include hospital name, patient name, age, gender, address, telephone, date of admission, insurance type, diagnosis, race, and ethnicity. All patient information reported to the Department will be kept confidential and will not be shared with anyone other than the patient or treating provider.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the text below, unless otherwise specified or unless the context clearly indicates otherwise.

New text is underlined; deleted text is in [brackets].

RESOLVED, that Section 11.04 of Article 11 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

§11.04 **Report of First-Episode Psychosis.**

(a) *Required reports.* A hospital must report to the Director of the

1 Charter §556(c)(2).

2 Kirkbride JB et al. Int J Epi. 2009; 38-1255-64.

3 Bladwin P et al. Schiz Bull 2005 31;3, 624-38.

4 DOHMH internal analysis of NYC hospital admissions in 2009 for probable first-episode psychosis among 16 – 29 year olds.

5 Schwartz, R et al. World J Psychiatry. 2014 4(4): 133-140

Division of Mental Hygiene of the Department by telephone or in an electronic transmission format acceptable to the Department, the admission of any person [over 18] 16 years of age or older and younger than [30] 31 years of age with a psychosis diagnosis as defined in Paragraph (1) of this subdivision within 24 hours of such admission. A report shall not be required if such person was previously hospitalized with a psychosis diagnosis as defined in Paragraph (1) of this subdivision when he or she was [over the age of 18] 16 years of age or older.

(1) *Psychosis diagnosis* shall mean:
(A) Schizophrenia (any type);
(B) Psychosis NOS (not otherwise specified);
(C) Schizophreniform Disorder;
(D) Delusional Disorder;
(E) Schizoaffective Disorder;
(F) Brief Psychotic Disorder;
(G) Shared Psychotic Disorder;
(H) Other Specified Schizophrenia Spectrum and Other Psychotic Disorder;
(I) Unspecified Schizophrenia Spectrum and Other Psychotic Disorder
(2) Reports must include patient's:
(A) Full Name
(B) Gender
(C) Date of birth
(D) Address
(E) Telephone
(F) Hospital admission date
(G) Diagnosis
(H) Insurance type
(I) Race
(J) Ethnicity

(b) *Reports to be confidential.* [The Division of Mental Hygiene will only use the information reported to it to offer care and services to the patient who is the subject of the report. Identifying information shall be confidential and shall not be subject to inspection by persons other than authorized personnel of the Division of Mental Hygiene. Such information may not be disclosed without the consent of the person who is the subject of such report or someone authorized to act on such person's behalf, except, pursuant to a federal or state law that compels such disclosure. The director may not keep patient-identifying information reported to him or her for more than thirty days. Within 31 days of receiving information reported to it, pursuant to this section, the Division shall cause such information to be destroyed.] Identifying information reported to the Department, pursuant to this section shall be confidential according to the confidentiality provisions of §11.11 of this Code and shall not be subject to inspection by persons other than authorized personnel of the Division of Mental Hygiene. Other than to such authorized personnel, such information may not be disclosed without the consent of the person who is the subject of such report or someone authorized to act on such person's behalf, except, pursuant to a Federal or State law that compels such disclosure.

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

CERTIFICATION/ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Reporting of First Episode Psychosis
REFERENCE NUMBER: DOHMH-94
RULEMAKING AGENCY: Department of Health and Mental Hygiene

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

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Sarah Joseph Kurien — *June 1, 2018*
Mayor's Office of Operations — Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
(212) 356-4028

CERTIFICATION, PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Reporting of First Episode Psychosis
REFERENCE NUMBER: 2018 RG 065
RULEMAKING AGENCY: Board of Health

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

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN — Date: June 1, 2018
Acting Corporation Counsel

Accessibility questions: Svetlana Burdeynik (347) 396-6078, ResolutionComments@health.nyc.gov, by: Thursday, June 28, 2018, 5:00 P.M.

☛ **j12**

Notice of public hearing and opportunity to comment on the repeal and reenactment of Article 175 of the New York City Health Code concerning radiation control.

What are we proposing?
The New York City Department of Health and Mental Hygiene ("Department") is proposing to repeal and reenact Article 175 ("Radiation Control") of the New York City Health Code concerning the regulation of radiation-producing equipment and radioactive materials used for medical, academic and research purposes. The primary purpose of this reenactment is to more efficiently incorporate and enforce federal radioactive materials requirements and to update the quality assurance requirements for radiation equipment.

When and where is the hearing?
The Department will hold a public hearing on the proposal at 10:00 A.M. on July 16, 2018. The hearing will be held at:

New York City Department of Health and Mental Hygiene
Gotham Center
42-09 28th Street, 14th Floor, Room 14-43
Long Island City, NY 11101-4132
This location is wheelchair-accessible.

How do I comment on the proposal?
Anyone can comment on the proposal by:

- **Website**. You can submit comments to the Department through the NYC rules website at http://rules.cityofnewyork.us
- **Email.** You can email written comments to resolutioncomments@health.nyc.gov
- **Mail**. You can mail written comments to:

  New York City Department of Health and Mental Hygiene
  Office of General Counsel
  Attn: Svetlana Burdeynik
  42-09 28th Street, 14th Floor
  Long Island City, NY 11101-4132
- **Fax**. You can fax written comments to the Department, at (347) 396-6087.
- **Speaking at the hearing**. Anyone who wants to comment on the proposal at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at (347) 396-6078. You can also sign up in the hearing room before or during the hearing on July 16, 2018. You can speak for up to five minutes.

Is there a deadline to submit written comments?
Written comments must be received on or before 5:00 P.M. on July 16, 2018.

Do you need assistance to participate in the hearing?
You must tell us if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (347) 396-6078. You must tell us by July 2, 2018.

Can I review the comments made on the proposed amendments?
You can review the comments made online on the proposal by going to the website at http://rules.cityofnewyork.us/. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available for review by the public at the Department's Office of the General Counsel.

What authorizes the Department to make this rule?
New York City Charter ("Charter") Section 556(c)(11) authorizes the Department to supervise and regulate the public health aspects of ionizing radiation, the handling and disposal of radioactive wastes, and the activities within the city affecting radioactive material. Charter Sections 558 (b) and (c) 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. Charter Section 1043(a) provides that each "agency is empowered to adopt rules necessary to carry out the powers and duties delegated to it by or, pursuant to federal, state or local law." This proposal was not included in the FY2018 Regulatory Agenda as the Department anticipated promulgation and implementation of this reenacted Article in FY2019.

Where can I find the Department's rules?
Department rules can be found in Title 24 of the Rules of the City of New York.

What rules govern the rulemaking process?
The City's rulemaking process is governed under NYC Charter §§ 1041-1047. This notice is made according to the requirements of Charter §1043.

Statement of Basis and Purpose

Section 274 of the Federal Atomic Energy Act of 1954 [42 USC §2021 et seq.] ("Atomic Energy Act") authorizes "Agreement States" to regulate byproduct material, source material and special nuclear material in quantities not sufficient to form a critical mass. New York State is an "Agreement State" within the meaning of the Atomic Energy Act, and the New York City Department of Health and Mental Hygiene ("Department" or "DOHMH") operates a component of the New York State Agreement. Under this Agreement State structure, the DOHMH, through its Office of Radiological Health ("ORH"), regulates radioactive material for medical, research and academic purposes within the five boroughs of New York City.

New York State (NYS) Public Health Law §§225(5)(p) and (q) allows the NYS Commissioner of Health and the NYS Public Health and Planning Council to establish regulations with respect to ionizing radiation and nonionizing electromagnetic radiation and to authorize appropriate officers or agencies to register radiation installations, issue licenses for the transfer, receipt, possession and use of radioactive materials, other than special nuclear materials in quantities sufficient to form a critical mass, render such inspection and other radiation protection services as may be necessary in the interest of public health, safety and welfare. The NYS regulations are set out in Part 16 of the NYS Sanitary Code.

The Sanitary Code, in 10 NYCRR §16.1(b)(3), allows New York City to establish its own radiation licensure requirements in place of State regulations, so long as the local requirements are consistent with Sanitary Code requirements.

New York City Charter ("Charter") Section 556(c)(11) authorizes the Department to supervise and regulate the public health aspects of ionizing radiation, the handling and disposal of radioactive wastes, and the activities within the city affecting radioactive material.

Background
Article 175 of the New York City Health Code ("Health Code") applies to all radiation-producing equipment and radioactive material within NYC. The Article contains general provisions applicable to both radiation equipment registrants and radioactive materials licensees, and specific requirements for such equipment and materials. The purpose of Article 175 is to protect the public, as well as workers in radiation installation facilities, from the potential hazards of ionizing radiation. The Article's requirements for radiation control reflects the coordination of radiation control activities with the U.S. Nuclear Regulatory Commission ("NRC"), the U.S. Food and Drug Administration, the NYS Department of Health and the NYS Department of Environmental Conservation, and other relevant city, state and federal agencies.

The proposed reenacted Article 175 of the Health Code incorporates federal requirements contained in Title 10 of the Code of Federal Regulations ("CFR") and reflects and is consistent with state regulations contained in the NYS Sanitary Code [10 NYCRR Part 16], and sets forth ORH-specific best practices requirements. By law, the City must maintain compatibility with applicable federal requirements and consistency with applicable state regulations. The Health Code may, and Article 175 as proposed does, in certain instances, mandate more stringent requirements as to health and safety radiation control measures than those required by federal and state authorities.

In NYC, there are about 6500 registered facilities with radiation-producing machines and 375 licensed sites with radioactive material for medical, academic and research purposes. Of the registered facilities, approximately 6440 are diagnostic X-ray facilities and 60 are therapeutic X-ray facilities. ORH inspects these facilities at varying frequencies depending on the type of usage. Current inspection fees are unchanged under this proposed reenactment.

Radiation equipment
Prior to this rulemaking, Article 175 of the Health Code has not been substantially updated, particularly as to its radiation equipment requirements, since its last enactment in 1994. Similar to that last reenactment, the Department has based much of this proposed reenacted text on the model code maintained by the Conference of Radiation Control Program Directors (CRCPD). The CRCPD is a 501(c)(3) nonprofit professional organization whose primary membership is made up of radiation professionals in state and local government that regulate the use of radiation sources in their jurisdictions. CRCPD's mission is "to promote consistency in addressing and resolving radiation protection issues, to encourage high standards of quality in radiation protection programs, and to provide leadership in radiation safety and education".[1] Since the reenactment of Article 175 in 1994, improved best practices have been developed and implemented for radiation control measures. Many of these measures are reflected in the current CRCPD model code, which has provided the basis for much of the text related to radiation equipment in the new proposed Article 175.

Radioactive materials
As noted above, Article 175 of the Health Code incorporates federal requirements from Title 10 of the CFR. New York State is an Agreement State with the U.S. NRC which means that the NRC has delegated authority to NYS to regulate radioactive material at non-reactor sites within its jurisdiction. The New York State Agreement is comprised of the regulatory programs of three agencies:

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

Under the NYS Agreement and § 16.1 of the State Sanitary Code, the Department, through its Office of Radiological Health (ORH), regulates radioactive material for medical, research and academic purposes within the five boroughs of New York City. Each Agreement State program is required to maintain compatibility with the NRC regulatory program. The NRC regulatory program utilizes Compatibility Categories to specify the type of wording to be used in the corresponding State program regulations.[2]

As noted above, the last significant revision of Article 175 requirements occurred over 20 years ago. Since then, NRC has made numerous updates of its requirements contained in Title 10 of the CFR. In order for the Department to maintain its compatibility status with the NRC regulatory program, each time the NRC has updated its regulations in Title 10 of the CFR, the Board has had to make corresponding updates to Article 175, which has been an inefficient and time–consuming process. In many instances, and because of the compatibility designations, the Board updated Article 175 by reproducing the actual CFR text directly into its requirements. The Board believes that continuing to update its rules this way is redundant and unnecessary and that it makes more sense to incorporate by reference the relevant CFR regulations, which will still provide the same legal force and effect as if the Board had actually reproduced such requirements directly into Article 175. This incorporation by reference process avoids duplication and provides uniform, accurate guidance to the regulated community, as well as making for a less unwieldy and more manageable Code.

Accordingly, the Department proposes the Board repeal and reenact Article 175 primarily to:

- update the quality assurance requirements to reflect industry-wide best practices for the installation, operation and maintenance of both diagnostic and therapeutic radiation equipment required to be registered with the Department, and which is used for medical, academic and research purposes, and
- more efficiently adopt and enforce NRC requirements for the possession and use of radioactive materials required to be licensed by the Department by incorporating by reference applicable federal regulations contained in Title 10 of the CFR for radioactive materials.

Statutory Authority
This repeal and reenactment of Article 175 of the Health Code is proposed, pursuant to Sections 556, 558 and 1043 of the Charter and

1 See, http://c.ymcdn.com/sites/www.crcpd.org/resource/collection/665D6792-2EB4-4AF6-8134-1173A394FE28/Constitution10-25-04.pdf (describing the goals of the CRCPD to, among other things, promote radiological health in all aspects and phases and to promote and foster uniformity of radiation control laws and regulations).

2 See, https://scp.nrc.gov/procedures/sa200.pdf (providing NRC compatibility categories and health and safety components assigned for determining whether an agreement state is maintaining a compatible radiation safety control program with NRC).

applicable state and federal law. Section 556 of the Charter grants the Department jurisdiction to regulate matters affecting health in New York City. Specifically, Section 556(c)(11) of the Charter authorizes the Department to supervise and regulate the public health aspects of ionizing radiation within the five boroughs of New York City. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants rule-making powers to the Department.

The proposal is as follows:

"Shall" and "must" denote mandatory requirements and may be used interchangeably.

RESOLVED, that Article 175 of the New York City Health Code, regarding the regulation and control of radiation producing equipment and radioactive materials used for medical, academic and research purposes, as set forth in Title 24 of the Rules of the City of New York, is hereby REPEALED and a new Article 175 is reenacted to read as follows:

ARTICLE 175 - RADIATION CONTROL

PART I – GENERAL PROVISIONS

§175.01 **Applicability and communications.**

(a) Applicability. Except as provided in Subdivision (b) of this section, this Code applies to any person who sells, transfers, assembles, receives, produces, possesses, or uses any radiation source in New York City.

(b) Inapplicability.

(1) This Code does not apply to any person with respect to any radiation source subject to regulation, as provided for by law, by the New York State Department of Labor. This exclusion does not apply to the use of such sources in places where the general public may be exposed; or to persons with respect to radiation sources used at industrial or commercial establishments for the application of radiation to human beings.

(2) This Code does not apply to any common or contract carrier or any shipper operating within New York City to the extent that such carrier or shipper is subject to regulation as provided for by law by the U.S. Department of Transportation or other agencies of the United States or agencies of the State or City of New York, except for compliance with provisions relating to transportation of radioactive materials set forth in §175.106.

(c) Communications. Except as otherwise provided for in this Code, or as authorized by the Department, all applications, notifications, reports or other communications filed, pursuant to this Code must be addressed to the Department, at:

NYC Department of Health and Mental Hygiene
Office of Radiological Health
25-01 Jackson Avenue, 14th Floor
Long Island City, New York 11101

§175.02 **Inspections and fees.**

(a) Inspections.

(1) Any radiation installation subject to the licensure or registration requirements of this Code shall be inspected periodically to ensure compliance with the provisions of this Code and the maintenance of radiation exposures as far below the limits set forth in this Code as practicable. Inspections shall be made at a frequency determined by the Department in its rules.

(2) Unless otherwise indicated, for newly-registered facilities, initial inspections shall be made at or near the time of the beginning of operation.

(3) Inspections shall be made by the Department or, as the Department shall direct for dental and podiatric installations, by a Certified Radiation Equipment Safety Officer (CRESO) approved by the Department, to determine compliance with this Article and this Code.

(i) CRESOs must furnish an inspection report to the operator of the installation, in a form prescribed by the Department and signed by the person who made the inspection, and provide a copy thereof to the Department.

(ii) CRESOs must not charge or propose to charge a fee for an inspection above a fair and reasonable amount as determined by the New York State Department of Health.

(4) Re-inspections or other appropriate follow-up activities will occur to ensure that any violation found during an inspection and not corrected at the end of such inspection is subsequently corrected.

(b) Inspection fees. Notwithstanding any other provision of this Code, the Department is authorized to charge the following inspection fees, pursuant to section 225 of the New York State Public Health Law and the regulations promulgated thereunder:

(1) For radiation equipment facilities required to have quality assurance programs, pursuant to §175.12, the following inspection fees apply, where examination means the conduct of an x-ray patient exam by radiographic or fluoroscopic or a CT unit regardless of the number of patient exposures or x-ray exposure time:

(i) Hospital-inspected facilities:

(A) Large hospital (more than 40 tubes) base fee: $1960.00
(B) Medium hospital (21–40 tubes) base fee: $1585.00
(C) Small hospital (1–20 tubes) base fee: $1290.00
(D) Large (more than 2500 examinations per year, excluding mammography) non-hospital base fee: $670.00
(E) Small (less than 2500 examinations per year, excluding mammography) non-hospital base fee: $375.00

(ii) Quality assurance-mandated inspected facilities:

(A) Large (more than 2500 examinations per year) facility base fee: $670.00
(B) Small (less than 2500 examinations per year) facility base fee: $375.00

(iii) For each tube inspected at facilities identified in (i) or (ii) above of this paragraph, the following inspection fees apply in addition to the base fee:

(A) Radiographic: $120.00
(B) Fluoroscopic: $175.00
(C) Mammographic: $295.00
(D) Dental: $60.00
(E) All other: $60.00

(iv) For radiation equipment facilities not required to have quality assurance programs, pursuant to §175.12, the following inspection fees apply:

(A) First tube: $170.00
(B) Each additional tube: $60.00

(2) For linear accelerator facilities, the following is the base fee: $715.00

(3) For facilities licensed to possess and use radioactive materials, the following inspection fees apply:

(i) Specific licenses authorizing teletherapy, the following is the base fee: $320.00

(ii) Specific licenses of limited scope authorizing medical use (except for teletherapy)

(A) Base fee: $610.00
(B) Per site fee: $140.00

(iii) Specific licenses of limited scope authorizing non-human use

(A) Base fee: $385.00
(B) Per site fee: $160.00

(iv) Specific licenses of broad scope authorizing medical use (except for teletherapy)

(A) Base fee: $3515.00
(B) Per site fee: $140.00

(v) Specific license of broad scope authorizing research and development (non-human use)

(A) Base fee: $2450.00
(B) Per site fee: $160.00

(c) Due date for inspection fees. Payment for inspection fees is due and payable thirty (30) days after the billing date. Failure to pay any inspection fee may result in the suspension or revocation of a registration, certified registration or radioactive materials license.

§175.03 Professional practitioners and related provisions.

(a) Nothing in this Article shall limit any human use of radiation in diagnostic and therapeutic procedures, provided that with respect to human use of radioactive materials, such use is in accordance with a specific license or registration issued, pursuant to this Code, or an exemption therefrom, or under a license issued by the New York State Department of Health or the United States Nuclear Regulatory Commission or an Agreement State.

(b) Each professional practitioner who treats or diagnoses any alleged or proven case of radiation illness or radiation injury to any individual, except that which can be expected in the normal course of radiation therapy and interventional fluoroscopic exams, must report to the Department in writing within seven (7) days of such treatment or diagnosis, the fact thereof and the full name, address, patient ID number, and age of such individual diagnosed or treated.

(c) No person other than a professional practitioner acting within the scope of their practice shall direct or order the application of radiation to a human being; nor shall any person other than a professional practitioner or a person working under the direction, order, or direct supervision of a professional practitioner apply radiation to a human being. Such direction, order to apply, application of, or administration of radiation must be within the lawful scope of, and in the course of, the practitioner's professional practice and must comply with:

(1) the provisions of the license or other authorization of the professional practitioner under the New York State Education Law, or any applicable successor law and all regulations pertinent thereto, including, but not limited to provisions as to those parts of the human body and those persons which the professional practitioner may diagnose, analyze or treat or to which she may direct or order the application of, or apply, radiation, and provisions as to the type of radiation which the professional practitioner may use

and the purpose for which the professional practitioner may use it.

(2) the applicable provisions of Part 89 of Title 10 of the New York Codes, Rules and Regulations and Article 35 of the Public Health Law, or any successor law or regulation, relating to the practice of radiologic technology including licensure requirements and the limitations under which radiologic technologists and other persons, other than professional practitioners, may apply x-rays to human beings and all regulations pertinent thereto.

(3) A professional practitioner shall be responsible for the supervision of any radiation employee who administers radiation to human beings to assure that each exposure is given consistent with expected medical benefit and in accordance with applicable standards or requirements relating to the practice for which such professional practitioner is licensed.

(d) A radiologic technologist shall be responsible for complying with the requirements of such technologist's license and the limitations established by the New York State Department of Health, Bureau of Radiologic Technology. Each activity carried out as a radiologic technologist shall be such as to assure the maximum medical benefit with the minimum radiation exposure to patients and employees.

§175.04 Prohibited uses and activities.

(a) Prohibited uses. The following are prohibited uses of radiation equipment:

(1) Hand-held fluoroscopic screens.
(2) Shoe-fitting fluoroscopic devices.
(3) Intraoral fluoroscopy in dental examinations.
(4) Photofluorographic equipment.
(5) Equipment employing bare overhead or uninsulated conductors.
(6) Non-image intensified fluoroscopes.
(7) Capacity energy storage equipment used to image humans, 2 years after the effective date of this Code.
(8) Intraoral dental x-ray machines operated at less than a measured 51 kVp effective, 2 years after the publication of this rule.

(b) Prohibited activities.

(1) No person shall operate x-ray equipment such that the useful beam is applied to human beings unless such individual is a professional practitioner or is otherwise authorized to operate x-ray equipment, pursuant to state law.

(2) The sale, lease, transfer or loan of x-ray or fluoroscopic equipment or related supplies is prohibited, except to persons engaged in an occupation where such use is permitted or to institutions where such use is permitted. However, this restriction shall not apply to persons intending to use x-ray or fluoroscopic equipment and supplies solely for the application of radiation to other than human beings, nor to the acquisition of such equipment or supplies by wholesalers, distributors or retailers in the regular course of their trade or business.

(3) No person shall sell, lease, transfer, lend or install any radiation-producing equipment, or related supplies, unless such supplies or equipment when properly placed into operation or properly used will meet the requirements of this Code. A person who undertakes to repair such equipment must do so such that when it is placed in operation or properly used after the repair, the equipment will meet all applicable standards, including the requirements of this Code, for radiation protection and safety generally.

(c) Portable or mobile x-ray equipment must only be used for examinations where it is impractical to transfer the patient to a stationary x-ray installation. Facilities are prohibited from using portable or mobile x-ray units in routine clinical x-ray exams; however, this shall not prohibit hospitals from using portable or mobile x-ray units in clinical exams in emergency room and trauma center locations and for in-house patients that are not ambulatory. Additionally, this shall not prohibit mobile or portable x-ray units in patient homes or long term health care facilities.

§175.05 Vacating premises.

No less than 30 days before vacating or relinquishing possession or control of premises which may have been contaminated with radioactive material as a result of their activities, each licensee or registrant must notify the Department in writing of their intent to vacate. When deemed necessary by the Department, the licensee or registrant must decontaminate the premises in such a manner as the Department may specify. Registrants must notify the Department of the disposition of the previously-registered equipment.

§175.06 Modifications and variance.

Upon either its own initiative or by application by an interested person, the Department may grant an exemption or variance request from any requirement in this Code if the Department finds that such exemption or variance will not result in an undue danger to life or property from radiation hazards. Any such application for modification and variance may be required to be supplemented and/or substantiated during Department review.

§175.07 Enforcement.

Notwithstanding anything to the contrary in this Code, the Department may:

(a) by rule, regulation, order, license condition or registration condition, or otherwise as appropriate, impose requirements upon any person subject to this Code, in addition to those expressly set forth in this Code, as it deems appropriate or necessary to protect the public health and safety and to minimize danger to life or property from radiation hazards;

(b) amend, suspend or revoke any license, registration or certified registration issued, pursuant to this Code when it finds that any person holding such license, registration or certified registration is not in compliance with this Code, or other applicable laws, rules or regulations;

(c) by order, require the removal through an authorized person, or the surrender to the Department, of any radiation source by any person who:

(1) does not hold, or continue to hold, a valid license, registration or certified registration issued by the Department; or

(2) is not able or equipped, or who fails to observe with regard to such radiation source those radiation protection requirements of this Code, or who uses such radiation source in violation of this Code, Department order, or other applicable law or rule, or as set forth in a license, registration or certified registration issued by the Department. Upon such an order, such person shall be required to decontaminate any premises which may have been contaminated with radioactive material as a result of licensed or registered activities to radiation levels specified by the Department. Any expenses incidental to the transfer, surrender and decontamination shall be borne by the person responsible for the source.

(d) Except where public health requires immediate action, no order described in this section shall take effect until the person to be ordered is given reasonable notice and an opportunity to be heard by the Department.

§175.08 Definitions.

As used in this Code, and unless the specific context clearly indicates otherwise, the following definitions apply:

"Absorbed dose (D)" means the mean energy imparted by ionizing radiation to matter. Absorbed dose is determined as the quotient of dE by dM, where dE is the mean energy imparted by ionizing radiation to matter of mass dM. The SI unit of absorbed dose is joule per kilogram and the special name of the unit of absorbed dose is the gray (Gy). The previously used special unit of absorbed dose (rad) is replaced by the gray.

"Absorbed dose rate" means absorbed dose per unit time, for machines with timers, or dose monitor unit per unit time for linear accelerators.

"Accessible surface" means the external or outside surface of the enclosure or housing of the radiation producing machine as provided by the manufacturer. This includes the high-voltage generator, doors, access panels, latches, control knobs, and other permanently mounted hardware and including the plane across the exterior edge of any opening.

"Added filtration" means any filtration which is in addition to the inherent filtration.

"Air kerma (K)" means the kinetic energy released in air by ionizing radiation. Kerma is determined as the quotient of dE by dM, where dE is the sum of the initial kinetic energies of all the charged ionizing particles liberated by uncharged ionizing particles in air of mass dM. The SI unit of air kerma is joule per kilogram and the special name for the unit of kerma is the gray (Gy).

"Air kerma rate (AKR)" means the air kerma per unit time.

"As low as reasonably achievable (ALARA)" means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this Code as practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations in the public interest.

"Alert value" means a dose index (e.g., of CTDIvol (mGy) or DLP (mGy-cm)) that is set by the registrant to trigger an alert to the CT operator prior to scanning within an ongoing examination. The alert value represents a universal dose index value well above the registrant's established range for the examination that warrants more stringent review and consideration before proceeding.

"Aluminum equivalent" means the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question.

"Analytical x-ray equipment" means equipment that generates (by electronic means) and uses ionizing radiation for the purpose of examining the microstructure of materials, i.e. diffraction and spectroscopy (including fluorescence).

"Articulated joint" means a joint between two separate sections of a tabletop which joint provides the capacity of one of the sections to pivot on the line segment along which the sections join.

"Attenuation block" means a block or stack of type 1100 aluminum alloy, or aluminum alloy having equivalent attenuation, with

dimensions 20 centimeters (cm) or larger by 20 cm or larger by 3.8 cm, that is large enough to intercept the entire x-ray beam.

"Authorized user" means a licensed physician, dentist, or podiatrist who:

(a) meets the requirements of 10 CFR §§ 35.59 and 35.190(a), 35.290(a), 35.390(a), 35.392(a), 35.394(a), 35.490(a), 35.590(a), or 35.690(a); or

(b) is identified as an authorized user on:

(1) an NRC or Agreement State license that authorizes the medical use of byproduct material;

(2) a permit issued by an NRC master material licensee that is authorized to permit the medical use of byproduct material;

(3) a permit issued by an NRC or Agreement State specific licensee of broad scope that is authorized to permit the medical use of byproduct material; or

(4) a permit issued by an NRC master material license broad scope permittee that is authorized to permit the medical use of byproduct material.

"Automatic exposure control (AEC)" means a device which automatically controls one or more technique factors in order to obtain at a preselected location a required quantity of radiation.

"Automatic exposure rate control (AERC)" means a device which automatically controls one or more technique factors in order to obtain, at a preselected location, a required quantity of radiation per unit time.

"Background radiation" means radiation from cosmic sources; naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. Background radiation does not include radiation from any regulated sources of radiation.

"Baggage unit" has the same meaning as "security screening unit."

"Barrier" has the same meaning as "protective barrier."

"Beam axis" means a line from the source through the centers of the x-ray fields.

"Beam-limiting device" means a device which provides a means to restrict the dimensions of the x-ray field.

"Beam monitoring system" means a system designed and installed in the radiation head to detect and measure the radiation present in the useful beam.

"Beam scattering foil" means a thin piece of material, usually metallic, placed in the beam to scatter a beam of electrons in order to provide a more uniform electron distribution in the useful beam.

"Bent beam linear accelerator" means a linear accelerator geometry in which the accelerated electron beam must change direction by passing through a bending magnet.

"Beam-port" means an opening on the x-ray apparatus designed to emit a primary beam. This does not include openings on baggage units.

"Bone densitometer" means a device intended for medical purposes to measure bone density and mineral content by x-ray or gamma ray transmission measurements through the bone and adjacent tissues. This generic type of device may include signal analysis and display equipment, patient and equipment supports, component parts, and accessories.

"Bone densitometry" means a noninvasive measurement of certain physical characteristics of bone that reflect bone strength. Test results are typically reported as bone mineral content or density and are used for diagnosing osteoporosis, estimating fracture risk, and monitoring changes in bone mineral content.

"Cabinet x-ray system" means an x-ray system with the x-ray tube installed in an enclosure which, independently of existing architectural structures except the floor on which it may be placed, is intended to contain at least that portion of a material being irradiated, provide radiation attenuation, and exclude personnel from its interior during generation of x radiation. An x-ray tube used within a shielded part of a building, or x-ray equipment which may temporarily or occasionally incorporate portable shielding is not a cabinet x-ray system.

"Cantilevered tabletop" means a tabletop designed such that the unsupported portion can be extended at least 100 cm beyond the support.

"C-arm fluoroscope" means a fluoroscopic x-ray system in which the image receptor and the x-ray tube housing assembly are connected or coordinated to maintain a spatial relationship. Such a system allows a change in the direction of the beam axis with respect to the patient without moving the patient.

"Cassette holder" means a device, other than a spot-film device, that supports or fixes the position of the image receptor during a radiographic exposure.

"Cathode ray tube" means any device used to accelerate electrons for demonstration or research purposes, except where such cathode ray tube is incorporated into a television or display monitor that is subject to, and has met applicable federal radiation safety performance standards in 21 CFR §§ 1010 and 1020.10.

"Certified Radiation Equipment Safety Officer" (CRESO) means an individual who holds an unexpired certificate as a radiation equipment safety officer issued by the New York State Department of Health.

"CFR" or "10 CFR" means, except where a citation to a specific section is given, the regulations issued by the United States Nuclear Regulatory Commission contained in Chapter I of Title 10 of the Code of Federal Regulations.

"Changeable filters" means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical, or physical process.

"Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than 10 days; for Class W, Weeks, from 10 to 100 days; and for Class Y, Years, of greater than 100 days. For purposes of this Code, "lung class" and "inhalation class" are equivalent terms.

"Closed-beam x-ray equipment" means a system in which the beam path cannot be entered by any part of the body during normal operation.

"Coefficient of variation (C)" means the ratio of the standard deviation to the mean value of a population of observations. It is estimated using the following equation:

$$C = \frac{s}{\bar{x}} = \frac{1}{\bar{x}} \left[\frac{\sum_{i=1}^{n} (x_i - \bar{x})^2}{n-1} \right]^{1/2}$$

where:

s = Estimated standard deviation of the population.

$\bar{x}$ = Mean value of observations in sample;

x_i = i_{th} observation in sample;

n = Number of observations sampled.

"Cold-cathode gas discharge tube" means an electronic device in which electron flow is produced and sustained by ionization of contained gas atoms and ion bombardment of the cathode.

"Collimator" means a device for restricting the useful radiation in one or more directions.

"Computed radiography (CR)" means a digital x-ray imaging method in which a photo-stimulable phosphor is used to capture and store a latent image. The latent image is read out by stimulating the phosphor with a laser. Computed radiography systems may use cassettes to house the phosphor, or it may be integrated into a digital radiography system. See also, the definition of "digital radiography."

"Computed tomography (CT)" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

"Computed tomography dose index (CTDI)" means the average absorbed dose, along the z-axis, from a series of contiguous irradiations. It is measured from one axial CT scan (one rotation of the x-ray tube), and is calculated by dividing the integrated absorbed dose by the nominal total beam collimation. The scattering media for CTDI consist of two (16 and 32 cm in diameter) polymethylmethacrylate (PMMA, e.g., acrylic or Lucite) cylinders of 14 cm length. The equation is:

$$CTDI_{100} = \frac{1}{NT} \int_{-50mm}^{50mm} D(z)dz$$

where: D(z) = the radiation dose profile along the z-axis,

N = the number of tomographic sections imaged in a single axial scan. This is equal to the number of data channels used in a particular scan. The value of N may be less than or equal to the maximum number of data channels available on the system, and

T = the width of the tomographic section along the z-axis imaged by one data channel. In multiple-detector-row (multi-slice) CT scanners, several detector elements may be grouped together to form one data channel. In single-detector-row (single-slice) CT, the z-axis collimation (T) is the nominal scan width.

"Computed tomography (CT) scan" and "computerized axial tomography (CAT) scan" refer to an imaging procedure that uses x-rays to create cross-sectional images of the human body.

"Cone Beam Computed Tomography (CBCT)" is a volumetric imaging modality. Volumetric data are acquired using two dimensional digital detector arrays, and a cone-shaped x-ray beam (instead of fan-shaped) that rotates around the patient. Reconstruction algorithms can be used to generate images of any desired plane.

"Contact therapy system" means a therapeutic radiation machine with a short target to skin distance (TSD), usually less than 5 centimeters.

"Control panel" means that part of the x-ray control upon which are mounted the switches, knobs, pushbuttons, keypads, touchscreens, and other hardware necessary for manually setting the technique factors. All the switches, knobs, pushbuttons, keypads, touchscreens, and other hardware necessary for manually setting the technique factors must be maintained in good repair and be in functioning condition.

"Conventional simulator" means any x-ray system designed to reproduce the geometric conditions of the radiation therapy equipment.

"Cradle" means a removable device which supports and may restrain a patient above an x-ray table; or
a device whose patient support structure is interposed between the patient and the image receptor during normal use; or which is equipped with means for patient restraint and which is capable of rotation about its long (longitudinal) axis.

"CT conditions of operation" means all selectable parameters governing the operation of a CT x-ray system including nominal tomographic section thickness, filtration, and the technique factors as defined in this Code.

"CT dosimetry phantom" means the phantom used for determination of the dose delivered by a CT x-ray system. The phantom must be a right circular cylinder of polymethyl-methacrylate of density 1.19±0.01 grams per cubic centimeter. The phantom must be at least 14 centimeters in length and must have diameters of 32.0 centimeters for testing any CT system designed to image any section of the body (whole body scanners) and 16.0 centimeters for any system designed to image the head (head scanners) or for any whole body scanner operated in the head scanning mode. The phantom must provide means for the placement of a dosimeter along its axis of rotation and along a line parallel to the axis of rotation 1.0 centimeter from the outer surface and within the phantom.

"CT gantry" means tube housing assemblies, beam-limiting devices, detectors, and the supporting structures, frames, and covers which hold or enclose these components within a computed tomography system.

"CT number" means the number used to represent the x-ray attenuation associated with each elemental area of the CT image:

$$\overline{CTN} = \frac{k\,(\mu_x - \mu_w)}{\mu_w}$$

where:

k = A constant, a normal value of 1,000 when the Houndsfield scale of CT number is used;

μ_x = Linear attenuation coefficient of the material of interest;

μ_w = Linear attenuation coefficient of water.

"CTDI100" means the accumulated multiple scan dose at the center of a 100-mm scan and underestimates the accumulated dose for longer scan lengths. It is thus smaller than the equilibrium dose. The CTDI100 requires integration of the radiation dose profile from a single axial scan over specific integration limits. In the case of CTDI100, the integration limits are +50 mm, which corresponds to the 100-mm length of the commercially available "pencil" ionization chamber. CTDI100 is acquired using a 100-mm long, 3-cc active volume CT "pencil" ionization chamber and one of the two standard CTDI acrylic phantoms (16 and 32 cm diameter) and a stationary patient table. The equation is:

$$CTDI_{100} = \frac{1}{NT}\int_{-50mm}^{50mm} D(z)dz$$

"CTDIvol" see "Volume Computed Tomography Dose Index (CTDIvol)"

"CTDIw" see "Weighted Computed Tomography Dose Index (CTDIw)"

"CT x-ray system" is technology that is used to perform CT scans and includes, but is not limited to: a control panel; image display device; gantry; x-ray tube; collimating device with filters; high voltage transformer; and, a data acquisition system. This includes CBCT systems that are used for other than dental x-ray scans.

"CT scanner" refers to technology used to perform and interpret CT scans and includes, but is not limited to: a control panel; gantry; high voltage generator; x-ray tube; table; and, display devices that are used for image interpretation.

"Cumulative air kerma" means the total air kerma accrued from the beginning of an examination or procedure and includes all contributions from fluoroscopic and radiographic irradiation.

"Dead-man switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

"Detector" has the same meaning as "radiation detector."

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

"Diagnostic reference level" means dose levels in medical radio-diagnostic practices or, in the case of radio-pharmaceuticals, levels of activity, for typical examinations for groups of standard-sized patients or standard phantoms for broadly defined types of equipment.

"Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

"Diagnostic x-ray system" means an x-ray system designed for irradiation of any part of the human or animal body for the purpose of diagnosis or visualization.

"Diaphragm" means a device or mechanism by which the radiation beam is restricted in size.

"Digital radiography (DR)" means an x-ray imaging method or radiography which produces a digital rather than analog image. DR includes both computed radiography and direct digital radiography.

"Direct digital radiography (DDR)" means an x-ray imaging method in which a digital sensor, usually incorporating a thin-film transistor, is used to capture an x-ray image. Some DDR systems use a scintillator to convert x-rays to light and a photodiode array to convert light to charge, while others use a photoconductor to convert x-rays directly to charge, which is stored on the thin-film transistor. See also the definitions of "computed radiography" and "digital radiography."

"Direct scattered radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam See also the definition of "scattered radiation."

"Direct personal supervision" means that the qualified practitioner must be present in the room when the procedure is being performed and is immediately available to provide assistance and direction throughout the performance of the procedure.

"Direct supervision" means a qualified practitioner must exercise general supervision and be present in the facility and immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the qualified practitioner must be present in the room when the procedure is being performed.

"Dose" means the absorbed dose as defined by the International Commission on Radiation Units and Measurements. The absorbed dose, D, is the quotient of de by dm, where de is the mean energy imparted to matter of mass dm; thus D=de/dm, in units of J/kg, where the special name of the unit of absorbed dose is gray (Gy).

"Dose area product (DAP) or "kerma-area product (KAP)" means the product of the air kerma and the area of the irradiated field and is typically expressed in Gy-cm2, so it does not change with distance from the x-ray tube.

"Dose length product (DLP)" means the indicator of the integrated radiation dose from a complete CT examination. It addresses the total scan length by the formula:

DLP (mGy-cm) = CTDIvol (mGy) x scan length (cm)

"Dose monitor unit (DMU)" means a unit response from the beam monitoring system from which the absorbed dose can be calculated.

"Dose profile" means the dose as a function of position along a line.

"Effective dose (E)" means the sum of the tissue-weighted equivalent doses for the radiosensitive tissues and organs of the body. It is given by the expression E = ΣT (wT HT), in which HT is the equivalent dose in tissue or organ T and wT is the tissue weighting factor for tissue or organ T. The unit of E and HT is joule per kilogram (J·kg–1), with the special name sievert (Sv).

"Electronic brachytherapy" means a method of radiation therapy where an electrically generated source of ionizing radiation is placed in or near the tumor or target tissue to deliver therapeutic radiation dosage.

"Electronic brachytherapy device" means the system used to produce and deliver therapeutic radiation including the x-ray tube, the control mechanism, the cooling system, and the power source.

"Electronic brachytherapy source" means the x-ray tube component used in an electronic brachytherapy device.

"Emergency procedure" means the written pre-planned steps to be taken in the event of actual or suspected exposure of an individual in excess of administrative or regulatory limits. This procedure must include the names and telephone numbers of individuals to be contacted as well as directives for processing the film badge or other personnel monitoring devices.

"Equipment" means x-ray equipment, unless the specific context clearly indicates otherwise.

"Exposure (X)" means the quotient of dQ by dm where dQ is the absolute value of the total charge of the ions of one sign produced in air when all the electrons and positrons liberated or created by photons in air of mass dm are completely stopped in air; thus X=dQ/dm, in units of C/kg. A second meaning of exposure is the process or condition during which the x-ray tube produces x-ray radiation.

"External beam radiation therapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

"Extremity" means hand, elbow, arm below the elbow, foot, knee and leg below the knee.

"Facility" means the location, building, vehicle, or complex under one administrative control, at which one or more radiation machines are installed, located or used.

"Fail-safe design" means a design in which all realistically anticipated failures of indicators or safety components result in a condition in which individuals are safe from exposure to radiation. For example, if a light indicating "X-RAY ON" fails, the production of x-rays must be prevented, or if a shutter status indicator fails, the shutter must close.

"Field emission equipment" means equipment which uses an x-ray tube in which electron emission from the cathode is due solely to the action of an electric field.

"Field-flattening filter" means a filter used to homogenize the absorbed dose rate over the radiation field.

"Filter" means material placed in the useful beam to preferentially absorb selected radiations.

"Fluoroscopic imaging assembly" means a subsystem in which x-ray photons produce a set of fluoroscopic images or radiographic images recorded from the fluoroscopic image receptor. It includes image receptors, electrical interlocks, if any, and structural material providing linkage between the image receptor and diagnostic source assembly.

"Fluoroscopic irradiation time" means the cumulative duration during an examination or procedure of operator-applied continuous pressure to the device, enabling x-ray tube activation in any fluoroscopic mode of operation.

"Fluoroscopically-Guided Interventional (FGI) procedures" means an interventional diagnostic or therapeutic procedure performed via percutaneous or other access routes, usually with local anesthesia or intravenous sedation, which uses external ionizing radiation in the form of fluoroscopy to localize or characterize a lesion, diagnostic site, or treatment site, to monitor the procedure, and to control and document therapy.

"Fluoroscopy" means a technique for generating x-ray images and presenting them simultaneously and continuously as visible images. This term has the same meaning as the term "radioscopy" in the standards of the International Electrotechnical Commission.

"Focal spot (actual)" means the area projected on the anode of the x-ray tube bombarded by the electrons accelerated from the cathode and from which the useful beam originates.

"Gantry" means that part of a radiation therapy system supporting and allowing movements of the radiation head about a center of rotation.

"General purpose radiographic x-ray system" means any radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

"General supervision" means the procedure is performed under the overall direction and control of the qualified practitioner but who is not necessarily required to be physically present during the performance of the procedure.

"General-use system" means a personnel screening system that delivers an effective dose equal to or less than 0.25 μSv (25 μrem) per screening. Given proper justification and certain restrictions, general-use systems may be operated without specific controls that would limit the number of individuals scanned or the number of scans per individual in a year.

"Gonad shield" or "gonadal shield" means a protective barrier for the ovaries or testes.

"Gray (Gy)" means the SI unit of absorbed dose, kerma, and specific energy imparted equal to 1 joule per kilogram. The previous unit of absorbed dose (rad) is replaced by the gray [1 Gy=100 rad].

"Hand-held x-ray system" means a portable instrument that is designed to operate when held in the hand, e.g., hand-held XRF analytical devices.

"Half-value layer (HVL)" means the thickness of specified material which attenuates the beam of radiation to an extent such that the AKR is reduced by one-half of its original value. For the purposes of this definition, the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

"Hand-held x-ray equipment" means x-ray equipment that is designed to be hand-held during operation.

"Healing arts" means the use of radiation for purposes of medical diagnosis or treatment of humans or animals.

"Healing arts screening" means the testing of human beings using x-ray machines for the detection or evaluation of health indications when such tests are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to prescribe such x-ray tests for the purpose of diagnosis or treatment.

"Heat unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes, and seconds, i.e., kVp x mA x second.

"Image intensifier" means a device, installed in its housing, which instantaneously converts an x-ray pattern into a corresponding light image of higher intensity.

"Image receptor" means any device, such as a fluorescent screen, radiographic film, x-ray image intensifier tube, solid-state detector, or gaseous detector which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformations. In those cases where means are provided to preselect a portion of the image receptor, the term "image receptor" shall mean the preselected portion of the device.

"Individual monitoring devices" or "individual monitoring equipment" means devices designed to be worn by a single individual for the assessment of dose equivalent, such as film badges, thermo-luminescent dosimeters (TLDs), pocket ionization chambers and personal ("lapel") air sampling devices.

"Inhalation class" has the same meaning as "class."

"Inherent filtration" means the filtration of the useful beam provided by the permanently installed components of the tube housing assembly.

"Industrial radiography" means an examination of the structure of materials by nondestructive methods utilizing ionizing radiation to make radiographic images.

"Inspection" means an official examination or facility observation including, but not limited to, reviews of tests, reports, assessments, specifications, surveys and monitoring to determine compliance with applicable rules, regulations, orders, requirements and conditions enforceable by the Department.

"Intensity Modulated Radiation Therapy (IMRT)" means radiation therapy that uses non-uniform radiation beam intensities which have been determined by various computer-based optimization techniques.

"Interlock" means a device or engineered system that precludes access to an area of radiation hazard either by preventing entry or by automatically removing the hazard.

"Interruption of irradiation" means the stopping of irradiation with the possibility of continuing irradiation without resetting of operating conditions at the control panel.

"Irradiation" means the exposure of matter to ionizing radiation.

"Isocenter" means the center of the smallest sphere through which the beam axis passes when the equipment moves through a full range of rotations about its common center.

"Kerma" means the quantity defined by the International Commission on Radiation Units and Measurements. The kerma, K, is the quotient of dEtr by dm, where dEtr is the sum of the initial kinetic energies of all the charged particles liberated by uncharged particles in a mass dm of material; thus K=dEtr/dm, in units of J/kg, where the special name for the unit of kerma is gray (Gy). When the material is air, the quantity is referred to as "air kerma."

"Kerma-area product (KAP)" has the same meaning as "dose area product."

"Kilovolt (kV)" or "(kilo electron volt (keV))" means the energy equal to that acquired by a particle with one electron charge in passing through a potential difference of one thousand volts in a vacuum. (Note: current convention is to use kV for photons and keV for electrons.)

"Kilovolt peak (kVp)" means the maximum value in kilovolts of the potential difference of a pulsating generator. When only one-half of the wave is used, the value refers to the useful half of the wave.

"kWs" means kilowatt second.

"Last-image hold (LIH) radiograph" means an image obtained either by retaining one or more fluoroscopic images, which may be temporarily integrated, at the end of a fluoroscopic exposure or by initiating a separate and distinct radiographic exposure automatically and immediately in conjunction with termination of the fluoroscopic exposure.

"Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

"Leakage radiation" means all radiation coming from within the source housing, except the useful beam or radiation produced when the exposure switch or timer is not activated.

"Leakage technique factors" means the technique factors associated with the diagnostic source assembly which are used in measuring leakage radiation and defined as follows:

(a) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (or 10 mAs) or the minimum obtainable from the unit, whichever is larger;

(b) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential; and

(c) For all other diagnostic source assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

"Licensee" means any person who is licensed by the Department in accordance with this Code or any person who possesses radioactive material which is subject to the licensure requirements of this Code.

"Light field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

"Limited-use system" means a personnel screening system that is capable of delivering an effective dose greater than 0.25 µSv (25 µrem) per screening but cannot exceed an effective dose of 10 µSv (1 mrem) per screening. Limited-use systems require additional controls and documentation to ensure that annual individual dose limits required by H.12e. are not exceeded.

"Line-voltage regulation" means the difference between the no-load and the load line potentials expressed as a percent of the load line potential:

Percent line-voltage regulation = 100 (Vn-Vl)/Vl

where:

V_n = No-load line potential; and

V_l = Load line potential.

"mA" means milliampere.

"mAs" means milliampere second.

"Medical event" means a situation (except for an event that results from patient intervention) in which the administration of byproduct material or radiation from byproduct material results in:

(a) a dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and
  (1) the total dose delivered differs from the prescribed dose by 20 percent or more;
  (2) the total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or
  (3) the fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.

(b) a dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:
  (1) in administration of a wrong radioactive drug containing byproduct material;
  (2) in administration of a radioactive drug containing byproduct material by the wrong route of administration;
  (3) an administration of a dose or dosage to the wrong individual or human research subject;
  (4) an administration of a dose or dosage delivered by the wrong mode of treatment; or
  (5) a leaking sealed source.

(c) a dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

(d) Any event resulting from intervention of a patient or human research subject in which the administration of byproduct material or radiation from byproduct material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician, must be reported to the Department.

"Medical institution" means a "hospital" as defined in New York State Public Health Law §2801(1).

"Megavolt (MV)" or "mega electron volt (MeV)" means the energy equal to that acquired by a particle with one electron charge in passing through a potential difference of one million volts in a vacuum. (Note: current convention is to use MV for photons and MeV for electrons.)

"Minor" means an individual less than 18 years of age.

"Mobile electronic brachytherapy service" means transportation of an electronic brachytherapy device to provide electronic brachytherapy at an address that is not the address of record.

"Mobile x-ray equipment" has the meaning ascribed to it in the definition of "x-ray equipment."

"Mode of operation" means, for fluoroscopic systems, a distinct method of fluoroscopy or radiography provided by the manufacturer and selected with a set of several technique factors or other control settings uniquely associated with the mode. The set of distinct technique factors and control settings for the mode may be selected by the operation of a single control. Examples of distinct modes of operation include normal fluoroscopy (analog or digital), high-level control fluoroscopy, cineradiography (analog and digital), digital subtraction angiography, electronic radiography using the fluoroscopic image receptor, and photospot recording. In a specific mode of operation, certain system variables affecting kerma, AKR, or image quality, such as image magnification, x-ray field size, pulse rate, pulse duration, number of pulses, source-image receptor distance (SID), or optical aperture, may be adjustable or may vary; their variation per se does not comprise a mode of operation different from the one that has been selected.

"Monitor unit (MU)" has the same meaning as "dose monitor unit."

"Moving beam radiation therapy" means radiation therapy with any planned displacement of radiation field or patient relative to each other, or with any planned change of absorbed dose distribution. It includes arc, skip, conformal, intensity modulation and rotational therapy.

"Multiple tomogram system" means a computed tomography x-ray system which obtains x-ray transmission data simultaneously during a single scan to produce more than one tomogram.

"Noise" in CT means the standard deviation of the fluctuations in CT number expressed as a percentage of the attenuation coefficient of water. Its estimate (Sn) is calculated using the following expression:

$$S_n = \frac{100 \cdot \overline{CS} \cdot s}{\mu_w}$$

where:

= Linear attenuation coefficient of the material of interest.

= Linear attenuation coefficient of water.

= Estimated [S]standard deviation of the CT numbers of picture elements in a specified area of the CT image.

"Nominal tomographic section thickness" means the full width at half-maximum of the sensitivity profile taken at the center of the cross-sectional volume over which x-ray transmission data are collected.

"Nominal treatment distance" means:

(a) for electron irradiation, the distance from the scattering foil, virtual source, or exit window of the electron beam to the entrance surface of the irradiated object along the central axis of the useful beam.

(b) for x-ray irradiation, the virtual source or target to isocenter distance along the central axis of the useful beam. For non-isocentric equipment, this distance shall be that specified by the manufacturer.

"Normal operating procedures" mean step-by-step instructions necessary to accomplish the task. These procedures may include sample insertion and manipulation, equipment alignment, routine maintenance by the registrant, and data recording procedures, which are related to radiation safety.

"Notification value" means a protocol-specific dose index (e.g., CTDIvol(mGy) or of DLP (mGy-cm)) that is set by the registrant to trigger a notification to the CT operator prior to scanning when the dose index exceeds the established range for the examination.

"Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material or implants and released from voluntary participation in medical research programs, or as a member of the public.

"Open-beam x-ray equipment" means an open-beam x-ray system in which the beam path could be entered by any part of the body at any time.

"Patient" means an individual or animal subjected to healing arts examination, diagnosis or treatment or machine-produced radiation for the purposes of medical therapy.

"Patient intervention" means actions by the patient or human research subject, whether intentional or unintentional, such as dislodging or removing treatment devices or prematurely terminating the administration.

"Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

"Periodic quality assurance check" means a procedure which is performed to ensure that a previous parameter or condition continues to be valid.

"Personal supervision" means a qualified practitioner must exercise "general supervision" (as defined in this Code) and be present in the room or adjacent control area during the performance of the procedure.

"PBL" (See "Positive beam limitation").

"Person" means, notwithstanding §1.03, any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other State or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing. For purposes of entities other than individual professional practitioners applying to this Department for the issuance of a radiation equipment registration or radioactive materials license, "person" shall mean only a principal officer, director or executive of the applying entity with authority to legally bind the applying entity to the obligations attendant to such registration or license.

"Personnel security screening system" means any x-ray equipment used on humans for security evaluation.

"Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation. This requires that both the atomic number (Z) and the density of the material be similar to that of tissue.

"Photostimulable storage phosphor (PSP)" means a material used to capture and store radiographic images in computed radiography systems.

"Picture Archiving and Communication System (PACS)" is a medical imaging technology that provides access to and storage for medical images from multiple modalities. It is comprised of an image acquisition system, display, network and data storage or archiving system.

"Picture element" (or "pixel") means an elemental area of a tomogram.

"PID" has the same meaning as "position indicating device."

"Pitch" means the table incrementation, in CT, per x-ray tube rotation, divided by the nominal x-ray beam width at isocenter.

"Portable x-ray equipment" has the meaning ascribed to it in the definition of "x-ray equipment."

"Position indicating device (PID)" means a device on dental x-ray equipment used to indicate the beam position and to establish a definite source-surface (skin) distance. It may or may not incorporate or serve as a beam-limiting device.

"Positive beam limitation" means the automatic or semi-automatic adjustment of an x-ray beam to the size of the selected image receptor, whereby exposures cannot be made without such adjustment.

"Practical range of electrons" corresponds to classical electron range where the only remaining contribution to dose is from bremsstrahlung x-rays. A further explanation may be found in "Clinical Electron Beam Dosimetry: Report of AAPM Radiation Therapy Committee Task Group 25" [Medical Physics 18(1): 73-109, Jan/Feb. 1991] and ICRU Report 35, "Radiation Dosimetry: Electron Beams with Energies Between 1 and 50 MeV", International Commission on Radiation Units and Measurements, September 15, 1984.

"Prescribed dose" means the total dose and dose per fraction as documented in the written directive by a medical doctor. The prescribed dose is an estimation from measured data from a specified therapeutic machine using assumptions that are clinically acceptable for that treatment technique and historically consistent with the clinical calculations previously used for patients treated with the same clinical technique.

"Primary beam" means the ionizing radiation coming directly from the radiation source through a beam port into the volume defined by the collimation system.

"Primary dose monitoring system" means a system which will monitor the useful beam during irradiation and which will terminate irradiation when a pre-selected number of dose monitor units have been delivered.

"Primary protective barrier" means the material, excluding filters, placed in the useful beam to reduce the radiation exposure beyond the patient and cassette holder for protection purposes.

"Professional practice" means the practice of medicine, dentistry, podiatry, osteopathy, chiropractic or veterinary medicine.

"Professional practitioner" means any person licensed or otherwise authorized under the Education Law to operate a professional practice.

"Protective barrier" means a barrier of radiation absorbing material used to reduce radiation exposure. The types of protective barriers are:
(a) "primary protective barrier" means the material, excluding filters, placed in the useful beam.
(b) "secondary protective barrier" means the material which attenuates stray radiation.

"Protective garment" means an apron, glove, thyroid shield or other protective barrier worn by a professional practitioner or licensed radiographic technologist or patient made of radiation attenuating material, used to reduce radiation exposure.

"Protocol" means a collection of settings and parameters that fully describe an examination.

"Pulsed mode" means operation of the x-ray system such that the x-ray tube current is pulsed by the x-ray control to produce one or more exposure intervals of duration less than one-half second.

"Qualified expert" means an individual who is granted professional privileges based on education and experience to provide clinical services in diagnostic medical physics.

"Quality assurance (QA)" means a program providing for verification by written procedures, such as testing, auditing and inspection to ensure that deficiencies, deviations, defective equipment, unsafe practices, or a combination thereof, relating to the use, disposal, management, or manufacture of radiation equipment or radioactive material are identified, promptly corrected and reported to the appropriate regulatory authorities as required.

"Qualified Medical Physicist (QMP)" means an individual who meets each of the following credentials:
(a) has earned a master's or doctoral degree in physics, medical physics, biophysics, radiological physics, medical health physics, or equivalent disciplines from an accredited college or university; and
(b) has been granted certification in a specific subfield of medical physics with its associated medical health physics aspects by an appropriate national certifying body and abides by the certifying body's requirements for continuing education; or
(c) is licensed by New York state to practice any subspecialty of medical physics.

"Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 ergs per gram or 0.01 joule per kilogram (0.01 gray).

"Radiation" means alpha particles, beta particles, gamma rays, x rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of this Code, ionizing radiation is an equivalent term. As used in this Article, radiation does not include non-ionizing radiation, such as radiowaves or microwaves, visible, infrared or ultraviolet light.

"Radiation detector" means a device which in the presence of radiation provides a signal or other indication suitable for use in measuring one or more quantities of incident radiation.

"Radiation head" means the structure from which the useful beam emerges.

"Radiation installation" means any location of radiation-producing equipment subject to this Code.

"Radiation Protocol Committee (RPC)" means the representative group of qualified individuals in a CT or FGI facility responsible for the ongoing review and management of CT or FGI protocols to ensure that exams being performed achieve the desired diagnostic image quality at the lowest radiation dose possible while properly exploiting the capabilities of the equipment being used. This committee and these functions may be subsumed under the registrant's radiation safety committee as described in §175.09(e).

"Radiation safety officer (RSO)" means an individual described in §175.10.

"Radiation source" means any radioactive material or any radiation equipment.

"Radiation source housing" or "x-ray tube housing" means that portion of an x-ray system which contains the x-ray tube or secondary target. Often the housing contains radiation shielding material or inherently provides shielding.

"Radiation therapy simulation system" means a radiographic or fluoroscopic x-ray system intended for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

"Radioactive material" means any solid, liquid or gas which emits radiation spontaneously.

"Radiograph" means an image receptor on which the image is created directly or indirectly by an x-ray pattern and results in a permanent record, permanent film or a digital image produced on a sensitive surface by a form of radiation other than direct visible light.

"Radiography" means a technique for generating and recording an x-ray pattern for the purpose of providing the user with an image after termination of the exposure; the process of creating radiographic images.

"Recordable therapy medical event" means the administration of:

(a) an activity of a therapeutic radiopharmaceutical or radiobiologic differing from the prescribed activity by more than 10 percent; or

(b) a therapeutic radiation dose from any source other than a radiopharmaceutical, radiobiologic or brachytherapy source such that errors in computation, calibration, time of exposure, treatment geometry or equipment malfunction result in a calculated total treatment dose differing from the final prescribed total treatment dose ordered by more than 10 percent; or

(c) a therapeutic radiation dose from a brachytherapy source such that errors in computation, calibration, treatment time, source activity, source placement or equipment malfunction result in a calculated total treatment dose differing from the final total treatment dose ordered by more than 10 percent; but in which the percentage error in all cases is equal to or less than 20 percent.

"Recording" means producing a retrievable form of an image resulting from x-ray photons.

"Redundant beam monitoring system" means a combination of two independent dose monitoring systems in which each system is designed to terminate irradiation in accordance with a pre-selected number of dose monitor units.

"Reference plane" means a plane which parallel to and which can be offset, as specified in manufacturer information provided to users from the location of the tomographic plane.

"Registrant" means an individual or entity issued a certificate of registration, or certified registration, from the Department to operate registered radiation equipment.

"Safety device" means a device, interlock or system that prevents the entry of any portion of an individual's body into the primary x-ray beam or that causes the beam to shut off upon entry into its path.

"Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data may be collected simultaneously during a single scan for the production of one or more tomograms.

"Scan increment" means the amount of relative displacement of the patient with respect to the CT x-ray system between successive scans measured along the direction of such displacement.

"Scan sequence" means a pre-selected set of two or more scans performed consecutively under pre-selected CT conditions of operation.

"Scan time" means the time elapsed during the accumulation of x-ray transmission data for a single scan.

"Scattered radiation" means radiation that has been deviated in direction or energy by passing through matter.

"Screening" means the application of x-ray radiation to diagnose a particular condition, as in the application of mammography x-rays to a female population to diagnosis the incidence of breast cancer.

"Sealed x-ray units" means any x-ray unit that the Department, in accordance with this Article, affixes warning labels to in order to notify the registrant that the x-ray unit shall not be used for clinical x-ray exams. The warning labels shall not be removed by the registrant without Department permission.

"Secondary dose monitoring system" means a system which will terminate irradiation in the event of failure of the primary dose monitoring system.

"Security screening unit" means a non-human use open-beam or cabinet x-ray system with accessible openings designed for the detection of weapons, bombs, or contraband concealed in baggage, mail, packages or other commodities or structures.

"Sensitivity profile" means the relative response of the CT x-ray system as a function of position along a line perpendicular to the tomographic plane.

"Shadow tray" means a device attached to the radiation head to support auxiliary beam blocking material.

"Shutter" means a moveable device attached to the tube housing assembly which can intercept the entire cross sectional area of the useful beam and which has a lead equivalency not less than that of the tube housing assembly and is used to block the useful or primary beam emitted from an x-ray tube assembly.

"SI" means the International System of Units, usually abbreviated "SI" and refers to the modern metric system of measurement.

"SID" has the same meaning as "source-image receptor distance."

"Sievert (Sv)" means the SI unit of dose equivalent. The unit of dose equivalent is the joule per kilogram. The previous unit of dose equivalent (rem) is replaced by the sievert. (1 Sv=100 rem).

"Simulator (radiation therapy simulation system)" means any x-ray system intended for localizing the volume to be exposed during radiation therapy and establishing the position and size of the therapeutic irradiation field. See also the definitions of conventional simulator" and "virtual simulator."

"Single tomogram system" means a CT x-ray system which obtains x-ray transmission data during a scan to produce a single tomogram.

"Size-specific dose estimate (SSDE)" means a patient dose estimate which takes into consideration corrections based on the size of the patient, using linear dimensions measured on the patient or patient images, important when manual technique settings are set for clinical patient imaging on x-ray units.

"Skyshine" means radiation, such as neutrons and photons, generated by high energy proton accelerators over 10 MeV, which can be scattered by the atmosphere near the facility and result in public exposure as a scattered dose.

"Source" means the region or material from which the radiation emanates, for example, the focal spot of an x-ray tube.

"Source-image receptor distance" means the distance from the source to the center of the input surface of the image receptor.

"Source-skin distance (SSD)" means the distance from the source to the center of the entrant x-ray field in the plane tangent to the patient skin surface.

"Spot-film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

"Spot-film device" means a device intended to transport or position a radiographic image receptor between the x-ray source and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of the fluoroscopic image receptor for the purpose of producing a radiograph.

"Stationary beam radiation therapy" means radiation therapy without displacement of one or more mechanical axes relative to the patient during irradiation.

"Storage" means a condition in which a device or source is not being used for an extended period of time, and has been made inoperable.

"Stray radiation" means the sum of leakage and scatter radiation.

"Substantial radiation dose level (SRDL)" means an appropriately-selected dose used to trigger additional dose-management actions during a procedure and medical follow-up for a radiation level that might produce a clinically-relevant injury in an average patient.

"Target" means that part of an x-ray tube or accelerator onto which a beam of accelerated particles is directed to produce ionizing radiation or other particles.

"Target-skin distance (TSD)" means the distance measured along the beam axis from the center of the front surface of the x-ray target or electron virtual source to the surface of the irradiated object or patient.

"Technique" means the settings selected on the control panel of the equipment.

"Technique chart" means a chart that lists the standard settings and positions for a given technique.

"Technique factors" means the following conditions of operation:

(a) for capacitor energy storage equipment, peak tube potential in kilovolts (kV) and quantity of charge in milliampere-seconds (mAs);

(b) for field emission equipment rated for pulsed operation, peak tube potential in kV, and number of x-ray pulses;

(c) for CT equipment designed for pulsed operation, peak tube potential in kV, scan time in seconds, and either tube current in milliamperes (mA), x-ray pulse width in seconds, and the number of x-ray pulses per scan, or the product of tube current, x-ray pulse width, and the number of x-ray pulses in mAs;

(d) for CT equipment not designed for pulsed operation, peak tube potential in kV, and either tube current in mA and scan time in seconds, or the product of tube current and exposure time in mAs and the scan time when the scan time and exposure time are equivalent; and

(e) for all other equipment, peak tube potential in kV, and either tube

current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

"Tenth-value layer (TVL)" means the thickness of a specified material which attenuates x-radiation or gamma radiation to an extent such that the air kerma rate, exposure rate, or absorbed dose rate is reduced to one-tenth of the value measured without the material at the same point.

"Termination of irradiation" means the stopping of irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

"Therapeutic radiation machine" means photon or charged particle-producing equipment designed and used for external beam radiation therapy. For purposes of this Code, devices used to administer electronic brachytherapy shall also be considered therapeutic radiation machines.

"Tomogram" means the depiction of the x-ray attenuation properties of a section through the body.

"Tomographic plane" means that geometric plane which the manufacturer identified as corresponding to the output tomogram.

"Tomographic section" means the volume of an object whose x-ray attenuation properties are imaged in a tomogram.

"Tube" means an x-ray tube, unless otherwise specified.

"Tube housing assembly" means the tube housing with tube installed. It includes high-voltage or filament transformers and other appropriate elements when such are contained within the tube housing.

"Unintended" radiation dose in diagnostic or interventional x-ray means a patient radiation dose resulting from a human error or equipment malfunction during the procedure.

"Useful beam" means the radiation which passes through the tube housing port and the aperture of the beam limiting device when the exposure switch or timer is activated to cause the therapeutic radiation machine to produce radiation.

"Virtual simulator" means a computed tomography (CT) unit used in conjunction with relevant software which recreates the treatment machine; and that allows import, manipulation, display, and storage of images from CT or other imaging modalities.

"Virtual source" means a point from which radiation appears to originate.

"Visible area" means that portion of the input surface of the image receptor over which incident x-ray photons are producing a visible image.

"Volume Computed Tomography Dose Index (CTDIvol)" means a radiation dose parameter derived from the CTDIw (weighted or average CTDI given across the field of view). The formula is:

CTDIvol = (N)(T)(CTDIw)/I

where:

N = number of simultaneous axial scans per x-ray source rotation,
T = thickness of one axial scan (mm), and
I = table increment per axial scan (mm).

Thus,

CTDIvol = CTDIw / pitch

"Warning device" means a visible or audible signal that warns individuals of a potential radiation hazard.

"Wedge filter" means a filter which effects continuous change in transmission over all or a part of the useful beam.

"Weighting factor W_T" for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of W_T are:

Organ Dose Weighting Factors

Organ or tissue	W_T
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30[1]
Whole Body	1.00[2]

[1] 0.30 results from 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

[2] For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

"Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.

"Written directive" means an order in writing for the administration of radiation to a specific patient or human research subject.

"Weighted Computed Tomography Dose Index (CTDIw)" means the estimated average CTDI100 across the field of view (FOV). The equation is:

$$CTDI_w = 1/3\, CTDI_{100,center} + 2/3\, CDTI_{100,edge}.$$

where, 1/3 and 2/3 approximate the relative areas represented by the center and edge values derived using the 16 or 32 cm acrylic phantom. CTDIw uses CTDI100 and an f-factor for air (0.87 rad/R or 1.0 mGy/mGy).

"X-ray control" means a device which controls input power to the x-ray high-voltage generator or the x-ray tube. It includes equipment such as timers, phototimers, automatic brightness stabilizers, and similar devices, which control the technique factors of an x-ray exposure.

"X-ray exposure control" means a device, switch, button or other similar means by which an operator initiates or terminates the radiation exposure. The x-ray exposure control may include such associated equipment as timers and back-up timers.

"X-ray equipment" means an x-ray system, subsystem, or component thereof. Types of x-ray equipment are as follows:

(a) "mobile x-ray equipment" means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.
(b) "portable x-ray equipment" means x-ray equipment designed to be hand-carried.
(c) "stationary x-ray equipment" means x-ray equipment which is installed in a fixed location.
(d) "hand-held x-ray equipment" means x-ray equipment that is designed to be hand-held during operation.

"X-ray field" means that area of the intersection of the useful beam and any one of a set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the AKR is one-fourth of the maximum in the intersection.

"X-ray generator" means that portion of an x-ray system which provides the accelerating high voltage and current for the x-ray tube.

"X-ray gauge" means an x-ray producing device designed and manufactured for the purpose of detecting, measuring, gauging, or controlling thickness, density, level, or interface location.

"X-ray high-voltage generator" means a device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube, high-voltage switches, electrical protective devices, and other appropriate elements.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

"X-ray table" means a patient support device with its patient support structure (tabletop) interposed between the patient and the image receptor during radiography or fluoroscopy. This includes, but is not limited to, any stretcher equipped with a radiolucent panel and any table equipped with a cassette tray (or bucky), cassette tunnel, fluoroscopic image receptor, or spot-film device beneath the tabletop.

"X-ray tube" means any electron tube which is designed for the conversion of electrical energy into x-ray energy.

PART II RADIATION EQUIPMENT

§175.09 Radiation protection programs.

Each registrant must at a minimum:

(a) develop, document and implement a radiation protection program commensurate with the scope and extent of their operations and sufficient to ensure compliance with the provisions of this Code. The radiation safety program must include, but not be limited to,

the following policies, procedures and activities:
(1) that the use of ionizing radiation within its purview is performed in accordance with existing laws and regulations; this requirement shall be deemed to be met by the registrant possessing a Quality Assurance Manual for the facility.
(2) that all persons are protected from radiation as required by this Code; a current and readily-accessible copy of Article 175 must be maintained by the registrant at the facility either in hard copy or electronic format.
(3) that upon discovery of a medical event, the registrant must follow the applicable requirements of §§175.27 through 175.30 concerning required notifications and reports.

(b) use, to the extent practical, procedures and engineering controls based upon 'best practice' radiation protection principles to achieve occupational doses and doses to members of the public that are as low as reasonably achievable (ALARA) below the limits specified in this Code.

(c) provide a radiation safety officer, pursuant to §175.10 who shall be delegated authority to ensure the implementation of this radiation protection program.

(d) provide a quality assurance program, pursuant to §175.12 for diagnostic and therapeutic uses of radiation-producing equipment operated under applicable provisions of this Code.

(e) for medical centers, hospitals and institutions of higher education, provide for a radiation safety committee to administer the radiation protection program. The radiation safety committee must include the facility operator or a person with the authority to act on behalf of the facility operator, and representation from departments within the facility where radiation sources are used. The committee shall oversee all uses of radiation-producing equipment and radioactive materials within the facility, shall review the activities of the radiation safety officer and shall review the radiation safety program at least annually. The committee, or a subcommittee, shall oversee the administration of the required quality assurance program.

(f) ensure that radiation equipment is used only for those procedures for which it is designed by individuals duly-licensed and fully-qualified to operate such equipment.

(g) ensure that acceptance testing, by an individual competent to perform such testing, is performed on all medical and chiropractic diagnostic equipment and radiation therapy treatment and planning equipment before the first use of such equipment on humans; and

(h) at least every 12 months, review the radiation protection program content and its implementation.

§175.10 Radiation safety officer.

(a) In addition to those requirements indicated in this section for specific categories, all radiation safety officers must:
(1) demonstrate knowledge of potential radiation hazards and emergency precautions; and
(2) have complete educational courses related to ionizing radiation safety or a radiation safety officer course; or
(3) demonstrate experience in the use and familiarity of the type of equipment used.

(b) Specific duties of the radiation safety officer include, but are not limited to:
(1) establishing and overseeing operating and safety procedures that maintain radiation exposures as low as reasonably achievable (ALARA), and to review them regularly to ensure that the procedures are current and conform with this Code;
(2) ensuring that individual monitoring devices are properly used by occupationally-exposed personnel, that records are kept of the monitoring results, and that timely notifications are made as required by this Code;
(3) investigating and reporting to the Department each known or suspected case of radiation exposure to an individual or radiation level detected in excess of limits established by this Code and each theft or loss of a source of radiation, determining the cause, and taking steps to prevent its recurrence;
(4) having a thorough knowledge of management policies and administrative procedures of the registrant and keeping management informed on a periodic basis of the performance of the registrant's radiation protection program;
(5) assuming control and having the authority to institute corrective radiation control actions, including shut down of operations if necessary, in emergency situations or unsafe conditions;
(6) ensuring that personnel are adequately trained in and complying with this Code, the conditions of the certificate of registration, and the operating and safety procedures of the registrant; and
(7) maintaining all records as required by this Code.

(c) For human use radiation equipment installations, the radiation safety officer must be:
(1) a physicist certified by the American Board of Health Physics, the American Board of Radiology or the American Board of Medical Physics in a branch of physics related to the type of use of radiation sources in the installation; or
(2) a professional practitioner practicing within the scope of such person's professional practice.

(d) For human use radiation equipment installations requiring a certified registration, pursuant to §175.41, the radiation safety officer must be:
(1) a physicist certified by the American Board of Health Physics, the American Board of Radiology or the American Board of Medical Physics in a branch of physics related to the type of use of radiation sources in the installation; or
(2) an authorized user named on the facility's certified registration issued by the Department.

(e) For non-human use radiation equipment installations, the radiation safety officer must be:
(1) a veterinarian for veterinary installations; or
(2) a physicist certified by the American Board of Health Physics, the American Board of Radiology or the American Board of Medical Physics; or
(3) a person with equivalent training and experience as determined by the Department; or
(4) a researcher determined by the institution as qualified by training and experience for installations using only x-ray diffraction and fluorescence analysis equipment.

§175.11 Communications with workers.

(a) Purpose and scope. This section establishes requirements for notices, instructions and reports by registrants to individuals engaged in activities under a registration. This section also sets forth options available to such individuals in connection with Department inspections of registrants conducted to ascertain compliance with the provisions of this Code and all applicable regulations and conditions stated on the registration regarding radiological working conditions. The regulations in this section apply to all persons who receive, possess, produce, use, own or transfer sources of radiation registered with the Department or are otherwise subject to this Code.

(b) Posting of notices to workers.
(1) Each registrant must post current copies of the following documents:
(i) this Code, including all provisions CFR incorporated herein by reference;
(ii) the certified registration and the conditions or documents incorporated by reference into the certified registration and any amendments thereto;
(iii) the certificate of registration;
(iv) the operating procedures applicable to the work under the registration or certified registration;
(v) any notice of violation involving radiological working conditions, any proposed imposition of civil penalty or order issued, pursuant to this Code and any response from the licensee or registrant.
(2) If posting of a document specified in this section is not practicable, the registrant may post a notice which describes the document and states where it may be examined.
(3) A current copy of the "Notice to Employees" prescribed by the Department must be posted by each registrant wherever individuals work in or frequent any portion of a restricted area.
(4) Documents, notices, or forms posted, pursuant to this Code must appear conspicuously in a sufficient number of places to permit individuals engaged in work under the certified registration or registration to observe them on the way to or from any particular work location to which the document applies, and must be replaced if defaced or altered.
(5) Department documents posted, pursuant to this section must be posted within two (2) working days after receipt of the documents from the Department; the registrant's response, if any, must be posted within two (2) working days after dispatch from the registrant. Such documents must remain posted for a minimum of five (5) working days or until action correcting the violation has been completed, whichever is later.

(c) Instructions to workers.
(1) All individuals working in or frequenting any portion of a restricted area must be:
(i) kept informed of the storage, transfer, or use of radiation producing equipment or of radiation in such portions of the restricted area;
(ii) instructed in the operating procedures applicable to work under the registration or certified registration and in the health protection problems associated with exposure to such radiation, in precautions or procedures to minimize exposure, in the purposes and functions of protective devices employed, and must be required to demonstrate familiarity with such precautions, procedures and devices;
(iii) instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions of this Code, registrations or certified registrations for the protection of personnel from exposures to radiation occurring in such areas;
(iv) instructed of their responsibility to report promptly to

the registrant on any condition which may lead to or cause a violation of this Code or the registration, or unnecessary exposure to radiation;

(v) instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation; and

(vi) advised as to the radiation exposure reports which workers must be given or may request, pursuant to this section.

(2) The extent of these instructions shall be commensurate with potential radiological health protection problems in the restricted area.

(3) Instruction must be given before an individual begins work in a restricted area and at least annually thereafter.

(4) Records documenting individual worker instruction must be maintained for inspection by the Department for five (5) years.

(d) Each registrant must advise each worker annually of the worker's exposure to radiation or radioactive material as shown in records maintained by the registrant, pursuant to §175.13.

(1) Each registrant must make dose information available to workers as shown in records maintained by the registrant under the provisions of §175.13.

(2) The individual engaged or formerly engaged in activities controlled by the registrant may request his or her annual dose report.

(i) The report must include the dose record for each year the worker was required to be monitored, pursuant to this Code. Such report must be furnished to the Department within thirty (30) days from the date of the request, or within thirty (30) days after the dose of the individual has been determined by the registrant, whichever is later.

(ii) At the request of a worker who is terminating employment with the registrant in work involving exposure to radiation during the current year, each registrant must provide at termination to each such worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the registrant during the current year or fraction thereof.

(e) Presence of representatives of registrants and workers during inspections.

(1) Each registrant must afford the Department, at all reasonable times an opportunity to perform an inspection of machines, activities, facilities, premises and records required, pursuant to this Code.

(2) During an inspection, Department inspectors may consult privately with workers. The registrant, or that person's representative, may accompany the Department inspectors during other phases of an inspection.

(3) If, at the time of inspection, an individual has been authorized by the workers to represent them during Department inspections, the registrant must notify the inspectors of such authorization and must give the workers' representatives an opportunity to accompany the inspectors during the inspection of physical working conditions.

(4) Each worker's representative must be routinely engaged in work under control of the registrant and must have received instructions as specified in this section.

(5) Different representatives of registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspectors.

(6) With the approval of the registrant and the workers' representative, an individual who is not routinely engaged in work under control of the registrant, for example a consultant to the registrant or to the workers' representative, must be afforded the opportunity to accompany inspectors during the inspection of physical working conditions.

(7) Notwithstanding the other provisions of this subdivision, Department inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information, the workers' representative for that area must be an individual previously authorized by the licensee or registrant to enter that area.

(f) Consultation with workers during inspections.

(1) Department inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of this Code, certified registrations and registrations to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(2) During the course of an inspection any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which the worker has reason to believe may have contributed to or caused any violations of this Code, certified registration condition or registration, or any unnecessary exposure of any individual to radiation from sources of radiation under the registrant's control.

(g) Requests by workers for inspections.

(1) Any worker or representative of workers who believes that a violation of this Code, registration, certified registration or license conditions exists or has occurred in work under a license or certificate of registration with regard to radiological working conditions in which the worker is engaged, may request an inspection by giving notice of the alleged violation to the Department. Any such notice must be in writing, must set forth the specific grounds for the notice, and must be signed by the worker or representative of the workers. A copy must be provided to the licensee or registrant by the Department no later than at the time of inspection. The worker giving such notice may request that his or her name and the name of individuals referred to therein not appear in such copy or any record published, released, or made available by the Department, except for good cause shown.

(2) If, upon receipt of such notice, the Department determines that the complaint meets the requirements set forth in paragraph (1) of this subdivision and that there are reasonable grounds to believe that the alleged violation exists or has occurred, an inspection shall be made as soon as practicable, to determine if such alleged violation exists or has occurred. Inspections performed, pursuant to paragraph (1) of this subdivision need not be limited to matters referred to in the complaint.

(3) No licensee, registrant, or contractor or subcontractor of a registrant shall discharge or in any manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under this Code or has testified or is about to testify in any such proceeding or because of the exercise by such worker on behalf of such worker or others of any option afforded by this Code.

(h) Inspections not warranted; informal review.

(1) If the Department determines, with respect to a complaint under paragraph (1) of subdivision (g) of this section that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the Department shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the Deputy Commissioner for Environmental Health Services, who will provide the licensee or registrant with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The registrant may submit an opposing written statement of position with the Deputy Commissioner of Environmental Health Services who will provide the complainant with a copy of such statement by certified mail.

(2) Upon the request of the complainant, the Deputy Commissioner for Environmental Health Services may hold an informal conference in which the complainant and the licensee or registrant may orally present their views. An informal conference may also be held at the request of the licensee or registrant, but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. After considering all written or oral views presented, the Deputy Commissioner for Environmental Health Services shall affirm, modify, or reverse the determination of the Department's Office of Radiological Health and furnish the complainant and the licensee or registrant a written notification of the decision and the reason therefor.

(3) If the Department determines that an inspection is not warranted because the requirements of paragraph (1) of subdivision (g) of this section have not been met, the complainant shall be notified in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of such paragraph.

§175.12 **Quality Assurance (QA) program requirements.**

(a) Purpose and scope.

(1) A quality assurance (QA) program is a system of plans, actions, reviews, reports and records, the purpose of which is to ensure that registered facilities achieve consistent high quality imaging and other diagnostic results, while maintaining ALARA as to radiation output and personnel doses within limits prescribed by the Department. For purposes of compliance with this section, medical physicist and QMP shall be used interchangeably.

(2) This section establishes quality assurance requirements for the use of machine-produced radiation or the radiation

therefrom for diagnostic and therapeutic uses in the healing arts. The requirements in this section are intended to provide for the protection of the public health and safety and are in addition to, and not in substitution for, other applicable requirements in this Code. The requirements of this section apply to all applicants and registrants subject to this Code.

(b) Diagnostic facilities.

(1) Except dental, podiatric or veterinary facilities, each radiation installation performing diagnostic x-rays must implement a quality assurance program that includes at a minimum:

(i) the adoption of a facility- and equipment-specific QA manual containing written policies and procedures for radiation protection and describing the facility's quality assurance program. Policies and procedures must be consistent with the types of equipment and services provided including, but not limited to, identification of patients, use of gonadal or scoliosis shielding, personnel monitoring, protection of pregnant workers and patients and holding of patients. The quality assurance manual must describe the various processing, generator and systems QA tests appropriate for the types of equipment and services provided in sufficient detail to ensure that they will be performed properly;

(ii) the performance of QA tests and correction of deficiencies as specified in the QA manual;

(iii) the maintenance of equipment records for each diagnostic imaging system, containing test results, records of equipment repairs and other pertinent information;

(iv) the provisions of a formalized in-service training program for employees including, but not limited to, quality assurance and radiation safety procedures;

(v) the determination of radiation output at the point of skin entry for common x-ray examinations;

(vi) the provision of the information described in subparagraph (v) of this paragraph to any patient upon request; and

(vii) the performance of and analysis of repeated, rejected or diagnostic events which are designed to identify and correct problems and to optimize quality.

(2) Each registrant must maintain written records documenting QA and audit activities for review by the Department. Such records must be maintained by the registrant at least until after the next scheduled inspection is completed by the Department.

(3) Diagnostic facility registrants required to maintain the facility-specific QA manual must comply with the requirements of this Code, as well as any registration conditions or Department directives or orders. Failure to maintain an up-to-date QA manual, or not adhering to this Code or Department directives or orders, shall be deemed as equivalent to the registrant not conducting a mandated QA program in violation of this section.

(4) For hospital registrants only, the hospital's medical physicist must conduct oversight of its quality assurance programs, by:

(i) auditing the QA program on an annual basis for compliance with the hospital's QA manual and the requirements of this Code; and

(ii) submitting the annual audit report to the hospital radiation safety committee. The annual audit report must document the review of the following :

(A) the hospital's personnel monitoring program for compliance with this Code and hospital QA manual requirements; and

(B) the hospital's equipment QA testing for compliance with this Code and hospital QA manual frequency, and resolution of equipment failures as to timely repair and testing, if any; and

(C) the calibration of radiation instruments used for equipment testing, if owned by the hospital; and

(D) the status of hospital employee training, both annual training requirements and Code requirements, for training hospital staff for specific equipment types; and

(E) review of all medical events that occurred in the hospital in relation to x-ray exams and an evaluation of the measures to prevent such re-occurrences and their effectiveness.

(F) The recommendations cited in the annual hospital audit report of subparagraph (ii) of paragraph (4) of this subdivision must be reviewed by the hospital radiation safety committee for a compliance determination. A written record of the hospital radiation safety committee decisions on the annual audit recommendations must be retained for review by the Department during periodic inspections.

(5) Neonatal imaging and x-ray imaging of children. Neonatal intensive care units must develop a QA program which includes the following protocols:

(i) establishing a technique chart for neonatal imaging along with corresponding measurements of entrance skin dose; and

(ii) an annual training program for Licensed Radiographic Technologists (LRTs) for conducting neonatal imaging; and

(iii) a protocol for the proper use of neonatal collimation; and

(iv) a protocol of gonadal shielding; and

(v) each facility must conduct an annual report on the compliance with the facility's neonatal QA program and forward such report to the facility radiation safety committee for review; and

(vi) each registrant that conducts x-ray imaging of children must establish specific techniques at least for 1-year old, 5-year old and 10-year old children specific to PA chest and abdomen x-ray studies. Additionally, the entrance skin exposure must be measured for the latter studies and posted in the facility along with the technique chart wherever it is reasonable to expect that children of such an age group can be x-rayed.

(c) X-ray film processing facilities. Registrants using analog image receptors (e.g., radiographic film) must have available suitable equipment for the handling and processing of radiographic film in accordance with the following provisions:

(1) Manually developed film shall be prohibited, except during dental surgical procedures when required.

(2) Automatic processors and other closed processing systems:

(i) automatic processors must be operated and maintained following manufacturer specifications.

(ii) films must be developed in accordance with the time-temperature relationships recommended by the film manufacturer; in the absence of such recommendations, the film must be developed using the following chart:

Developer Temperature		**Minimum Immersion Time***
C°	**F°**	**Seconds**
35.5	96	19
35	95	20
34.5	94	21
34	93	22
33.5	92	23
33	91	24
32	90	25
31.5	89	26
31	88	27
30.5	87	28
30	86	29
29.5	85	30
**Immersion time only, no crossover time included.*		

(3) Processing deviations from the above requirements of this section must be documented by the registrant in such manner that the requirements are shown to be met or exceeded (e.g., extended processing and special rapid chemistry).

(d) Additional requirements for facilities using x-ray film.

(1) Pass boxes, if provided, must be constructed to exclude light from the darkroom when cassettes are placed in or removed from the boxes, and must incorporate adequate shielding from stray radiation to prevent exposure of undeveloped film.

(2) Darkrooms typically used by more than one individual must prevent accidental entry while undeveloped films are being handled or processed.

(3) Film must be stored in a cool, dry place and must be

protected from exposure to stray radiation. Film in open packages must be stored in a light tight container.

(4) Film cassettes and intensifying screens must be inspected periodically and must be cleaned and replaced as necessary.

(5) Outdated x-ray film past the manufacturer's expiration date must not be used for diagnostic radiographs of patients.

(6) The film and intensifying screen must be spectrally compatible.

(7) Facilities must maintain a light-tight darkroom, use proper safelighting and safeguards, and evaluate darkroom integrity and daylight loading systems for film fog every six (6) months and after a change that may impact film fog.

(e) Facilities other than dental, podiatry or veterinary must:

(1) have a continuous and documented sensitometric QA program, including QA tests for speed, contrast and fog. These tests must be performed according to specifications of the manufacturer, a QMP, or a nationally-recognized organization.

(2) maintain a light-tight darkroom and use proper safelighting and safeguards such that any film type in use exposed in a cassette to x-radiation sufficient to produce an optical density from 1 to 2 when processed shall not increase in optical density by more than 0.1 when exposed in the darkroom for 2 minutes with all safelights on. If used, daylight film handling boxes must preclude fogging of the film.

(3) limit the base plus fog of unexposed film to an optical density less than 0.25 when developed by the routine procedure used by the facility.

(f) Facilities using Computed Radiography (CR) or Direct Digital Radiography (DDR).

(1) When exposure indicators are available, the facility must establish and document an acceptable range for the exposure values for examinations routinely performed at the facility. The indicated exposure values for each image must be compared to the established range. Consistent deviations from established ranges must be investigated, corrective actions taken as necessary, and results documented. This exposure range developed above must be posted at or near the x-ray console.

(2) Facilities must establish and follow an image QA program in accord with the recommendations of a QMP, the system manufacturer, or a nationally recognized organization

(3) Facilities other than dental, podiatric and veterinary, must quarterly complete phantom image evaluation using a phantom approved by a QMP or manufacturer. The analysis at a minimum must include: artifacts, spatial resolution, contrast/noise and exposure indicator constancy.

(4) In addition to the requirements of paragraphs (1) through (3) of this subdivision, CR facilities must erase all CR cassettes, at least on a weekly basis. This erasure must be documented for review on compliance inspections.

(5) In regard to hospitals with large numbers of CR cassettes, the Hospital must set a schedule of CR cassette erasure that will assure that all cassettes are free of residual previous image details and artifacts. This scheduled developed by hospitals need not be weekly.

(g) Requirements for radiographic facilities' Primary Diagnostic Monitors (PDM).

(1) The requirements of this subdivision do not apply to dental, podiatric, veterinary, bone densitometer and mammography facilities.

(2) The following definitions apply to this subdivision:

"Acceptance testing of primary diagnostic monitor" means the tests conducted to determine if the requirements of a monitor specification are met.

"Digital Imaging and Communications in Medicine (DICOM)" means a standard for handling, storing, printing and transmitting information in medical imaging.

"Documenting" means written, electronic or photographic records of testing performance.

"External photometer" means a photometer that is not built into the monitor and requires calibration every two years.

"Maximum luminance" means the maximum light emission from the PDM front surface as measured by a calibrated photometer in units of candela/m2.

"Medical monitor" means any monitor that has both a built-in photometer and a QA software program allowing for routine QA tests to be performed.

"Monitor" means a display device that shows the results of a patient radiological image.

"Off-site PDM" means when the registrant contracts with a tele-radiology service for patient diagnosis of x-ray procedures. *Note: In these instances, the tele-radiology service must establish a PDM QA program that conforms to Department guidelines.*

"Primary Diagnostic Monitor (PDM)" means a monitor used to render a final diagnosis of a patient exam, including interpretations of patient mammograms. *Note: Monitors attached to digital units used as PDMs must have a QA program that complies with this guidance document, with the exception of monitors attached to bone densitometer units.*

"Preliminary reads ("wet reads")" means a type of monitor that is exempt from PDM guidelines. *Note: When images were developed from film, an x-ray could be read wet if the doctor ordering it could not wait for the film to dry. Wet reads are not a final diagnostic report. Therefore, monitors used for wet reads, such as a monitor in a hospital emergency room used to make decisions about trauma patients, are not considered PDMs in the context of this section.*

"Registrant" means, for the purposes of PDM QA requirements of this subdivision, the individual responsible for ensuring that a PDM QA program is implemented on site. *Note: This requirement still applies if the registrant contracts with an off-site service, for example, tele-radiology service, for patient final diagnostic evaluations.*

"Test pattern" means, for the purposes of PDM QA requirements, a pattern that is either a Society of Motion Picture and Television Engineers (SMPTE) test pattern, or the American Association of Medical Physicists (AAPM) Task Group (TG) #18 test pattern (TG 18 test pattern).

(3) QA tests mandated for a PDM QA program. Each facility must make or have made QA tests to monitor equipment performance and maintain records of data collected. The facility must document their PDM quality assurance program in the facility's QA manual along with the results of the QA tests required. The QA tests required to be performed must include, at a minimum:

(i) Visual test pattern evaluation (TG-18QC, SMPTE, or equivalent).

(ii) DICOM calibration of the Grayscale Standard Display Function (GSDF) for each medical monitor on site at the registrant's location.

(iii) Maximum luminance output.

(iv) Minimum luminance output.

(v) Luminance ratio of maximum to minimum.

(vi) Evaluation of viewing conditions.

§175.13 Occupational dose limits for adults.

(a) The registrant must control the occupational dose to individual adults to the following dose limits:

(1) an annual limit, which is the more limiting of:

(i) the total effective dose equivalent being equal to 0.05 sievert (5 rem); or

(ii) the sum of the deep dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 sievert (50 rem).

(2) the annual limits to the lens of the eye, to the skin, and to the extremities which are:

(i) a lens dose equivalent of 0.15 sievert (15 rem); and

(ii) a shallow dose equivalent of 0.5 sievert (50 rem) to the skin or to any extremity.

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

(1) when a protective apron is worn while working with medical fluoroscopic equipment and monitoring is conducted as specified in §175.17(b)(4), the effective dose equivalent for external radiation shall be determined as follows:

(i) when only one individual monitoring device is used and it is located at the neck (collar) outside the protective apron, the reported deep dose equivalent value divided by 5.6 shall be the effective dose equivalent for external radiation; or

(2) when individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation shall be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.

(c) The registrant must reduce the dose that an individual may be allowed to receive in the current year by the occupational dose amount received while employed elsewhere during the current year.

§175.14 Dose limits for individual members of the public and occupational exposure to declared pregnant females.

(a) Each registrant must conduct operations so that:
(1) the total effective dose equivalent to individual members of the public from the registered operation, does not exceed 1 millisievert (0.1 rem) in a year, exclusive of the dose contribution from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with the requirements of 10 CFR Part 35, or from voluntary participation in medical research programs.
(2) the dose in any unrestricted area from external sources does not exceed 0.02 millisievert (0.002 rem) in any one hour.
(b) If the registrant permits members of the public to have access to restricted areas, the limits for members of the public continue to apply to those individuals.
(c) Dose to an embryo/fetus.
(1) The licensee or registrant must ensure that the dose equivalent to the embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 5 mSv (0.5 rem).
(2) The licensee or registrant must review exposure history and adjust working conditions so as to avoid a monthly exposure of more than 0.5 mSv (50 mrem) to a declared pregnant woman.
(3) The dose to an embryo/fetus shall be the sum of:
(i) the deep dose equivalent to the declared pregnant woman; and
(ii) the dose equivalent to the embryo/fetus resulting from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman.
(4) If, by the time the woman declares pregnancy to the licensee or registrant, the dose equivalent to the embryo/fetus is found to have exceeded 5 mSv (0.5 rem), or is within 0.5 mSv (0.05 rem) of this dose, the licensee or registrant shall be deemed to be in compliance with this subdivision if the additional dose to the embryo/fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.
(d) The Department may impose additional restrictions on radiation levels in unrestricted areas.

§175.15 Compliance with dose limits for individual members of the public.
(a) The registrant must conduct surveys of radiation levels in unrestricted areas.
(b) The registrant must show compliance with the annual dose limit in §175.14 by demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the registered operation does not exceed the annual dose limit.

§175.16 Surveys and monitoring.
Each registrant must conduct surveys to comply with this Code to evaluate the magnitude and extent of radiation levels and potential radiological hazards.
(a) The registrant must ensure that instruments and equipment used for quantitative radiation measurements, for example, dose rates and doses, are calibrated at intervals not to exceed 12 months for the radiation measured, except when a more frequent interval is specified in this Code.
(b) All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the radiation dose, must be processed and evaluated by a dosimetry processor:
(1) holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program of the National Institute of Standards and Technology; and
(2) approved in this accreditation process for the type of radiation or radiations included in the National Voluntary Laboratory Accreditation Program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.
(c) The registrant must ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device.
(d) No registrant shall remove an exposure from an individual's exposure record without prior authorization from the Department. To remove an exposure from an individual's exposure record, the registrant must provide the following documentation to the Department:
(1) a letter to the Department indicating the person whose exposure is to be removed along with an investigation into the possible causes for the exposure and a signed note from the individual concurring with the removal of the exposure; and
(2) a copy of the individual's personnel monitoring report along with the investigation the personnel monitor vendor conducted of the exposure. For occurrences where the personnel monitor vendor indicates that a static exposure occurred on the personnel monitoring report sent to the registrant, the latter investigation is waived.

§175.17 Conditions requiring individual monitoring of external occupational dose.
(a) Each registrant must monitor exposures from sources of radiation to demonstrate compliance with the occupational dose limits of this Code.
(b) Each registrant must monitor occupational exposure to radiation sources under its control and must supply and require the use of individual monitoring devices by:
(1) adults likely to receive, in 1 year from sources external to the body, a dose in excess of 10 percent of the limits in §175.13; and
(2) minors likely to receive, in 1 year from sources external to the body, a deep dose equivalent in excess of 1 millisievert (0.1 rem), a lens dose equivalent in excess of 1.5 millisievert (0.15 rem), or a shallow dose equivalent to the skin or to the extremities in excess of 5 millisievert (0.5 rem); and
(3) declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 1 millisievert (0.1 rem); and
(4) individuals working with medical fluoroscopic equipment.
(i) An individual monitoring device used for the dose to an embryo/fetus of a declared pregnant woman, pursuant to paragraph (3) of this subdivision, must be located under the protective apron at the waist.
(ii) An individual monitoring device used for lens dose equivalent must be located at the neck (collar), or an unshielded location closer to the eye, outside the protective apron.
(iii) When only 1 individual monitoring device is used to determine the effective dose equivalent for external radiation, pursuant to §175.13, it must be located at the neck (collar) outside the protective apron. When a second individual monitoring device is used for the same purpose, it must be located under the protective apron at the waist. The second individual monitoring device is required for a declared pregnant woman.
(iv) All personnel monitoring devices used to monitor fluoroscopic radiation exposures must be returned to the vendor for processing on a monthly basis.
(5) The registrant must submit the dosimeter for processing with due diligence and never after the time specified by the manufacturer of the dosimeter. Where dosimeters are processed on the registrant's premises, the registrant must require monitored individuals to read their monitors monthly.

§175.18 Location of individual monitoring devices.
Each registrant must ensure that individuals who are required to monitor occupational doses in accordance with §175.13 use individual monitoring devices as follows:
(a) an individual monitoring device used for monitoring the dose to the whole body must be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar);
(b) an individual monitoring device used for monitoring the dose to an embryo/fetus of a declared pregnant woman, pursuant to §175.17, must be located at the waist under any protective apron being worn by the woman;
(c) an individual monitoring device used for monitoring the lens dose equivalent, to demonstrate compliance with §175.13, must be located at the neck (collar), outside any protective apron being worn by the monitored individual, or at an unshielded location closer to the eye;
(d) an individual monitoring device used for monitoring the dose to the extremities, to demonstrate compliance with §175.13, must be worn on the extremity likely to receive the highest exposure. Each individual monitoring device must be oriented to measure the highest dose to the extremity being monitored.

§175.19 Exception to posting requirements.
A room or area with radiation machines used solely for diagnosis in the healing arts is exempt from the requirement to post a caution sign.

§175.20 Labeling containers and radiation machines.
Each registrant must ensure that each radiation machine is labeled in a conspicuous manner which cautions individuals that radiation is produced when it is energized.

§175.21 Records of radiation protection programs.
(a) Each registrant must maintain records of the radiation protection program, including audits, records of surveys, calibrations, maintenance and modifications (e.g., major software and hardware upgrades) performed on the x-ray system and a copy of all correspondence with the Department regarding the x-ray system, until the Department terminates the registration or certified registration requiring the record.
(b) Unless otherwise indicated, the registrant must retain the records required by subdivision (a) of this section for a minimum of five (5) years after the record is made, except that model and serial numbers of all major components and user's manuals for those components, including software, must be maintained for the life of the system.

§175.22 Records of surveys.

(a) Each registrant must maintain records showing the results of surveys and calibrations required by §175.16. The registrant must retain these records for five (5) years after the record is made.

(b) The registrant must retain records of the results of surveys to determine the dose from external sources of radiation used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents, until the Department terminates the certified registration or registration requiring the record.

§175.23 Determination and records of prior occupational dose.

(a) For each individual who is likely to receive, in one (1) year, an occupational dose requiring monitoring, pursuant to§175.13, the registrant must:

(1) determine the occupational radiation dose received during the current year; and

(2) request in writing the records of cumulative occupational radiation dose.

(b) In complying with the requirements of this section, a registrant may:

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

(2) accept, as the record of cumulative radiation dose, an up-to-date Department form or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the registrant; and

(3) obtain reports of the individual's dose equivalent from the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the registrant, by telephone, telegram, facsimile, other electronic media or letter. The registrant must request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

(c) The registrant must record the exposure history, with all the following required information:

(1) the form or record must show each period in which the individual received occupational exposure to radiation or radioactive material and must be signed by the individual who received the exposure. For each period for which the registrant obtains reports, the registrant must use the dose shown in the report. For any period in which the registrant does not obtain a report, the registrant must place a notation in the record or equivalent indicating the periods of time for which data are not available.

(2) for the purposes of complying with this requirement, licensees or registrants are not required to partition historical dose between external dose equivalent and internal committed dose equivalent. Further, occupational exposure histories obtained and recorded would not have included effective dose equivalent, but may be used in the absence of specific information on the intake of radionuclides by the individual.

(d) If the registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the registrant shall assume:

(1) in establishing administrative controls for the current year, that the allowable dose limit for the individual is reduced by 12.5 millisievert (1.25 rem) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and

(2) that the individual is not available for planned special exposures.

(e) The registrant must retain the records until the Department terminates each pertinent license or registration requiring this record. This includes records required under the standards for protection against radiation in effect prior to January 1, 1994.

(f) Upon termination of the license or registration, the registrant must permanently store such records, or must make provision with the Department for transfer of such records to the Department.

§175.24 Records of individual monitoring results.

(a) Recordkeeping. Each registrant must maintain records of doses received by all individuals for whom monitoring is required by this Code. These records must include, when applicable, the deep dose equivalent to the whole body, lens dose equivalent, shallow dose equivalent to the skin, and shallow dose equivalent to the extremities.

(b) The registrant must make entries of the records of individual monitoring results at intervals not to exceed one (1) year.

(c) The registrant must maintain individual monitoring results in clear and legible records containing all required information by the Department.

(d) The registrant must maintain the records of dose to an embryo/fetus with the records of dose to the declared pregnant woman. The declaration of pregnancy, including the estimated date of conception, must also be kept on file, but may be maintained separately from the dose records.

(e) The registrant must retain each required form or record until the Department terminates the license, certified registration or registration requiring the record.

§175.25 Records of dose to individual members of the public.

(a) Each registrant must maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public.

(b) The registrant must retain the records of dose to individual members of the public until the Department terminates each pertinent license, registration or certified registration requiring the record.

§175.26 Form of records.

(a) Each record required by this Code must be legible throughout the specified retention period and, where required, must be on the appropriate Department form. The record must be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period, or the record may also be stored in electronic media with the capability for producing legible, accurate and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials and signatures.

(b) The registrant must maintain adequate safeguards against tampering with and loss of records.

(c) The discontinuance or curtailment of activities does not relieve any person who possesses any radiation source of responsibility for retaining all records required by this Code.

§175.27 Notification of incidents.

(a) Immediate notification. Notwithstanding other requirements for notification in this Code, each registrant must immediately report each event involving a source of radiation possessed by the registrant that may have caused or threatens to cause any of the following conditions for an individual to receive:

(1) a total effective dose equivalent of 0.25 sievert (25 rem) or more; or

(2) a lens dose equivalent of 0.75 sievert (75 rem) or more; or

(3) a shallow dose equivalent to the skin or extremities or a total organ dose equivalent of 2.5 gray (250 rad) or more.

(b) Twenty-four hour notification. Each registrant must, within 24 hours of discovery of the event, report to the Department each event involving loss of control of a registered source of radiation possessed by the registrant that may have caused, or threatens to cause, any of the following conditions for an individual to receive in a period of 24 hours:

(1) a total effective dose equivalent exceeding 0.05 sievert (5 rem); or

(2) a lens dose equivalent exceeding 0.15 sievert (15 rem); or

(3) a shallow dose equivalent to the skin or extremities or a total organ dose equivalent exceeding 0.5 sievert (50 rem).

(c) Registrants must make the reports required by this section by initial contact by telephone to the Department and must confirm the initial contact by letter, email or facsimile to the Department.

(d) The registrant must prepare each report filed with the Department so that names of individuals who have received exposure to sources of radiation are not indicated, but stated in a separate and detachable portion of the report.

§175.28 Reports of exposures and concentrations of radioactive material exceeding limits.

(a) Reportable events. Each registrant must submit a written report to the Department within 30 days after learning of any of the following occurrences:

(1) incidents for which notification is required by §§ 175.27 through 175.30;

(2) doses in excess of any of the following:

(i) the occupational dose limits for adults in §175.13;

(ii) the occupational dose limits for a minor in §175.17;

(iii) the limits for an embryo/fetus of a declared pregnant woman in §175.17 ; or

(iv) the limits for an individual member of the public in §175.14; or

(v) any applicable limit in the license or registration; or

(3) levels of radiation or concentrations of radioactive material in:

(i) a restricted area in excess of applicable limits in the license or registration; or

(ii) an unrestricted area in excess of 10 times the applicable limit set forth in this Code or in the license or registration, whether or not involving exposure of any individual in excess of the limits in §175.13; or

(4) for licensees subject to the provisions of the U.S. Department of Environmental Protection's generally applicable

environmental radiation standards in 40 CFR Part 190, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those standards.

(b) Contents of reports.

Each report required by this section must describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

(1) estimates of each individual's dose;

(2) the levels of radiation and concentrations of radioactive material involved;

(3) the cause of the elevated exposures, dose rates, or concentrations; and

(4) corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, ALARA constraints generally applicable environmental standards, and associated license or registration conditions.

(c) Each report filed, pursuant to this section must include for each occupationally overexposed individual: the name, social security or patient ID number and date of birth. With respect to the limit for the embryo/fetus in §175.17, the identifiers should be those of the declared pregnant woman. The report must be prepared so that this information is stated in a separate and detachable portion of the report.

(d) All licensees or registrants who make reports, pursuant to this section must submit the report in writing to the Department.

§175.29 Reports to individuals of exceeding dose limits.

(a) When a registrant is required to report to the Department any exposure of an identified occupationally-exposed individual, or an identified member of the public, to radiation or radioactive material, the registrant must also provide a copy of the report submitted to the Department to the individual. This report must be transmitted at a time no later than the transmittal to the Department.

(b) When necessary or desirable in order to aid in determining the extent of any individual's exposure to radiation subsequent to any radiation accident, contamination, theft or loss, the registrant must comply with all orders of the Department directing such registrant to make available to such individual appropriate medical evaluation services or appropriate tests and to furnish to the Department a copy of the reports of such evaluation or test.

§175.30 Event reporting.

(a) Immediate report. Each registrant must notify the Department as soon as possible, but not later than four (4) hours, after the discovery of an event that prevents immediate preventive actions necessary to avoid exposures to radiation or radioactive material that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (e.g., events may include fires, explosions, toxic gas releases, etc.).

(b) Twenty-four hour report. Each registrant must notify the Department within twenty-four (24) hours after the discovery of any of the following events involving regulated sources of radiation:

(1) An event in which equipment is disabled or fails to function as designed when:

(i) the equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, or to mitigate the consequences of an accident;

(ii) the equipment is required to be available and operable when it is disabled or fails to function; and

(iii) no redundant equipment is available and operable to perform the required safety function.

(c) Preparation and submission of reports.

(1) Initial reports must be made by telephone to the Department. To the extent that the information is available at the time of notification, the information provided in these reports must include:

(i) the caller's name and call back telephone number;

(ii) a description of the event, including date and time;

(iii) the exact location of the event;

(iv) the isotopes, quantities, and chemical and physical form of the licensed material involved; and

(v) any personnel radiation exposure data available.

(2) Written report. Each registrant who makes a report required by paragraph (1) of this subdivision must submit a written follow up report to the Department within thirty (30) days of the initial report. The reports must include the following:

(i) a description of the event, including the probable cause and the manufacturer and model number, if applicable, of any equipment that failed or malfunctioned;

(ii) the isotopes, quantities and chemical and physical form of the licensed material involved;

(iii) corrective actions taken or planned and the results of any evaluations or assessments; and

(iv) the extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

(d) Any report of a medical event as defined in this Code must be completed in sufficient detail to address the requirements of paragraph (2) of subdivision (c) of this section and forwarded to the registrant's radiation safety committee or the radiation safety officer for their action. The report must be available for review by the Department during their periodic inspections.

§175.40 Registration of radiation machine facilities.

(a) Registration required. Prior to establishing, maintaining or operating any radiation installation with any radiation equipment in operable condition, or prior to installing such equipment which is intended to be used, the owner, operator or person in charge of such installation must have obtained a current certificate of registration or, for a therapeutic radiation machine as defined in and subject to the requirements of this Code, a certified registration from the Department. Unless otherwise authorized by the Department, no one shall apply x-rays to diagnose or treat any patient's medical condition at a facility that does not possess a current, non-expired certificate of registration issued from the Department. This shall not prohibit the installation of radiation-producing equipment by a registrant at a facility solely for testing purposes by medical physicists. For purposes of this section, a "medical physicist" shall be a QMP as defined in this Code, or an individual possessing a current, non-expired CRESO certification in New York State, or an individual licensed to practice the specialty of diagnostic medical physics in New York State.

(b) Application for a certificate of registration, or certified registration, must be made to the Department on a written form and in a manner prescribed by the Department.

(c) Registered facilities at which either the operator or location will be changed must apply for a new registration prior to such change.

(d) The applicant for registration for all facilities mandated to have a quality assurance program must:

(1) submit a completed application form and required supporting documents, if any; and,

(2) submit a medical physicist report detailing the results of initial quality assurance tests conducted on all radiation-producing equipment in the facility. In this context, the initial quality assurance tests shall be the sum of all quality assurance tests mandated to be conducted for the facility type at daily, weekly, monthly, semiannual, annual and biennial frequencies. Also, a radiation protection survey must be conducted and submitted for each room housing a radiographic unit.

(3) designate a radiation safety officer on each application form.

(4) designate a practitioner, licensed by the respective state board of examiners (i.e., state medical board, state dental board, state chiropractic board, state podiatric board, etc.), responsible for directing the operation of radiation machines on each healing arts application. The signature of the administrator, president or chief executive officer will be accepted in lieu of a licensed practitioner's signature if the facility has more than one licensed practitioner (for example, hospitals, large clinics, or multi-practitioner practices).

(e) An application for registration may be denied for any basis provided in this Code.

(f) The Department will not grant a facility's registration until such time as the facility's medical physicist report contains all mandated quality assurance tests and all corrective actions that may be required therefrom have been completed as determined by the Department.

(1) Upon completion of the review process for the submitted quality assurance tests by the facility, if reasons exist to refuse authorization to register the facility's radiation-producing equipment for clinical usage, the facility shall be notified of the reasons for such a decision by the Department in writing.

(2) The applicant must file all requested information that the Department finds deficient in a timely manner, but in all cases within 30 days of the Department's request, or the application will be deemed abandoned and void. In the latter case, the applicant must refile the application.

(g) Dental, podiatric and veterinary facilities. All new dental, podiatric, and veterinary facilities without a current certificate of registration must apply for a new registration prior to the beginning of facility operation. All new dental, podiatric and veterinary facilities shall be prohibited from commencing diagnostic clinical examinations until such time that the facility has either received a certificate of registration from the Department for all such equipment, or the Department has performed a physical inspection of the facility and any deficiencies identified have been corrected, or the Department has reviewed and approved the medical physicist/CRESO reports to determine that all radiological equipment to be used are operating as intended.

(h) Renewal registrations. Facilities with current, valid certificates of registration must apply for renewal at least 30 days prior to the expiration of such certificate of registration. Facilities with a certificate of registration that is suspended or revoked, or where the installation is discontinued on or before the expiration of the

certificate of registration, may not apply for renewal.

(i) Fees. Fees for each registration and certified registration shall be paid, pursuant to §§ 5.07 and 5.09(f).

(j) Duration of registrations. A certificate of registration shall be issued for a limited period of time extending from the date of issuance to the date of expiration as specified on the certificate of registration. Registration validity shall not exceed two years except that the Department, at its discretion, may issue a certificate of registration for a longer period of time in order to stagger expiration dates for administrative purposes and may charge a proportionate increase in fees to reflect this.

(k) Expiration of registrations.

(1) The registration issued for a radiation installation shall expire and may be required to be surrendered to the Department upon:

(i) failure to renew by the expiration date specified on the certificate of registration; or

(ii) revocation by the Commissioner; or

(iii) a change of the person to whom the certificate of registration is issued; or

(iv) a change in address of the radiation installation if it is not a mobile unit; or

(v) a change in the name of the installation; or

(vi) the discontinuance of the installation.

(2) Notwithstanding paragraph 1 of this subdivision, if a registrant whose registration has expired indicates in writing to the Department that they are in the process of completing and files a proper registration application renewal form with the Department, or properly files for a new and superseding registration, at least 30 days prior to the stated expiration date, such registration shall not be deemed to have expired until the Department has decided upon such renewal application.

(l) Suspension and revocation of registrations. A registration may be suspended or revoked for any basis provided in this Code, including, pursuant to §5.17, or if the Commissioner finds that:

(1) the information submitted in the application is materially incorrect or incomplete;

(2) the installation is, has been or will be established, maintained, or operated in violation of this Code, or any other applicable law, rule, regulation, order or condition;

(3) the certificate of registration has not been issued correctly; or

(4) the fees for registration or inspections and adjudicated fines have not been paid as required.

(m) A certificate of registration issued for a radiation installation must be posted in accordance with the provisions of §5.15.

(n) The operator of a radiation installation must keep its registration information current by reporting to the Department of any change affecting the registration within 10 days of such change.

(o) The registration issued to a facility does not imply endorsement or approval by the Department and must not be used to advertise or promote business.

(p) A certificate of registration or certified registration is not transferable or assignable.

(q) The Department may refuse to issue, or may suspend or revoke, a certificate of registration for any facility that refuses to allow the Department to conduct an inspection of all of the facility's x-ray equipment or records or refuses or is unable to correct any violations of this Code noted during an inspection.

(r) Exemptions. Registration with the Department is not required for:

(1) radiation equipment constructed so that it cannot emit radiation at a level greater than 1.3 E-7 C/kg (0.5 milliroentgen) per hour, measured 5 cm (2 in.) from any accessible surface thereof, and averaged over an area of 10 cm2 (1.55 in2) provided, however, that such exemption shall not apply to the testing or servicing of such equipment during its production; or

(2) radiation equipment during its storage, shipment, retail sale or other similar use (but not including installation) during which such equipment is not connected to a voltage source and does not emit radiation, provided however, that such equipment is not exempt from the labeling requirement of §175.16.

§175.41 Certified registration for therapeutic radiation machines.

(a) Certified registration required. All existing facilities with therapeutic radiation machines as defined in and subject to the requirements of this Code must maintain, and all new facilities with therapeutic radiation machines not holding a certified registration on the effective date of this Code must obtain, a certified registration for such therapeutic radiation machines from the Department in accordance with the provisions of this section.

(b) Certified registration application.

(1) An application for a certified registration must be on a form prescribed by the Department, filed in duplicate (original plus one copy) and must clearly, completely and accurately provide all information requested.

(2) If the application is for use sited in a medical institution, only a person serving as a principal officer or director on the institution's executive management may apply; for use not sited in a medical institution, a professional practitioner may apply.

(3) When a change affecting a radiation source or installation subject to the certified registration requirements of this section is considered by a registrant, including but not limited to changes ordered, pursuant to this Code, so that the information on file with the Department will no longer be accurate, then the registrant must so inform the Department in writing:

(i) for administrative changes, such notification must be made to the Department within 10 days of effecting such change.

(ii) for all other changes, an amendment must be requested and received, pursuant to this section.

(iii) failure to notify the Department of a change of ownership or address of a radiation installation may result in suspension or revocation of the installation's certified registration.

(4) At any time after the filing of an application for a certified registration, the Department may require the applicant to submit a supplementary information statement to enable the Department to determine whether such application should be approved or denied, or whether a previously issued registration should be amended, suspended or revoked.

(5) Each application or supplementary information statement must be signed by either the applicant personally or a person duly authorized by the applicant acting as its agent to sign on the applicant's behalf.

(6) The Department may approve an application for a certified registration if the Department determines that the following requirements have been met:

(i) the applicant's proposed use, equipment, facilities and procedures can be reasonably expected to protect health and safety and minimize danger to life and property from radiation hazards; and

(ii) the applicant's instrumentation is appropriate for detecting and measuring the type of radiation produced (either directly or indirectly) by the radiation source requested in the application; and

(iii) the applicant or the applicant's personnel are qualified by licensure, training and experience to use such radiation source for the purposes covered by the application so as to protect health and safety and minimize danger to life and property from radiation hazards; and

(iv) the applicant submits sufficient information to support a reasonable determination that the requirements of this Code will be met.

(7) Certified registrations issued by the Department, pursuant to application shall be in the form of a written authorization permitting possession and use of radiation therapy machines. Such possession and use shall be subject to ongoing compliance with all applicable provisions of this Code and all conditions as stated on the certified registration.

(c) Certified registration; expiration, termination and amendment.

(1) Except as otherwise provided in this Code, or authorized by the Department, each certified registration shall expire on the expiration date stated on the certified registration. If any current certified registrant duly files with the Department an application in proper form for renewal of such certified registration, or for a new and superseding certified registration, not less than 30 days prior to the stated expiration date, such certified registration shall not be deemed to have expired until the Department has decided such renewal application.

(2) The Department may terminate any certified registration upon the written request of the registrant.

(3) The Department may at any time set forth in any certified registration or incorporate by reference therein, additional conditions, restrictions or requirements applicable to the registrant's transfer, receipt, possession or use of any radiation source covered by such certified registration in order to protect the public health and safety and to minimize danger to life and property from radiation hazards.

(4) Any certified registration may be amended or revoked by the Department by reason of amendment of this Code, or any other applicable law or regulation.

(5) Any certified registration may be suspended or revoked by the Department for any basis provided in this Code, including but not limited to, the following:

(i) any material misstatement in the application or in any supplementary statement thereto;

(ii) any condition revealed by such application, supplementary statement, report, record, inspection, investigation or other means, which would warrant the Department's refusal to grant a certified registration on an original application; or

(iii) any violation or failure to observe any condition of

such certified registration, this Code, or any other applicable rule, regulation, order or law now or hereafter in effect.

(6) A registrant must apply for, and must have received approval for, a certified registration amendment before:
- (i) permitting anyone to work as an authorized user under the certified registration;
- (ii) permanently changing the radiation safety officer or radiotherapy physicist;
- (iii) making any change in the treatment room shielding;
- (iv) making any change in the location of the therapeutic radiation machine within the treatment room;
- (v) using the therapeutic radiation machine in a manner that could result in increased radiation levels in areas outside the treatment room;
- (vi) relocating the therapeutic radiation machine;
- (vii) allowing an individual not listed on the registrant's certified registration to perform the duties of the radiation therapy physicist, except during the temporary absence of the radiation therapy physicist when a person who is otherwise qualified to perform such duties may perform such duties; such temporary absence must not exceed sixty (60) days; or
- (viii) changing non-administrative statements, representations or procedures incorporated by reference into the certified registration.

(7) Any application by a registrant for an amendment of a certified registration must be filed in writing with the Department and must set forth in detail the reasons for such requested amendment.

§175.42 Registration of mobile service operations.
For purposes of this section, mobile service operations means an x-ray unit of any type that is used in a van or similar vehicle to conduct x-ray examinations outside a fixed location. In addition to the requirements of §175.40, the applicant must provide the following information:
(a) an established main location where the machines, records, etc. will be maintained for inspection. This must be a street address, not a post office box number.
(b) a sketch or description of the normal configuration of each radiation machine's use, including the operator's position and any ancillary personnel's location during exposures. If a mobile van is used with a fixed unit inside, furnish the floor plan indicating protective shielding and the operator's location; and
(c) a current copy of the applicant's operating and safety procedures, including radiological practices for protection of patients, operators, employees and the general public.

§175.43 Assembler or transfer obligation.
(a) Any person who sells, leases, transfers, lends, disposes, assembles or installs radiation machines in New York City must notify the Department within 15 days of:
- (1) the name and address of persons who have received these machines;
- (2) the manufacturer, model, and serial number of each radiation machine transferred; and
- (3) the date of transfer of each radiation machine.

(b) No person shall make, sell, lease, transfer, lend, assemble, or install radiation machines or the supplies used in connection with such machines unless such supplies and equipment when properly placed in operation and used meet the requirements of this Code and any other applicable law.
(c) The submission to the Department of FDA Form 2579 (Report of Assembly of a Diagnostic X-ray System) shall be deemed to meet all the requirements of this section.

§175.44 Qualification of health physicists and medical physicists for registration.
(a) All persons providing medical physics services to registrants must be certified by at least one of the following organizations in the appropriate fields or specialties in which services are provided, or have one of the valid licenses indicated below:
- (1) the American Board of Medical Physics;
- (2) the American Board of Radiology;
- (3) the American Board of Science in Nuclear Medicine;
- (4) the Canadian College of Physicists in Medicine;
- (5) the National Board of Physicians and Surgeons (for medical physics);
- (6) a valid CRESO license from the NYS Department of Health; or
- (7) a valid non-expired NYS license in medical physics.

(b) All surveys, audits, reports, or other work performed by a health physicist or medical physicist or CRESO as required by this Code must be reviewed and signed by such health physicist or medical physicist or CRESO.
(c) If the Department finds that the radiation surveys or reports of any qualified expert or QMP or CRESO employed in this City are inadequate to assess radiation exposures, the Department may require the registrant or licensee to have such surveys and reports performed by other qualified experts or QMP or CRESO and may notify the appropriate certifying agency of such action.

§175.45 Shielding plan review.
Any radiographic unit, except intraoral dental units and podiatric x-ray units, must only be located in a structure with four walls enclosing the x-ray unit and there must be no windows located in any of the four walls of any size. If the location uses a door for operator protection, it include a window of equal shielding integrity as the primary protective barrier to view the patient.
(a) All registrants requiring a new registration, because of either an ownership change or establishing a new site of use, must meet the requirements of this section.

(b) Prior to construction, the floor plans, shielding specifications and equipment arrangement of all new installations, or modifications of existing installations, utilizing ionizing radiation machines must be submitted to the Department for review and approval.

(c) At a minimum, shielding plans must show the following:
- (1) the normal location of the system's radiation port; the port's travel and traverse limits; general direction of the useful beam; locations of any windows and doors or other openings; the location of the operator's booth and the location of the control panel;
- (2) the structural composition and thickness or lead equivalence of all walls, doors, partitions, floor, and ceiling of the rooms concerned;
- (3) the dimensions of the rooms concerned;
- (4) the type of occupancy of all adjacent areas inclusive of space above and below the rooms concerned. If there is an exterior wall, show distance to the closest areas where it is likely that individuals may be present;
- (5) the make and model of the equipment, the maximum technique factors, and the energy waveform (single phase, three phase, etc.);
- (6) the type of examinations or treatments which will be performed with the equipment;
- (7) information on the anticipated workload of the systems in mA-minutes per week; and
- (8) a report showing all basic assumptions used in the development of the shielding specifications.

(d) The Department may require the applicant for a certificate of registration to utilize the services of a qualified expert or QMP or CRESO in shielding design to determine the shielding requirements prior to installation of radiation equipment. The shielding requirements must be submitted to the Department for review, and must be maintained by the owner or operator as part of the installation's radiation records and reports.

(e) The Department may require that the continuity and adequacy of any protective barriers be verified by a protection survey performed by a qualified expert or a QMP or a CRESO. The findings must be submitted to the Department for review and must be maintained by the owner or operator as part of the installation's radiation records and reports.

(f) Department approval of shielding plans do not preclude the requirement of additional modifications should a subsequent analysis of operating conditions indicate the reasonable possibility of an individual receiving a dose in excess of the limits prescribed in this Code.

(g) After Department approval of the radiation installation shielding plans, the registrant must maintain for inspection all documents submitted to and received from the Department for such approval.

§175.46 Requirements for an operator's booth.
(a) Stationary radiographic systems. Stationary radiographic systems must have the x-ray control, including the exposure switch, permanently mounted in a protected area so that the operator must remain in that protected area during the entire exposure.
(b) Mobile and portable systems. Mobile and portable x-ray systems which are:
- (1) used continuously for greater than one week in the same location (i.e., a room or suite), must meet the requirements of §175.49.
- (2) used for less than one week at the same location must be provided with either a protective barrier at least 2 meters (6.5 feet) high for operator protection during exposures, or means must be provided to allow the operator to be at least 2.7 meters (9 feet) from the tube housing assembly during the exposure.

(c) Podiatry systems. Podiatry facilities must meet the protection requirements in §175.49.
(d) Space requirements.
- (1) The operator must be allotted at least 0.70 m^2 (7.5 square feet) of unobstructed floor space in the booth;
- (2) The operator's booth may be any geometric configuration with dimension of at least 0.6 m (2 feet);

(3) The space must not have any obstruction near the xray control panel, such as overhang, cables, or other similar obstructions;
(4) The booth must be located or constructed such that unattenuated direct scatter radiation originating on the examination table or at the wall-mounted image receptor will not reach the operator's position in the booth.

(e) Structural requirements.
(1) The booth walls must be permanently fixed barriers of at least 2 m (7 feet) high;
(2) When a door or movable panel is used as an integral part of the booth structure, it must have an interlock which will prevent an exposure when the door or panel is not closed;
(3) Shielding must be provided to meet the requirements for the occupational radiation exposure requirements of this Code.

(f) Radiation exposure control placement. The radiation exposure control for the system must be fixed within the booth and:
(1) must be at least 1.0 m (40 inches) from any point subject to direct scatter, leakage or primary beam radiation; and,
(2) must allow the operator to use the majority of the available viewing windows.

(g) Viewing system requirements. Each booth must have at least one viewing device which will:
(1) be so placed that the operator can view the patient during any exposure; and
(2) be so placed that the operator can have full view of any occupant of the room and should be so placed that the operator can view any entry into the room. If any door which allows access to the room cannot be seen from the booth, then outside that door there must be an "x-ray on" warning sign that will be lighted anytime the rotor of the x-ray tube is activated. Alternatively, an interlock must be present such that exposures are prevented when the door is open.
(3) When the viewing system is a window, the following requirements also apply:
(i) the window must have a viewing area of at least 0.09 m^2 (1 square foot);
(ii) regardless of size or shape, at least 0.09 m^2 (1 square foot) of the window area must be centered no less than 0.6 m (2 feet) from the open edge of the booth and no less than 1.5 m (5.0 feet) from the floor;
(iii) the window must have at least the same lead equivalence as that required in the booth's wall in which it is mounted.
(4) When the viewing system is by mirrors, the mirrors must be located to allow the operator to view the patient during any exposure and allow full view of any occupant of, or entry into the room.
(5) When the viewing system is by electronic means, the camera shall be located to allow the operator to view the patient during any exposure and allow full view of any occupant of, or entry into the room.
(6) There must be an alternate viewing system as a backup for the primary system.

(h) Mobile, portable, podiatric and dental radiographic installations, excluding mammographic systems. (1) Mobile, portable, podiatric and dental x-ray equipment must allow an operator to stand at least 2 m (6 ft.) from the patient or behind a protective barrier and not in the path of the primary x-ray beam whenever an x-ray exposure is initiated.
(2) Mobile and portable x-ray systems, excluding dental and podiatric systems, that are used continuously for greater than one week in the same location shall be deemed a fixed radiographic installation and must meet the operator protection standards of this section.
(3) Each operator of a mobile or portable radiographic x-ray unit, excluding dental and podiatric units, must be provided with personnel monitoring as provided in §175.17 and must wear a protective garment of at least 0.25 mm lead equivalent.

(i) Mammographic installations. The operator of the mammographic equipment must initiate x-ray exposures from the control console of the mammographic equipment with protective shielding for the operator that meets the following criteria:
(1) the shielding must be a height of 2m (6 ft.) from the floor, with the lower edge not more than 7.5 cm (3 in.) from the floor. The shielding must be permanently attached to the mammographic x-ray unit so that an air gap does not exist between the shield and the mammographic unit or is constructed as a permanent operator shield such that the operator can stand completely within the shielded area during the exposure; and
(2) the exposure control must be permanently fixed on the mammographic control console; and
(3) the operator must be able to communicate with and view the patient from the operator's protected position during the exposure.

(j) Operator protective garments.
(1) The facility must include a written policy and procedure in the quality assurance manual that conforms to the manufacturer's recommended care and use policy for lead protective garments and is adhered to on a continuing basis. This policy, at a minimum, must describe the training of Licensed Radiographic Technologists (LRTs) on the proper care and usage of protective garments; how storage sites for lead protective garments will be evaluated and maintained; and include procedures for how LRTs report lead protective garment problems to the radiation safety officer.
(2) All protective garments, whether or not they are used by operators conducting fluoroscopic procedures or for protection in veterinary offices for x-ray radiographic procedures on animals must be checked annually for defects such as holes, cracks and tears by using one or all of the following methods: visual investigation, tactile investigation, or x-ray imaging either by radiographic units or fluoroscopic units. If a defect is found, the lead protective garment must be removed from service and either replaced or repaired to conform to the manufacturers' specifications.

(k) Radiation exposure control.
(1) Exposure initiation. Means must be provided to initiate the radiation exposure by a deliberate action on the part of the operator, such as the depression of a switch. Radiation exposure must not be initiated without such an action. In addition, it must not be possible to initiate an exposure when the timer is set to a "zero" or "off" position if either position is provided.
(2) Exposure indication. Means must be provided for visual indication observable at or from the operator's protected position whenever x-rays are produced. In addition, an audible signal to the operator must indicate that the exposure has terminated.

(l) Operator and ancillary personnel protection for veterinary systems. All stationary, mobile or portable x-ray systems used for veterinary work must be provided with either a 2 meter (6.5 feet) high protective barrier for operator protection during exposures, or must allow the operator to be at least 2 meters (6.5 feet) from the tube housing assembly during exposures. Otherwise, in cases where animals are held, the operator and ancillary personnel must be protected by a minimum of 0.25 mm lead equivalent from scatter radiation and 0.5 mm from the useful beam.

§175.47 General requirements for all radiation equipment.

(a) All x-ray equipment must be installed and used in accordance with the equipment manufacturer's specifications. If the manufacturer's specifications are not available, the registrant's QMP must establish such specifications for equipment use and document the specifications in the registrant's QA Manual. If the Department finds that the specifications present unacceptable tolerances, the Department shall require the registrant to utilize new specifications and shall notify the registrant of such in writing.

(b) All functional x-ray units registered by the Department shall be subject to inspection by Department staff, or by individuals directed by the Department to inspect such units, such as CRESOs.

(c) Radiation safety requirements. The registrant shall be responsible for directing the operation of the x-ray system under their administrative control and must assure that the requirements of this Code are met in the operation of the x-ray system.

(d) The registrant must have a written radiation safety program as part of their QA program. The radiation safety program must include, but not be limited to, the following:
(1) that the use of ionizing radiation within its purview is performed in accordance with existing laws and regulations. This requirement shall be deemed to be met by the registrant possessing an approved QA Manual for the facility. A current copy of NYC Health Code Article 175 must be maintained and readily accessible by the registrant either in hard copy or electronic format.
(2) that all persons are protected as required by this Code.
(3) that upon discovery of a medical event (as defined in this Code), the registrant must follow the applicable requirements of §§175.27 through 175.30 concerning notification to the Department.

(e) An x-ray system which does not meet the provisions of this Code must correct the non-compliance within 30 days.

(f) Individuals operating the x-ray systems must meet all licensure, training and experience qualifications required by the Department.

(g) A sufficient number of protective apparel (e.g., aprons, gloves, collars) and shields must be available to provide the necessary radiation protection for all patients and personnel who are involved with x-ray operations.

(h) The registrant must use auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information.

(i) Neither the x-ray tube housing nor the collimating device shall be held during an exposure. Exceptions may be allowed for Department-approved devices specifically designed to be hand-

held in the area of patient dental exams. The Department shall maintain a list of hand-held dental units that are approved for clinical exams in New York City, or may accept the list of such hand-held dental units as approved by New York State Department of Health, at the Department's discretion.

(j) The useful x-ray beam must be limited to the area of clinical interest. For x-ray units not utilizing PBL systems for clinical imaging and not using cones or diaphragms for beam restriction, the clinical x-ray field must be less than size of the image receptor on two of four sides of the image receptor. For all digital image receptors, the size of the clinical image must not be digitally manipulated as to render its original dimensions different from the clinical image size when the image is archived.

(k) Consideration must be given to selecting the appropriate technique and employing available dose reduction methods and technologies across all patient sizes and clinical indications. For registrants utilizing manual selection of technique settings for clinical x-ray exams, this means a technique chart that employs technique settings for thin, average and heavy patient sizes. In the case where children less than 18 years of age are radiographed, the minimal technique setting should correspond to patients of 1-years old, 5-years old and 10-years old for exams most likely to be administered, e.g., AP chest and abdomen exams. In all such cases, the Entrance Skin Exposure (ESE) must be determined for all clinical techniques set. At a minimum, these technique charts along with ESEs must include:
  (1) patient's (adult and pediatric, if appropriate) body part and anatomical size;
  (2) technique factors;
  (3) type of image receptor used;
  (4) source to image receptor distance used (except for dental intraoral radiography), and
  (5) position of the grid for the x-ray exam, i.e., the grid is either removed from the x-ray beam or is in the x-ray beam.

(l) A facility must have a documented procedure in place for verification of patient identity and exam to be performed, including identification of the appropriate body part.

(m) The registrant must create and make available to x-ray operators written safety procedures, including instructions for patient holding and any restrictions of the operating technique required for the safe operation of the particular x-ray system. The operator must be able to demonstrate familiarity with these procedures. Patient holding must be restricted to radiographic examinations with the exception that holding of patients shall be prohibited for all fluoroscopic exams and patient CT exams with the exception of hospital emergency rooms and hospital trauma centers.

(n) The registrant must restrict the presence of individuals in the immediate area of the patient being examined to those required or in training for the medical procedure, or the parent or guardian of a patient while the x-ray tube is energized. Other than the patient being examined, the following applies to all individuals:
  (1) all persons must be positioned such that no part of the body will be struck by the useful beam unless protected by not less than 0.5 millimeter lead equivalent material;
  (2) all persons must be protected from the secondary radiation by protective garments or whole body protective barriers of not less than 0.25 millimeter lead equivalent material;
  (3) If the procedure results in scatter radiation in excess of 0.02 mSv (2 mR) in any one hour at the position of these patients, they must be protected from the direct scatter radiation by whole body protective barriers of not less than 0.25 millimeter lead equivalent material or must be positioned so that the 0.02 mSv (2 mR) in any one hour limit is met.

(o) Individuals must not be exposed to the useful beam except for healing arts purposes and unless such exposure has been authorized by a licensed practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:
  (1) exposure of an individual for training, demonstration, or other non-healing arts purposes; and
  (2) exposure of an individual for the purpose of healing arts screening except as authorized by the Department.

(p) X-ray patient logbook. Each facility must maintain a record containing the patient's name, the type of examinations, and the dates the examinations were performed for all radiographic (except dental, podiatric and veterinary exams) and fluoroscopic patient exams. The administration of contrast agents as part of the patient exam must be noted in the patient logbook to state that IV contrast was administered. All adverse effects to injected contrast agents must be reported to the NY State Health Department, as required by law.

(q) Sealing x-ray equipment. Sealing of x-ray units must be done only by the Department for x-ray units, of any type, that poses a hazard to the patient or the operator. Sealing shall not be done for any x-ray unit at the request of the registrant. No x-ray units sealed by the Department shall be put in use for clinical exams without the approval of the Department.

(r) Warning label.
  (1) On systems manufactured on or before June 10, 2006, the control panel containing the main power switch must have the following warning statement, legible and accessible to view: "WARNING: This x-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed."
  (2) On systems manufactured after June 10, 2006, the control panel containing the main power switch must have the following warning statement, legible and accessible to view: "WARNING: This x-ray unit may be dangerous to patient and operator unless safe exposure factors, operating instructions and maintenance schedules are observed."

(s) Leakage radiation from the diagnostic source assembly. The leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source must not exceed 0.88 milligray (mGy) air kerma (vice 100 milliroentgen (mR) exposure) in 1 hour when the x-ray tube is operated at its leakage technique factors. If the maximum rated peak tube potential of the tube housing assembly is greater than the maximum rated peak tube potential for the diagnostic source assembly, positive means must be provided to limit the maximum x-ray tube potential to that of the diagnostic source assembly. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(t) Radiation from components other than the diagnostic source assembly. The radiation emitted by a component other than the diagnostic source assembly must not exceed an air kerma of 18 microgray (vice 2 milliroentgens exposure) in 1 hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. Compliance must be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(u) Technique indicators.
  (1) For x-ray equipment capable of displaying technique factors, the technique factors to be used during an exposure must be indicated before the exposure begins. If automatic exposure controls are used, the technique factors which are set prior to the exposure must be indicated.
  (2) The requirement of paragraph (1) of this subdivision may be met by permanent markings on equipment having fixed technique factors. Indication of technique factors must be visible from the operator's position except in the case of spot films made by the fluoroscopist.
  (3) The accuracy of the technique factors for the x-ray unit (e.g., indicated kilovoltage peak (kVp), timer accuracy, mA accuracy) must meet manufacturer specifications. In the absence of a manufacturer specification, the technique factor accuracy must be within +10 percent.

(v) Beam quality.
  (1) The half value layer (HVL) of the useful beam for a given x-ray tube potential shall not be less than the values shown in Table 1 of this subdivision. If it is necessary to determine such half-value layer at an x-ray tube potential which is not listed in Table 1, linear interpolation or extrapolation may be made. Positive means must be provided to ensure that at least the minimum filtration needed to achieve beam quality requirements is in the useful beam during each exposure. In the case of a system which is to be operated with more than one thickness of filtration, this requirement can be met by a filter interlocked with the kilovoltage selector which will prevent x-ray emissions if the minimum required filtration is not in place. In no case shall an x-ray unit failing to meet the minimum filtration standards in Table 1 conduct clinical patient exams until the x-ray unit is in compliance with Table 1.

TABLE 1*

X-Ray Tube Voltage (kilovolt peak)				
Design Operating Range	Measured Operating Potential	Minimum HVL (mm in Aluminum)		
		Specified Dental Systems [1]	Other X-Ray Systems[2]	Other X-Ray Systems[3]
Below 51	30	1.5	0.3	0.3
	40	1.5	0.4	0.4
	50	1.5	0.5	0.5
51 to 70	51	1.5	1.2	1.3
	60	1.5	1.3	1.5
	70	1.5	1.5	1.8

	71	2.1	2.1	2.5
	80	2.3	2.3	2.9
	90	2.5	2.5	3.2
	100	2.7	2.7	3.6
Above 70	110	3.0	3.0	3.9
	120	3.2	3.2	4.3
	130	3.5	3.5	4.7
	140	3.8	3.8	5.0
	150	4.1	4.1	5.4

[1]Dental x-ray systems designed for use with intraoral image receptors and manufactured after December 1, 1980.
[2] Dental x-ray systems designed for use with intraoral image receptors and manufactured before or on December 1,1980, and all other x-ray systems subject to this section and manufactured before June 10, 2006.
[3] All x-ray systems, except dental x-ray systems designed for use with intraoral image receptors, subject to this section and manufactured on or after June 10, 2006.
* Source: 21 CFR §1020.30 (m)

(2) Optional filtration on fluoroscopic systems. Fluoroscopic systems manufactured on or after June 10, 2006, incorporating an x-ray tube with a continuous output of 1 kilowatt or more and an anode heat storage capacity of 1 million heat units or more must provide the option of adding x-ray filtration to the diagnostic source assembly in addition to the amount needed to meet the half-value layer provisions of this subsection. The selection of this additional x-ray filtration must be either at the option of the user or automatic as part of the selected mode of operation. A means of indicating which combination of additional filtration is in the x-ray beam must be provided.

(3) Measuring compliance. For capacitor energy storage equipment, compliance shall be determined with the maximum selectable quantity of charge per exposure.

(w) Aluminum equivalent of material between patient and image receptor. Except when used in a CT x-ray system, the aluminum equivalent of each of the items listed in Table 2 of this subdivision, which are used between the patient and the image receptor, may not exceed the indicated limits. Compliance shall be determined by x-ray measurements made at a potential of 100 kilovolts peak and with an x-ray beam that has an HVL specified in Table 1 of subdivision (v) of this section for the potential. This requirement applies to front panels of image receptors and film changers provided by the manufacturer for patient support or for prevention of foreign object intrusions. It does not apply to screens and their associated mechanical support panels or grids.

TABLE 2

Item	**Maximum Aluminum Equivalent** (millimeters)
Front panels of image receptor (total of all)	1.2
Film panels of film changer (total of all)	1.2
Cradle	2.3
Tabletop, stationary, without articulated joints	1.2
Tabletop, movable, without articulated joints (including stationary subtop)	1.7
Tabletop, with radiolucent panel having one articulated joint	1.7
Tabletop, with radiolucent panel having two or more articulated joints	2.3
Tabletop, cantilevered	2.3
Tabletop, radiation therapy simulator	5.0

(x) Battery charge indicator. On battery-powered generators, visual means must be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

(y) Modification of certified diagnostic x-ray components and systems.

(1) Diagnostic x-ray components and systems certified in accordance with 21 CFR Part 1020 must not be modified except with certified components.

(2) The owner who causes such modification need not submit the reports required by this Code, provided the owner records the date and the details of the modification in the system records and maintains this information, and provided the modification of the x-ray system does not result in a failure to comply with this Code.

(z) Multiple tubes. Where two or more radiographic tubes are controlled by one exposure switch, the tube which has been selected must be clearly indicated prior to initiation of the exposure. Only the selected tube can be energized. This indication must be both on the x-ray control panel and at or near the tube housing assembly which has been selected.

(aa) Mechanical support of tube head. The tube housing assembly supports must be adjusted such that the tube housing assembly will remain stable during an exposure unless tube housing movement is a designed function of the x-ray system.

(bb) Locks. All position locking, holding, and centering devices on x-ray system components and systems must function as intended.

(cc) Maintaining compliance. Diagnostic x-ray systems and their associated components used on humans and certified, pursuant to the Federal X-Ray Equipment Performance Standard (21 CFR Part 1020) must be maintained in compliance with applicable requirements of that standard.

§175.48 Specific requirements for radiographic x-ray equipment.
The requirements of this section apply to all non-dental registrants using diagnostic x-ray equipment.

(a) Acceptance testing. Each registrant must have acceptance testing conducted on all radiographic x-ray units with the exception of dental, podiatric, and bone densitometer units, prior to clinical patient exams being conducted with the designated x-ray units. The acceptance testing must be conducted by a QMP and the report must be provided to the registrant. All non-compliance issues noted in this report must be corrected prior to clinical use of the unit. The acceptance testing report must verify the stated manufacturer's tolerances for all machine testing. If manufacturer tolerances are absent, the medical physicist must develop tolerances that must be used in subsequent QA testing by the registrant and must be so noted in the quality assurance manual.

(b) Control and indication of technique factors.

(1) Timers. Means must be provided to terminate the exposure at a preset time interval, a preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor.

(i) Except during serial radiography, the operator must be able to terminate the exposure at any time during an exposure of greater than one-half second. Except during panoramic dental radiography, termination of exposure must cause automatic resetting of the timer to its initial setting or to zero. It must not be possible to make an exposure when the timer is set to a zero or off position if either position is provided.

(ii) During serial radiography, the operator must be able to terminate the x-ray exposure at any time, but means may be provided to permit completion of any single exposure of the series in process.

(2) Automatic exposure controls. When an automatic exposure control is provided:

(i) indication must be made on the control panel when this mode of operation is selected;

(ii) when the x-ray tube potential is equal to or greater than 51 kilovolts peak (kVp), the minimum exposure time for field emission equipment rated for pulse operation must be equal to or less than a time interval equivalent to two pulses and the minimum exposure time for all other equipment must be equal to or less than 1/60 second or a time interval required to deliver 5 milliampere-seconds (mAs), whichever is greater;

(iii) either the product of peak x-ray tube potential, current, and exposure time must be limited to not more than 60 kilowatt-seconds (kWs) per exposure or the product of x-ray tube current and exposure time must be limited to not more than 600 mAs per exposure, except when the x-ray tube potential is less than 51 kVp, in which case the product of x-ray tube current and exposure time must be limited to not more than 2,000 mAs per exposure; and

(iv) a visible signal must indicate when an exposure has been terminated at the limits described in subparagraph (iii) of this paragraph, and manual resetting must be required before further automatically timed exposures can be made.

(c) Reproducibility.
(1) Coefficient of variation. For any specific combination of selected technique factors, the estimated coefficient of variation of the air kerma must be no greater than 0.05.
(2) Measuring compliance. Determination of compliance must be based on 10 consecutive measurements taken within a time period of 1 hour. Equipment manufactured after September 5, 1978, must also have all variable controls for technique factors adjusted to alternate settings and reset to the test setting after each measurement. The percent line-voltage regulation must be within ±1 of the mean value for all measurements. For equipment having automatic exposure controls, compliance shall be determined with a sufficient thickness of attenuating material in the useful beam such that the technique factors can be adjusted to provide individual exposures of a minimum of 12 pulses on field emission equipment rated for pulsed operation or no less than one-tenth second per exposure on all other equipment.
(3) Alternatively, the reproducibility of any technique value may be determined by taking five (5) consecutive measurements and utilizing the formula given below:

Reproducibility = (maximum measured value – minimum measured value)
Average of the measured five values

The calculated reproducibility shall be equal to +/- 10% for compliance.

(d) Linearity. The following requirements apply for any fixed x-ray tube potential within the range of 40 percent to 100 percent of the maximum rated. In regard to paragraphs (1) through (3) in this subdivision below, measurements can be made in mrem instead of mGy.
(1) Equipment having independent selection of x-ray tube current (mA). The average ratios of air kerma to the indicated milliampere-seconds product (mGy/mAs) obtained at any two consecutive tube current settings must not differ by more than 0.10 times their sum. This is: $|X1 - X2| \leq 0.10(X1 + X2)$; where X1 and X2 are the average mGy/mAs values obtained at each of two consecutive mAs selector settings or at two settings differing by no more than a factor of 2 where the mAs selector provides continuous selection.
(2) Equipment having selection of x-ray tube current-exposure time product (mAs). For equipment manufactured after May 3, 1994, the average ratios of air kerma to the indicated milliampere-seconds product (mGy/mAs) obtained at any two consecutive mAs selector settings must not differ by more than 0.10 times their sum. This is: $|X1 - X2| \leq 0.10(X1 + X2)$; where X1 and X2 are the average mGy/mAs values obtained at each of two consecutive mAs selector settings or at two settings differing by no more than a factor of 2 where the mAs selector provides continuous selection.
(3) Measuring compliance. Determination of compliance will be based on 10 exposures, made within 1 hour, at each of the two settings. These two settings may include any two focal spot sizes except where one is equal to or less than 0.45 mm and the other is greater than 0.45 mm. For purposes of this requirement, focal spot size is the focal spot size specified by the x-ray tube manufacturer. The percent line-voltage regulation shall be determined for each measurement. All values for percent line-voltage regulation at any one combination of technique factors must be within ±1 of the mean value for all measurements at these technique factors.

(e) Field limitation and alignment for mobile, portable, and stationary general purpose x-ray systems. Except when spot-film devices are in service, mobile, portable, and stationary general purpose radiographic x-ray systems must meet the following requirements:
(1) Variable x-ray field limitation. A means for stepless adjustment of the size of the x-ray field must be provided. Each dimension of the minimum field size at an SID of 100 cm must be equal to or less than 5 cm.
(2) Visual definition.
(i) Means for visually defining the perimeter of the x-ray field must be provided. The total misalignment of the edges of the visually defined field with the respective edges of the x-ray field along either the length or width of the visually defined field must not exceed 2 percent of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the x-ray beam.
(ii) When a light localizer is used to define the x-ray field, it must provide an average illuminance of not less than 160 lux (15 footcandles) at 100 cm or at the maximum SID, whichever is less. The average illuminance shall be based on measurements made in the approximate center of each quadrant of the light field. Radiation therapy simulation systems are exempt from this requirement.
(iii) The edge of the light field at 100 cm or at the maximum SID, whichever is less, must have a contrast ratio, corrected for ambient lighting, of not less than 4 in the case of beam-limiting devices designed for use on stationary equipment, and a contrast ratio of not less than 3 in the case of beam-limiting devices designed for use on mobile and portable equipment. The contrast ratio is defined as I1/I2, where I1 is the illuminance 3 mm from the edge of the light field toward the center of the field; and I2 is the illuminance 3 mm from the edge of the light field away from the center of the field. Compliance shall be determined with a measuring aperture of 1 mm.

(f) Field indication and alignment on stationary general purpose x-ray equipment. Except when spot-film devices are in service, stationary general purpose x-ray systems must meet the following requirements, in addition to those prescribed in subdivision (e) of this section:
(1) Means must be provided to indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor, to align the center of the x-ray field with respect to the center of the image receptor to within 2 percent of the SID, and to indicate the SID to within 2 percent;
(2) The beam-limiting device must numerically indicate the field size in the plane of the image receptor to which it is adjusted;
(3) Indication of field size dimensions and SIDs must be specified in centimeters or inches and must be such that aperture adjustments result in x-ray field dimensions in the plane of the image receptor which correspond to those indicated by the beam-limiting device to within 2 percent of the SID when the beam axis is indicated to be perpendicular to the plane of the image receptor; and
(4) Compliance measurements will be made at discrete SIDs and image receptor dimensions in common clinical use (such as SIDs of 100, 150, and 200 cm or 36, 40, 48, 72 inches and nominal image receptor dimensions of 13, 18, 24, 30, 35, 40, and 43 cm or 5, 7, 8, 9, 10, 11, 12, 14, and 17 inches) or at any other specific dimensions at which the beam-limiting device or its associated diagnostic x-ray system is uniquely designed to operate.

(g) Field limitation on x-ray equipment other than general purpose radiographic systems.
(1) X-ray systems designed for one image receptor size. Radiographic equipment designed for only one image receptor size at a fixed SID must be provided with means to limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor, and to align the center of the x-ray field with the center of image receptor to within 2 percent of the SID, or must be provided with means to both size and align the x-ray field such that the x-ray field at the plane of the image receptor does not extend beyond the edge of the image receptor.
(2) Other x-ray systems. Radiographic systems not specifically covered in subdivisions (e) and (f) of this section, and paragraph (1) of this subdivision, which are also designed for use with extraoral image receptors and when used with an extraoral image receptor, must be provided with means to limit the x-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than 2 percent of the SID, when the axis of the x-ray beam is perpendicular to the plane of the image receptor. In addition, means must be provided to align the center of the x-ray field with the center of the image receptor to within 2 percent of the SID, or means must be provided to both size and alignment the x-ray field such that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor. These requirements may be met with:
(i) A system which performs in accordance with subdivisions (e) and (f) of this section or when alignment means are also provided, may be met with either;
(ii) An assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Each such device must have clear and permanent markings to indicate the image receptor size and SID for which it is designed; or
(iii) A beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Permanent, clearly legible markings must indicate the image receptor size and SID for which each aperture is designed and must indicate which aperture is in position for use.

(h) Positive beam limitation (PBL). The requirements of this subdivision apply to radiographic systems which contain PBL and which the registrant has not disabled.
(1) Field size. When a PBL system is provided, it must prevent x-ray production when:
(i) Either the length or width of the x-ray field in the plane of the image receptor differs from the

corresponding image receptor dimension by more than 3 percent of the SID; or

(ii) The sum of the length and width differences stated in subparagraph (i) of this paragraph without regard to sign exceeds 4 percent of the SID.

(iii) The beam-limiting device is at an SID for which PBL is not designed for sizing.

(2) Conditions for PBL. When provided and if the registrant has not disabled it, the PBL system must function as described in subparagraph (i) of paragraph (1) of this subdivision. whenever all the following conditions are met:

(i) The image receptor is inserted into a permanently mounted cassette holder;

(ii) The image receptor length and width are less than 50 cm;

(iii) The x-ray beam axis is within ±3 degrees of vertical and the SID is 90 cm to 130 cm inclusive; or the x-ray beam axis is within ±3 degrees of horizontal and the SID is 90 cm to 205 cm inclusive;

(iv) The x-ray beam axis is perpendicular to the plane of the image receptor to within ±3 degrees; and

(v) Neither tomographic nor stereoscopic radiography is being performed.

(3) Measuring compliance. Compliance with the requirements of subparagraph (i) of paragraph (1) of this subdivision shall be determined when the equipment indicates that the beam axis is perpendicular to the plane of the image receptor and the provisions of paragraph (2) of this subdivision are met. Compliance shall be determined no sooner than 5 seconds after insertion of the image receptor.

(4) Operator initiated undersizing. The PBL system must be capable of operating such that, at the discretion of the operator, the size of the field may be made smaller than the size of the image receptor through stepless adjustment of the field size. Each dimension of the minimum field size at an SID of 100 cm must be equal to or less than 5 cm. Return to PBL function as described in paragraph (1) of this subdivision must occur automatically upon any change of image receptor size or SID.

(5) Override of PBL. A capability may be provided for overriding PBL in case of system failure and for servicing the system. This override may be for all SIDs and image receptor sizes. A key must be required for any override capability that is accessible to the operator. It must not be possible to remove the key while PBL is overridden. Each such key switch or key must be clearly and durably labeled as follows: "For X-Ray Field Limitation System Failure".
The override capability is considered accessible to the operator if it is referenced in the operator's manual or in other material intended for the operator or if its location is such that the operator would consider it part of the operational controls.

(6) Disabling of PBL. A facility has the option to permanently functionally disable a PBL system. When this option is chosen, the standards for manual collimation apply.

(i) Source-skin distance. The minimum source-skin distance must not be less than 30 cm, except intraoral dental equipment regardless of clinical or veterinary use.

(j) Radiation from capacitor energy storage equipment. Radiation emitted from the x-ray tube must not exceed:

(1) an air kerma of 0.26 microGy (vice 0.03 mR exposure) in 1 minute at 5 cm from any accessible surface of the diagnostic source assembly, with the beam-limiting device fully open, the system fully charged, and the exposure switch, timer, or any discharge mechanism not activated. Compliance shall be determined by measurements averaged over an area of 100 square cm, with no linear dimensions greater than 20 cm; and

(2) an air kerma of 0.88 mGy (vice 100 mR exposure) in one hour at 100 cm from the x-ray source, with beam-limiting device fully open, when the system is discharged through the x-ray tube either manually or automatically by use of a discharge switch or deactivation of the input power. Compliance shall be determined by measurements of the maximum air kerma per discharge multiplied by the total number of discharges in 1 hour (duty cycle). The measurements must be averaged over an area of 100 square cm with no linear dimension greater than 20 cm.

(k) Tube stands for portable x-ray systems. Except during veterinary field operations where it is impractical to do so, a tube stand or other mechanical support must be used for portable x-ray systems, so that the x-ray tube housing assembly need not be hand-held during an exposure.

(l) Conditions of use.

(1) The x-ray image receptor used as recording medium during the x-ray examination must show substantial evidence of cut-off (beam delineation). This applies to all x-ray units using manual collimation and where no positive means are used to contain the x-ray field to the size of the image receptor. The x-ray image receptor can be film or digital image receptors.

(2) Only persons required for the radiographic procedure shall be in the radiographic room during the exposure and, except for the patient, all such persons must be equipped with appropriate shielding devices such as protective gloves and a protective garment of at least 0.50 mm lead equivalent.

(3) Personnel monitoring must be required for all persons operating mobile or portable x-ray equipment, except hand-held dental x-ray units.

(4) No person shall be regularly employed to hold patients or films during exposures nor shall such duty be performed by an individual occupationally exposed to radiation in the course of that individual's other duties. When it is necessary to restrain the patient, mechanical supporting or restraining devices should be used. Written safety procedures must provide the selection criteria for the holder and protocol to be followed during the patient holding procedure.

(5) If patients or films must be held by an individual, that individual must be instructed in personal radiation safety and must be protected with appropriate shielding devices such as protective gloves and a protective garment of at least 0.50 mm lead equivalent. No part of the holding individual's body shall be in the useful beam. The exposure of any individual used for holding patients must be monitored.

(6) For patients who have not passed the reproductive age, gonadal shielding of not less than 0.5 mm lead equivalent must be used during radiographic procedures in which the gonads are in the useful beam, except for cases in which this would interfere with the diagnostic procedure.

(7) Pregnant women and individuals under 18 years of age must not hold patients under any conditions.

§175.49 Specific requirements for dental facilities.

(a) In addition to the general quality assurance provisions in §175.12, the following specific requirements apply to a dental facility:

(1) If using film, maintain a light-tight darkroom, use proper safelighting and safeguards, and evaluate darkroom integrity and daylight loading systems for film fog every six months and after a change that may impact film fog.

(2) If using a filmless system, maintain and operate PSP and DDR systems according to manufacturer specifications.

(3) The registrant must provide initial training and annual evaluations of x-ray operators to include but not limited to: positioning of the x-ray tube, image processing, operator location during x-ray exposure, source to skin distance, radiation protection, appropriate radiographic protocol and applicable regulatory requirements. Records of training and annual evaluations must be maintained for inspection by the Department.

(b) Warning label.

(1) On systems manufactured on or before June 10, 2006, the control panel containing the main power switch must bear the warning statement or the warning statement in paragraph (2) of this subdivision legible and accessible to view: "WARNING: This x-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed."

(2) On systems manufactured after June 10, 2006, the control panel containing the main power switch must bear the warning statement, legible and accessible to view: "WARNING: This x-ray unit may be dangerous to patient and operator unless safe exposure factors, operating instructions and maintenance schedules are observed."

(c) Radiation exposure control. Means must be provided to initiate the radiation exposure by a deliberate action on the part of the operator, such as the depression of a switch. Radiation exposure must not be initiated without such an action.

(d) Exposure control location and operator protection. Except for units designed to be hand-held, the exposure control must allow the operator to be:

(1) behind a protective barrier at least 2 meters (6.5 feet) tall, or

(2) at least 2 meters (6.5 feet) from the tube housing assembly, outside the path of the useful x-ray beam, while making exposures.

(e) Administrative controls.

(1) Patient and image receptor holding devices must be used when the techniques permit.

(2) Except for units designed to be hand-held, the tube housing and position indicating device (PID) must not be hand-held during an exposure.

(f) Hand-held intraoral equipment. In addition to the standards in this chapter, the following applies specifically to hand-held devices:

(1) The hand-held x-ray system must be equipped with a backscatter shield of not less than 0.25 mm lead equivalent and 15.2 cm (6 inches) in diameter that is positioned as close as practicable to the distal end of the position indication device.

(2) The facility must maintain documentation that each operator

has completed training as specified by the manufacturer.

(3) The facility must adopt and follow protocols provided by the manufacturer, and approved by the Department, regarding the safe operation of the device.

(4) When operating a hand-held intraoral dental radiographic unit, operators must wear a 0.25 mm lead equivalent apron, unless otherwise authorized by the Department or a certified health or QMP.

(5) If the operator has difficulty in holding the device stationary during the exposure, the operator shall use a stand to immobilize the device.

(6) The registrant must secure the hand-held device from unauthorized removal or use.

(g) Beam-on indicators. The x-ray control must provide visual indication whenever x-rays are produced. In addition, for certified x-ray units, a signal audible to the operator must indicate that the exposure has terminated.

(h) Multiple tubes. Where two or more radiographic tubes are controlled by one exposure switch, the tube which has been selected must be clearly indicated prior to initiation of the exposure. Only the selected tube can be energized. This indication must be both on the x-ray control panel and at or near the tube housing assembly which has been selected.

(i) Mechanical support of tube head. The tube housing assembly supports must be adjusted such that the tube housing assembly will remain stable during an exposure unless tube housing movement is a designed function of the x-ray system.

(j) Battery charge indicator. On battery-powered generators, visual means must be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

(k) Locks. All position locking, holding, and centering devices on x-ray system components and systems shall function as intended.

(l) Technique indicators.

(1) For x-ray equipment capable of displaying technique factors, the technique factors to be used during an exposure must be indicated before the exposure begins. If automatic exposure controls are used, the technique factors which are set prior to the exposure must be indicated.

(2) The requirement of paragraph (1) of this subdivision may be met by permanent markings on equipment having fixed technique factors.

(m) Exposure reproducibility. For any specific combination of selected technique factors, the estimated coefficient of variation of the air kerma must be no greater than 0.05.

(n) Timers. Means must be provided to terminate the exposure at a preset time interval, a preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor.

(o) Kilovolt peak. At a minimum, the kVp on variable kVp units must be accurate to within 10 percent and within 20 percent on fixed kVp units.

(p) X-ray beam alignment.

(1) The useful x-ray beam must be limited to the area of clinical interest.

(2) Intraoral dental units.

(i) X-ray systems designed for use with an intraoral image receptor must be provided with means to limit the source-to-skin distance (SSD) to not less than18 cm.

(ii) The x-ray field at the minimum SSD must be containable in a circle having a diameter of no more than 7 cm.

(3) Extraoral, panoramic and cephalometric units. X-ray systems designed for use with extraoral image receptors and when used with an extraoral image receptor, must be provided with means to limit the x-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than 2 percent of the SID, when the axis of the x-ray beam is perpendicular to the plane of the image receptor. In addition, means must be provided to align the center of the x-ray field with the center of the image receptor to within 2 percent of the SID, or means must be provided to both size and alignment the x-ray field such that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor. These requirements may be met with:

(i) An assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Each such device must have clear and permanent markings to indicate the image receptor size and SID for which it is designed; or

(ii) A beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Permanent, clearly legible markings must indicate the image receptor size and SID for which each aperture is designed and must indicate which aperture is in position for use.

(q) Beam quality. The Half Value Layer (HVL) of the useful beam for a given x-ray tube potential must not be less than the values shown in Table 1 of §175.47(v). If it is necessary to determine such half-value layer at an x-ray tube potential which is not listed in Table 1, linear interpolation or extrapolation may be made. Positive means must be provided to ensure that at least the minimum filtration needed to achieve beam quality requirements is in the useful beam during each exposure. In the case of a system, which is to be operated with more than one thickness of filtration, this requirement can be met by a filter interlocked with the kilovoltage selector which will prevent x-ray emissions if the minimum required filtration is not in place.

(r) Conditions of use.

(1) The x-ray system must always be operated in such a manner that the useful beam at the patient's skin does not exceed the requirements of paragraph (2) of subdivision (p) of this section.

(2) Time-temperature techniques or automatic processing must be used to develop pre-operative diagnostic dental x-ray films. Processing techniques must be consistent with those recommended by the x-ray film manufacturer. Sight developing of dental radiographs is prohibited except for films taken during operative procedures.

(3) Dental x-ray exposure technique factors and dental processing conditions must yield entrance skin exposure (ESE) values for the bitewing x-ray projection that are identical to the do not exceed the maximum range of ESE values for dental "D" and "E" speed film designations as published in HHS document #FDA-85-8245 (August 1985) or superseding documents. With respect to maximum ESE values for digital image receptors (are deemed to be either Computed Radiography (CR) or Digital Image Receptors (DR)), digital image receptors shall be deemed to be equivalent to "F" speed film.

(s) Facilities possessing a Cone Beam Computed Tomography (CBCT) unit.

(1) Notwithstanding anything in this Code to the contrary, dental facilities possessing a CBCT unit must develop and maintain a written quality assurance program including a written QA manual and a written radiation safety policy and procedures manual for all CBCT dental equipment possessed by the facility.

(i) For all dental CBCT units, the registrant must establish annual QA testing of x-ray parameters sufficient to maintain patient doses and image quality consistent over time. The annual tests will evaluate, at a minimum, collimation, filtration, patient dose, accuracy and reproducibility of x-ray techniques and the operational status of x-ray safety features.

(ii) For all CBCT units, the QA tests must follow the manufacturer's recommended tests and frequency and utilize the manufacturer's QA phantom. The QA test results will be retained for review by the Department for a time period of five (5) years, the facility must establish QA testing that includes, at a minimum, the manufacturer's recommended QA tests plus the additional QA tests described below.

(iii) Semi-annual QA tests to determine image noise, image uniformity, reconstructed image measurement accuracy, high contrast spatial resolution of the CBCT unit; and,

(2) Dental facilities possessing CBCT equipment must annually determine the patient radiation dose for the most common CBCT scan used at the facility as conducted by a medical physicist.

(3) Dental facilities possessing CBCT equipment must conduct annual QA tests to measure reproducibility of imaging parameters (kVp, exposure time and dimensions of the scan beam), reproducibility of exposure per the most common scan and beam filtration (HVL).

(4) Conditions of operation for the CBCT unit.

(i) Facilities possessing a CBCT unit must adhere to the requirements of sections §§ 175.46 and 175.47 regarding the shielding requirements and operator protection for all CBCT units possessed by the dental facility.

(ii) All operators of the CBCT must undergo training on the proper operation of the CBCT units and documentation of this training must be retained by the dental facility for review by the Department until after the next scheduled inspection is completed by the Department.

(iii) All operators must be able to communicate with and visually observe the patient during the CBCT examination from the operator's protected position.

(iv) CBCT patient exams will not be conducted solely for cosmetic purposes with no diagnostic value to the patient.

(v) The logbook for CBCT exams must contain all relevant

diagnostic examination information, including but not limited to, x-ray technique, scan time, anatomical exam site and reason for examination.

§175.50 Podiatric radiography.

(a) Equipment. Collimating devices capable of restricting the useful beam to the area of clinical interest must be used. The x-ray films used as the recording medium during the x-ray examination must show substantial evidence of cut-off (beam delineation). A device must be provided which terminates the exposure after a preset time interval or exposure. The exposure switch must be of the dead-man type and where protective barriers are required must be so arranged that it cannot be operated outside the shielded area.

(b) Each installation must be arranged so that the operator can stand at least two (2) meters (6 feet) from the patient, the x-ray tube and the useful beam during exposure. A protective barrier must be provided when the operator cannot stand at least 2 meters (6 feet) away from the patient, the x-ray tube and the useful beam during exposures.

(c) No person shall hold film during the exposure. Only persons required for the radiographic procedure must be in the radiographic room during exposure.

§175.51 Veterinary radiography, dental and fluoroscopy.

(a) Fixed radiographic installations: equipment.
- (1) Collimating devices capable of restricting the useful beam to the area of clinical interest must be used.
- (2) The x-ray films used as the recording medium during the x-ray examination must show substantial evidence of cut-off (beam delineation).
- (3) A device must be provided which terminates the exposure after a preset time interval or exposure. The exposure switch must be of the dead-man type and must be so arranged that it cannot be operated outside a shielded area.

(b) Portable or mobile radiographic installations: equipment.
- (1) Collimating devices capable of restricting the useful beam to the area of clinical interest must be used.
- (2) The x-ray film used as the recording medium during the x-ray examination must show evidence of cut-off (beam delineation).
- (3) A device must be provided which terminates the exposure after a preset time interval or exposure.
- (4) A dead-man type of exposure switch must be provided with a cord of sufficient length so that the operator can stand at least two (2) meters (6 ft) from the animal patient, the x-ray tube and out of the useful beam.

(c) Veterinary dental x-ray units. All the requirements of §175.48 (a) through (r) applies to veterinary dental units with the exception of the ESE requirements of §175.48(r)(3). For hand held dental x-ray units, the same conditions of operation and restrictions on hand held x-ray units (specific manufacturers only allowed to be used) apply.

(d) Fluoroscopic installations: equipment.
- (1) Equipment must be so constructed that the entire cross-section of the useful beam is always intercepted by a primary protective barrier (usually a lead glass screen or image intensifier assembly) regardless of the panel-screen distance. For conventional fluoroscopes, this requirement may be assumed to have been met if, when the collimating system is opened to its fullest extent, an unilluminated margin is left on all edges of the fluorescent screen regardless of the position of the screen during use. Equipment with an image intensifier must be so constructed that the useful beam cannot exceed the limits of the input phosphor.
- (2) The exposure must automatically terminate when the barrier is removed from the useful beam.
- (3) With the fluoroscope operating at the highest potential employed and with the fluorescent screen 36 cm (14 in.) from the panel of the tabletop and in the useful beam without a patient, the exposure rate 5 cm (2 in.) beyond the viewing surface of the screen must not exceed 7.74 E-6 C-kg-1-hr-1 (30 mR-hr-1) for each 2.58 E-4 C-kg-1- min-1 (R-min-1) at the tabletop.
- (4) The fluoroscopic exposure switch must be of the dead-man type.
- (5) Provision must be made to intercept the scattered x-rays from the undersurface of the tabletop and other structures under the table.
- (6) The source-panel or source-tabletop distance must always be at least 30 cm (12 in.) and is recommended to be not less than 38 cm (15 in.).

(e) Mobile fluoroscopic equipment must meet the following additional requirements:
- (1) In the absence of a tabletop, a cone or spacer frame must limit the source-to-skin distance to not less than 30 cm (12 in.).
- (2) Image intensification must always be provided.
- (3) It must not be possible to operate a machine unless the useful beam is intercepted by the image intensifier.

(f) Conditions for operation of equipment.
- (1) Only persons required for the x-ray procedure shall be in the x-ray room during exposures.
- (2) When an animal patient must be held in position during exposures, mechanical supporting or restraining devices must be used.
- (3) Animal patients or films must be held by an individual only under extreme conditions when clinically necessary. Such individuals must wear protective gloves having at least 0.5 mm lead equivalent, a protective garment of at least 0.25 mm lead equivalent, and must keep all parts of their body out of the useful beam.
- (4) The exposure of any individual used for holding animals must be monitored.
- (5) Pregnant women and individuals under 18 years of age must not hold animal patients or films under any conditions.
- (6) Protective garments of at least 0.25 mm lead equivalent must be available and must be worn by the fluoroscopist during every examination.

§175.52 Dual-energy X-ray Absorptiometry (DXA) (Bone Densitometry).

(a) Dual-energy X-ray Absorptiometry (DXA) systems must be:
- (1) certified by the manufacturer, pursuant to the Medical Device Act and Subchapter C – Electronic Product Radiation Control of Chapter V of the Federal Food, Drug and Cosmetic Act;
- (2) registered in accordance with this Code; and
- (3) at a minimum, maintained and operated in accordance with the manufacturer's specifications.

(b) Operator requirements. Operators of the bone denisotmeter must either be a licensed practitioner or a Licensed Radiologic Technologist. Operators must complete training specific to patient positioning and the operation of the DXA system.

(c) During the operation of any DXA system, in the absence of a survey performed by or under the supervision of a QMP determining the minimum distance the operator may be from the patient and radiation source, the operator, ancillary personnel, and members of the general public must be positioned at least two meters from the patient and DXA system during the examination.

(d) Quality assurance. The facility must follow the manufacturer's quality assurance specifications as to required quality control tests, including their frequency.

§175.53 Fluoroscopic equipment.

Only image-intensified or direct-digital receptor fluoroscopic equipment shall be used for fluoroscopy.

(a) Acceptance testing of fluoroscopic x-ray units. Acceptance testing of fluoroscopic x-ray units must include all quality assurance tests that are mandated to be done on a daily or biweekly or monthly or semiannual or annual basis as per the manufacturer's specifications, or as required by this Code. Each registrant must have acceptance testing conducted on x-ray units with the exception of fluoroscopic mini c-arms of II sizes less than six (6) inches prior to clinical patient exams being conducted with the designated x-ray units. The acceptance testing must be conducted by a QMP and the report provided to the registrant. All non-compliance issues noted in this report must be corrected prior to clinical use of the unit. The acceptance testing report must verify the stated manufacturer's tolerances for all machine- testing. If manufacturer tolerances are absent, the medical physicist must develop tolerances that must be used in subsequent quality assurance testing by the registrant and must be so noted in the facility's quality assurance manual.

(b) Primary protective barrier.
- (1) Limitation of useful beam. The fluoroscopic imaging assembly must be provided with a primary protective barrier which intercepts the entire cross section of the useful beam at any SID. The x-ray tube used for fluoroscopy must not produce x-rays unless the barrier is in position to intercept the entire useful beam. The AKR due to transmission through the barrier with the attenuation block in the useful beam combined with radiation from the fluoroscopic imaging receptor must not exceed 3.34x10-3 percent of the entrance AKR, at a distance of 10 cm from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor. Radiation therapy simulation systems are exempt from this requirement provided the systems are intended only for remote control operation.
- (2) Measuring compliance. The AKR must be measured in accordance with subdivision (i) of this section. The AKR due to transmission through the primary barrier combined with radiation from the fluoroscopic image receptor must be determined by measurements averaged over an area of 100 square cm with no linear dimension greater than 20 cm. If the source is below the tabletop, the measurement must be made with the input surface of the fluoroscopic imaging assembly positioned 30 cm above the tabletop. If the source is above the tabletop and the SID is variable, the measurement must be made with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, provided that it is not closer than 30 cm. Movable grids and

compression devices must be removed from the useful beam during the measurement. For all measurements, the attenuation block must be positioned in the useful beam 10 cm from the point of measurement of entrance AKR and between this point and the input surface of the fluoroscopic imaging assembly.

(c) Field limitation.

(1) Angulation. For fluoroscopic equipment manufactured after February 25, 1978, when the angle between the image receptor and the beam axis of the x-ray beam is variable, means must be provided to indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor. Compliance with subdivisions (e) and (f) of this section shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor.

(2) Further means for limitation. Means must be provided to permit further limitation of the x-ray field to sizes smaller than the limits of subdivisions (e) and (f) of this section. Beam-limiting devices manufactured after May 22, 1979, and incorporated in equipment with a variable SID or capability of a visible area of greater than 300 cm2, must be provided with means for stepless adjustment of the x-ray field. Equipment with a fixed SID and the capability of a visible area of no greater than 300 cm2 must be provided with either stepless adjustment of the x-ray field or with a means to further limit the x-ray field size at the plane of the image receptor to 125 cm2 or less. Stepless adjustment must, at the greatest SID, provide continuous field sizes from the maximum obtainable to a field size containable in a square of 5 cm by 5 cm.

(3) Spot-film devices. In addition to the applicable requirements of §175.49, the following requirements also apply to spot-film devices, except when the spot-film device is provided for use with a radiation therapy simulation system:

(i) Means must be provided between the source and the patient for adjustment of the x-ray field size in the plane of the image receptor to the size of that portion of the image receptor which has been selected on the spot-film selector. Such adjustment must be accomplished automatically when the x-ray field size in the plane of the image receptor is greater than the selected portion of the image receptor. If the x-ray field size is less than the size of the selected portion of the image receptor, the field size must not open automatically to the size of the selected portion of the image receptor unless the operator has selected that mode of operation.

(ii) Neither the length nor width of the x-ray field in the plane of the image receptor shall differ from the corresponding dimensions of the selected portion of the image receptor by more than 3 percent of the SID when adjusted for full coverage of the selected portion of the image receptor. The sum, without regard to sign, of the length and width differences must not exceed 4 percent of the SID. On spot-film devices manufactured after February 25, 1978, if the angle between the plane of the image receptor and beam axis is variable, means must be provided to indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor.Compliance shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor.

(iii) The center of the x-ray field in the plane of the image receptor must be aligned with the center of the selected portion of the image receptor to within 2 percent of the SID.

(iv) Means must be provided to reduce the x-ray field size in the plane of the image receptor to a size smaller than the selected portion of the image receptor such that:

(A) for spot-film devices used on fixed-SID fluoroscopic systems which are not required to, and do not provide stepless adjustment of the x-ray field, the minimum field size, at the greatest SID, does not exceed 125 square cm; or

(B) for spot-film devices used on fluoroscopic systems that have a variable SID or stepless adjustment of the field size, the minimum field size, at the greatest SID, must be containable in a square of 5 cm by 5 cm.

(d) A capability may be provided for overriding the automatic x-ray field size adjustment in case of system failure. If it is so provided, a signal visible at the fluoroscopist's position must indicate whenever the automatic x-ray field size adjustment override is engaged. Each such system failure override switch must be clearly labeled as follows: "For X-ray Field Limitation System Failure".

(e) Fluoroscopy and radiography using the fluoroscopic imaging assembly with inherently circular image receptors.

(1) For fluoroscopic equipment manufactured before June 10, 2006, other than radiation therapy simulation systems, the following applies:

(i) Neither the length nor width of the x-ray field in the plane of the image receptor shall exceed that of the visible area of the image receptor by more than 3 percent of the SID. The sum of the excess length and the excess width be no greater than 4 percent of the SID.

(ii) For rectangular x-ray fields used with circular image receptors, the error in alignment shall be determined along the length and width dimensions of the x-ray field which pass through the center of the visible area of the image receptor.

(2) For fluoroscopic equipment manufactured on or after June 10, 2006, other than radiation simulation systems, the maximum area of the x-ray field in the plane of the image receptor must conform with one of the following requirements:

(i) When any linear dimension of the visible area of the image receptor measured through the center of the visible area is less than or equal to 34 cm in any direction, at least 80 percent of the area of the x-ray field overlaps the visible area of the image receptor, or

(ii) When any linear dimension of the visible area of the image receptor measured through the center of the visible area is greater than 34 cm in any direction, the x-ray field measured along the direction of greatest misalignment with the visible area of the image receptor does not extend beyond the edge of the visible area of the image receptor by more than 2 cm.

(f) Fluoroscopy and radiography using fluoroscopic imaging assembly with inherently rectangular image receptors. For x-ray systems manufactured on or after June 10, 2006, the following applies:

(1) Neither the length nor width of the x-ray field in the plane of the image receptor shall exceed that of the visible area of the image receptor by more than 3 percent of the SID. The sum of the excess length and the excess width must be no greater than 4 percent of the SID.

(2) The error in alignment shall be determined along the length and width dimensions of the x-ray field which pass through the center of the visible area of the image receptor.

(g) Override capability. If the fluoroscopic x-ray field size is adjusted automatically as the SID or image receptor size is changed, a capability may be provided for overriding the automatic adjustment in case of system failure. If it is so provided, a signal visible at the fluoroscopist's position must indicate whenever the automatic field adjustment is overridden. Each such system failure override switch must be clearly labeled as follows: "For X-Ray Field Limitation System Failure".

(h) Activation of tube. X-ray production in the fluoroscopic mode must be controlled by a device which requires continuous pressure by the operator for the entire time of any exposure. When recording serial radiographic images from the fluoroscopic image receptor, the operator must be able to terminate the x-ray exposure at any time, but means may be provided to permit completion of any single exposure of the series in process.

(i) Air kerma rates. For fluoroscopic equipment, the following requirements apply:

(1) Fluoroscopic equipment manufactured before May 19, 1995.

(i) Equipment provided with automatic exposure rate control (AERC) must not be operable at any combination of tube potential and current that will result in an AKR in excess of 88 mGy per minute (vice 10 R/min exposure rate) at the measurement point specified in subdivision (m), except as specified in paragraph (2) of subdivision (m) of this section.

(ii) Equipment provided without AERC must not be operable at any combination of tube potential and current that will result in an AKR in excess of 44 mGy per minute (vice 5 R/min exposure rate) at the measurement point specified in paragraph (2) of subdivision (m), except during recording of fluoroscopic images.

(iii) Equipment provided with both an AERC mode and a manual mode must not be operable at any combination of tube potential and current that will result in an AKR in excess of 88 mGy per minute (vice 10 R/min exposure rate) in either mode at the measurement point specified in paragraph (2) of subdivision (m), except during recording of fluoroscopic images.

(iv) Equipment may be modified in accordance with this Code to comply with paragraph (2) of this subdivision. When the equipment is modified, it must bear a label indicating the date of the modification and the statement:

(2) Fluoroscopic equipment manufactured after May 19, 1995:

(i) must be equipped with AERC if operable at any combination of tube potential and current that results in an AKR greater than 44 mGy per minute (vice 5 R/min exposure rate) at the measurement point specified in paragraph (2) of subdivision (m) of this section

Provision for manual selection of technique factors may be provided.

(ii) must not be operable at any combination of tube potential and current that will result in an AKR in excess of 88 mGy per minute (vice 10 R/min exposure rate) at the measurement point specified in paragraph (2) of subdivision (m) of this section, except as specified in in paragraph (3) of this subdivision.

(3) Exceptions.

(i) For equipment manufactured prior to June 10, 2006, during the recording of images from a fluoroscopic image receptor using photographic film or a video camera when the x-ray source is operated in a pulsed mode.

(ii) For equipment manufactured on or after June 10, 2006, during the recording of images from the fluoroscopic image receptor for the purpose of providing the user with a recorded image after termination of the exposure. Such recording does not include images resulting from a last-image-hold feature that are not recorded.

(j) Fluoroscopy equipment with optional high-level control. When high-level control is selected and the control is activated, in which case the equipment must not be operable at any combination of tube potential and current that will result in an AKR in excess of 176 mGy per minute (vice 20 R/min exposure rate) at the measurement point specified in paragraph (2) of subdivision (m) of this section. Special means of activation of high-level controls shall be required. The high-level control must be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is employed.

(k) With the system configured in the non-mag mode of operation for the most frequently performed fluoroscopic procedure including the grid orientation in or out and the dose adjustment selection set the same as the most common exam, the exposure rates must be measured with each of the following attenuators in the beam:

(1) 0.75 inches (19 mm) of aluminum (pediatric patient—25 kg.),

(2) 1.50 inches (38 mm) of aluminum (small adult patient—50 kg.),

(3) 1.50 inches (38 mm) of aluminum and 0.02 inches (0.5 mm) of copper (average adult patient—75 kg.),

(4) 1.50 inches (38 mm) of aluminum and 0.08 inches (2.0 mm) of copper (large adult patient—100 kg.),

(5) 1.50 inches (38 mm) of aluminum and 0.08 inches (2.0 mm) of copper and 0.12 inches (3.0 mm) of lead (for maximum fluoroscopic exposure rate only).

This report of fluoroscopic exposure rates for the most frequently performed procedure must be posted so that they are conspicuous to the operator.

(l) For all fluoroscopic x-ray systems having an Automatic Brightness system, for phantom measurements conducted in subdivision (k) paragraphs (1) through (4), simulating clinical conditions, the automatic brightness system must function according to manufacturer's specifications as to adjusting the fluoroscopic techniques of kVp or mA. In all cases for measurements required by paragraphs (1) through (4) in subdivision (k), there must be a continuous increase in the fluoroscopic exposure rate for each step from the previous step.

(m) Entrance exposure rate limits.

(1) The fluoroscopic exposure rate when measured under the following conditions must not exceed 3 Roentgens per minute and must not exceed 5 Roentgens per minute:

(i) the controls are set to the dose rate mode used for the fluoroscopic procedure most commonly performed on that fluoroscopic unit; and

(ii) the image intensifier is set to the largest field of view; and

(iii) the image intensifier is at 12 inches (30 cm) above the tabletop or the over table fluoro tube is at a source to image distance normally used for an average patient; and

(iv) a patient phantom composed of 1 and 1/2 inch (3.8 cm) thickness of Type 1100 aluminum and 0.02 inch (0.5 mm) thickness of copper or an equivalent device is completely intercepting the useful beam.

(2) Measuring compliance. Compliance with paragraph (1) of subdivision (m) of this section shall be determined as follows:

(i) If the source is below the x-ray table, the AKR shall be measured at 1 cm above the tabletop or cradle.

(ii) If the source is above the x-ray table, the AKR shall be measured at 30 cm above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.

(iii) In a C-arm type of fluoroscope, the AKR shall be measured at 30 cm from the input surface of the fluoroscopic imaging assembly, with the source positioned at any available SID, provided that the end of the beam-limiting device or spacer is no closer than 30 cm from the input surface of the fluoroscopic imaging assembly.

(iv) In a C-arm type of fluoroscope having an SID less than 45 cm, the AKR shall be measured at the minimum SSD.

(v) In a lateral type of fluoroscope, the air kerma rate shall be measured at a point 15 cm from the centerline of the x-ray table and in the direction of the x-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral x-ray source, with the end of the beam-limiting device or spacer no closer than 15 cm to the centerline of the x-ray table.

(3) Exemptions. Fluoroscopic radiation therapy simulation systems are exempt from the requirements set forth in this subdivision when used for therapy simulation purposes.

(n) Contrast tests.

(1) The spatial resolution of the fluoroscopic system must be measured using a test tool composed of a line pair (lp) plate with discreet line pair groups and a maximum lead foil thickness of 0.1 mm or an equivalent device. The test tool must be placed on a 0.75 inch (19 mm) thickness of type 1100 aluminum, large enough to completely intercept the useful beam, with the test tool 12 inches (30 cm) from the entrance surface of the image receptor assembly. If the system has variable source-to-image distance (SID), the measurement SID must not exceed 40 inches (100 cm). The image receptor of the fluoroscopic system must be operated in the six inches (15 cm) field of view (FOV) to conduct this test. If six inches (15 cm) FOV is not available, the system must be operated in the smallest FOV that exceeds the six inches (15 cm) FOV. The minimum spatial resolution at the center of the beam for all FOVs shall be determined by the following equation: 2 lp/mm × (6 inches (15cm)/size of FOV used) = minimum number of lp/mm.

(2) The low contrast performance of the fluoroscopic system must be capable of resolving a minimum hole size of 3 mm using a test tool composed of a 1.0 mm aluminum sheet with two sets of four holes of dimension 1.0, 3.0, 5.0 and 7.0 mm and a phantom composed of a 1 and 1/2 inch (3.8 cm) thickness of Type 1100 aluminum large enough to completely intercept the useful beam or an equivalent device. The test tool must be 12 inches (30 cm) from the entrance surface of the image receptor assembly. The image receptor of the fluoroscopic system must be operated in the six inches (15 cm) FOV to conduct this test. If six inches (15 cm) FOV is not available, the system must be operated in the smallest FOV that exceeds the six inches (15 cm) FOV.

(3) Exemptions. For all fluoroscopic systems with an image intensifier diameter of less than six (6) inches, the high and low contrast tests need not be conducted by the medical physicist.

(o) Indication of potential and current. During fluoroscopy and cinefluorography, x-ray tube potential and current must be continuously indicated. Deviation of x-ray tube potential and current from the indicated value must not exceed the maximum deviation as stated by the manufacturer.

(p) Source-skin distance.

(1) Means must be provided to limit the source-skin distance to not less than 38 cm on stationary fluoroscopes and to not less than 30 cm on mobile and portable fluoroscopes. In addition, for fluoroscopes intended for specific surgical or interventional applications that would be prohibited at the source-skin distances specified in this paragraph, provisions may be made for operating at shorter source-skin distances but in no case less than 20 cm.

(2) For stationary, mobile, or portable C-arm fluoroscopic systems manufactured on or after June 10, 2006, having a maximum source-image receptor distance of less than 45 cm, means must be provided to limit the source-skin distance to not less than 19 cm. Such systems must be labeled for extremity use only. In addition, for those systems intended for specific surgical that would be prohibited at the source-skin distance specified in this paragraph, provisions may be made for operation at shorter source-skin distances but in no case less than 10 cm.

(q) Fluoroscopic irradiation time, display, and signal.

(1) Fluoroscopic equipment manufactured before June 10, 2006:

(i) Must be provided with means to preset the cumulative irradiation time of the fluoroscopic tube. The maximum cumulative time of the timing device must not exceed 5 minutes without resetting. A signal audible to the fluoroscopist must indicate the completion of any preset cumulative irradiation time. Such signal must continue to sound while x-rays are produced until the timing device is reset. Fluoroscopic equipment may be modified in accordance with 21 CFR

§1020.30(q) to comply with the requirements of this paragraph

(ii) As an alternative to the requirements of this paragraph, radiation therapy simulation systems may be provided with a means to indicate the total cumulative exposure time during which x-rays were produced, and which is capable of being reset between x-ray examinations.

(2) For x-ray controls manufactured on or after June 10, 2006, there must be provided for each fluoroscopic tube a display of the fluoroscopic irradiation time at the fluoroscopist's working position. This display must function independently of the audible signal described in this subsection. The following requirements apply:

(i) When the x-ray tube is activated, the fluoroscopic irradiation time in minutes and tenths of minutes must be continuously displayed and updated at least once every 6 seconds.

(ii) The fluoroscopic irradiation time must also be displayed within 6 seconds of termination of an exposure and remain displayed until reset.

(iii) Means shall be provided to reset the display to zero prior to the beginning of a new examination or procedure. A signal audible to the fluoroscopist must sound for each passage of 5 minutes of fluoroscopic irradiation time during an examination or procedure. The signal must sound until manually reset or, if automatically reset, for at least 2 seconds.

(r) Display of last-image-hold (LIH).

(1) Fluoroscopic equipment manufactured on or after June 10, 2006, must be equipped with means to display LIH image following termination of the fluoroscopic exposure.

(i) For an LIH image obtained by retaining pre-termination fluoroscopic images, if the number of images and method of combining images are selectable by the user, the selection must be indicated prior to initiation of the fluoroscopic exposure.

(ii) For an LIH image obtained by initiating a separate radiographic-like exposure at the termination of fluoroscopic imaging, the technique factors for the LIH image must be selectable prior to the fluoroscopic exposure, and the combination selected must be indicated prior to initiation of the fluoroscopic exposure.

(iii) Means must be provided to clearly indicate to the user whether a displayed image is the LIH radiograph or fluoroscopy. Display of the LIH radiograph must be replaced by the fluoroscopic image concurrently with re-initiation of fluoroscopic exposure, unless separate displays are provided for the LIH radiograph and fluoroscopic images.

(s) Displays of values of AKR and cumulative air kerma. Fluoroscopic equipment manufactured on or after June 10, 2006, must display at the fluoroscopist's working position the AKR and cumulative air kerma. The following requirements apply for each x-ray tube used during an examination or procedure:

(1) When the x-ray tube is activated and the number of images produced per unit time is greater than six images per second, the AKR in mGy/min must be continuously displayed and updated at least once every second.

(2) The cumulative air kerma in units of mGy must be displayed either within 5 seconds of termination of an exposure or displayed continuously and updated at least once every 5 seconds.

(3) The display of the AKR must be clearly distinguishable from the display of the cumulative air kerma.

(4) The AKR and cumulative air kerma must represent the value for conditions of free-in-air irradiation at one of the following reference locations specified according to the type of fluoroscope.

(i) For fluoroscopes with x-ray source below the x-ray table, x-ray source above the table, or of lateral type, the reference location must be the respective locations specified in subparagraphs (i), (ii) or (v) of paragraph (2) of subdivision (m) of this section.

(ii) For C-arm fluoroscopes, the reference location must be 15 cm from the isocenter toward the x-ray source along the beam axis. Alternatively, the reference location must be at a point specified by the manufacturer to represent the location of the intersection of the x-ray beam with the patient's skin.

(iii) Means must be provided to reset to zero the display of cumulative air kerma prior to the commencement of a new examination or procedure.

(iv) The displayed AKR and cumulative air kerma must not deviate from the actual values by more than ±35 percent over the range of 6 mGy/min and 100 mGy to the maximum indication of AKR and cumulative air kerma, respectively. Compliance shall be determined with an irradiation time greater than 3 seconds.

(t) Protection from scatter radiation.

(1) For stationary fluoroscopic systems, ancillary shielding, such as drapes, self-supporting curtains, or viewing shields, must be available and used as supplemental protection for all individuals other than the patient in the room during a fluoroscopy procedure.

(2) Where sterile fields or special procedures prohibit the use of normal protective barriers or drapes, all of the following conditions must be met:

(i) shielding required under paragraph (1) of this subdivision must be maintained to the degree possible under the clinical conditions.

(ii) all persons, except the patient, in the room where fluoroscopy is performed must wear protective aprons that provide a lead equivalent shielding of at least 0.50 mm, except if such persons are protected by movable lead shields of 0.50 mm lead equivalent.

(iii) Operating and safety procedures must reflect the above conditions, and fluoroscopy personnel must exhibit awareness of situations requiring the use or non-use of the protective drapes.

(u) Operator qualifications.

(1) In addition to the applicable requirements of this Code, the operation of a fluoroscopic x-ray system for clinical purposes must be limited to:

(i) a licensed practitioner working within his or her scope of practice; and

(ii) a medical resident or radiologic technology student, in training, and only under the direct supervision of the licensed practitioner meeting the conditions of subparagraph (i) of this paragraph (1).

(2) All persons operating, or supervising the operation of, fluoroscopy systems must have completed a minimum of 4 hours training that includes but is not limited to the following Two years after the effective date of this rule, the registrant must ensure that prior to performing fluoroscopy procedures each person operating, or supervising the operation of, fluoroscopy systems completed the training required in this subdivision. The topics must include:

(i) basic properties of radiation;
(ii) biological effects of x-ray;
(iii) radiation protection methods for patients and staff;
(iv) units of measurement and dose, including DAP (dose-area product) values & air kerma;
(v) factors affecting fluoroscopic outputs;
(vi) high level control options;
(vii) dose management including dose reduction techniques, monitoring, and recording;
(viii) principles and operation of the specific fluoroscopic x-ray system to be used;
(ix) fluoroscopic and fluorographic outputs of each mode of operation on the system to be used clinically; and
(x) all applicable requirements of this Code.

(3) All persons operating, or supervising the operation of, fluoroscopy systems during FGI procedures must have completed a minimum of 8 hours of training approved by the Department. Two years after the effective date of this rule, the registrant must ensure that prior to performing fluoroscopy procedures each person operating, or supervising the operation of, fluoroscopy systems completed the training required in this subsection. The topics must include:

(iii) the topics provided in subparagraph (ii) of paragraph (1) of this subdivision.
(i) methods to reduce patient dose using advanced imaging and recording features;
(ii) procedures for recording pertinent data specified in subdivision (x) of this section.
(iii) minimum of one hour of hands-on fluoroscopic machine training demonstrating application of topics required in this subdivision.
(iv) The training required in this paragraph (3) must be provided by a QMP or another individual approved by the Department.
(v) The registrant must either provide a minimum of 2 hours in-service training every 2 years for all individuals operating or supervising the operation of fluoroscopy systems used or require evidence of continuing medical education meeting the conditions of this subdivision.
(vi) Documentation pertaining to the requirements of this section must be maintained for review for five (5) years.

(v) Equipment operation.

(1) All fluoroscopic images must be viewed, directly or indirectly, and interpreted by a licensed practitioner of the healing arts.

(2) Overhead fluoroscopy must not be used as a positioning tool for general purpose radiographic examinations.

(3) Operators must be competent in the standard operating procedures of the unit in use, including the use of available

dose-saving features, and the relative radiation output rates of the various modes of operation.

(4) Procedure planning for fluoroscopic procedures on pregnant patients must include feasible modifications to minimize the dose to the conceptus.

(5) The facility must establish a written policy regarding patient dose management in fluoroscopically guided procedures in conformance with the ACR-AAPM Technical Standard for Management of the Use of Radiation in Fluoroscopic Procedures (ACR Resolution 44 – 2013), NCRP Report 168, or equivalent.

(6) Fluoroscopic systems that fail to comply with subdivisions (l) and (n) of this section must not be used for patient fluoroscopy. The failure shall be determined by the medical physicist report to the facility conducted as part of the facility's routine QA program testing and non-compliance with Article 175 requirements so noted in the medical physicists' reports.

(w) Additional requirements for facilities performing fluoroscopically-guided interventional (FGI) procedures.

(1) A registrant utilizing FGI procedures must establish a Radiation Protocol Committee (RPC) in accordance with the following:

(i) the registrant may establish a system-wide committee if the registrant has more than one site.

(ii) if the registrant has already established a radiation safety committee, the requirements of this subsection may be delegated to that committee if the members meet the requirements of paragraph (5) of this subdivision.

(2) A quorum of the RPC must meet as often as necessary, but at intervals not to exceed 12 months.

(3) Record of RPC. A record of each RPC meeting must include the date, names of individuals in attendance, minutes of the meeting, and any actions taken. The registrant must maintain the record for inspection by the Department.

(4) Provide an annual report to the radiation safety committee or radiation safety officer, in the absence of a radiation safety committee.

(5) RPC Members. Members must include but not be limited to the following individuals:

(i) a supervising physician of the healing arts who meets the requirements in subdivision (u) of this section;

(ii) a QMP;

(iii) the lead technologist; and

(iv) other individuals as deemed necessary by the registrant.

(6) Establish and implement FGI procedure protocols.

(i) The RPC must establish and implement written protocols, or protocols documented in an electronic report system, that include but are not limited to the following:

(A) identification of individuals who are authorized to use fluoroscopic systems for interventional purposes.

(B) a method to be used to monitor patient radiation dose during FGI.

(C) SRDL values following nationally recognized standards,

(D) actions to be taken for cases when a SRDL is exceeded which may include patient follow-up.

(E) a review of the established protocols at an interval not to exceed 12 months.

(ii) A record of each RPC protocol must be maintained for inspection by the Department. If the RPC revises a protocol, documentation must be maintained that includes the justification for the revision and the previous protocol for inspection by the Department.

(7) Procedures for maintaining records.

(i) A record of radiation output information must be maintained so the radiation dose to the skin may be estimated in accordance with established protocols. The dose estimation methodology must be in written document and available for review during periodic department inspections. The record must include the following:

(A) patient identification;

(B) type and date of examination;

(C) identification of the fluoroscopic system used; and

(D) peak skin dose, cumulative air kerma or dose area product used if the information is available on the fluoroscopic system.

(E) if the peak skin dose, cumulative air kerma or dose area product are not displayed on the fluoroscopic system, records must include other information necessary to estimate the radiation dose to the skin in accordance with established protocol or the following as necessary:

a. fluoroscopic mode, such as, high-level or pulsed mode of operation;

b. cumulative fluoroscopic exposure time; and

c. number of films or recorded exposures.

(ii) The registrant must maintain records required by this subparagraph for inspection by the Department for five (5) years.

§175.54 Mammography.

(a) Applicability. The requirements of this section apply to all facilities which produce, process or interpret mammograms for screening or diagnostic purposes and are in addition to, and not in substitution for, other requirements of this Code.

(b) Requirement for certification.

(1) Except for facilities holding provisional certificates as described in paragraph (2) of this subdivision, effective October 1, 1994, each mammography facility must have received a certificate indicating approval by the U.S. Food and Drug Administration (FDA) to provide screening and diagnostic mammography services, pursuant to 21 CFR §900.11, or any successor law or regulation.

(2) A provisional certificate issued, pursuant to 21 CFR §900.11, or any successor law or regulation, will be accepted in lieu of the certificate required by paragraph (1) of this subdivision for a period of no longer than six (6) months from the date of issuance plus one ninety (90) day extension.

(c) Equipment.

(1) Radiographic equipment designed for conventional radiographic procedures that has been modified or equipped with special attachments for mammography must not be used for mammography.

(2) Radiographic equipment used for mammography must:

(i) be certified by FDA, pursuant to 21 CFR §1010.2, or any successor law or regulation, as meeting the applicable requirements of 21 CFR §1020.30 and 21 CFR §1020.31 in effect on the date of manufacture; and

(ii) be specifically designed for mammography; and

(iii) incorporate a breast compression device; and

(iv) have the provision for operating with a removable grid.

(3) Beam quality for mammographic systems with a molybdenum target—molybdenum filter combination.

(i) When used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam must have a half-value layer (HVL) between the values of measured kVp/100 and measured kVp/100 0.1 mm aluminum.

(ii) For xeromammography, the HVL of the useful beam with the compression device in place must be at least 1.0 and not greater than 1.6 mm aluminum, measured at 49 kVp with a tungsten target tube.

(d) Dose.

(1) The average glandular dose delivered during a single cranio-caudal view of an approved phantom simulating a 4.5 cm thick, compressed breast consisting of 50 percent adipose and 50 percent glandular tissue, must not exceed:

(i) 1 mGy (100 millirads) per exposure for screen-film mammography procedures without a grid;

(ii) 3 mGy (300 millirads) per exposure for screen-film mammography procedures with a grid; or

(iii) 4 mGy (400 millirads) per exposure for xeromammography procedures.

(2) The dose must be determined at least annually using the technique factors and conditions that are used to produce the phantom images submitted for accreditation.

(e) Personnel. The following requirements apply to personnel involved in any aspect of mammography, including the production, processing and interpretation of mammograms and related quality assurance activities.

(1) Interpreting physicians must meet the following initial requirements:

(i) be licensed to practice medicine in the State of New York; and

(ii) have had the following training or certifications:

(A) be certified in an accepted specialty area by one of the bodies approved by FDA to certify interpreting physicians; or

(B) have had at least two (2) months of documented full-time training in the interpretation of mammograms, including instruction in radiation physics, radiation effects and radiation protection; and

(C) have forty (40) hours of documented continuing medical education in mammography. Time spent in residency specifically devoted to mammography is acceptable, if documented in writing by a fully qualified interpreting physician; and

(D) have had the following initial experience:

a. have read and interpreted the mammograms from the examinations of at least 240 patients in the six (6) months preceding application; or

b. read and interpreted mammograms as specified in item *(a)* of this clause (D) of paragraph (1) of this subdivision under the direct supervision of a fully qualified interpreting physician.

(2) Interpreting physicians must meet the following continuing experience requirements:
(i) continue to read and interpret mammograms from the examination of an average of at least 40 patients per month over 24 months; and
(ii) continue to participate in education programs, either by teaching or completing an average of at least five (5) continuing medical education credits in mammography per year.
(3) Radiologic technologists must meet the following requirements:
(i) have a New York State license to perform radiographic procedures; and
(ii) have satisfied the requirements set forth in 21 C.F.R. §900.12(a)(2), or its successor regulation.
(4) Medical physicists must meet the following requirements:
(i) have approval by the Department to conduct evaluations of mammography equipment and procedures required under the federal Public Health Service Act; or
(ii) be certified in an accepted specialty area by one of the bodies approved by FDA to certify medical physicists; or
(iii) for those medical physicists associated with facilities applying for accreditation before October 27, 1997, meet the following criteria:
(A) have a masters, or higher, degree in physics, radiological physics, applied physics, biophysics, health physics, medical physics, engineering, radiation science, or in public health with a bachelor's degree in the physical sciences; and
(B) have one (1) year of training in medical physics specific to diagnostic radiological physics; and
(C) have two (2) years of experience in conducting performance evaluation of mammography equipment; and
(D) participate in continuing education programs related to mammography, either by teaching or completing an average of at least five (5) continuing education units per year.

(f) Quality assurance.
(1) Each registrant performing mammography examinations must establish and maintain a quality assurance program to assure the adequate performance of the radiographic equipment and other equipment and materials used in conjunction with such equipment to ensure the reliability and clarity of its mammograms. The program must also require periodic monitoring of the dose delivered by the facility's examination procedures to ensure that it does not exceed the limit specified in subdivision (d) of this section and is appropriate for the image receptor used.
(2) For screen-film systems, the mammography quality assurance program required by paragraph (1) of this subdivision must be substantially the same as that described in the current edition of "Mammography Quality Control: Radiologist's Manual, Radiologic Technologist's Manual and Medical Physicist's Manual," prepared by the American College of Radiology, Committee on Quality Assurance in Mammography, or in any superseding document.
(3) For systems with alternate image receptor modalities, the mammography quality assurance program required by paragraph (1) of this subdivision must be substantially the same as the quality assurance program recommended by the image receptor manufacturer, which, if followed, will allow a facility to maintain high image quality.
(4) The mammography quality assurance program required by paragraph (1) of this subdivision must provide for the maintenance of log books documenting compliance with the requirements of paragraphs (1) through (3) of this subdivision and recording corrective actions taken.
(5) Prior to performing patient mammography, using a breast equivalent phantom specified in subparagraphs (i) or (ii) of paragraph (7) of this subdivision, the registrant must optimize the mammographic system and determine image resolution, which shall be the reference image resolution for the mammographic system.
(6) The registrant must use the breast equivalent phantom used to satisfy the requirement of paragraph (5) of this subdivision to test image resolution of the mammographic system at monthly intervals; mobile and portable equipment must be so tested each time the unit is moved or at monthly intervals, whichever is less.
(7) No patient mammogram shall be performed unless the mammographic system is capable of imaging, using phantom objects as follows:
(i) the phantom image must achieve at least the minimum score established by an accreditation body approved by the FDA in accordance with 21 C.F.R. §900.3(d) or 900.4(a)(8), or successor regulations; or
(ii) the equivalent test object resolution on another phantom approved by the Department.
(8) Diminished phantom test object resolution and facility follow-up.
(i) If, when tested, pursuant to paragraph (6) of this subdivision the mammographic system detects two (or more) fewer test objects than the reference resolution image made, pursuant to paragraph (5) of this subdivision the cause of resolution loss must be determined and corrected and the mammographic system re-optimized, pursuant to paragraph (5) of this subdivision.
(ii) If the imaging system resolves less than seven (7) test objects in the phantom, in addition to the requirements of subparagraph (i) of paragraph (8) of this subdivision, there must be:
(A) a review of monthly phantom images to determine at which point the image resolution fell below the minimum specified in paragraph (1) of subdivision (e) of this section; and
(B) a review, by a physician not from the facility who is approved by the Department and meets the requirements of paragraph (1) of subdivision (e) of this section, to determine the diagnostic quality of the mammographic images.
(iii) The review required by clause (B) of subparagraph (ii) of this paragraph (8) subdivision must include:
(A) images from the range of studies performed by the facility which such physician ascertains to be sufficient to determine that the clinical images are of diagnostic quality; and
(B) images from the time interval from when such review is required to the date when the system met the requirements of paragraph (7) of this subdivision;
(iv) If film images reviewed by the physician, pursuant to clause (B) of subparagraph (ii) of this paragraph (8) are identified as not being of diagnostic quality, the facility must, within five (5) business days, notify:
(A) the referring physician or other authorized referring practitioner, or the patient, if not referred by a practitioner, of the need for follow-up; and
(B) the Department of the results of the investigation and follow-up contacts.
(v) A record of the reviews and findings made, pursuant to subparagraph (ii) of this paragraph (8) must be maintained by the registrant at the facility for review by the Department.
(vi) A record of the results of investigations and actions taken to correct any deficiency, pursuant to this section must be maintained for review by the Department for three (3) years.
(9) Each facility must establish and maintain a clinical image quality assurance program, including at a minimum:
(i) monitoring of mammograms repeated due to poor image quality; and
(ii) maintenance of records, analysis of results and a description of any remedial action taken on the basis of such monitoring.
(10) Each facility must establish a system for reviewing outcome date from all mammography performed, including follow-up on the disposition of positive mammograms and correlation of surgical biopsy results with mammogram reports.
(11) As part of its overall quality assurance program, each facility must have a QMP as defined in this Code establish, monitor and direct the procedures required by this subdivision and conduct a survey of the facility to assure that it meets the quality assurance and equipment standards as specified in paragraph (2) of subdivision (c) of this section. Such surveys must be conducted at least annually and reports of the surveys must be prepared and submitted to the body which accredited the facility. Each such survey report must be retained by the facility for inspection by the Department.

(g) Medical records.
(1) Each facility must maintain mammograms and associated records in a permanent medical record of the patient as follows:
(i) for a period of not less than five (5) years or not less than ten (10) years, if no additional mammograms of the patient are performed at the facility, or longer as mandated by any applicable law or regulation; or
(ii) until requested by the patient to permanently transfer the records to a medical institution, to a physician of the patient or to the patient, and the records are so transferred.
(2) Each facility must prepare a written report of the results of any mammography examination. Such report must be completed as soon as reasonably possible and must:
(i) be signed by the interpreting physician; and
(ii) be provided to the patient's physicians (if any); or
(iii) if the patient's physician is not available or if the patient does not have a physician, the report must be

sent directly to the patient; and

(iv) if such report is sent to the patient, it must include a summary written in language easily understood by a lay person; and

(v) be maintained in the patient's record, pursuant to paragraph (1) of this subdivision.

(h) Revocation of accreditation and accrediting body approval.

(1) If a facility's accreditation is revoked by an accrediting body (as defined in 21 CFR § 900.2), the facility's certificate (as defined in 21 CFR § 900.2) shall remain in effect until such time as determined by the U.S Food and Drug Administration (FDA) or other certifying body on a case-by-case basis after an investigation into the reasons for the revocation. If the FDA or other certifying body determines that the revocation was justified by violations of applicable quality standards, the FDA or other certifying body will suspend or revoke the facility's certificate or require the submission and implementation of a corrective action plan, whichever action will protect the public health in the least burdensome way.

(2) If the approval of an accrediting body is revoked by FDA, the certificates of the facilities accredited by such body shall remain in effect for a period of one (1) year after the date of such revocation subject to FDA's determination that the facility is continuing to perform mammography of acceptable quality. The facility must obtain accreditation from an approved accrediting body within one (1) year of the date of revocation.

(i) Biopsies. Breast stereotactic x-ray units dedicated to breast biopsy procedures are exempt from subdivisions (b),(d), (g) and (h) of this section. Each facility must at a minimum conduct all manufacturer recommended testing at the manufacturer recommended frequency specified and at least annually, have a licensed medical physicist conduct an annual assessment of each breast stereotactic x-ray unit. The latter assessment must be in the form of a report submitted to the facility and all stated non-compliance items must be corrected with thirty (30) days.

§175.55 Computed tomography (CT) equipment.

Except for dental registrants possessing cone beam computed tomography, each facility utilizing computed tomography equipment must comply with the requirements of this section.

(a) CT x-ray system equipment requirements.

(1) Each control panel and gantry of a CT x-ray system must include visual signals that indicate to the operator of the CT x-ray system whenever x-rays are being produced and when x-ray production is terminated, and, if applicable, whether the shutter is open or closed.

(2) Each CT x-ray system must be equipped with a control that allows the operator of the CT x-ray system to terminate the x-ray exposure at any time during a scan, or series of scans, when the exposure time is greater than one-half second duration.

(3) Each CT x-ray system must be designed such that the CT conditions of operation to be used during a scan or a scan sequence are indicated prior to the initiation of a scan or a scan sequence.

(4) Each CT x-ray system must include a clearly and conspicuously labeled emergency shutoff button or switch.

(5) Premature termination of the x-ray exposure by the operator must require resetting of the CT conditions of operation by the operator prior to the initiation of another scan.

(b) Patient communication and viewing requirements.

(1) Each CT x-ray system must be equipped to allow two-way aural communication between the patient and the operator at the control panel.

(2) Each CT x-ray system must be equipped with windows, mirrors, closed-circuit television, or an equivalent to permit continuous visual observation of the patient during CT scanning by the CT operator from the control panel.

(3) When the primary viewing system is by electronic means, an alternate viewing system (which may be electronic) must be available for if the primary viewing system fails.

(c) Calibration of the CT unit radiation output.

(1) Each registrant must ensure that the calibration of the radiation output of each CT x-ray system that it operates is performed by, or under the direction of, a licensed medical physicist and the output calibration must be conducted following the guidelines of the facility's accreditation as to methodology and as to setting scan techniques and CT unit technique settings.

(2) Each registrant must maintain and make available for review by the Department, on the premises of its radiation installation where a CT x-ray system is located, written procedures for the appropriate calibration of the CT x-ray system.

(3) After initial installation, the CT x-ray system must be calibrated prior to its use on human beings and recalibrated at least every 12 months thereafter. Any change or replacement of components of a CT x-ray system which could cause a change in the radiation output will require a recalibration within 30 days of component installation under the supervision of a licensed medical physicist operating within their scope of practice. If the accreditation body does not dictate the criteria for re-calibration based upon CT component replacement, then the facility must establish criteria for recalibration in conjunction with the medical physicist and CT service engineer that must include the list of components that dictate a recalibration and this protocol must be documented in the facility's QA Manual.

(4) The calibration of the radiation output of a CT x-ray system must be performed with a calibrated dosimetry system. This system must have been calibrated either by the National Institute of Standards and Technology (NIST) or by an American Association of Physicists in Medicine (AAPM) Accredited Dosimetry Calibration Laboratory (ADCL) and traceable to NIST. The calibration must have been performed within the previous 12 months and after any servicing that might have affected system calibration,

(5) CT dosimetry phantoms must be used in determining the radiation output of each CT x-ray system. The CT dosimetry phantoms must meet the following specifications and conditions of use:

(i) any effects on the doses measured because of the removal of phantom material to accommodate dosimeters must be accounted for through appropriate corrections to the reported data or included in the statement of maximum deviation for the values obtained using the phantom; and

(ii) all dose measurements must be performed with the CT dosimetry phantom simulating an adult abdomen or adult head placed on the patient couch or support device without additional attenuation materials present.

(iii) the requirements of subparagraphs (i) and (ii) of this paragraph can also be met by using an alternative method of radiation measurement and calculation published in the peer-reviewed scientific literature and acceptable to the Department.

(6) Records of calibrations performed must be maintained for 3 years at the radiation installation where the CT is located.

(d) Quality assurance testing.

(1) Each registrant possessing one or more CT units shall be deemed a large facility.

(2) Regardless of the number of patient exams conducted per year all Quality Assurance (QA) tests for existing x-ray equipment on site must be done on a frequency for a large facility. As such, each registrant must have a QA committee that meets at least semi-annually and such committee must be comprised of the medical professionals associated with the registrant's facility, including the medical physicist or a representative conducting the accreditation for the facility, the Radiation Safety Officer for the facility, and whatever additional facility titles that the accreditation body mandates to be present for such meetings.

(3) Each registrant must maintain a QA manual that contains written procedures for all testing and meet the requirements of the facility's accreditation body for maintaining a QA program as to what QA must be done and their mandated testing frequency. The CT Quality Assurance procedures must have been developed under the direction of a licensed medical physicist and radiologist and be approved by the registrant's QA committee.

(4) The QA procedures must incorporate the use of one or more image quality dosimetry phantoms approved by the facility's accreditation body and must be imaged according to the accreditation body's recommendations. If the accreditation body does not provides tolerances for daily CT QA tests, then the facility must follow the manufacturer's specifications for daily CT QA tests mandated by the accreditation Department and utilization of the manufacturer's phantom for such daily testing. The QA testing of the accreditation body's phantom must have the capability of providing an indication of contrast scale, noise, nominal tomographic section thickness, the resolution capability of the system for low and high contrast objects, and measuring the mean CT Number for water or other reference material and uniformity. All of the aforementioned image quality parameters must be evaluated at least semi-annually by a licensed medical physicist and presented to the QA Committee for their review and approval.

(5) Written records of the QA checks performed by the registrant must be maintained for review by the Department for at least (5) five years.

(6) QA checks must include the following:

(i) images obtained from x-ray scanning of the CT dosimetry phantom, pursuant to Section (e) (3) must be retained as electronic copies stored within the CT

x-ray system or stored in the facility's PACS system.

(ii) dose assessment for the most common CT examinations that are performed on the system for which reference levels have been published by the American College of Radiology (ACR), the American Association of Physicists in Medicine (AAPM) or the National Council on Radiation Protection and Measurements (NCRP) for pediatric heads, pediatric abdomens, adult heads and adult abdomens.

(iii) for brain perfusion studies clinically conducted at the registrant's facility, the registrant must have on an annual basis the clinical dose measured by a medical physicist and an annual evaluation and approval of the clinical protocols for such brain perfusion studies by the registrant's Radiation Protocol Committee (RPC), or Radiation Safety Committee (RSC), if the RSC assumes the responsibilities of the RPC. The facility must investigate and document the clinical necessity of brain perfusion doses greater than 100 rads (1 Gray) or whatever guidance dose is so stated in the ACR-ASNR-SPR Practice Parameters for the Performance of CT Perfusion in Neurological Imaging (Amended 2014) or superseding documents.

(iv) for each CT unit possessing dose adjustment software features for dose adjustment in clinical patient scans:

(A) the facility must have conduct measurements to determine that the dose adjustment software is functioning as the manufacturer specified to adjust the CT imaging techniques so as to maintain image quality.

(B) this must be conducted at least annually or whenever there is a software upgrade or change to the dose adjustment software of the CT software.

(C) for verification testing as required by clause (A) of this subparagraph (iv) of paragraph (6) of this subdivision, manufacturer test results with documentation and formal report shall be acceptable to verify compliance.

(7) For CT units used for treatment planning simulation, the registrant must conduct the following QA testing, in addition to daily QA tests mandated by the accreditation agency, if the site is accredited:

(i) daily measurements to verify that mage reconstruction dimensions are accurate to manufacturer's tolerances.

(ii) daily verification of the CT number uniformity for the manufacturer's water phantom and verify compliance with the manufacturer's tolerances. In this context, CT number uniformity must be conducted for the four quadrants of the water phantom image and compliance shall be determined by comparison between the outer four quadrants and the center of the water phantom as per manufacturer's tolerances.

(iii) measure each month the CT number uniformity for a variety of materials with densities above and below that of water and verify compliance with the accreditation body standards or manufacturer specifications.

(iv) the registrant can follow the accreditation body's guidelines for the conduct of such measurements and tolerances for such, but the frequency of conduct must be as stated in subparagraphs (i) through (iii) of this paragraph.

(e) Operating procedures and policies.

(1) All diagnostic CT and CBCT units for human use must be accredited by an accrediting organization recognized by the Department. This requirement does not apply to CT units used solely for simulation of patients for radiation therapy. All registrants must be fully accredited within 18 months of the date of adoption of these regulations. Registrants, possessing CT units that have been notified by accrediting agencies that their CT units do not meet minimum standards to be accredited, must notify the Department within thirty (30) days of this fact.

(2) The CT x-ray system must not be operated on a human being except by a physician or by a radiologic technologist licensed, pursuant to Article 35 of the New York State Public Health Law who has been specifically trained in the operation of the CT system. To meet compliance with this section, each facility must maintain documentation that each physician or LRT operator of the facility's CT units have received training on the specific manufacturer model that the facility possesses.

(3) The registrant must ensure that each CT x-ray system has a radiation protection survey for assessment of exposure to persons in controlled and non-controlled areas made at the time of installation. Any change in the installation that compromises the original integrity of the facility's shielding and installation of a new CT unit shall require an additional radiation protection survey to verify with Code standards for radiation protection doses to the public and radiation workers.

(4) Each CT x-ray system must have available at the control panel the operation and output calibration of the CT x-ray system which must include:

(i) dates of the latest dose calibration and QA checks and the location within the facility where the results of those tests may be obtained;

(ii) instructions on the use of the CT dosimetry phantoms including a schedule of QA tests that are appropriate for the system as determined by the manufacturer, allowable variations for the indicated parameters, and the results of at least the most recent spot checks conducted on the system.

(5) For each CT scanner in a facility, a current set of default protocols are available at the control panel (either electronically or as a document) which specifies for each routine examination the CT conditions of operation and the slice thickness, spacing between slices or pitch. The default protocols need not be the same as the clinically used scan protocols at the facility, but the clinically used protocols must be derived from the default protocols.

(6) If the QA testing on the CT x-ray system identifies that a system operating parameter has exceeded a tolerance as specified in the Quality Assurance manual, use of the CT x-ray system on patients must be limited to those exceptions permitted by established written instructions of the licensed medical physicist or radiologist. Upon completion of corrective action, the QA testing must be repeated to verify that the system is back within tolerance.

(7) All clinical CT scans must be free of any and all imaging artifacts that the CT facility discovers upon daily QA phantom testing. Upon discovery of any and all imaging artifacts by way of daily QA phantoms testing, the facility must cease clinical scans until corrective action has removed such artifacts being present in clinical scans, exception for all patient CT scans conducted on emergency cases such as in hospital emergency rooms or hospital trauma centers. All corrective actions must be documented by the registrant for review by the Department.

(8) Commencing one (1) year after the effective date of this Code, each registrant performing CT scans on human beings must ensure that for each scan, the radiation dose delivered by the scanner to a reference phantom or the dose received by the patient is saved and recorded. The dose delivered must be recorded as Computed Tomography Dose Index volume (CTDIvol), dose length product (DLP) or other dosimetry metric published in the peer reviewed scientific literature and acceptable to the Department. The dose received by a patient must be recorded as organ dose or other dosimetry metric published in the peer reviewed scientific literature and acceptable to the Department.

(9) The displayed dose must be verified on an annual basis by or under the supervision of a licensed medical physicist to ensure that the equipment manufacturer's displayed dose is within 20% of the measured dose. To accomplish the latter, the manufacturer's phantom and protocol must be used for this measurement.

(10) Eighteen months after the effective date of this Code, each current registrant that performs diagnostic CT scans on human beings must be accredited by a nationally recognized accreditation program that is acceptable to the Department. A facility performing CT that loses their existing accreditation or a registrant or licensee that fails to obtain accreditation must report this fact within 30 days to the Department. After the effective date of these regulations new licensees or registrants will have 18 months to become accredited, but must demonstrate that they have initiated the accreditation process within 90 days of the start of operations.

(11) Each registrant that performs CT scans on human beings must establish and implement a policy and a procedure to ensure that a request for a CT scan originates from a licensed physician familiar with the patient's clinical condition. The request must include sufficient information to demonstrate the medical indication for the CT examination and allow for the proper performance and interpretation of the CT scan.

(12) Each facility must maintain a patient logbook of all patients undergoing CT exams at the facility. The logbook must contain the following information:

(i) patient Identification information,

(ii) CT scans performed along with the imaging parameters ,

(iii) the CT manufacturer's patient dose assessment, and

(iv) whether the study was conducted with contrast media.

(v) The logbook can be in electronic format provided all information is readily available to the Department during periodic inspections.

(f) CT Radiation Protocol Committee (RPC).

(1) The registrant must develop and maintain a CT RPC, or must allow its Radiation Safety Committee to assume such responsibility. Members of the RPC must include but not be limited to the:

(i) lead CT radiologist;
(ii) lead CT technologist;
(iii) QMP; and
(iv) other individuals as deemed necessary by the registrant (e.g., Radiation Safety Officer, Chief Medical or Administrative Officer, Radiology Department Administrator/Manager).

(2) The RPC must:
(i) review existing CT protocols along with the evaluation and implementation of new and innovative technologies that can improve image quality and lower patient dose in comparison with the older protocol.
(ii) review the capabilities of the individual CT scanner to ensure maximum performance is achieved.
(iii) determine and review the protocols used frequently or which could result in significant doses. This review must include acquisition and reconstruction parameters, image quality, and radiation dose. At a minimum, the facility must review the following clinical protocols, if performed, at intervals at least every 12 months:
(A) Pediatric Head;
(B) Pediatric Abdomen;
(C) Adult Head;
(D) Adult Abdomen;
(E) Adult Chest;
(F) Brain Perfusion.
(iv) establish and implement written protocols, or protocols documented in an electronic reporting system, that include but are not limited to the following:
(A) a method to be used to monitor the CT radiation output.
(B) a standardized protocol naming policy.
(C) an alert dose value for CT procedures reviewed in clause (iii) of this paragraph must be established by the QMP.
(D) actions to be taken for cases when the dose alert value was exceeded, which may include patient follow-up.
(E) a process determining who has access and authority to make changes to the protocol management systems, including a method to prevent inadvertent or unauthorized modifications to a CT protocol.
(v) if CT fluoroscopy is performed, the RPC must establish and implement operating procedures and training designed to minimize patient and occupational radiation exposure.
(vi) provide an annual report to the radiation safety committee or radiation safety officer, in the absence of a radiation safety committee,
(vii) At a minimum the RPC members must meet as often as necessary to conduct business but at intervals not to exceed 12 months.
(viii) A record of each RPC meeting must be maintained. The record must include the date, names of individuals in attendance, minutes of the meeting, and any action taken.

(g) Medical events.
(1) For purposes of this section, a medical event refers to the administration of a CT or CBCT scan in which any of the following occur:
(i) a CT or CBCT scan is performed on the wrong person;
(ii) a CT scan is performed on the wrong body part.
(iii) a CT scan that results in damage to an organ, organ system or results in hair loss or erythema as determined by a physician.
(2) A medical event described in paragraph (1) of this subdivision must be reported to the Department in writing within 15 days of occurrence. The report must contain:
(i) a detailed account of the medical event;
(ii) a calculation of the resulting radiation dose that was delivered in error; and
(iii) what protocols have been initiated to prevent the re-occurrence of the medical event.

The minutes of the QA Committee in regard to the reported medical event must be forwarded to the Department.

(h) PET CT and SPECT CT Systems. CT systems used solely to calculate attenuation coefficients in nuclear medicine studies shall meet the following requirements:
(1) The registrant must establish a quality assurance program with necessary QA testing to assure the validity of the attenuation coefficients clinically determined.
(2) Routine QA checks must be completed at least once a week. These checks must be established anddocumented by a QMP following nationally recognized guidelines or those approved by the Department.
(3) To satisfy paragraphs (1) and (2) of this subdivision, the registrant must follow the manufacturer's recommendations for the quality assurance tests to be conducted at the manufacturer's recommended frequency.

(i) CT and CBCT units utilized in podiatry and veterinary offices. CT systems, including CBCT systems, solely used for podiatry imaging or non-human imaging must meet the requirements of radiation protection surveys as indicated in §175.16, and are otherwise exempt from the accreditation and quality assurance standards of this Code. Facilities must follow manufacturer recommended testing protocols and frequency as stated in the manufacturer's manual, and if any tests are shown to exceed manufacturer tolerances, the registrant must complete all required corrective actions within 30 days.

§ 175.60 Therapeutic radiation machines - general requirements.

(a) Administrative controls. The registrant must ensure that the requirements of this Code are met in the operation of the therapeutic radiation machine that is registered with the Department, pursuant to §175.41.

(b) A therapeutic radiation machine that does not meet the provisions of this Code shall not be used for irradiation of patients.

(c) Authorized users. The authorized user of any therapeutic radiation machine must be a physician who:

(1) is certified in:
(i) radiation oncology or therapeutic radiology by the American Board of Radiology or Radiology (combined diagnostic and therapeutic radiology program) by the American Board of Radiology prior to 1976; or
(ii) radiation oncology by the American Osteopathic Board of Radiology; or
(iii) radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or
(iv) therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
(v) radiation oncology by the National Board of Physicians and Surgeons

(2) is in the active practice of therapeutic radiology, and has completed two hundred (200) hours of instruction in basic radiation techniques applicable to the use of an external beam radiation therapy unit, five hundred (500) hours of supervised work experience, and a minimum of three (3) years of supervised clinical experience.

(i) To satisfy the requirement for instruction in this paragraph, classroom and laboratory training must include:
(A) radiation physics and instrumentation;
(B) radiation protection;
(C) mathematics pertaining to the use and measurement of ionization radiation; and
(D) radiation biology.

(ii) To satisfy the requirement for supervised work experience in this paragraph, training must be under the supervision of an authorized user and must include:
(A) review of the full calibration measurements and periodic quality assurance checks;
(B) evaluation of prepared treatment plans and calculation of treatment times/patient treatment settings;
(C) use of administrative controls to prevent medical events;
(D) implementing emergency procedures to be followed in the event of the abnormal operation of an external beam radiation therapy unit or console; and
(E) checking and using radiation survey meters.

(iii) To satisfy the requirement for a period of supervised clinical experience in this paragraph, training must include one (1) year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association, and an additional two (2) years of clinical experience in therapeutic radiology under the supervision of an authorized user. The supervised clinical experience must include:
(A) examining individuals and reviewing their case histories to determine their suitability for external beam radiation therapy treatment, and any limitations/ contraindications;
(B) selecting proper dose and how it is to be administered;
(C) calculating the therapeutic radiation machine doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses or treatment plans as warranted by patients' reaction to radiation; and

(D) post-administration follow-up and review of case histories.

(3) For certain therapeutic modalities, such as proton, neutron, carbon, helium or any other heavy ion therapy, authorized users must document training and experience together with the specific modality. The training must include device operation, safety procedures and clinical use of the therapy unit. This training requirement may be satisfied by satisfactory completion of a training program provided by the particular therapy unit vendor or by receiving training supervised by another authorized user or QMP, who is authorized for the use of such therapy unit modality.

(4) Notwithstanding the other requirements of this section, the registrant for any therapeutic radiation machine may also submit the training of the prospective authorized user physician for Department review on a case-by-case basis.

(5) A physician shall not act as an authorized user for any therapeutic radiation machine until such time as said physician's training has been reviewed and approved by the Department.

(d) Qualifications of operators.

(1) Individuals who will be operating a therapeutic radiation machine for medical use must be American Registry of Radiologic Technologists (ARRT) Registered Radiation Therapy Technologists. Individuals who are not ARRT Registered Radiation Therapy Technologists must submit evidence that they have satisfactorily completed a radiation therapy technologist training program that complies with the requirements of the Joint Review Committee on Education in Radiologic Technology (i.e., "Standards for an Accredited Educational Program in Radiologic Sciences", Joint Review Committee on Education in Radiologic Technology, 2001).

(2) The names and training of all personnel currently operating a therapeutic radiation machine must be kept on file at the facility. Information on former operators must be retained for a period of at least two (2) years beyond the last date they were authorized to operate a therapeutic radiation machine at that facility.

(e) Written safety procedures and rules must be developed by a QMP and must be available in the control area of a therapeutic radiation machine, including any restrictions required for the safe operation of the particular therapeutic radiation machine. The operator must be able to demonstrate familiarity with these rules.

(f) Individuals must not be exposed to the useful beam except for medical therapy purposes and unless such exposure has been ordered in writing by a therapeutic radiation machine authorized user. This provision specifically prohibits deliberate exposure of an individual for training, demonstration or other non-healing-arts purposes.

(g) Visiting authorized user. Notwithstanding other provisions of this section, a registrant may permit any physician to act as a visiting authorized user under the term of the registrant's Certificate of Registration for up to sixty (60) days per calendar year if:

(1) the visiting authorized user has the prior written permission of the registrant's management and, if the use occurs on behalf of an institution, the institution's Radiation Safety Committee (where applicable); and

(2) the visiting authorized user meets the requirements established for authorized users in subdivision (c) of this section, and

(3) the registrant maintains copies of the written permission required by paragraph (1) of this subdivision and documentation that the visiting authorized user met the requirements of paragraph (2) of this subdivision for five (5) years from the date of the last visit.

(h) All individuals associated with the operation of a therapeutic radiation machine must be instructed in and must comply with the provisions of the registrant's quality management program. In addition to the requirements of this section, these individuals are also subject to the requirements of this Code.

(i) Information and maintenance record and associated information. The registrant must maintain the following information in a separate file or package for each therapeutic radiation machine, for inspection by the Department:

(1) report of acceptance testing;

(2) records of all surveys, calibrations, and periodic quality assurance checks of the therapeutic radiation machines required by this Code, as well as the names of persons who performed such activities;

(3) records of maintenance or modifications performed on the therapeutic radiation machine, as well as the names of persons who performed such services, and

(4) signature of person authorizing the return of the therapeutic radiation machine to clinical use after service, repair or upgrade.

(j) Records retention. All records required by this section must be retained until disposal is authorized by the Department, or unless another retention period is specifically authorized. All required records must be retained in an active file from at least the time of generation until the next Department inspection. Any required record generated prior to the last Department inspection may be microfilmed or otherwise archived as long as a complete copy of said record can be retrieved until such time as the Department authorizes final disposal.

§175.61 Therapeutic radiation machines - technical requirements.

(a) Radiation Protection surveys.

(1) The registrant must ensure that radiation protection surveys of all new facilities, and of existing facilities not previously surveyed, are performed with an operable radiation measurement survey instrument calibrated in accordance with §175.66. The radiation protection survey must be performed by, or under the direction of, a QMP or a qualified expert and must verify that, with the therapeutic radiation machine in a "BEAM-ON" condition, with the largest clinically available treatment field and with a scattering phantom in the useful beam of radiation, that radiation levels in both restricted and unrestricted areas are not likely to cause personnel exposures in excess of the limits specified in this Code

(2) In addition to the requirements of paragraph (1) of this subdivision, a radiation protection survey must also be performed prior to any subsequent medical use and:

(i) after making any change in the treatment room shielding;
(ii) after making any change in the location of the therapeutic radiation machine within the treatment room;
(iii) after relocating the therapeutic radiation machine; or
(iv) before using the therapeutic radiation machine in a manner that could result in increased radiation levels in areas outside the external beam radiation therapy treatment room.

(3) The survey record must indicate all instances where the facility, in the opinion of the QMP or a qualified expert, is in violation of applicable requirements. The survey record must also include:

(i) the date of the measurements;
(ii) the reason the survey is required;
(iii) the manufacturer's name;
(iv) model number and serial number of the therapeutic radiation machine;
(v) the instruments used to measure radiation levels;
(vi) a plan of the areas surrounding the treatment room that were surveyed;
(vii) the measured dose rate at several points in each area expressed in microsieverts or millirems per hour;
(viii) the calculated maximum level of radiation over a period of one (1) week for each restricted and unrestricted area; and
(ix) the signature of the individual responsible for conducting the survey.

(4) If the results of the surveys required by this subdivision indicate any radiation levels in excess of the respective limit specified in this Code, the registrant must lock the control in the "OFF" position and not use the unit, except as may be necessary to repair, replace, or test the therapeutic radiation machine, the therapeutic radiation machine shielding, or the treatment room shielding; or until the registrant has received a specific exemption from the Department.

(b) Modification of radiation therapy unit or room before beginning a treatment program. If the survey required by subdivision (a) of this section indicates that an individual in an unrestricted area may be exposed to levels of radiation greater than those permitted by this Code, before beginning the treatment program, the registrant must:

(1) either equip the unit with beam direction interlocks or add additional radiation shielding to ensure compliance with this Code;

(2) perform the survey required by subdivision (a) of this section again; and

(3) include in the report required by subdivision (d) of this

section, the results of the initial survey, a description of the modification made to comply with paragraph (1) of subdivision (b) of this section, and the results of the second survey; or

(4) request and receive a registration amendment under this Code that authorizes radiation levels in unrestricted areas greater than those permitted by this Code.

(c) Dosimetry equipment.

(1) The registrant must have a calibrated dosimetry system available for use. The system must have been calibrated by the National Institute for Standards and Technology (NIST) or by an American Association of Physicists in Medicine (AAPM) Accredited Dosimetry Calibration Laboratory (ADCL). The calibration must have been performed within the previous twenty-four (24) months and after any servicing that may have affected system calibration. An independent survey must be conducted by a qualified expert or QMP other than the person performing the original survey prior to the equipment being used except as described in in this section:

(i) for beams with energies greater than 1 MV (1 MeV), the dosimetry system must have been calibrated for Cobalt-60;

(ii) for beams with energies equal to or less than 1 MV (1 MeV), the dosimetry system must have been calibrated at an energy (energy range) appropriate for the radiation being measured.

(2) The registrant must have available for use a dosimetry system to perform quality assurance check measurements. To meet this requirement, the system may be compared with a system that has been calibrated in accordance with paragraph (1) of this subdivision. This comparison must have been performed within the previous twelve (12) months and after each servicing that may have affected system calibration. The quality assurance check system may be the same system used to meet the requirement in paragraph (1) of this subdivision.

(3) The registrant must maintain a record of each dosimetry system calibration, intercomparison, and comparison for the duration of the license or registration. For each calibration, intercomparison, or comparison, the record must include:

(i) the date;

(ii) the model numbers and serial numbers of the instruments that were calibrated, inter-compared, or compared as required by paragraphs (1) and (2) of this subdivision the correction factors that were determined;

(iii) the names of the individuals who performed the calibration, intercomparison, or comparison; and

(iv) evidence that the intercomparison was performed by, or under the direct supervision and in the physical presence of, a QMP.

(d) Reports of external beam radiation therapy surveys and measurements. The registrant for any therapeutic radiation machine subject to §§ 175.64 or 175.65 must furnish a copy of the records required by subdivisions (a) and (b) of this section to the Department within thirty (30) days following completion of the action that initiated the record requirement.

§175.62 Therapeutic radiation machines - quality assurance requirements.

Each registrant or applicant subject to the requirements of §§ 175.64, 175.65 or 175.69 must develop, implement and maintain a quality assurance program to provide assurance that radiation will be administered as directed by the authorized user.

(a) The quality assurance program must address, at a minimum, the following specific objectives:

(1) Written directives.

(i) A written directive must be dated and signed by an authorized user prior to the administration of radiation to a patient. If because of the patient's condition, a delay in the order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented as soon as possible in writing in the patient's record and a revised written directive is signed by an authorized user within 48 hours of the oral revision.

(ii) The written directive must contain the patient or human research subject's name, the type and energy of the beam, the total dose, dose per fraction, treatment site, and number of fractions.

(iii) A written revision to an existing written directive may be made provided that the revision is dated and signed by an authorized user prior to the administration of the therapeutic radiation machine dose, or the next fractional dose.

(iv) The registrant must retain a copy of the written directive for three (3) years.

(2) Procedures for administration of radiation treatments. The registrant must develop, implement, and maintain written procedures to provide assurance that:

(i) prior to the administration of each course of radiation treatments, the patient's or human research subject's identity is verified by more than one method as the individual named in the written directive;

(ii) each administration is in accordance with the written directive;

(iii) therapeutic radiation machine final plans of treatment and related calculations are in accordance with the respective written directives by:

(A) checking both manual and computer generated dose calculations to verify they are correct and in accordance with the written directive; and

(B) verifying that any computer-generated calculations are correctly transferred into the consoles of authorized therapeutic medical units;

(iv) any unintended deviation from the written directive is identified, evaluated and appropriate action is taken; and

(v) the registrant retains a copy of the procedures for administrations for the duration of the registration.

(vi) As part of the quality assurance program, all linear accelerator treatment modalities must verify and record the treatment dose system.

(b) Accreditation in radiation oncology (except superficial therapeutic x-ray units).

(1) Ninety (90) days from the effective date of this rule, each registrant or licensee must have an active application with, or be accredited in radiation oncology by the American College of Radiology or the American College of Radiation Oncology or another accrediting organization that is equivalent as determined by the Department.

(2) Eighteen (18) months from the effective date of this rule, each registrant and licensee must maintain accreditation in radiation oncology by the American College of Radiology or the American College of Radiation Oncology or another accrediting organization that is equivalent as determined by the Department.

(3) The registrant or licensee must maintain a record of accreditation, including a copy of the application, all supplemental application information and all correspondence transmitted between the accrediting body and the registrant or licensee. Records must be maintained for at least 6 years.

(c) A certified registrant must make a record of, but not report, a therapeutic radiation dose when errors in computation, calibration, time of exposure, treatment geometry or equipment malfunction result in a calculated total treatment dose differing from the final prescribed total treatment dose ordered by more than 10 percent.

(d) A certified registrant must report any event resulting from intervention of a patient or human research subject in which the administration of radiation, byproduct material or radiation from byproduct material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

§175.63 Therapeutic radiation machines - medical events.

A certified registrant must report to the Department any medical event, except for an event that results from patient intervention.

(a) The certified registrant must notify the Department by telephone no later than the next calendar day after discovery of the medical event.

(b) The certified registrant must submit a written report to the Department within 15 days after discovery of the medical event. The report may not contain the individual's name or any other information that could lead to identification of the individual who is the subject of the report. This reporting requirement may be satisfied by submitting to the Department a copy of the incident report required to be filed with the New York State Department of Health, pursuant to 10 NYCRR §405.8, provided, however, that any such report contains at least the following:

(1) the certified registrant's name;

(2) the name of the prescribing physician;

(3) a brief description of the event;

(4) why the event occurred;

(5) the effect, if any, on the individuals who received the administration;

(6) what actions, if any, have been taken or are planned to prevent recurrence; and

(7) certification that the certified registrant notified the individual (or the individual's responsible relative or guardian), and if not, why not, including whether such failure to notify was based on guidance from the referring physician .

(c) The certified registrant must provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the certified registrant either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The certified registrant is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the certified registrant must notify the individual as soon as possible thereafter. The certified registrant must not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this paragraph, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the certified registrant must inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The certified registrant must provide such a written description if requested.

(d) A certified registrant must:

(1) annotate a copy of the report provided to the Department with the:

(i) name of the individual who is the subject of the event; and

(ii) social security number or other patient identification number, if one has been assigned, of the individual who is the subject of the event; and

(2) provide a copy of the annotated report to the referring physician, if other than the certified registrant, no later than 15 days after the discovery of the event.

(e) Aside from the notification requirements of this section, nothing in this section affects any rights or duties of certified registrants and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.

(f) Records of medical events. A registrant must retain a record of reported medical events for three (3) years. The record must contain the following:

(1) the registrant's name and the names of the individuals involved;

(2) the social security number or other patient identification number, if one has been assigned, of the individual who is the subject of the event;

(3) a brief description of the event; why it occurred; the effect, if any, on the individual;

(4) the actions, if any, taken or planned to prevent recurrence; and

(5) whether the registrant notified the individual (or the individual's responsible relative or guardian) and, if not, whether such failure to notify was based on guidance from the referring physician.

§175.64 Therapeutic radiation machines of less than 500 kV. The requirements of this section do not apply to electronic brachytherapy devices.

(a) Leakage radiation. When the x-ray tube is operated at its maximum rated tube current for the maximum kV, the leakage air kerma rate must not exceed the value specified at the distance specified for that classification of therapeutic radiation machine, as follows:

(1) for 5-50 kV Systems, the leakage air kerma rate measured at any position 5 centimeters from the tube housing assembly must not exceed 1 mGy (100 mrad) in any one hour.

(2) for >50 and <500 kV Systems, the leakage air kerma rate measured at a distance of 1 meter from the target in any direction must not exceed 1 cGy (1 rad) in any 1 hour. This air kerma rate measurement may be averaged over areas no larger than one hundred square centimeters (100 cm2). In addition, the air kerma rate at a distance of 5 centimeters from the surface of the tube housing assembly must not exceed 30 cGy (30 rad) per hour.

(3) For each therapeutic radiation machine, the registrant must determine, or obtain from the manufacturer, the leakage radiation existing at the positions specified in paragraphs (1) and (2) of this subdivision for the specified operating conditions. Records on leakage radiation measurements must be maintained at the installation for inspection by the Department.

(b) Permanent beam limiting devices. Permanent diaphragms or cones used for limiting the useful beam must provide at least the same degree of attenuation as required for the tube housing assembly.

(c) Adjustable or removable beam limiting devices.

(1) All adjustable or removable beam limiting devices, diaphragms, cones or blocks must not transmit more than 5 percent of the useful beam for the most penetrating beam used;

(2) When adjustable beam limiting devices are used, the position and shape of the radiation field must be indicated by a light beam.

(d) Filter system. The filter system must be so designed that:

(1) filters cannot be accidentally displaced at any possible tube orientation;

(2) for equipment installed after the effective date of this Code, an interlock system prevents irradiation if the proper filter is not in place;

(3) the air kerma rate escaping from the filter slot must not exceed 1 cGy (1 rad) per hour at one (1) meter under any operating conditions; and

(4) each filter must be marked as to its material of construction and its thickness.

(e) Tube immobilization.

(1) The x-ray tube must be so mounted that it cannot accidentally turn or slide with respect to the housing aperture; and

(2) the tube housing assembly must be capable of being immobilized for stationary portal treatments.

(f) Source marking. The tube housing assembly must be so marked that it is possible to determine the location of the source to within 5 millimeters and such marking must be readily accessible for use during calibration procedures.

(g) Beam block. Contact therapy tube housing assemblies must have a removable shield of material, equivalent in attenuation to 0.5 millimeters of lead at 100 kV, which can be positioned over the entire useful beam exit port during periods when the beam is not in use.

(h) Timer. A suitable irradiation control device must be provided to terminate the irradiation after a pre-set time interval.

(1) A timer with a display must be provided at the treatment control panel. The timer must have a pre-set time selector and an elapsed time or time remaining indicator;

(2) the timer must be a cumulative timer that activates with an indication of "BEAM-ON" and retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated, it must be necessary to reset the elapsed time indicator;

(3) the timer must terminate irradiation when a pre-selected time has elapsed, if any dose monitoring system present has not previously terminated irradiation;

(4) the timer must permit accurate pre-setting and determination of exposure times as short as 1 second;

(5) the timer must not permit an exposure if set at zero;

(6) the timer must not activate until the shutter is opened when irradiation is controlled by a shutter mechanism unless calibration includes a timer error correction to compensate for mechanical lag; and

(7) the timer must be accurate to within 1 percent of the selected value or 1 second, whichever is greater.

(i) Control panel functions. The control panel, in addition to the displays required by other provisions in this section, must have:

(1) an indication of whether electrical power is available at the control panel and if activation of the x-ray tube is possible;

(2) an indication of whether x-rays are being produced;

(3) a means for indicating x-ray tube potential and current;

(4) the means for terminating an exposure at any time;

(5) a locking device which will prevent unauthorized use of the therapeutic radiation machine; and

(6) or therapeutic radiation machines manufactured after the effective date of this Code, a positive display of specific filters in the beam.

(j) Multiple tubes. When a control panel may energize more than one x-ray tube:

(1) it must be possible to activate only one x-ray tube at any time;

(2) there must be an indication at the control panel identifying which x-ray tube is activated; and

(3) there must be an indication at the tube housing assembly when that tube is energized.

(k) Target-to-Skin Distance (TSD). There must be a means of determining the central axis TSD to within one (1) centimeter and of reproducing this measurement to within two (2) millimeters thereafter.

(l) Shutters. Unless it is possible to bring the x-ray output to the prescribed exposure parameters within 5 seconds after the x-ray "ON" switch is energized, the beam must be attenuated by a shutter having a lead equivalency not less than that of the tube housing assembly. In addition, after the unit is at operating parameters, the shutter must be controlled by the operator from the control panel. An indication of shutter position must appear at the control panel.

(m) Low filtration x-ray tubes. Each therapeutic radiation machine equipped with a beryllium or other low-filtration window must be clearly labeled as such upon the tube housing assembly and must be provided with a permanent warning device on the control panel that is activated when no additional filtration is present, to indicate that the dose rate is very high.

(n) Facility design requirements for therapeutic radiation machines capable of operating in the range 50 kV to 500 kV. In addition to shielding adequate to meet the requirements of §175.67, the treatment room must meet the following design requirements:

(1) Aural communication. Provision must be made for continuous two-way aural communication between the patient and the operator at the control panel;

(2) Viewing systems. Provision must be made to permit continuous observation of the patient during irradiation and the viewing system must be so located that the operator can observe the patient from the control panel. The therapeutic radiation machine must not be used for patient irradiation unless at least one viewing system is operational.

(o) Additional requirements. Treatment rooms that contain a therapeutic radiation machine capable of operating above 150 kV must meet the following additional requirements:

(1) all protective barriers must be fixed except for entrance doors or beam interceptors;

(2) the control panel must be located outside the treatment room or in a totally enclosed booth, which has a ceiling, inside the room;

(3) interlocks must be provided such that all entrance doors, including doors to any interior booths, must be closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it must not be possible to restore the machine to operation without closing the door and reinitiating irradiation by manual action at the control panel; and

(4) when any door referred to in paragraph (3) of this subdivision is opened while the x-ray tube is activated, the air kerma rate at a distance of 1 meter from the source must be reduced to less than 1 mGy (100 mrad) per hour.

(p) Full calibration measurements.

(1) Full calibration of a therapeutic radiation machine subject to this section must be performed by, or under the direct supervision of, a qualified medical physicist (QMP):

(i) before the first medical use following installation or reinstallation of the therapeutic radiation machine;
(ii) at intervals not exceeding one (1) year; and
(iii) before medical use under the following conditions:
(A) whenever quality assurance check measurements indicate that the radiation output differs by more than five percent (5%) from the value obtained at the last full calibration and the difference cannot be reconciled; and

(B) following any component replacement, major repair, or modification of components that could significantly affect the characteristics of the radiation beam.

(iv) Notwithstanding the requirements of subparagraphs (i) – (iii) of this paragraph:
(A) full calibration of therapeutic radiation machines with multi-energy capabilities is required only for those modes or energies that are not within their acceptable range; and

(B) if the repair, replacement or modification does not affect all energies, full calibration must be performed on the affected energy that is in most frequent clinical use at the facility. The remaining energies may be validated with quality assurance check procedures against the criteria in subparagraph (iii) of this paragraph.

(2) To satisfy the requirements of paragraph (1) of this subdivision, full calibration must include all measurements recommended for annual calibration by NCRP Report 69, "Dosimetry of X-Ray and Gamma Ray Beams for Radiation Therapy in the Energy Range 10 keV to 50 MeV" (1981).

(3) The registrant must maintain a record of each calibration for the duration of the registration. The record must include:

(i) the date of the calibration;
(ii) the manufacturer's name, model number, and serial number for both the therapeutic radiation machine and the x-ray tube;
(iii) the model numbers and serial numbers of the instruments used to calibrate the therapeutic radiation machine; and
(iv) the signature of the QMP responsible for performing the calibration.

(q) Periodic quality assurance checks.

(1) Periodic quality assurance checks must be performed on therapeutic radiation machines subject to the requirements of this section, which are capable of operation at greater than or equal to 50 kV.

(2) To satisfy the requirement of paragraph (1) of this subdivision, quality assurance checks must meet the following requirements:

(A) the registrant must perform quality assurance checks in accordance with written procedures established by the QMP; and

(B) the quality assurance check procedures must specify the frequency at which tests or measurements are to be performed. The quality assurance check procedures must specify that the quality assurance check must be performed during the calibration specified in paragraph (1) of subdivision (p) of this section. The acceptable tolerance must be stated for each parameter measured in the quality assurance check, when compared to the value for that parameter determined in the calibration specified in paragraph (1) of subdivision (p) of this section.

(3) The cause for a parameter exceeding a tolerance set by the QMP must be investigated and corrected before the system is used for patient irradiation;

(4) Whenever a quality assurance check indicates a significant change in the operating characteristics of a system, as specified in the QMP's quality assurance check procedures, the system must be recalibrated as required in paragraph (1) of subdivision (p) of this section;

(5) The registrant must use the dosimetry system described in §175.62(c)(2) to make the quality assurance check required in paragraph (2) of this subdivision;

(6) The registrant must have the QMP review and sign the results of each radiation output quality assurance check within thirty (30) days of the date that the check was performed;

(7) The registrant must ensure that safety quality assurance checks of therapeutic radiation machines subject to the requirements of this section are performed at intervals not to exceed thirty (30) days;

(8) Notwithstanding the requirements of paragraphs (6) and (7) of this subdivision, the registrant must ensure that no therapeutic radiation machine is used to administer radiation to humans unless the quality assurance checks required by paragraphs (1) and (2) of this subdivision have been performed within the thirty (30) day period immediately prior to said administration;

(9) To satisfy the requirement of paragraph (7) of this subdivision, safety quality assurance checks must ensure proper operation of:

(i) electrical interlocks at each external beam radiation

therapy room entrance;
(ii) the "BEAM-ON" and termination switches;
(iii) beam condition indicator lights on the access doors, control console, and in the radiation therapy room;
(iv) viewing systems;
(v) electrically operated treatment room doors from inside and outside the treatment room, if applicable.

(10) The registrant must maintain a record of each quality assurance check required by paragraphs (1) and (7) of this subdivision for 3 years. The record must include:

(i) the date of the quality assurance check;
(ii) the manufacturer's name, model number, and serial number of the therapeutic radiation machine; the manufacturer's name;
(iii) model number and serial number for the instrument used to measure the radiation output of the therapeutic radiation machine; and
(iv) the signature of the individual who performed the periodic quality assurance check

(r) Operating procedures.

(1) The therapeutic radiation machine must not be used for irradiation of patients unless the requirements of subdivisions (p) and (q) of this section have been met.

(2) Therapeutic radiation machines must not be left unattended unless secured, pursuant to paragraph (5) of subdivision (i) of this section.

(3) When a patient must be held in position for radiation therapy, mechanical supporting or restraining devices must be used.

(4) The tube housing assembly must not be held by an individual during operation unless the assembly is designed to require such holding and the peak tube potential of the system does not exceed 50 kV. In such cases, the holder must wear protective gloves and apron of not less than 0.5 millimeters lead equivalency at 100 kV.

(5) A copy of the current operating and emergency procedures must be maintained at the therapeutic radiation machine control console.

(6) No individual other than the patient shall be in the treatment room during exposures from therapeutic radiation machines operating above 150 kV. At energies less than or equal to 150 kV, any individual, other than the patient, in the treatment room must be protected by a barrier sufficient to meet the requirements of this Code.

(s) Possession of survey instruments. Each facility location authorized to use a therapeutic radiation machine in accordance with this section must possess appropriately calibrated portable monitoring equipment. At a minimum, such equipment must include a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 µSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instrument must be operable and calibrated in accordance with §175.66.

§175.65 Therapeutic radiation machines - certain proton and electron therapy systems.

(a) Possession of survey instrument. Each facility location authorized to use a therapeutic radiation machine subject to this section must possess appropriately calibrated portable monitoring equipment. At a minimum, such equipment must include a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 µSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instrument must be operable and calibrated in accordance with §175.76.

(b) Leakage radiation outside the maximum useful beam in photon and electron modes.

(1) The absorbed dose due to leakage radiation (excluding neutrons) at any point outside the maximum sized useful beam, but within a circular plane of radius two (2) meters which is perpendicular to and centered on the central axis of the useful beam at the nominal treatment distance (i.e. patient plane), must not exceed a maximum of 0.2 percent and an average of 0.1 percent of the absorbed dose on the central axis of the beam at the nominal treatment distance. Measurements must be averaged over an area not exceeding one hundred square centimeters (100 cm2) at a minimum of sixteen (16) points uniformly distributed in the plane;

(2) Except for the area defined in paragraph (1) of this subdivision, the absorbed dose due to leakage radiation (excluding neutrons) at 1 meter from the electron path between the electron source and the target or electron window must not exceed 0.5 percent of the absorbed dose on the central axis of the beam at the nominal treatment distance. Measurements must be averaged over an area not exceeding one hundred square centimeters(100 cm^2);

(3) For equipment manufactured after the effective date of this Code, the neutron absorbed dose outside the useful beam must comply with International Electrotechnical Commission (IEC) Document 60601-2-1 (most current revision); and

(4) For each therapeutic radiation machine, the registrant must determine, or obtain from the manufacturer, the leakage radiation existing at the positions specified in paragraphs (1) and (2) of this subdivision for the specified operating conditions. Records on leakage radiation measurements must be maintained at the installation for inspection by the Department.

(c) Leakage radiation through beam limiting devices.

(1) Photon radiation. All adjustable or interchangeable beam limiting devices must attenuate the useful beam such that at the nominal treatment distance, the maximum absorbed dose anywhere in the area shielded by the beam limiting device must not exceed 2 percent of the maximum absorbed dose on the central axis of the useful beam measured in a 100 cm^2 radiation field, or maximum available field size if less than 100 cm^2.

(2) Electron radiation. All adjustable or interchangeable electron applicators must attenuate the radiation, including but not limited to photon radiation generated by electrons incident on the beam limiting device and electron applicator and other parts of the radiation head, such that the absorbed dose in a plane perpendicular to the central axis of the useful beam at the nominal treatment distance must not exceed:

(i) a maximum of two percent (2%) and average of 0.5 percent of the absorbed dose on the central axis of the useful beam at the nominal treatment distance. This limit applies beyond a line seven (7) centimeters outside the periphery of the useful beam; and
(ii) a maximum of ten percent (10%) of the absorbed dose on the central axis of the useful beam at the nominal treatment distance. This limit applies beyond a line two (2) centimeters outside the periphery of the useful beam.

(3) Skyshine radiation. The exposure due to neutron and photon emissions scattered outside the facility must be calculated using industry standard methods.

(4) Measurement of leakage radiation.

(i) Photon radiation. Measurements of leakage radiation through the beam limiting devices must be made with the beam limiting devices closed and any residual aperture blocked by at least two (2) tenth value layers of suitable absorbing material. In the case of overlapping beam limiting devices, the leakage radiation through each set must be measured independently at the depth of maximum dose. Measurements must be made using a radiation detector of area not exceeding ten square centimeters (10 cm^2).
(ii) Electron radiation. Measurements of leakage radiation through the electron applicators must be made with the electron beam directed into the air and using a radiation detector of area up to but not exceeding one (1) square centimeter suitably protected against radiation which has been scattered from material beyond the radiation detector. Measurements must be made using one (1) centimeter of water equivalent build up material.

(d) Filters/wedges.

(1) Each wedge filter that is removable from the system must be clearly marked with an identification number. For removable wedge filters, the nominal wedge angle must appear on the wedge or wedge tray (if permanently mounted to the tray). If the wedge or wedge tray is significantly damaged, the wedge transmission factor must be re-measured.

(2) If the absorbed dose rate information required by subdivision (i) of this section relates exclusively to operation with a field flattening filter or beam scattering foil in place, such foil or filter must be removable only by the use of tools.

(3) For equipment which utilizes wedge filters manufactured after the effective date of this Code, interchangeable field flattening filters, or interchangeable beam scattering foils, the following apply:

(i) irradiation must not be possible until a selection of a filter or a positive selection to use "no filter" has been made at the treatment control panel, either manually or automatically;
(ii) an interlock system must be provided to prevent irradiation if the filter selected is not in the correct position;
(iii) a display must be provided at the treatment control panel showing the wedge filter, interchangeable field flattening filters, or interchangeable beam scattering foils in use; and
(iv) an interlock must be provided to prevent irradiation if any filter or beam scattering foil selection operation carried out in the treatment room does not agree with

the filter or beam scattering foil selection operation carried out at the treatment control panel.

(e) Stray radiation in the useful beam. For equipment manufactured after the effective date of this Code, the registrant must determine during acceptance testing, or obtain from the manufacturer, data sufficient to ensure that x-ray stray radiation in the useful electron beam, absorbed dose at the surface during x-ray irradiation and stray neutron radiation in the useful x-ray beam comply with International Electrotechnical Commission (IEC) Document 60601-2-1 (or the most current revision).

(f) Beam monitors. All therapeutic radiation machines subject to the requirements of this section must be provided with redundant beam monitoring systems. The sensors for these systems must be fixed in the useful beam during treatment to indicate the dose monitor unit rate.

(1) Equipment manufactured after the effective date of this Code must be provided with at least two (2) independently powered integrating dose meters. Alternatively, common elements may be used if the production of radiation is terminated upon failure of any common element.

(2) Equipment manufactured on or before the effective date of this Code must be provided with at least one (1) radiation detector. This detector must be incorporated into a useful beam monitoring system.

(3) The detector and the system into which that detector is incorporated must meet the following requirements:

(i) each detector must be removable only with tools and, if movable, must be interlocked to prevent incorrect positioning;

(ii) each detector must form part of a beam monitoring system from whose readings in dose monitor units the absorbed dose at a reference point can be calculated;

(iii) each beam monitoring system must be capable of independently monitoring, interrupting, and terminating irradiation; and

(iv) for equipment manufactured after the effective date of this Code, the design of the beam monitoring systems must ensure that the:

(A) malfunctioning of one system must not affect the correct functioning of the other systems; and

(B) failure of either system must terminate irradiation or prevent the initiation of radiation.

(v) each beam monitoring system must have a legible display at the treatment control panel. For equipment manufactured after the effective date of this Code, each display must:

(A) maintain a reading until intentionally reset;

(B) have only one scale and no electrical or mechanical scale multiplying factors;

(C) utilize a design such that increasing dose is displayed by increasing numbers; and

(D) in the event of power failure, the beam monitoring information required by clause (C) of subparagraph (v) of paragraph (3) of this subdivision displayed at the control panel at the time of failure must be retrievable in at least one system for a twenty (20) minute period of time.

(g) Beam symmetry.

(1) A bent-beam linear accelerator with beam flattening filters subject to the requirements of this section must be provided with auxiliary devices to monitor beam symmetry;

(2) The devices referenced in paragraph (1) of this subdivision must be able to detect field asymmetry greater than ten percent (10%); and

(3) The devices referenced in paragraph (1) of this subdivision must be configured to terminate irradiation if the specifications in paragraph (2) of this subdivision cannot be maintained.

(h) Selection and display of dose monitor units.

(1) Irradiation must not be possible until a new selection of a number of dose monitor units has been made at the treatment control panel.

(2) The pre-selected number of dose monitor units must be displayed at the treatment control panel until reset manually for the next irradiation.

(3) After termination of irradiation, it must be necessary to reset the dosimeter display before subsequent treatment can be initiated.

(4) For equipment manufactured after the effective date of this Code after termination of irradiation, it must be necessary for the operator to reset the pre-selected dose monitor units before irradiation can be initiated.

(i) Air kerma rate/absorbed dose rate. For equipment manufactured after the effective date of this Code, a system must be provided from whose readings the air kerma rate or absorbed dose rate at a reference point can be calculated. In addition, the following requirements apply:

(1) the dose monitor unit rate must be displayed at the treatment control panel;

(2) if the equipment can deliver under any conditions an air kerma rate or absorbed dose rate at the nominal treatment distance more than twice the maximum value specified by the manufacturer, a device must be provided which terminates irradiation when the air kerma rate or absorbed dose rate exceeds a value twice the specified maximum. The registrant must maintain a record of dose rate at which the irradiation will be terminated;

(3) if the equipment can deliver under any fault conditions an air kerma rate or absorbed dose rate at the nominal treatment distance more than ten (10) times the maximum value specified by the manufacturer, a device must be provided to prevent the air kerma rate or absorbed dose rate anywhere in the radiation field from exceeding twice the specified maximum value and to terminate irradiation if the excess absorbed dose at the nominal treatment distance exceeds 4 Gy (400 rad); and

(4) for each therapeutic radiation machine, the registrant must determine, or obtain from the manufacturer, the maximum values specified in paragraphs (2) and (3) of §175.65(i) for the specified operating conditions. Records of these maximum values) must be maintained at the installation for inspection by the Department.

(j) Termination of irradiation by the beam monitoring system or systems during stationary beam radiation therapy.

(1) Each primary system must terminate irradiation when the pre-selected number of dose monitor units has been detected by the system.

(2) If the original design of the equipment included a secondary dose monitoring system, that system must be capable of terminating irradiation when not more than fifteen percent (15%) or forty (40) dose monitor units above the pre-selected number of dose monitor units set at the control panel has been detected by the secondary dose monitoring system.

(3) For equipment manufactured after the effective date of this Code, an indicator on the control panel must show which monitoring system has terminated irradiation.

(k) Termination of irradiation. It must be possible to terminate irradiation and equipment movement or go from an interruption condition to termination condition at any time from the operator's position at the treatment control panel.

(l) Interruption of irradiation. If a therapeutic radiation machine has an interrupt mode, it must be possible to interrupt irradiation and equipment movements at any time from the treatment control panel. Following an interruption, it must be possible to restart irradiation by operator action without any reselection of operating conditions. If any change is made of a pre-selected value during an interruption, irradiation and equipment movements must be automatically terminated.

(m) Timer. A suitable irradiation control device must be provided to terminate the irradiation after a pre-set time interval.

(1) A timer must be provided which has a display at the treatment control panel. The timer must have a pre-set time selector and an elapsed time indicator.

(2) The timer must be a cumulative timer that activates with an indication of "BEAM-ON" and retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated, it must be necessary to reset the elapsed time indicator.

(3) The timer must terminate irradiation when a pre-selected time has elapsed, if the dose monitoring systems have not previously terminated irradiation.

(n) Selection of radiation type. Equipment capable of both x-ray therapy and electron therapy must meet the following additional requirements:

(1) irradiation must not be possible until a selection of radiation type (x-rays or electrons) has been made at the treatment control panel;

(2) the radiation type selected must be displayed at the treatment control panel before and during irradiation;

(3) an interlock system must be provided to:

(i) ensure that the equipment can principally emit only the radiation type that has been selected;

(ii) prevent irradiation with x-rays, except to obtain an image, when electron applicators are fitted;

(iii) prevent irradiation with electrons when accessories specific for x-ray therapy are fitted; and

(iv) prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations carried out at the treatment control panel.

(o) Selection of energy. Equipment capable of generating radiation beams of different energies mus meet the following requirements:

(1) irradiation must not be possible until a selection of energy has been made at the treatment control panel;

(2) the nominal energy value selected must be displayed at the treatment control panel until reset manually for the next irradiation. After termination of irradiation, it must be necessary to reset the nominal energy value selected before

subsequent treatment can be initiated;

(3) irradiation must not be possible until the appropriate flattening filter or scattering foil for the selected energy is in its proper location; and

(4) for equipment manufactured after the effective date of this Code, the selection of energy must comply with International Electrotechnical Commission (IEC) Document 60601-2-1 (i.e., the most current revision).

(p) Selection of stationary beam radiation therapy or moving beam radiation therapy. Therapeutic radiation machines capable of both stationary beam radiation therapy and moving beam radiation therapy must meet the following requirements:

(1) irradiation must not be possible until a selection of stationary beam radiation therapy or moving beam radiation therapy has been made at the treatment control panel;

(2) the mode of operation must be displayed at the treatment control panel;

(3) an interlock system must be provided to ensure that the equipment can operate only in the mode that has been selected;

(4) an interlock system must be provided to prevent irradiation if any selected parameter in the treatment room does not agree with the selected parameter at the treatment control panel;

(5) moving beam radiation therapy must be controlled to obtain the selected relationships between incremental dose monitor units and incremental movement. For equipment manufactured after the effective date of this Code:

(i) an interlock system must be provided to terminate irradiation if the number of dose monitor units delivered in any 10 degrees of rotation or 1 cm of linear motion differs by more than twenty percent (20%) from the selected value;

(ii) where angle terminates the irradiation in moving beam radiation therapy, the dose monitor units delivered must differ by less than five percent (5%) from the dose monitor unit value selected;

(iii) an interlock must be provided to prevent motion of more than five (5) degrees or one (1) cm beyond the selected limits during moving beam radiation therapy;

(iv) an interlock must be provided to require that a selection of direction be made at the treatment control panel in all units which are capable of both clockwise and counter-clockwise moving beam radiation therapy; and

(v) moving beam radiation therapy must be controlled with both primary position sensors and secondary position sensors to obtain the selected relationships between incremental dose monitor units and incremental movement.

(6) Where the beam monitor system terminates the irradiation in moving beam radiation therapy, the termination of irradiation must be as required by subdivision (j) of this section.

(7) For equipment manufactured after the effective date of this Code, an interlock system must be provided to terminate irradiation if movement:

(i) occurs during stationary beam radiation therapy; or

(ii) does not start or stops during moving beam radiation therapy unless such stoppage is a pre-planned function.

(q) Facility design requirements for therapeutic radiation machines operating above 500 kV. In addition to the shielding requirements of §175.67, the following design elements are required:

(1) Protective barriers. All protective barriers must be fixed, except for access doors to the treatment room or movable beam interceptors.

(2) Control panel. In addition to other requirements specified in this Code, the control panel must also:

(i) be located outside the treatment room;

(ii) provide an indication of whether electrical power is available at the control panel and if activation of the radiation is possible;

(iii) provide an indication of whether radiation is being produced; and

(iv) include an access control (locking) device that will prevent unauthorized use of the therapeutic radiation machine.

(3) Viewing systems. Windows, mirrors, closed-circuit television or an equivalent viewing system must be provided to permit continuous observation of the patient following positioning and during irradiation and must be so located that the operator may observe the patient from the treatment control panel. The therapeutic radiation machine must not be used for patient irradiation unless at least one viewing system is operational.

(4) Aural communications. Provision must be made for continuous two-way aural communication between the patient and the operator at the control panel. The therapeutic radiation machine must not be used for irradiation of patients unless continuous two-way aural communication is possible.

(5) Room entrances. Treatment room entrances must be provided with warning lights in a readily observable position near the outside of all access doors, which will indicate when the useful beam is "ON" and when it is "OFF".

(6) Entrance interlocks. Interlocks must be provided such that all access controls are activated before treatment can be initiated or continued. If the radiation beam is interrupted by any access control, it must not be possible to restore the machine to operation without resetting the access control and reinitiating irradiation by manual action at the control panel.

(7) Beam interceptor interlocks. If the shielding material in any protective barrier requires the presence of a beam interceptor to ensure compliance with this Code, interlocks must be provided to prevent the production of radiation, unless the beam interceptor is in place, whenever the useful beam is directed at the designated barrier.

(8) Emergency cutoff switches. At least 1 emergency power cutoff switch must be located in the radiation therapy room and must terminate all equipment electrical power including radiation and mechanical motion. This switch is in addition to the termination switch required by subdivision (k) of this section. All emergency power cutoff switches must include a manual reset so that the therapeutic radiation machine cannot be restarted from the unit's control console without resetting the emergency cutoff switch.

(9) Safety interlocks. All safety interlocks must be designed so that any defect or component failure in the safety interlock system prevents or terminates operation of the therapeutic radiation machine.

(10) Surveys for residual radiation. Surveys for residual activity must be conducted on all therapeutic radiation machines capable of generating photon and electron energies, or proton energies above 10 MV prior to machining, removing, or working on therapeutic radiation machine components which may have become activated due to photo-neutron production.

(11) Applicants for proton therapy systems capable of operating at 500 keV and above must present documentation of shielding design adequate to meet the requirements of §175.67. An independent consultant registered, licensed and certified with computer simulation capabilities, not involved in the original design and with prior approval by the Department must be hired by the applicant to perform an independent verification of the proposed shielding design using equipment and site specific data or information. The independent consultant must prepare a report evaluating the correctness and completeness of the original shielding design calculation, and the adequacy of the shielding design to satisfy the requirements of §175.77. The consultant's report must be submitted to the Department by the applicant as an addendum to the application.

(r) QMP support.

(1) The services of a QMP must be required in facilities having therapeutic radiation machines with energies of 500 kV and above. The QMP must be responsible for:

(i) full calibrations required by subdivision (t) of this section and protection surveys required by §175.62(a);

(ii) supervision and review of dosimetry;

(iii) beam data acquisition and transfer for computerized dosimetry, and supervision of its use;

(iv) quality assurance, including quality assurance check review required by paragraph (5) of subdivision (u) of this section;

(v) consultation with the authorized user in treatment planning, as needed; and

(vi) perform calculations/assessments regarding medical events.

(2) If the QMP is not a full-time employee of the registrant, the operating procedures required by subdivision (s) of this section must also specifically address how the QMP is to be contacted for problems or emergencies, as well as the specific actions, if any, to be taken until the QMP can be contacted.

(3) Notwithstanding other provisions of this Code, the authorized medical physicist named on the certified registration for a proton therapy machine described in this section must be a full-time employee of the registrant.

(s) Operating procedures.

(1) No individual, other than the patient, must be in the treatment room during treatment or during any irradiation for testing or calibration purposes.

(2) Therapeutic radiation machines must not be made available for medical use, unless the requirements of subdivision (a) of §175.62 and subdivisions (t) and (u) of this section have been met.

(3) Therapeutic radiation machines, when not in operation, must be secured to prevent unauthorized use.

(4) When adjustable beam limiting devices are used, the position

and shape of the radiation field must be indicated by a light field.

(5) If a patient must be held in position during treatment, mechanical supporting or restraining devices must be used.

(6) A copy of the current operating and emergency procedures must be maintained at the therapeutic radiation machine control console.

(t) Acceptance testing, commissioning and full calibration measurements.

(1) Acceptance testing, commissioning and full calibration of a therapeutic radiation machine subject to this section must be performed by, or under the direct supervision of, a QMP.

(2) Acceptance testing and commissioning must be performed in accordance with "AAPM Code of Practice for Radiotherapy Accelerators: AAPM Report No. 47", prepared by Radiation Therapy Task Group 45 and the manufacturer's contractual specifications. Acceptance testing and commissioning must be conducted before the first medical use following installation or reinstallation of the therapeutic radiation machine.

(3) Full calibration for photon therapy systems capable of operating at 500 kV and above or electron therapy systems capable of operating at 500 keV and above must include measurement of all applicable parameters required by Table II of the "Comprehensive QA for Radiation Oncology: Report of AAPM Radiation Therapy: AAPM Report No. 46," prepared by Committee Task Group 40 and must be performed in accordance with "AAPM Code of Practice for Radiotherapy Accelerators: AAPM Report No. 47" prepared by Radiation Therapy Task Group 45. Although it is not necessary to complete all elements of a full calibration at the same time, all applicable parameters (for all energies) must be completed at intervals not exceeding twelve (12) calendar months, unless a more frequent interval is required in Table II.

(4) For proton therapy systems capable of operating at 500 keV and above, full calibration must include measurement of all applicable parameters. The certified registrant must submit their full calibration protocol to the Department for review and approval.

(5) The QMP must perform all elements of a full calibration necessary to determine that all parameters are within acceptable limits when the following apply:

(i) Whenever quality assurance check measurements indicate that the radiation output differs by more than five percent (5%) from the value obtained at the last full calibration and the difference cannot be reconciled. Therapeutic radiation machines with multi-energy or multi-mode capabilities shall only require measurements for those modes or energies that are not within their acceptable range.

(ii) Following any component replacement, major repair, or modification of components that could significantly affect the characteristics of the radiation beam. If the repair, replacement or modification does not affect all modes or energies, measurements must be performed on the effected mode/energy that is in most frequent clinical use at the facility. The remaining energies/modes may be validated with quality assurance check procedures against the criteria in subparagraph (i) of this paragraph (5) of this subdivision (t) of this section.

(6) The registrant must maintain a record of each calibration in an auditable form for the duration of the registration. The record must include:

(i) the date of the calibration, the manufacturer's name, model and serial number or other unambiguous identification of the therapeutic radiation machine along with the instrument's certificate of calibration and;

(ii) all measured beam output data collected during the calibration and the derivation for all the correction factors (as delineated in AAPM Reports TG 21 or TG 51 or any successor publication) applied to the measured beam output data in the calculation of the therapeutic radiation machine's beam output dose rate (the latter must be conducted for each photon and electron beam clinically utilized at the facility), and the signature of the radiation therapy physicist named on the registration.

(iii) for photon or electron therapy machines, the derivation of all the correction factors applied to the measured beam output data in the calculation of the therapeutic radiation machine's beam output dose rate (as delineated in AAPM Reports TG 21 or TG 51 or any successor publication) or;

(iv) for proton therapy machines, derivation for all the correction factors applied to the measured beam output data in the calculation of the therapeutic radiation machine's beam output dose rate (as delineated in the registrant's calibration protocol). The certified registrant's calibration protocol in the case of proton therapy machines must be submitted to Department for review and approval, and; the signature of the authorized medical physicist named on the certified registration.

(u) Periodic quality assurance checks.

(1) Periodic quality assurance checks must be performed on all therapeutic radiation machines subject to this section. To satisfy this requirement, quality assurance checks must include a determination of all parameters for periodic quality assurance checks and at the intervals contained in "Comprehensive QA for Radiation Oncology: Report of AAPM Radiation Therapy Committee Task Group 40," Medical Physics 21(4):581-, 1994, or any successor protocol, for photon therapy systems capable of operating at 500 kV and above or electron therapy systems capable of operating at 500 keV and above. The certified registrant must submit their quality assurance protocol to the Department for review and approval.

(2) To satisfy the requirement of paragraph (1) of this subdivision, quality assurance checks must include a determination of central axis radiation output and a representative sampling of periodic quality assurance checks contained in "Comprehensive QA for Radiation Oncology: AAPM Report No. 46" prepared by Radiation Therapy Committee Task Group 40. Representative sampling must include all applicable referenced periodic quality assurance checks in an interval not to exceed twelve (12) consecutive calendar months.

(3) The registrant must use a dosimetry system that has been compared within the previous twelve (12) months with the dosimetry system described in §175.62(c)(1) to make the periodic quality assurance checks required by paragraph (2) of this subdivision;

(4) The registrant must perform periodic quality assurance checks required by paragraph (1) of this subdivision in accordance with procedures established by the QMP;

(5) The registrant must review the results of each periodic radiation output check according to the following procedures:

(i) the authorized user and QMP must be immediately notified if any parameter is not within its acceptable tolerance. The therapeutic radiation machine must not be made available for subsequent medical use until the QMP has determined that all parameters are within their acceptable tolerances;

(ii) if all quality assurance check parameters appear to be within their acceptable range, the quality assurance check must be reviewed and signed by either the authorized user or QMP within 3 treatment days; and

(iii) the QMP must review and sign the results of each radiation output quality assurance check at intervals not to exceed thirty (30) days.

(6) Therapeutic radiation machines subject to the requirements of this section must have applicable safety quality assurance checks listed in "Comprehensive QA for Radiation Oncology: AAPM Report No. 46," prepared by AAPM Radiation Therapy Committee Task Group 40 performed at intervals not to exceed 1 week;

(7) To satisfy the requirement of paragraph (6) of this subdivision, safety quality assurance checks must ensure proper operation of:

(i) electrical interlocks at each external beam radiation therapy room entrance;

(ii) proper operation of the "BEAM-ON", interrupt and termination switches;

(iii) beam condition indicator lights on the access doors, control console, and in the radiation therapy room;

(iv) viewing systems;

(v) electrically operated treatment room doors from inside and outside the treatment room;

(vi) at least one emergency power cutoff switch. If more than one emergency power cutoff switch is installed and not all switches are tested at once, each switch must be tested on a rotating basis. Safety quality assurance checks of the emergency power cutoff switches may be conducted at the end of the treatment day in order to minimize possible stability problems with the therapeutic radiation machine.

(8) The registrant must promptly repair any system identified in paragraph (7) of this subdivision that is not operating properly.

(9) The registrant must maintain a record of each quality assurance check required by paragraphs (1) and (7) of this subdivision for three (3) years. The record must include:

(i) the date of the quality assurance check;

(ii) the manufacturer's name, model number, and serial number of the therapeutic radiation machine;

(iii) the manufacturer's name, model number and serial number for the instruments used to measure the radiation output of the therapeutic radiation machine; and

(iv) the signature of the individual who performed the quality assurance check.

(v) Possession of survey instruments.

(1) Each facility location authorized to use a therapeutic radiation machine in accordance with §175.65 must possess appropriately calibrated portable monitoring equipment. At a minimum, such equipment must include a portable radiation measurement survey instrument capable of measuring dose rates over the range of 10 µSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instruments must be operable and calibrated in accordance with §175.66

(2) Each facility location authorized to use a proton therapeutic radiation machine in accordance with §175.66 must possess appropriately calibrated portable neutron radiation measuring equipment.

(w) Quality assurance checks for Intensity-Modulated Radiation Therapy (IMRT) must:

(1) include commissioning and testing of the treatment planning and delivery systems, routine quality assurance of the delivery system, and patient-specific validation of treatment plans; and

(2) be performed in accordance with "Guidance document on delivery, treatment planning, and clinical implementation of IMRT: Report of the IMRT subcommittee of the AAPM radiation therapy committee: AAPM Report No. 82"; and

(3) be performed in accordance with the manufacturer's contractual specifications.

§175.66 Therapeutic radiation machines; calibration of survey instruments.

(a) The registrant must ensure that the survey instruments used to show compliance with this Code have been calibrated before first use, at intervals not to exceed twelve (12) months, and following repair.

(b) To satisfy the requirements of subdivision (a) of this section, the registrant must:

(1) calibrate all required scale readings up to 10 mSv (1000 mrem) per hour with an appropriate radiation source that is traceable to the National Institute of Standards and Technology (NIST);

(2) calibrate at least two (2) points on each scale to be calibrated. These points should be at approximately 1/3 and 2/3 of full-scale.

(c) To satisfy the requirements of subdivision (b) of this section., the registrant must:

(1) consider a point as calibrated if the indicated dose rate differs from the calculated dose rate by not more than 10 percent; and

(2) consider a point as calibrated if the indicated dose rate differs from the calculated dose rate by not more than 20 percent if a correction factor or graph is conspicuously attached to the instrument.

(d) The registrant must retain a record of each calibration required by subdivision (a) of this section for three (3) years. The record must include:

(1) a description of the calibration procedure; and

(2) a description of the source used and the certified dose rates from the source, and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration, and the date of calibration.

(e) The registrant may obtain the services of individuals licensed by the Department, the US Nuclear Regulatory Commission or an Agreement State to perform calibrations of survey instruments. The registrant must maintain records of calibrations that contain information required by subdivision (d) of this section.

§175.67 Therapeutic radiation machines; shielding and safety design requirements.

(a) Each therapeutic radiation machine subject to the requirements of §§ 175.64 or 175.65 must be provided with such primary and secondary barriers as are necessary to ensure compliance with this Code.

(b) Facility design information for all new installations of a therapeutic radiation machine or installations of a therapeutic radiation machine of higher energy into a room not previously approved for that energy must be submitted for Department approval prior to actual installation of the therapeutic radiation machine. The minimum facility design information that must be submitted to the Department is contained in Appendix A to this section:

APPENDIX A

INFORMATION ON RADIATION SHIELDING REQUIRED FOR PLAN REVIEWS

I. All Therapeutic Radiation Machines.

A. Basic facility information including: name, telephone number and Agency registration number of the individual responsible for preparation of the shielding plan; name and telephone number of the facility supervisor; and the street address (including room number) of the therapeutic radiation machine facility. The plan should also indicate whether this is a new structure or a modification to existing structures.

B. All wall, floor, and ceiling areas struck by the useful beam must have primary barriers.

C. Secondary barriers must be provided in all wall, floor, and ceiling areas not having primary barriers.

II. Therapeutic Radiation Machines up to 150 Kv (photons only). In addition to the requirements listed in Section I, therapeutic radiation machine facilities which produce only photons with a maximum energy less than or equal to 150 kV must submit shielding plans which contain, as a minimum, the following additional information:

A. Equipment specifications, including the manufacturer and model number of the therapeutic radiation machine, as well as the maximum technique factors;

B. Maximum design workload for the facility including total weekly radiation output, (expressed in gray (rad) or air kerma at 1 meter), total beam-on time per day or week, the average treatment time per patient, along with the anticipated number of patients to be treated per day or week;

C. A facility blueprint/drawing indicating: scale (0.25 inch = 1 foot is typical); direction of north; normal location of the therapeutic radiation machine's radiation ports; each port's travel and traverse limits; general direction of the useful beam; locations of any windows and doors; and the location of the therapeutic radiation machine control panel. If the control panel is located inside the therapeutic radiation machine treatment room, the location of the operator's booth must be noted on the plan and the operator's station at the control panel must be behind a protective barrier sufficient to ensure compliance with this Code;

D. The structural composition and thickness or lead/concrete equivalent of all walls, doors, partitions, floor, and ceiling of the rooms concerned;

E. The type of occupancy of all adjacent areas inclusive of space above and below the rooms concerned. If there is an exterior wall, show distance to the closest area where it is likely that individuals may be present; and

F. At least one example calculation which shows the methodology used to determine the amount of shielding required for each physical condition (i.e., primary and secondary/leakage barriers, restricted and unrestricted areas, entry doors) and shielding material in the facility:

(1) if commercial software is used to generate shielding requirements, please also identify the software used and the version/revision date.

(2) if the software used to generate shielding requirements is not in the open literature, please also submit quality control sample calculations to verify the result obtained with the software.

III. Therapeutic Radiation Machines Over 150 kV.

In addition to the requirements listed in Section I above, therapeutic radiation machine facilities that produce photons with a maximum energy in excess of 150 kV or electrons must submit shielding plans which contain, as a minimum, the following additional information:

A. Equipment specifications including the manufacturer and model number of the therapeutic radiation machine, and gray (rad) at the isocenter and the energy and types of radiation produced (i.e., photon, electron). The target to isocenter distance must be specified;

B. Maximum design workload for the facility including total weekly radiation output (expressed in gray (rad) at 1 meter), total beam-on time per day or week, the average treatment time per patient, along with the anticipated number of patients to be treated per day or week;

C. Facility blueprint/drawing (including both floor plan and elevation views) indicating relative orientation of the therapeutic radiation machine, scale [0.25 inch = 1 foot is typical], types, thickness and minimum density of shielding materials, direction of north, the locations and size of all penetrations through each shielding barrier (ceiling, walls and floor), as well as details of the doors and maze;

D. The structural composition and thickness or concrete equivalent of all walls, doors, partitions, floor, and ceiling of the rooms concerned;

E. The type of occupancy of all adjacent areas inclusive of space above and below the rooms concerned. If there is an exterior wall, show distance to the closest areawhere it is likely that individuals may be present;

F. Description of all assumptions that were in shielding calculations including, but not limited to, design energy (i.e., room may be designed for 6 MV unit although only a 4 MV unit is currently proposed), work-load, presence of integral beam-stop in unit, occupancy and use of adjacent areas, fraction of time that useful beam will intercept each permanent barrier (walls, floor and ceiling) and "allowed" radiation exposure in both restricted and unrestricted areas; and

G. At least one example calculation which shows the methodology used to determine the amount of shielding required for

each physical condition (i.e., primary and secondary/leakage barriers, restricted and unrestricted areas, small angle scatter, entry doors and maze) and shielding material in the facility:

(1) if commercial software is used to generate shielding requirements, also identify the software used and the version/revision date; and

(2) if the software used to generate shielding requirements is not in the open literature, also submit quality control sample calculations to verify the result obtained with the software.

IV. Neutron Shielding

In addition to the requirements listed in Section III, therapeutic radiation machine facilities that are capable of operating above 10 MV must submit shielding plans which contain, as a minimum, the following additional information:

A. The structural composition, thickness, minimum density and location of all neutron shielding material;

B. Description of all assumptions that were used in neutron shielding calculations including, but not limited to, neutron spectra as a function of energy, neutron fluence rate, absorbed dose and dose equivalent (due to neutrons) in both restricted and unrestricted areas;

C. At least one example calculation which shows the methodology used to determine the amount of neutron shielding required for each physical condition (i.e., restricted and unrestricted areas, entry doors and maze) and neutron shielding material utilized in the facility:

(1) If commercial software is used to generate shielding requirements, also identify the software used and the version/ revision date; and

(2) If the software used to generate shielding requirements is not in the open literature, also submit quality control sample calculations to verify the result obtained with the software.

D. The methods and instrumentation that will be used to verify the adequacy of all neutron shielding installed in the facility.

§175.68 Therapeutic radiation machines – quality assurance for simulation systems.

Quality assurance for a conventional or virtual simulator must include acceptance testing and periodic verification of system performance. This testing and verification must:

(a) be performed in accordance with "Comprehensive QA for Radiation Oncology: Report of AAPM Radiation Therapy Committee Task Group No.40: AAPM Report No. 46" for a conventional simulator; or

(b) be performed in accordance with "Quality assurance for computed tomography simulators and the computed tomography-simulation process: Report of the AAPM Radiation Therapy Committee Task Group No. 66: AAPM Report No. 83" for a virtual simulator.

§175.69 Therapeutic radiation machines – electronic brachytherapy.

(a) Applicability.

(1) An electronic brachytherapy device that does not meet the requirements of this section must not be used for irradiation of patients.

(2) An electronic brachytherapy device must only be utilized for human use applications specifically approved by the U.S. Food and Drug Administration, unless participating in a research study approved by the registrant's Institutional Review Board.

(3) Electronic brachytherapy devices are exempt from the requirements of §175.64.

(b) Possession of survey instruments. Each facility location authorized to use an electronic brachytherapy device in accordance with this section must possess appropriately calibrated portable monitoring equipment. At a minimum, such equipment must include a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instruments must be operable and calibrated in accordance with §175.66 for the applicable electronic brachytherapy source energy.

(c) Facility design requirements. In addition to shielding adequate to meet the requirements of §175.67, an electronic brachytherapy device treatment room must meet the following design requirements:

(1) If applicable, provision must be made to prevent simultaneous operation of more than one therapeutic radiation machine in a treatment room.

(2) Access to the treatment room must be controlled by a door at each entrance.

(3) Each treatment room must have provisions to permit continuous aural communication and visual observation of the patient from the treatment control panel during irradiation. The electronic brachytherapy device must not be used for patient irradiation unless the patient can be observed.

(4) For electronic brachytherapy devices capable of operating below 50 kV, radiation shielding for the staff in the treatment room must be available, either as a portable shield or as localized shielded material around the treatment site.

(5) For electronic brachytherapy devices capable of operating at greater than 150 kV:

(i) the control panel must be located outside the treatment room; and

(ii) electrical interlocks must be provided for all doors to the treatment room that will:

(A) prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;

(B) cause the source to be shielded when an entrance door is opened; and

(C) prevent the source from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source on-off control is reset at the console.

(d) Control panel. The control panel, in addition to the displays required by other provisions in this section, must:

(1) provide an indication of whether electrical power is available at the control panel and if activation of the electronic brachytherapy source is possible;

(2) provide an indication of whether x-rays are being produced;

(3) provide a means for indicating electronic brachytherapy source potential and current;

(4) provide the means for terminating an exposure at any time; and

(5) include an access control (locking) device that will prevent unauthorized use of the electronic brachytherapy device.

(e) Timer. A suitable irradiation control device (timer) must be provided to terminate the irradiation after a pre-set time interval or integrated charge on a dosimeter-based monitor.

(1) A timer must be provided at the treatment control panel. The timer must indicate planed setting and the time elapsed or remaining.

(2) The timer must not permit an exposure if set at zero.

(3) The timer must be a cumulative device that activates with an indication of "BEAM- ON" and retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated, it must be necessary to reset the elapsed time indicator before irradiation can be resumed.

(4) The timer must terminate irradiation when a pre-selected time has elapsed, if any dose monitoring system has not previously terminated irradiation.

(5) The timer must permit setting of exposure times as short as 0.1 second.

(6) The timer must be accurate to within one (1) percent of the selected value or 0.1 second, whichever is greater.

(f) QMP support.

(1) The services of a QMP must be required in facilities having electronic brachytherapy devices. The QMP must be responsible for:

(i) evaluation of the output from the electronic brachytherapy source;

(ii) generation of the necessary dosimetric information;

(iii) supervision and review of treatment calculations prior to initial treatment of any treatment site;

(iv) establishing the periodic and day-of-use quality assurance checks and reviewing the data from those checks as required by subdivision (k) of this section;

(v) consultation with the authorized user in treatment planning, as needed; and

(vi) performing calculations/assessments regarding patient treatments that may constitute a medical event.

(2) If the QMP is not a full-time employee of the registrant, the operating procedures required by subdivision (h) of this section must also specifically address how the QMP is to be contacted for problems or emergencies, as well as the specific actions, if any, to be taken until the QMP can be contacted.

(g) Operating procedures.

(1) Electronic brachytherapy devices must not be made available for medical use, unless the requirements of §175.62(a) and subdivisions (i) and (j) of this section have been met.

(2) The electronic brachytherapy device must be inoperable, either by hardware or password, when unattended by qualified staff or service personnel.

(3) Only individuals approved by the authorized user, radiation safety officer, or QMP shall be present in the treatment room during treatment.

(4) During operation, the electronic brachytherapy device operator must monitor the position of all persons in the treatment room, and all persons entering the treatment room, to prevent entering persons from unshielded exposure from the treatment beam.

(5) If a patient must be held in position during treatment, mechanical supporting or restraining devices must be used.

(6) Written procedures must be developed, implemented, and maintained for responding to equipment malfunction and any deviation from expected clinical outcomes. These procedures must include:

(i) instructions for responding to equipment failures and

the names of the individuals responsible for implementing corrective actions; and

(ii) the names and telephone numbers of the authorized users, the QMP, and the radiation safety officer to be contacted if the device or console operates abnormally.

(7) A copy of the current operating and emergency procedures must be physically located at the electronic brachytherapy device control console. If the control console is integral to the electronic brachytherapy device, the required procedures must be kept where the operator is located during electronic brachytherapy device operation.

(8) Instructions must be posted at the electronic brachytherapy device control console to inform the operator of the names and telephone numbers of the authorized users, the QMP, and the radiation safety officer to be contacted if the device or console operates abnormally.

(9) The radiation safety officer or a designee, and an authorized user must be notified as soon as possible if a medical event occurs. The radiation safety officer or the QMP must inform the Department of the event.

(h) Safety precautions.

(1) A QMP must determine which persons in the treatment room require monitoring when the beam is energized.

(2) An authorized user and a QMP must be physically present during the initiation of all patient treatments involving the electronic brachytherapy device.

(3) A QMP and either an authorized user or a physician or electronic brachytherapy device operator, under the supervision of an authorized user, who has been trained in the operation and emergency response for the electronic brachytherapy device, must be physically present during continuation of all patient treatments involving the electronic brachytherapy device.

(4) When shielding is required by paragraph (4) of subdivision (c) of this section, the electronic brachytherapy device operator must use a survey meter to verify proper placement of the shielding immediately upon initiation of treatment. Alternatively, a QMP must designate shield locations sufficient to meet the requirements of this Code for any individual, other than the patient, in the treatment room.

(5) All personnel in the treatment room are required to remain behind shielding during treatment. A QMP must approve any deviation from this requirement and must designate alternative radiation safety protocols, compatible with patient safety, to provide an equivalent degree of protection.

(i) Source calibration measurements.

(1) Calibration of the electronic brachytherapy source output for an electronic brachytherapy device subject to this section must be performed by, or under the direct supervision of, a QMP.

(2) Calibration of the electronic brachytherapy source output must be made for each electronic brachytherapy source, or after any repair affecting the x-ray beam generation, or when indicated by the electronic brachytherapy source quality assurance checks.

(3) Calibration of the electronic brachytherapy source output must utilize a dosimetry system described in §175.62(c).

(4) Calibration of the electronic brachytherapy source output must include, as applicable, the determination of:

(i) the output within two percent (2 %) of the expected value, if applicable, or determination of the output if there is no expected value;

(ii) timer accuracy and linearity over the typical range of use;

(iii) proper operation of back-up exposure control devices;

(iv) evaluation that the relative dose distribution about the source is within five percent (5 %) of that expected; and

(v) source positioning accuracy to within one (1) millimeter within the applicator;

(5) Calibration of the x-ray source output required by paragraphs (1) through (4) of this subdivision of this section must be in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of a calibration protocol published by a national professional association, the manufacturer's calibration protocol must be followed.

(6) The registrant must maintain a record of each calibration in an auditable form for the duration of the registration. The record must include:

(i) the date of the calibration;

(ii) the manufacturer's name, model number and serial number for the electronic brachytherapy device and a unique identifier for its electronic brachytherapy source;

(iii) the model numbers and serial numbers of the instrument used to calibrate the electronic brachytherapy device; and

(iv) the name and signature of the QMP responsible for performing the calibration.

(j) Periodic and day-of-use quality assurance checks.

(1) Quality assurance checks must be performed on each electronic brachytherapy device subject to this section:

(i) at the beginning of each day of use;

(ii) each time the device is moved to a new room or site ("site" here is intended to include each day of use at each operating location for a self-contained electronic brachytherapy unit transported in a van or trailer); and

(iii) after each x-ray tube installation.

(2) The registrant must perform periodic quality assurance checks required by paragraph (1) of this subdivision in accordance with procedures established by the QMP.

(3) To satisfy the requirements of paragraph (1) of this subdivision, radiation output quality assurance checks must include as a minimum:

(i) verification that output of the electronic brachytherapy source falls within three percent (3 %) of expected values, as appropriate for the device, as determined by:

(A) output as a function of time, or

(B) output as a function of setting on a monitor chamber.

(ii) verification of the consistency of the dose distribution to within three percent (3%) of that found during calibration required by subdivision (j) of this section.; and

(iii) validation of the operation of positioning methods to ensure that the treatment dose exposes the intended location within one (1) mm; and

(4) The registrant must use a dosimetry system that has been intercompared within the previous twelve (12) months with the dosimetry system described in §175.62(c)(1) to make the quality assurance checks required by paragraph (3) of this subdivision.

(5) The registrant must review the results of each radiation output quality assurance check according to the following procedures:

(i) an authorized user and QMP must be immediately notified if any parameter is not within its acceptable tolerance. The electronic brachytherapy device must not be made available for subsequent medical use until the QMP has determined that all parameters are within their acceptable tolerances

(ii) if all radiation output quality assurance check parameters appear to be within their acceptable range, the quality assurance check must be reviewed and signed by either the authorized user or QMP within two (2) days; and

(iii) the QMP must review and sign the results of each radiation output quality assurance check at intervals not to exceed thirty (30) days.

(6) To satisfy the requirements of paragraph (1) of this subdivision, safety device quality assurance checks must, at a minimum, assure:

(i) proper operation of radiation exposure indicator lights on the electronic brachytherapy device and on the control console;

(ii) roper operation of viewing and intercom systems in each electronic brachytherapy facility, if applicable;

(iii) proper operation of radiation monitors, if applicable;

(iv) the integrity of all cables, catheters or parts of the device that carry high voltages; and

(v) connecting guide tubes, transfer tubes, transfer-tube-applicator interfaces, and treatment spacers are free from any defects that interfere with proper operation.

(7) If the results of the safety device quality assurance checks required by paragraph (6) of this subdivision indicate the malfunction of any system, a registrant must secure the control console in the OFF position and not use the electronic brachytherapy device except as may be necessary to repair, replace, or check the malfunctioning system.

(8) The registrant must maintain a record of each quality assurance check required by paragraphs (3) through (7) of this subdivision in an auditable form for three (3) years.

(i) The record must include the date of the quality assurance check; the manufacturer's name, model number and serial number for the electronic brachytherapy device; the name and signature of the individual who performed the periodic quality assurance check and the name and signature of the QMP who reviewed the quality assurance check;

(ii) For radiation output quality assurance checks required by paragraph (3) of this subdivision, the record must also include the unique identifier for the electronic brachytherapy source and the manufacturer's name; model number and serial number for the instruments used to measure the radiation output of the electronic brachytherapy device.

(k) Therapy-related computer systems. The registrant must perform

acceptance testing on the treatment planning system of electronic brachytherapy-related computer systems in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of an acceptance testing protocol published by a national professional association, the manufacturer's acceptance testing protocol must be followed.

(1) Acceptance testing must be performed by, or under the direct supervision of, a QMP. At a minimum, the acceptance testing must include, as applicable, verification of:
  (i) the source-specific input parameters required by the dose calculation algorithm;
  (ii) the accuracy of dose, dwell time, and treatment time calculations at representative points;
  (iii) the accuracy of isodose plots and graphic displays;
  (iv) the accuracy of the software used to determine radiation source positions from radiographic images; and
  (v) if the treatment-planning system is different from the treatment-delivery system, the accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

(2) The position indicators in the applicator must be compared to the actual position of the source or planned dwell positions, as appropriate, at the time of commissioning.

(3) Prior to each patient treatment regimen, the parameters for the treatment must be evaluated and approved by the authorized user and the QMP for correctness through means independent of that used for the determination of the parameters.

(l) Training.

(1) A registrant must provide instruction, initially and at least annually, to all individuals who operate the electronic brachytherapy device, as appropriate to the individual's assigned duties, in the operating procedures identified in subdivision (h) of this section. If the interval between patients exceeds one year, retraining of the individuals shall be provided.

(2) In addition to the requirements of subdivisions (c) and (d) of §175.60 as to authorized users, these individuals must also receive device specific instruction initially from the manufacturer and annually from either the manufacturer or other qualified trainer. The training must be of a duration recommended by a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of any training protocol recommended by a national professional association, the manufacturer's training protocol must be followed. The training must include, but not be limited to:
  (i) device-specific radiation safety requirements;
  (ii) device operation;
  (iii) clinical use for the types of use approved by the FDA;
  (iv) emergency procedures, including an emergency drill; and
  (v) the registrant's quality assurance program.

(3) A registrant must retain a record of individuals receiving instruction required by paragraphs (1) and (2) of this subdivision for three (3) years. The record must include a list of the topics covered, the date of the instruction, the names of the attendees, and the names of the individuals who provided the instruction.

(m) Mobile electronic brachytherapy service. A registrant providing mobile electronic brachytherapy service must, at a minimum:

(1) check all survey instruments before medical use at each address of use or on each day of use, whichever is more restrictive;

(2) account for the electronic brachytherapy source in the electronic brachytherapy device before departure from the client's address;

(3) perform, at each location on each day of use, all of the required quality assurance checks specified in subdivision (k) of this section to assure proper operation of the device.

§175.70 Therapeutic radiation machines – other use of electronically-produced radiation.

A person must not utilize any device which is designed to electrically generate a source of ionizing radiation to deliver therapeutic radiation dosage, or which is not appropriately regulated under any existing category of therapeutic radiation machine, until:

(a) the applicant or registrant has, at a minimum, provided the Department with:
  (1) a detailed description of the device and its intended application;
  (2) facility design requirements, including shielding and access control;
  (3) documentation of appropriate training for authorized user physicians and QMPs;
  (4) methodology for measurement of dosages to be administered to patients or human research subjects;
  (5) documentation regarding calibration, maintenance, and repair of the device, as well as instruments and equipment necessary for radiation safety;
  (6) radiation safety precautions and instructions; and
  (7) other information requested by the Department in its review of the application; and

(b) the applicant or registrant has received written approval from the Department to utilize the device in accordance with the requirements and specific conditions the Department considers necessary for the medical use of the device.

PART III. RADIOACTIVE MATERIALS

§175.100 Incorporation of federal regulations.

(a) All persons subject to the requirements of this Part are required to comply with the specific regulations of Title 10 of the Code of Federal Regulations ("CFR") issued by the United States Nuclear Regulatory Commission ("NRC") as expressly indicated in this Part and which are hereby incorporated by reference herein to this Code with the same force and effect as if fully set forth herein in their entirety.

(b) In this Part (§§ 175.100 through 175.108), the following definitions apply:
  (1) "10 CFR" or "CFR" means Title 10 of the Code of Federal Regulations, Chapter I (Nuclear Regulatory Commission).
  (2) "City" means the 5 boroughs of New York City.
  (3) Except as indicated in subdivision (c) of this section, references to "Department" means the New York City Department of Health and Mental Hygiene.
  (4) "Radioactive material" means any solid, liquid, or gas which spontaneously emits alpha particles, beta particles, gamma rays, x rays, neutrons, high-speed electrons, high-speed protons, or other particles capable of producing ions. Radioactive material does not include non-ionizing radiation, such as radiowaves or microwaves, visible, infrared or ultraviolet light.

(c) To reconcile differences between this Code and the incorporated sections of the CFR, the following meanings are substituted for certain terms in the incorporated language of the CFR:
  (1) Except as indicated below in paragraph (2) of this subdivision, any reference to "NRC" or "Commission" in the incorporated CFR regulations means the Department. Any notifications and correspondence required to be sent to the NRC in the incorporated regulations of the CFR should instead be sent to the Department, at the address provided in §175.01(c).
  (2) The following references to "NRC" or "Commission" in the incorporated CFR regulations shall continue to refer to and mean the Nuclear Regulatory Commission:
    (i) References in 10 CFR §30.12 to Commission contractors;
    (ii) References in 10 CFR Part 35 to Commission master material license or licensee;
    (iii) References in 10 CFR Part 35 to the "NRC's web page" for listing of acceptable board certifications;
    (iv) References in 10 CFR §37.27 relating to criminal history record checks;
    (v) Reference in 10 CFR §37.29(a)(1) to "an employee of the Commission";
    (vi) References in 10 CFR Part 71 to NRC-approved packaging.
  (3) The references to "Department" in 10 CFR §§ 30.12 and 30.14(b)(1) means the U.S. Department of Energy.
  (4) Any reference to "agreement state" within the incorporated CFR regulations means an external regulatory authority other than this Department.
  (5) Any reference within the incorporated CFR regulations citing, for example, to "§30.18 of this Chapter" means "10 CFR §30.18."
  (6) References to forms in the incorporated CFR regulations mean the appropriate forms prescribed by the Department.

(d) The CFR provisions incorporated by reference herein may be obtained from:
  (1) the Department, at the address provided in §175.01(c), or
  (2) the United States Government Publishing Office (GPO), 710 North Capitol Street, N.W., Washington, DC 20401 (866) 512-1800, or, GPO online at http://www.gpo.gov/fdsys, or
  (3) the U.S. Nuclear Regulatory Commission online at http://www.nrc.gov/reading-rm/doc- collections/cfr.

§175.101 Notices, instructions and reports to workers.

(a) Except as set forth in subdivision (b) of this section, 10 CFR Part 19 is hereby incorporated by reference herein to this Code with the same force and effect as if fully set forth in its entirety.

(b) The following sections from 10 CFR Part 19 are not incorporated: §§ 19.1, 19.2,19.3 (definition of "regulated entities"), 19.4, 19.5, 19.8, 19.11(b)-(e), 19.14(a), 19.18, 19.30, 19.31, 19.32 and 19.40.

(c) *Additional requirements*.
(1) Instructions to workers as required in 10 CFR§19.12 must be given to all individuals working in or frequenting any portion of a restricted area.
(2) In addition to the requirements of 10 CFR§19.12, individuals must be instructed in the operating procedures applicable to work under the license and must be required to demonstrate familiarity with precautions, procedures, and devices included in the instructions.
(3) Records documenting individual worker instruction shall be maintained for inspection by the Department for a period of 3 years.
(4) Each licensee must advise each worker annually of the worker's exposure to radiation or radioactive material as shown in the records maintained by the licensee, pursuant to 10 CFR §20.2106.

§175.102 Standards for protection against radiation.
(a) Except as set forth in subdivision (b) of this section, 10 CFR Part 20 is hereby incorporated by reference herein to this Code with the same force and effect as if fully set forth in its entirety.
(b) The following sections from 10 CFR Part 20 are not incorporated: §§ 20.1001, 20.1002, 20.1006 through 20.1009, 20.1406(b), 20.1905(g), 20.2203(c), 20.2206, 20.2401, 20.2402 and Part 20 Appendix D.
(c) *Additional requirements*.
(1) *Radiation protection programs*.
(i) Each licensee must:
(A) provide a radiation safety officer, pursuant to 10 CFR §§ 35.24 and 35.50 who shall be delegated authority to ensure the implementation of this radiation protection program and ensure radiation doses are As Low As Reasonably Achievable (ALARA) (as defined in 10 CFR §20.1003 and more fully described in §175.105(c)(1)). The radiation safety officer, or an authorized user designated to act as the radiation safety officer in the radiation safety officer's absence, must be present on the premises at least 50 percent of the time that radioactive material is being handled or equipment containing radioactive material is being operated;
(B) provide for a radiation safety committee to administer the radiation protection program in medical centers, hospitals and institutions of higher education. The committee must include the facility operator or a person with the authority to act on behalf of the facility operator, and representation from departments within the facility where radiation sources are used. The committee must meet at least quarterly and must oversee all uses of radioactive materials within the facility, must review the activities of the radiation safety officer, and must review the radiation safety program at least annually. The committee, or a subcommittee, must oversee the administration of a quality assurance program as required by §175.108;
(C) provide a quality assurance program for diagnostic and therapeutic uses of radioactive materials, pursuant to §175.108 and other applicable provisions of this Code; and
(D) ensure that all personnel involved in planning for, or administering radiation doses to humans, or in the use of radioactive materials for other lawful purposes, are supervised, are instructed as described in 10 CFR§19.12 and are competent to safely use such radiation sources and services.
(ii) For non-human use radioactive materials installations, the radiation safety officer specified in §175.102(c)(1)(i)(A) must be:
(A) a physicist certified by the American Board of Health Physics, the American Board of Radiology or the American Board of Medical Physics in a branch of physics related to the type and use of radioactive material in the installation; or
(B) a person with equivalent training and experience as determined by the Department; or
(C) an authorized user named on the radioactive materials license issued by the Department.
(2) *Individual monitoring*.
(i) In addition to the criteria in 10 CFR §20.1502(a)(2),(3), each licensee must monitor occupational exposure for minors and declared pregnant women likely to receive, in 1 year from sources external to the body, a deep dose equivalent in excess of 10 percent of any of the applicable limits in 10 CFR §§20.1201 or 20.1208.
(ii) A person supplying personnel monitoring devices to individuals, pursuant to 10 CFR §20.1502 must ensure that the individuals wear such devices as follows:
(A) An individual monitoring device used for monitoring the dose to the whole body must be worn at the unshielded location of the whole body likely to receive the highest exposure.
(B) An individual monitoring device used for monitoring the dose to an embryo/fetus of a declared pregnant woman, pursuant to 10 CFR §20.1208 must be located at the waist under any protective garment worn by the woman.
(C) An individual monitoring device used for monitoring the lens dose equivalent must be located at the neck outside any protective garment worn by the individual, or at an unshielded location closer to the eye.
(D) An individual monitoring device used for monitoring the dose to the extremities must be worn on the extremity likely to receive the highest exposure. The device must be oriented to measure the highest dose to the extremity being monitored.
(iii) The licensee must ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device, and no licensee must remove an exposure from an individual's exposure record without prior authorization from the Department. The licensee must submit the dosimeter for processing with due diligence and in no event in excess of the time period specified by the manufacturer of the dosimeter.
(3) *Respiratory protection*.
(i) If the licensee uses respiratory protection equipment to limit intakes, pursuant to 10 CFR §§ 20.1701 through 20.1705, the licensee must issue a written policy statement on respirator usage covering:
(A) the routine, non-routine, and emergency use of respirators; and
(B) limitations on periods of respirator use and relief from respirator use; and
(C) the use of process or other engineering controls, instead of respirators.
(ii) For a licensee to make allowance for respiratory equipment when estimating the exposure of individuals to airborne radioactive material, the following additional condition applies: the licensee selects respiratory protection equipment that provides a protection factor, specified in 10 CFR Part 20 Appendix A, greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in Table 1, Column 3 of 10 CFR Part 20 Appendix A. However, if the selection of respiratory protection equipment with a protection factor greater than this multiple of peak concentration is inconsistent with the goal specified in 10 CFR §20.1702 of keeping the total effective dose equivalent ALARA, the licensee may select respiratory protection equipment with a lower protection factor provided that such a selection would result in a total effective dose equivalent that is ALARA. In estimating the dose to individuals from intake of airborne radioactive materials, the concentration of radioactive material in the air that is inhaled when respirators are worn is initially assumed to be the ambient concentration in air without respiratory protection, divided by the assigned protection factor. If the dose is later found to be greater than the initially estimated dose, the corrected value must be used. If the dose is later found to be less than the initially estimated dose, the corrected value may be used.
(4) *Requirements for possession of sealed sources*.
(i) The licensee in possession of any sealed source must follow the radiation safety and leak testing requirements specified in 10 CFR §35.67.
(ii) Reports of test results for leaking or contaminated sealed sources must be made, pursuant to 10 CFR §35.3067.
(iii) A licensee authorized for medical use in possession of a sealed source or brachytherapy source must survey with a radiation survey instrument at intervals not to exceed 3 months all areas where such sources are stored. This shall not apply to sources in teletherapy units or gamma stereotactic radiosurgery units or to sealed sources in diagnostic devices.
(5) Radioactive material must not be stored with either food or beverages.
(6) No person shall bury any licensed radioactive material within New York City.
(7) The provisions of 10 CFR§20.2005 do not authorize the licensed materials described to be disposed of inside the City as if they were not radioactive; however, these materials may be shipped for disposal outside of the City as if they were not radioactive provided that the receiving jurisdiction regulates such materials as if they were not radioactive.
(8) *Vacating premises*. Each specific licensee must notify the Department in writing of intent to vacate not less than 30 days before vacating or relinquishing possession or control of

premises which may have been contaminated with radioactive material as a result of licensed activities. When deemed necessary by the Department, the licensee must decontaminate the premises to such levels as the Department may specify.

(9) *Recordkeeping requirements for receipt, use, and disposition of radioactive material.*

(i) Each licensee must maintain records of the receipt, use, and disposition of radioactive material in units of becquerels or microcuries and must include form whom such materials were received and the ultimate disposition.

(ii) The licensee must retain these records for 3 years after the record is made.

(10) The Department may order the removal, through an authorized person, or the surrender to the Department, of any radiation source by any person who:

(i) does not hold, or continue to hold, a valid license issued by the Department; or

(ii) is not able or equipped, or who fails to observe with regard to such radiation source, those radiation protection standards established or enforced by the Department or who uses such radiation source in violation of law, regulation, this Code, order or license issued by the Department. Such person must decontaminate any premises which may have been contaminated with radioactive material as a result of any such activities to such radiation levels as the Department may specify. The expenses incidental to such transfer, surrender, and decontamination must be borne by such person responsible for the source.

(11) In determining the extent of any individual's exposure to radiation subsequent to any radiation accident, contamination, theft or loss, the licensee must comply with all orders of the Department directing such licensee to make available to such individual appropriate medical evaluation services or appropriate tests and to furnish a copy of the reports of such evaluation or test to the Department.

(12) A licensee or applicant for a license must obtain any permits required by the New York State Department of Environmental Conservation, pursuant to 6 NYCRR Part 380, or any successor law or regulation, and must develop, document, and implement a discharge minimization program required by the New York State Department of Environmental Conservation, pursuant to 6 NYCRR § 380-7, or any successor law or regulation.

§175.103 General requirements for radioactive materials.

(a) Except for the removal of source material from its place of origin in nature, or as otherwise may be provided in this Code, no person subject to this Code shall transfer, receive, produce, possess or use in New York City any radioactive material except, pursuant to a license issued by the Department.

(b) Except as set forth in subdivision (c) of this section, 10 CFR Part 30 and sections §§ 40.3, 40.4 (definitions of "byproduct material" and "depleted uranium"), 40.11, 40.12(a), 40.13 (except (c)(5)(iv)), 40.21, 40.22, 40.41(a)-(c),(f), 40.42 (c)-(k)(3),(l)), 40.46, 40.51 (except (b)(6)), 40.54, 40.55, 40.60 and 40.61 of 10 CFR Part 40 are hereby incorporated by reference herein to this Code with the same force and effect as if fully set forth in their entirety.

(c) The following sections from 10 CFR Parts 30 are not incorporated: §§ 30.1, 30.2, 30.4 (definitions of "commencement of construction" and "construction"), 30.5 through 30.8, 30.21(c), 30.32(e), 30.34(d), 30.34(e)(1), 30.34(e)(3), 30.36 (d)-(k), 30.37 through 30.39, 30.41(b)(6), 30.53, 30.55, 30.62, 30.63 and 30.64 .

(d) References to "Department" in the incorporated regulations of 10 CFR §§ 30.12 and 30.41(b)(1) means the U.S. Department of Energy.

(e) Any reference to "byproduct material" in the incorporated regulations of 10 CFR §§ 30.31 through 30.62 means "radioactive material" as defined in this Code.

(f) *Additional requirements.*

(1) *License termination requirements*.

(i) If a licensee does not submit an application for renewal of a radioactive materials license, pursuant to 10 CFR §30.32, then the licensee must, on or before the expiration date stated in the license,:

(A) Terminate use of radioactive material;

(B) Dispose of all radioactive material in accordance with all applicable regulations in effect at the time of disposal;

(C) Submit a written certification of the disposition of all radioactive materials authorized by the license on forms prescribed by the Department;

(D) Remove radioactive contamination to the extent practicable; and

(E) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a copy of this survey to the Department. Such survey must be subject to approval by the Department and must include:

(*a*) Levels of radiation in units (or multiples) of Gy-hr-1 (millirads-hr-1) at one (1) cm for beta-gamma radiation or at one (1) m for gamma radiation;

(*b*) Levels of removable and fixed contamination, including alpha, in units of disintegrations (transformations) per min (becquerels) per 100 cm2 for surfaces;

(*c*) becquerels-ml-1 (mCi-ml-1) for water;

(*d*) becquerels-g-1 (pCi-ml-1) for solids such as soil or concrete; and

(*e*) a description of the survey or other measuring instruments used, including manufacturer and model numbers and date of most recent calibration.

(F) If the information submitted, pursuant to clauses (A) through (E) of subparagraph (i) of paragraph 1 of subdivision (e) of this section does not adequately demonstrate that the premises are suitable for unrestricted use, the Department shall inform the licensee of the appropriate further actions required for the termination of the license, including, but not limited to, decontamination of the licensed premises to such levels and within such time frames as the Department may prescribe.

(ii) Each specific license shall continue in effect, beyond the expiration date if necessary, with respect to the presence of any residual radioactive materials that may be present as contamination until the Department terminates the license. During this time, the licensee must:

(A) Limit activities involving radioactive material to those related to decommissioning; and

(B) Continue to control entry to restricted areas until the Department determines they are suitable for release for unrestricted use and the Department terminates the license.

(iii) The Department can terminate a specific license when the Department determines that:

(A) All licensed radioactive material has been properly transferred or disposed; and

(B) premises have been decontaminated to such levels that the total effective dose equivalent (TEDE) from residual radioactivity distinguishable from background radiation, to an average member of the public will not exceed 25 mrem (0.25 mSv) per year;

(C) a radiation survey has been performed which describes all radiation levels and levels of fixed and removable contamination; and

(D) the licensee submits sufficient documentation to support a determination that the requirements of clauses (A) through (E) of subparagraph (i) of paragraph 1 of subdivision (e) of this section have been met.

(2) *Amendment of licenses by the Department.*

(i) A corrective amendment of any license may be issued by the Department, at any time upon its initiative.

(ii) Any license may be amended or revoked by the Department by reason of the amendment of this Code, or any other applicable law.

(3) The licensee must notify the Department, in writing, within thirty (30) days if an authorized user, radiation safety officer or radiation therapy physicist permanently discontinues performance of duties under the license.

(4) No person, in any advertisement or public posting, expressly or by implication, shall refer to the fact that a radiation installation is licensed by the Department, and no person shall state or imply that a radiation installation or its activities have been approved by the Department, the Board of Health or the Commissioner.

(5) *Reciprocity.* (i) The holder of a license issued by the New York State Department of Labor, the New York State Department of Health, the U.S. Nuclear Regulatory Commission or any Agreement State, may bring, possess or use radioactive material covered by such license within the Department's jurisdiction for a period not in excess of 30 days in any 12 consecutive months without obtaining a license from the Department, provided that:

(A) such license does not limit the holder's possession or use of such material to a specific installation or installations;

(B) such holder, prior to bringing such material into the City, files with the Department a notice indicating the period, type and location of proposed possession and use within the Department's jurisdiction, and a copy of the license;

(C) such holder supplies such additional information as the Department may reasonably request;

(D) such holder, during the period of this possession and use of such material within the City, complies with all applicable sections of this Code except §175.103(a); and

(E) such holder, during such period, complies with all the terms and conditions of his license, except if any such

license terms or conditions are determined by the Department to be inconsistent with the requirements of this Code.

(6) If the holder of a license issued by this Department, the New York State Department of Labor, the New York State Department of Health, or an Agreement State intends to conduct any licensed activity in areas of exclusive federal jurisdiction within New York City, then before engaging in any such licensed activity for the first time in a calendar year, such licensee must provide the U.S. Nuclear Regulatory Commission with at least 3 days advanced notice of its proposed activity in such areas under exclusive federal jurisdiction within New York City.

§175.104 Specific types of radioactive materials licenses.

(a) *Types of license*. The requirements specified in this section are in addition to, and not in substitution for, others in this Code. In particular, the incorporated provisions of 10 CFR Part 30 apply to all license applications and all specific radioactive materials licenses. For the purposes of this Code, the following specific license types of radioactive materials apply:

(1) A specific license of limited scope for teletherapy means a license that authorizes receipt, acquisition, ownership, possession, use and transfer of specified quantities and types of radioactive material for use in teletherapy programs.

(2) A specific license of limited scope for medical use means a license that authorizes receipt, acquisition, ownership, possession, use and transfer of specified quantities and types of radioactive material for use in or on humans in a medical program, but does not include teletherapy.

(3) A specific license of limited scope for other use means a license that authorizes receipt, production, acquisition, ownership, possession, use and transfer of specified quantities and types of radioactive material for uses other than in or on humans.

(4) A specific license of broad scope for medical use means a license that authorizes receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of the radioactive materials specified in the license, for use in or on humans in a medical program, but does not include teletherapy.

(5) A specific license of broad scope for research and development means a license that authorizes receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive materials specified in the license, in quantities not exceeding those specified in the license, for uses other than in or on humans.

(b) *Specific licenses for human use of radioactive materials in institutions*. An application by a medical institution for a specific license for medical use of radioactive material may be approved if:

(1) pursuant to §§ 175.103 and 175.105, the applicant satisfies the requirements specified in the incorporated provisions of 10 CFR Parts 30 and 35; and

(2) the applicant possesses adequate facilities for the clinical care of patients; and

(3) the physician designated on the application as the individual authorized user has training and experience as specified in 10 CFR Part 35, in the proposed use, handling and administration of radionuclides and the clinical management of radioactive patients. The physician must furnish evidence of such experience with the application. A statement from the physician's preceptor at the medical institution where the physician acquired such training and experience, indicating their amount and nature, may be submitted as evidence of such experience.

(4) If the application is for a license to use unspecified quantities or multiple types of radioactive materials with atomic numbers 3 through 83, the applicant must have had previous experience operating under a specific institutional license and have been engaged in the use of radioisotopes in medical research, as well as routine diagnosis and therapy.

(5) The license application is signed by the chairman of the radiation safety committee and an authorized representative of the medical institution.

(c) *Specific licenses to individual physicians for human use of radioactive materials*. An application by an individual physician for a specific license for human use of radioactive material may be approved if:

(1) pursuant to §§ 175.103 and 175., the applicant satisfies the requirements specified in the incorporated provisions of 10 CFR Parts 30 and 35; and

(2) the applicant has training and experience as specified in 10 CFR Part 35 in the proposed use, handling and administration of radionuclides, and the clinical management of radioactive patients. The physician must furnish evidence of such training and experience with the application. A statement from the physicain's preceptor at the institution where the physician acquired such training and experience, indicating their amount and nature, may be submitted as evidence of such experience.

(d) *Specific licenses of broad scope*.

(1) A specific license of broad scope shall be issued only to medical institutions or institutions of higher education; such licenses shall not be issued to individuals.

(2) An application for a specific license of broad scope may be approved if:

(i) the applicant satisfies the general requirements specified in 10 CFR§30.33; and

(ii) the applicant has engaged in a reasonable number of activities involving the use of radioactive material as determined by the Department; and

(iii) the applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control, and accounting and management review that are necessary to assure safe operations, including:

(A) the establishment of a radiation safety committee, pursuant to §175.102(c)(1)(i)(B); and

(B) the appointment of a full-time radiation safety officer, pursuant to 10 CFR Part 20; and

(C) the establishment of appropriate administrative procedures to assure:
(*a*) control of procurement and use of radioactive material; and
(*b*) completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and
(*c*) review, approval, and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with §175.104(d)(2)(iii)(C)(*b*) prior to the use of radioactive materials.

(3) The following are conditions of all specific licenses of broad scope. Unless specifically authorized, pursuant to other provisions of this Code, broad scope licensees must not:

(i) conduct tracer studies in the environment involving direct release of radioactive material;

(ii) receive, acquire, own, possess, use, transfer, or import devices containing 3.7 E6 GBq (100,000 Ci) or more of radioactive material in sealed sources used for irradiation of materials;

(iii) add, or cause the addition of, radioactive material to any food, beverage, cosmetic, drug or other product designed for ingestion by, or application to, a human being except as authorized in the license.

(e) *Specific licenses for non-human use*. An application for a specific license authorizing non-human use of radioactive materials may be approved if:

(1) the applicant satisfies the general requirements specified in 10 CFR §30.33; and

(2) the applicant, or the applicant's personnel, has training and experience commensurate with the proposed amounts, types and uses of radioactive materials which must minimally include:

(i) a college degree at the bachelor level in a physical, biological, environmental or engineering science; and

(ii) at least forty (40) hours of training and experience in the safe handling of radioactive materials appropriate to the type and forms of such materials to be used, which must include:

(A) characteristics of ionizing radiation;

(B) units of radiation dose and quantities;

(C) radiation detection instrumentation; and

(D) biological hazards of exposure to radiation.

(f) *General licenses*.

(1) Except as set forth in paragraphs (2) and (3) of this subdivision, 10 CFR Part 31 is hereby incorporated by reference herein to this Code with the same force and effect as if fully set forth in its entirety.

(2) The following sections from 10 CFR Part 31 are not incorporated: §§ 31.1, 31.2, 31.4, 31.22 and 31.23.

(3) Any reference to "byproduct material" in the incorporated 10 CFR § 31.9 means "radioactive material" as defined in this Code.

(4) Reference to "non-Agreement State" in the incorporated 10 CFR §31.6 means this Department.

(5) Licensees exempt, pursuant to incorporated 10 CFR §31.12(b) are similarly exempt from the analogous license requirements of this Code.

§175.105 Medical use of radioactive materials.

(a) Except as set forth in subdivision (b) of this section, 10 CFR Part 35 is hereby incorporated by reference herein this Code with the same force and effect as if fully set forth in its entirety.

(b) The following sections from 10 CFR Part 35 are not incorporated: §§ 35.1, 35.8, 35.11(c)(1), 35.13(a)(1), 35.4001 and 35.4002.

(c) *Additional requirements.*

(1) *ALARA program.*

(i) Each licensee must develop and implement a written program to maintain radiation doses and releases of radioactive material in effluents to unrestricted areas to be As Low As Reasonably Achievable (ALARA) in accordance with this subdivision.

(ii) To satisfy the requirement of subparagraph (i) of this paragraph (1):

(A) for licensees that are medical institutions, the management, radiation safety officer and all authorized users must participate in the establishment, implementation, and operation of the program as required by this Code or required by the radiation safety committee; or

(B) for licensees that are not medical institutions, management and all authorized users must participate in the program as requested by the radiation safety officer.

(iii) The ALARA program must include notice to workers of the program's existence and workers' responsibility to help keep dose equivalents ALARA.

(iv) For licensees that are medical institutions, the ALARA program must include an annual review by the radiation safety committee as indicated in paragraph 1 of subdivision (c) of §175.102.

(v) For licensees that are not medical institutions, the ALARA program must include an annual management review of summaries of the types and amounts of radioactive material used, occupational dose reports, and continuing education and training for all personnel who work with or in the vicinity of radioactive material, prepared by all authorized users or the radiation safety officer.

(vi) The purpose of the review required by subparagraphs (iv) and (v) of this paragraph (1) is to ensure that every reasonable effort to maintain occupational doses, doses to the general public, and releases of radioactive material to unrestricted areas, are ALARA, taking into account the state of technology and the cost of improvements in relation to benefits.

(vii) The licensee must retain a current written description of their ALARA program for the duration of the license. The written description must include:

(A) a commitment by management to keep occupational doses as low as reasonably achievable;

(B) a requirement that the radiation safety officer brief management at least once each year on the radiation safety program; personnel exposure investigational levels that, when exceeded, will initiate an investigation by the radiation safety officer of the cause of the exposure (ALARA I); and personnel exposure investigational levels that, when exceeded, will initiate a prompt investigation by the radiation safety officer of the cause of the exposure and a consideration of actions that might to be taken to reduce the probability of recurrence (ALARA II).

(2) *Qualified personnel*. Personnel, duly licensed by the New York State Department of Health to practice nuclear medicine technology (other than physicians or registered professional nurses), at licensee locations involved in the performance of diagnostic procedures utilizing radioactive material, which includes parenteral administration of radioactive material by intravenous, intramuscular or subcutaneous methods, must:

(i) have satisfactorily completed an educational program in nuclear medicine technology accredited by the Committee on Allied Health Education and Accreditation, or the accrediting agency of the state in which the program was completed, provided such state accreditation requires education and training in the above methods of parenteral administration; or

(ii) possess certification as a nuclear medicine technologist by the American Registry of Radiologic Technologists or certification by the Nuclear Medicine Technology Board; and

(iii) prior to permitting parenteral administration by a nuclear medicine technologist, the medical board of a hospital, a physician, or the radiation safety committee of an institution who have no medical board, must adopt with governing authority approval:

(A) procedures to assure that the nuclear medicine technologist possesses the education and training or certification set forth in this subdivision and is proficient in the competent performance of parenteral administration; and

(B) requirements for authorized user physician, which at a minimum must require supervision by such physician when parenteral administration of radioactive material for diagnostic testing is performed by a qualified nuclear medicine technologist.

(3) *Possession, use, calibration and check of dose calibrators*.

(i) A medical use licensee authorized to administer radioactive materials must possess a dose calibrator and use it to measure the amount of activity administered to each patient.

(ii) A licensee must:

(A) check each dose calibrator for constancy with a dedicated check source at the beginning of each day of use. To satisfy this requirement, the check must be done on

(B) a frequently used setting with a sealed source of not less than 370 kBq (10mCi) of radium-226 or 1.85 MBq (50mCi) of any other photon-emitting radionuclide with a half-life greater than 90 days;

(C) test each dose calibrator for accuracy upon installation and at intervals not to exceed 12 months thereafter by assaying at least 2 sealed sources containing different radionuclides, the activity of which the manufacturer has determined by traceability

(D) to a national standard to be within 5 percent of the stated activity, with minimum activity of 370 kBq (10mCi) for radium-226 and 1.85 MBq (50mCi) for any other photon-emitting radionuclide, and at least one of which has a principal photon energy between 100 keV and 500 keV;

(E) test each dose calibrator for linearity upon installation and at intervals not to exceed 3 months thereafter over the range of use between 370 kBq (10mCi) and the highest dosage that will be administered; and

(F) test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee must keep a record of this test for the duration of the use of the dose calibrator.

(iii) Notwithstanding the provisions of subparagraph (ii) of paragraph (3) of this subdivision, a licensee that uses a dose calibrator to measure the activity of beta- emitting radioactive materials to be administered to a patient must perform additional checks specified in clauses (A) and (B) of subparagraph (ii) of paragraph (3) of this subdivision using the same radionuclide to be administered and having an activity of at least 50 percent, but not more than 200 percent, of the prescribed activity or by equivalent procedures approved by the Department. Records must be kept, pursuant to §175.105(c)(3)(vi).

(iv) A licensee must mathematically correct dosage readings for any geometry or linearity error that exceeds ±10 percent if the dosage is greater than 370 kBq (10mCi) and must repair or replace the dose calibrator if the accuracy or constancy error exceeds ±10 percent.

(v) A licensee must also perform checks and tests required by §175.103(c)(3)(ii) following adjustment or repair of the dose calibrator.

(vi) A licensee must retain a record of each check and test required by subparagraphs (ii), (iii) and (v) of §175.105(c)(3) for 3 years. Such records must include:

(A) for clause (A) of §175.105(c)(3)(ii), the models and serial numbers of the dose calibrator and check source, the identity and calibrated activity of the radionuclide contained in the check source, the date of the check, the activity measured, the instrument settings, and the name of the individual who performed the check;

(B) for clause (B) of §175.105(c)(3)(ii), the model and serial number of the dose calibrator, the model and serial number of each source used and the identity of the radionuclide contained in the source and its activity, proof of traceability to a national standard, the date of the test, the results of the test, the instrument settings, and the signature of the radiation safety officer;

(C) for clause (C) of §175.105(c)(3)(ii), the model and serial number of the dose calibrator, the calculated activities, the measured activities, the date of the test, and the signature of the radiation safety officer; and

(D) for clause (D) of §175.105(c)(3)(ii), the model and serial number of the dose calibrator, the configuration and calibrated activity of the source measured, the activity of the source, the activity measured and the instrument setting for each volume measured, the date of the test, and the signature of the radiation safety officer.

(4) *Possession and calibration of portable survey instruments.*

(i) A licensee authorized to use radioactive material for any medical use permitted in 10 CFR §§ 35.100, 35.200, 35.300, 35.400, 35.500, or 35.600 must have in its possession a portable, radiation detection survey instrument capable of detecting dose rates over the range of 1.0 μSv (0.1 mrem) per hour to 1000 μSv (100 mrem) per hour, and a portable radiation measurement

survey instrument capable of measuring dose rates over the range 10 μSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with 10 CFR § 35.61.

(ii) to satisfy the requirements of 10 CFR § 35.61(a), the licensee must:

(A) calibrate all scales with readings up to 10 mSv (1000 mrem) per hour with a radiation source, the intensity of which is determined to within 10 percent accuracy; and

(B) calibrate 2 separated readings at approximately one-third and two-thirds of the full scale reading on each scale or decade that will be used to show compliance; and

(C) conspicuously note on the instrument the apparent exposure rate from a dedicated check source as determined at the time of calibration, and the date of calibration.

(iii) To meet the requirements of §175.105(c)(4)(ii), the licensee must perform such calibrations as authorized by specific license condition, or must obtain the services of persons licensed by the U.S. Nuclear Regulatory Commission or an agreement state to perform calibrations of survey instruments.

(iv) A licensee must check each survey instrument for proper operation with the dedicated check source before each use. The licensee is not required to keep records of these checks.

(5) *Surveys of exposure rate and contamination*. In addition to the requirements of 10 CFR §35.70, a licensee must:

(i) survey with a radiation detection survey instrument at least once each week all areas where unsealed byproduct materials or radioactive wastes are stored;

(ii) conduct the surveys required by 10 CFR §35.70 and §175.105(c)(5)(i) so as to be able to detect and measure dose rates as low as 1 Sv (0.1 mrem) per hour.

(iii) establish dose rate action levels for the surveys required by 10 CFR §35.70 and §175.103(c)(5)(i) and must require that the individual performing the survey immediately notify the radiation safety officer if a dose rate exceeds an action level.

(iv) perform wipe tests for removable contamination once each week on all areas where radioactive materials are routinely prepared for use or administered and where unsealed sources of radioactive materials are stored, so as to be able to detect contamination on each wipe sample of 35 Bq (2000 disintegrations or transformations per minute).

(v) establish removable contamination action levels for the surveys required by §175.105(c)(5)(iv) and must require that the individual performing the survey immediately notify the radiation safety officer if contamination exceeds action levels.

(vi) retain a record of each survey or wipe test required by 10 CFR §35.70 and §175.105(c)(5) for 3 years. The record must include the date of the survey, a sketch of each area surveyed, action levels established for each area, the measured dose rate at several points in each area expressed in Sv (mrem) per hour or the removable contamination in each area expressed in becquerels (disintegrations or transformations per minute) per 100 square centimeters, the serial number and the model number of the instrument used to make the survey or analyze the samples, and the initials of the individual who performed the survey.

(6) *Additional requirements for use of generators aerosols, gases, and volatile materials.*

(i) A licensee approved to use unsealed byproduct material for medical use permitted in 10 CFR §35 Subpart D may use generators, radioactive aerosols, or radioactive gases only if specific application is made to and approved by the Department.

(ii) *Storage of volatiles and gases*.

(A) A licensee must store volatile radiopharmaceuticals and radioactive gases in the shippers' radiation shield and container.

(B) After drawing the first dosage, a licensee must store and use a multidose container in a properly functioning fume hood.

(iii) *Control of aerosols and gases*.

(A) A licensee who administers radioactive aerosols or gases must do so with a system that will keep airborne concentrations within the limits prescribed by 10 CFR Part 20.

(B) The system must provide for collection and decay or disposal of the aerosol or gas in a shielded container.

(C) Before receiving, producing, using, or storing a radioactive gas, the licensee must calculate the amount of time needed after a release to reduce the concentration in the area of use to the ALI listed in Table 1 of Appendix A of 10 CFR Part 20. The calculation must be based on the highest activity of gas handled in a single container and the measured available air exhaust rate.

(D) A licensee must post the time calculated in §175.105(c)(6)(iii)(C) at the area of use, as well as safety measures to be instituted in case of a spill at the area of use.

(E) A licensee must check the operation of collection systems monthly and measure the ventilation rates in areas of use at intervals not to exceed 6 months. Records of these checks and measurements must be maintained for 3 years.

(F) A copy of the calculations, including assumptions, measurements and calculations made, required in §175.105(c)(6)(iii)(C) must be recorded and retained for the duration of the license.

(7) *Radioactive cadavers.*

(i) If any patient containing radioactive material administered/implanted for therapeutic purposes dies, the physician who pronounces such patient as dead must notify immediately the physician in charge of the case or such physician's designated representative.

(ii) No person shall commence any autopsy on any cadaver that contains more than 185 MBq (5 mCi) of radioactive material administered/implanted for therapeutic purposes without first having consulted with, and having been advised by, the radiation safety officer of the hospital or the physician responsible for the administration/implantation of the radioactive material. If neither is available, a designated representative may serve.

(iii) A radioactivity report on every cadaver containing more than 185 MBq (5 mCi) of radioactive material administered/implanted for therapeutic purposes must be completed by the radiation safety officer or the physician responsible for the administration of the radioactive material or their designated representative. The report must include the name, address and radioactive materials license number of the hospital; the name of the deceased; the name, address and telephone number of the next of kin; the name, address and telephone number of the funeral home to which the deceased will be sent; the radionuclide involved; the approximate activity on the date of the report and the physical form; the location of the radioactive materials within the body and the external dose rate at the body surface closest to the source; the precautions to be observed during autopsy or handling of the body by the funeral director; and the name of the person who prepared the form. This report must accompany the body, whether autopsied or not, when it is surrendered to the funeral director. The Department must be notified in person, by telephone, by mailgram or by facsimile within 24 hours of the death and a copy of the radioactivity report must be sent to the Department within fifteen (15) days of the date of death.

(8) *Safety requirements for uses authorized in 10 CFR §35 Subparts E and F.*
For each patient or research subject who cannot be released, pursuant to 10 CFR §35.75, a licensee must:

(i) authorize visits by individuals under age 18 only on a patient-by-patient basis with the approval of the authorized user after consultation with the radiation safety officer.

(ii) promptly after implanting the dosage or sources, measure the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with the requirements of 10 CFR Part 20 and retain for 3 years a record of each survey that includes the time and date of the survey, a sketch of the area or list of points surveyed, the measured dose rate at several points expressed in mSv (mrem) per hour, the instrument used to make the survey, and the initials of the individual who made the survey.

(9) *Additional requirements for uses authorized in 10 CFR §35 Subpart H.*

(i) *Amendment requests*. In addition to the requirements specified in 10 CFR §35.13, a licensee must apply for and have received a license amendment prior to:

(A) making any change in the treatment room shielding;

(B) making any change in the location of the teletherapy unit within the treatment room;

(C) using the teletherapy unit in a manner that could result in increased radiation levels in areas outside the teletherapy treatment room;

(D) relocating the teletherapy unit; or

(E) allowing an individual not listed on the licensee's license

to perform the duties of the authorized medical physicist.

(ii) A licensee must furnish a copy of the records required in 10 CFR §§ 35.632 and 35.635 and the output from the teletherapy source expressed as Sv (rem) per hour at one meter from the source determined during the surveys required in 10 CFR §35.652 to the Department within 30 days following completion of the action that initiated the record requirement.

(iii) Modification of a teletherapy unit or room before beginning a treatment program. If the survey required by 10 CFR §35.652 or §175.105(c)(9)(iv) indicates that an individual in an unrestricted area may be exposed to levels of radiation greater than those permitted by 10 CFR Part 20, before beginning the treatment program, the licensee must:

(A) either equip the unit with stops or add additional radiation shielding to ensure compliance with 10 CFR Part 20;

(B) perform the survey required by 10 CFR §35.652 again; and

(C) include in the report required by §175.105(c)(9)(ii), the results of the initial survey, a description of the modification made to comply with 10 CFR§35.652(a) and the results of the second survey; or

(D) request and receive a license amendment that authorizes radiation levels in unrestricted areas greater than those permitted by 10 CFR Part 20.

(iv) Surveys for teletherapy and gamma stereotactic radiosurgery units. In addition to the requirements of 10 CFR Part 20 and 10 CFR §35.652, a licensee licensed under 10 CFR Part 35 Subpart H must make surveys to ensure that:

(A) For teletherapy units, the maximum and average radiation levels at 1 meter from the source with the source in the off position and the collimators set for a normal treatment field do not exceed 100 mSv (10 mrem) per hour and 20 mSv (2 mrem) per hour, respectively; and

(B) with the source in the on position with the largest clinically available treatment field and with a scattering phantom in the primary beam of radiation, that:
(*a*) radiation levels in restricted areas are not likely to cause personnel exposures in excess of the limits specified in 10 CFR Part 20; and
(*b*) radiation levels in unrestricted areas do not exceed the limits specified in 10 CFR Part 20.

(C) If the results of the surveys required in §175.105(c)(9)(iv)(A) and (B) indicate any radiation levels in excess of the respective limit specified in §175.105(c)(9)(iv)(B)(*a*) or (*b*), the licensee must lock the control in the "OFF" position and not use the unit:
(*a*) except as may be necessary to repair, replace, or test the unit, the unit shielding or the treatment room shielding; or
(*b*) until the licensee has received a specific exemption from the Department.

(D) The licensee must make the surveys required by §§175.105(c)(9)(iv)(A) and (B) at installation of a new source and following repairs to the source shielding, the source driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around the source, or compromise the radiation safety of the unit or the source.

(E) A licensee must retain a record of the radiation surveys required by §§175.105(c)(9)(iv)(A) and (B) in accordance with 10 CFR§35.2652.

(10) *Medical Events*. In addition to the provisions of 10 CFR §35.3045, a licensee must report any event, except for an event that results from patient intervention, in which the administration of byproduct material or radiation from byproduct material results in a therapeutic radiation dose in any fraction of a fractionated treatment such that the administered dose in the individual treatment or fraction differs from the dose ordered for that individual treatment or fraction by more than 50 percent.

(11) *Records.*

(i) In lieu of the retention requirements of 10 CFR §35.2067, records of leak tests required by 10 CFR § 35.67(b) and the semi-annual physical inventory of sealed sources and brachytherapy sources required by 10 CFR § 35.67(g) shall be retained for 5 years.

(ii) In addition to the requirements of 10 CFR §35.2630, for each intercomparison, the record must include evidence that the intercomparison reading was sanctioned by a calibration laboratory or radiologic physics center accredited by the American Association of Physicists in Medicine.

§175.106 Transportation and packaging of radioactive materials.

(a) Except as set forth in subdivision (b) of this section, 10 CFR Part 71 is hereby incorporated by reference herein to this Code with the same force and effect as if fully set forth in its entirety.

(b) The following sections from 10 CFR Part 71 are not incorporated: §§ 71.2, 71.6, 71.11, 71.14(b), 71.19, 71.31 through 71.45, 71.51 through 71.77, 71.85(a)-(c), 71.91(b), 71.99, 71.100, 71.101(c)(2), 71.101(d)-(f), 71.107 through 71.125.

(c) Licensees must ascertain that the certificate holder determinations in subdivisions (a) through (c) of 10 CFR §71.85 have been made.

(d) The requirements of the incorporated 10 CFR §§71.106 and 71.135 apply to general licensees and do not apply to certificate of compliance holders or applicants for certificates of compliance as those terms are defined in 10 CFR §71.4.

(e) A licensee's quality assurance program referenced in the incorporated 10 CFR Part 71 Subpart H regulations as to packaging must be submitted to the Department, at the address provided in §175.01(c).

(f) Transport authorized by the incorporated 10 CFR §71.13 must not be by public modes of transportation including, but not limited to, buses, subways, trams, taxicabs, car services, trains, ferries, or other public conveyance, which would be returned immediately to public use after transporting licensed material.

§175.107 Physical protection of category 1 and category 2 quantities of radioactive material.

(a) Except as set forth in subdivision (b) of this section, 10 CFR Part 37 is hereby incorporated by reference herein to this Code with the same force and effect as if fully set forth in its entirety.

(b) The following sections from 10 CFR Part 37 are not incorporated: §§ 37.1, 37.3, 37.7, 37.9, 37.11(a-b), 37.13, 37.105, 37.107 and 37.109.

§175.108 Quality assurance programs.

(a) *Purpose and scope.* This section establishes requirements for the use of radioactive materials or the radiation therefrom for diagnostic and therapeutic uses in the healing arts. These requirements provide for the protection of the public health and safety and are in addition to, and not in substitution for, others in this Code. The requirements of this section apply to all licensees subject to this Code.

(b) *Diagnostic facilities.* A quality assurance program is a system of plans, actions, reviews, reports and records, the purpose of which is to ensure that diagnostic facilities achieve consistent high quality imaging and other diagnostic results, while maintaining personnel doses within limits prescribed by the Department.

(1) Each licensee performing diagnostic procedures must implement a quality assurance program, which includes at a minimum:

(i) the adoption of a manual containing written policies and procedures for radiation protection and describing the licensee's quality assurance program that is facility- and equipment-specific. Policies and processes must be consistent with the types of procedures provided including, but not limited to, identification of patients, personnel monitoring, and protection of pregnant workers and patients. The quality assurance manual must describe the various processing, generator and systems quality control tests appropriate for the types of procedures provided in sufficient detail to ensure that they will be performed properly;

(ii) the performance of quality control tests and the correction of deficiencies as specified in the quality assurance manual;

(iii) the provisions of a formalized in-service training program for employees including, but not limited to, quality assurance and radiation safety procedures;

(iv) the measurement of the amount of activity of each dose of a radiopharmaceutical/ radiobiologic administered to each patient;

(v) the calculated absorbed dose for diagnostic procedures involving radioactive materials;

(vi) the provision of the information described in §175.108(b)(1)(iv) and (v) to any patient upon request; and

(vii) the performance of an ongoing program of analysis of repeated, rejected or misadministered diagnostic studies which are designed to identify and correct problems and to optimize quality.

(2) Each licensee must maintain written records documenting quality assurance and audit activities for review by the Department. Unless otherwise required, such records must be maintained by the licensee until after the next scheduled inspection is completed by the Department.

(c) *External beam and brachytherapy.* A quality assurance program for external beam therapy or brachytherapy is a system of plans, actions, reviews, reports and records, the purpose of which is to ensure a consistent and safe fulfillment of the dose prescription to the target volume with minimal dose to normal tissue.

(1) Each licensee authorized to administer external beam

therapy or brachytherapy to humans must implement a quality assurance program to systematically monitor, evaluate and document radiation therapy services to ensure consistent and safe fulfillment of the dose prescription to the target volume, with minimal dose to normal tissue, minimal exposure to personnel and adequate patient monitoring aimed at determining the end result of the treatment. Each licensee must meet or exceed all quality assurance criteria described in this subdivision.

(2) Each licensee must adopt and maintain a quality assurance program that includes policies and procedures that require the following:

(i) Each patient's medical record must be complete, accurate, legible and must include the patient's initial clinical evaluation, treatment planning data, treatment execution data, clinical assessments during treatment, a treatment summary and plan for subsequent care. Treatment related data must be recorded in the patient's medical record at the time of each treatment.

(ii) A written directive or dated order or prescription for the medical use of radiation or radioactive material must be made for each patient in accordance with 10 CFR §35.40. The directive, order or prescription must be signed or approved electronically by a board certified radiation oncologist or qualified physician who restricts their practice to radiation oncology.

(iii) The accuracy of treatment plan data and any modifications to treatment plan data transferred to a radiation treatment delivery system must be verified by qualified clinical staff prior to patient treatment.

(iv) A radiation therapy technologist, physician or other qualified health practitioner must verify that the patient set up on the treatment machine is in accordance with the treatment plan prior to the first fraction of a course of treatment and prior to treatment for any changes to the initial treatment plan.

(v) Clinical staff must obtain clarification before beginning a patient's treatment if any element of the order or other record is confusing, ambiguous, erroneous or suspected of being erroneous.

(vi) Each patient's identification must be verified by at least two different means by qualified clinical staff prior to each treatment.

(vii) Each patient's response to treatment must be assessed by a board certified radiation oncologist or other qualified physician in the active practice of external beam therapy or brachytherapy. Unusual responses must be evaluated as possible indications of treatment errors and recorded in the patient's medical record.

(viii) The medical records of patients undergoing fractionated treatment must be checked for completeness and accuracy by qualified clinical staff at intervals not to exceed six fractions.

(ix) Radiation treatment plans and related calculations must be checked by qualified clinical staff for accuracy before 25 percent of the prescribed dose for external beam therapy or 50 percent of the prescribed dose for brachytherapy is administered, except the check must be performed prior to treatment for: any single fraction treatment; any fractional dose that exceeds 300cGy or 700 monitor units; or when the output of a medical therapy accelerator exceeds 600 monitor units per minute during treatment. If a treatment plan and related calculations were originally prepared by a board certified radiation oncologist or an authorized medical physicist possessing the qualifications specified in 10 CFR §35.51, it may be rechecked by the same individual using a different calculation method. Treatment plans and related calculations prepared by other qualified clinical personnel must be checked by a second qualified person using procedures specified in the licensee's treatment planning procedures manual required, pursuant to paragraph (3) of this subdivision and who has received training in use of this manual.

(x) All equipment and other technology used in planning and administering radiation therapy must function properly and safely, and must be calibrated properly and repaired and maintained in accordance with the manufacturer's instructions. The equipment and technology that is subject to such quality control, includes but is not limited to: computer software and hardware including upgrades and new releases; equipment used to perform simulation; dosimetry equipment; equipment used to guide treatment delivery, including but not limited to ultrasound units, kV and mV imaging equipment and monitors that are used to view patient imaging studies and personnel radiation safety equipment. Data communication between various systems, including but not limited to treatment planning systems, treatment delivery systems and data networks/storage media must be evaluated and tested to ensure accurate and complete data transfer.

(xi) Quality control tests performed on equipment and technology used in planning and implementing radiation treatment must be documented, including:

(A) Detailed procedures for performing each test;

(B) The frequency of each test;

(C) Acceptable results for each test;

(D) Corrective actions taken;

(E) Record keeping and reporting procedures for test results including the tester's name, signature and date of the test; and

(F) The qualifications are specified for the individual(s) conducting the test and for the person who reviews test data.

(xii) Test results that exceed tolerances/limits must be immediately reported to the authorized medical physicist.

(xiii) Records for all maintenance, repairs and upgrades of equipment and technology must be maintained for at least 5 years.

(xiv) Errors or defects in technology or equipment, including computer hardware and software, must be reported to the technology or equipment manufacturer and to the United States Food and Drug Administration (MedWatch) as soon as possible and in no event more than 30 days of discovery, and records of equipment errors and reports required by this subparagraph must be maintained for review by the Department for at least 3 years.

(xv) Patients with permanent brachytherapy implants must be provided with instructions to take radiation safety precautions, as required by 10 CFR §35.75 and the licensee's radioactive materials license, after being released from the licensee's facility.

(xvi) All personnel involved in planning or implementing radiation therapy must be credentialed. Credentialing must include verifying that all professional staff are appropriately licensed, including medical physicists and radiation therapy technologists. Records of credentialing must be maintained during the period in which the credentialed person provides services to the licensee and for 3 years thereafter.

(xvii) Any unintended deviation from the treatment plan that is identified must be evaluated and corrective action to prevent recurrence must be implemented. Records of unintended deviations and corrective action must be maintained for audits required by paragraph (5) of this subdivision and for review by the Department.

(xviii) There must be a process to ensure quick and effective response to any radiation therapy related recalls, notices, safety alerts and hazards.

(3) Each licensee must adopt and maintain a radiation treatment manual prepared by an authorized medical physicist possessing the qualifications specified in 10 CFR §35.51. The manual must include the calculation methods and formulas to be used at the facility (including the methods for performing the checks of treatment plans and related calculations as required by clause (I) of subparagraph (i) of paragraph (3) of this subdivision). The treatment planning manual may be part of the quality assurance manual required by subparagraph (i) of paragraph (1) of subdivision (b) of this section. The radiation treatment manual must be included in training given, pursuant to 10 CFR §19.12 to facility staff who will participate in treatment planning. Each licensee must ensure that an authorized medical physicist possessing the qualifications specified in 10 CFR §35.51 prepares or reviews and approves a procedures manual describing how radiation therapy treatment planning is to be performed at the licensee's facility and reviews the treatment planning manual at least annually.

(4) Each licensee must ensure that all equipment used in planning and administering radiation therapy is functioning properly, designed for the intended purpose, properly calibrated, and maintained in accordance with the manufacturer's instructions and the quality assurance program described in the licensee's quality assurance manual. Such equipment must be calibrated prior to use on patients, at least annually thereafter and following any change, repair or replacement of any component which may alter the radiation output.

(5) Each licensee must implement written procedures for auditing the effectiveness of the radiation therapy quality assurance program that includes the following:

(i) Audits must be conducted at intervals not to exceed twelve (12) months by an authorized medical physicist

possessing the qualifications specified in 10 CFR§35.51, and also by a physician, both of whom are in the active practice of the type of radiation therapy conducted by the licensee, but who have or had no involvement in the therapy program being audited; and

(ii) The licensee must ensure that the individuals who conduct the audit prepare and deliver to the licensee a report which contains an assessment of the effectiveness of the quality assurance program and makes recommendations for any needed modifications or improvements; and

(iii) The licensee must promptly review the audit findings, address the need for modifications or improvements and document actions taken. If recommendations are not acted on, the licensee must document the reasons therefor and also any alternative actions taken to address the audit findings; and

(iv) Each licensee must maintain complete written records relating to quality assurance and audit activities for review and inspection by the Department. Audit records must be maintained for at least six (6) years.

(6) Accreditation in Radiation Oncology.

(i) Each licensee must maintain accreditation in radiation oncology by the American College of Radiology, the American College of Radiation Oncology or other equivalent accrediting organization as determined by the Department.

(ii) The licensee must maintain a record of accreditation, including a copy of the application, all supplemental application information and all correspondence transmitted between the accrediting body and the licensee. Records must be maintained for at least 6 years.

(d) *Unsealed byproduct material for which a written directive is required.*

A quality assurance program for unsealed byproduct material for which a written directive is required is a system of plans, actions, reviews, reports and records, the purpose of which is to ensure a consistent and safe fulfillment of the dose prescription.

(1) Each licensee who uses unsealed byproduct material for which a written directive is required in humans must implement a quality assurance program which includes at a minimum:

(i) The adoption of a manual containing written policies and procedures designed to assure effective supervision, safety, proper performance of equipment, effective communication and quality control. The manual must include procedures to assure that:

(A) each patient's evaluation and intended treatment is documented in the patient's record;

(B) a written, signed and dated order for medical use of radioactive material is made in accordance with 10 CFR §35.40;

(C) each patient is positively identified;

(D) all orders and other treatment records are clear and legible;

(E) staff must be instructed to obtain clarification before treating a patient if any element of the order or other record is confusing, ambiguous or suspected of being erroneous;

(F) each patient's response to treatment must be assessed by an authorized user physician, or a physician under the supervision of an authorized user physician, for unsealed byproduct material for which a written directive is required and that unusual responses are evaluated as possible indications of treatment errors; and

(G) complete treatment records containing data recorded at the time of each treatment are maintained.

(2) Each licensee must ensure that all equipment used in planning and administering unsealed byproduct material for which a written directive is required is designed and used for the intended purpose and is properly functioning, is properly calibrated and is maintained in accordance with the manufacturer's instructions and the QA program described in the licensee's QA manual.

(3) Each licensee must audit its activities related to the use of unsealed byproduct material for which a written directive is required as part of its quality assurance program at intervals not to exceed twelve (12) months to assess the effectiveness of the program, document the audit findings and any modifications or improvements found to be needed and institute corrective actions and improvements as indicated by the audit findings.

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

CERTIFICATION/ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Repeal and Reissuance of Rules Relating to Radiation Control
REFERENCE NUMBER: DOHMH-81
RULEMAKING AGENCY: Department of Health and Mental Hygiene

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

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro *June 1, 2018*
Mayor's Office of Operations Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
(212) 356-4028

CERTIFICATION, PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Repeal and Reissuance of Rules Relating to Radiation Control
REFERENCE NUMBER: 2017 RG 043
RULEMAKING AGENCY: Board of Health

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

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: May 31, 2018
Acting Corporation Counsel

Accessibility questions: Svetlana Burdeynik (347) 396-6078, ResolutionComments@health.nyc.gov, by: Monday, July 2, 2018, 5:00 P.M.

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Notice of Adoption of Amendments to Article 47 of the New York City Health Code

In accordance with §1043(b) of the New York City Charter (the "Charter") and, pursuant to the authority granted to the Board of Health (the "Board") by §558 of the Charter, a notice of intention to amend Article 47 of the New York City Health Code (the "Health Code") was published in the City Record on March 19, 2018, and a public hearing was held on April 18, 2018. Twenty-seven individuals testified at the joint hearing on this amendment and the companion amendment to Article 43, and 92 written comments were received, including seven from individuals who also testified. As discussed below, a number of changes were made, including several in response to comments received. At its meeting on June 5, 2018, the Board adopted the following resolution.

Statement of Basis and Purpose

Statutory Authority

The Board's authority to codify these proposed amendments is found in Sections, 556, 558, and 1043 of the New York City Charter (the "Charter"). Sections 558(b) and (c) of the Charter empower the Board to amend the Health Code and to include all matters to which the Department's authority extends. Section 556 of the Charter

provides the Department with jurisdiction to protect and promote the health of all persons in the City of New York. Section 1043 grants the Department rule-making authority.

Background

Article 47 of the Health Code governs center-based child care. The Board is amending the Article's requirements by adding requirements pertaining to epinephrine auto-injectors, and training, and by clarifying requirements. The basis for the changes is set forth below.

Emergency Medical Care and Epinephrine Auto-Injectors

The Centers for Disease Control and Prevention estimates that four to six percent of children nationally have a food allergy; such food allergies include ones that are life-threatening. Rapid administration of an epinephrine auto-injector following a life-threatening allergen exposure is critical to preventing significant negative outcomes, including death. Having epinephrine auto-injectors on the premises at all times can save the lives of children with life-threatening food allergies who do not bring an epinephrine auto-injector with them to child care or shelter-base child supervision programs, and of children who have life-threatening food allergies identified for the first time while the child is in such programs.

In 2016, the New York State Public Health Law was amended[1] to allow certain entities, including child care providers, to obtain non-patient specific epinephrine auto-injectors and to administer them in an emergency. This new State law creates the opportunity for such programs to have this critical, lifesaving medication available. Accordingly, the amendments clarify requirements for emergency medical care and add a requirement that child care and child supervision programs maintain on site at least two unexpired epinephrine auto-injectors in each dosage appropriate for children who may be in the program, stored so they are easily accessible to staff and inaccessible to children. Programs will be required to have on site, whenever children are present, at least one staff person trained to recognize signs and symptoms of anaphylactic shock and to administer epinephrine as appropriate. The amendment also requires programs to monitor the auto-injectors' expiration dates and call 911 after any administration, as required by the medication directions. Programs will be required to obtain parental consent at the time each child is enrolled in the program, and to train all staff in preventing and responding to emergencies related to food allergies.

The proposed language has been modified to require that epinephrine auto-injectors have retractable needles and to clarify storage requirements; and to allow all staff to administer asthma inhalers, nebulizers, and epinephrine auto-injectors to children whose parent or guardian has provided written consent, medical authorization, and training.

Training

The amendments expand staff training requirements to promote high quality learning environments, enhance child health and safety, and align with the health and safety training requirements in the federal Child Care Development Block Grant (CCDBG) Act of 2014, which apply to any program enrolling a child whose enrollment is paid for by CCDBG subsidies.

First, the amendments provide that trainings currently required only for assistant teachers be mandated for all teaching staff. These core trainings address fundamental issues including preventing, recognizing signs of, and reporting injuries, infectious diseases, lead poisoning, and asthma; scheduling and conducting guided and structured physical activity; and promoting childhood growth and development.

The proposed language has been modified to include training regarding prevention of and response to emergencies related to food or allergic reaction, and prevention and control of infectious diseases (including immunization); and to require that at least five of the required 15 hours of training in certain topics take place each year.

Clarifying Requirements

A number of the amendments clarify requirements and facilitate compliance with the Health Code. For example, some definitions have been added or clarified.

The Health Code previously required that documentation be provided under certain provisions. The amendments articulate more uniform requirements across additional provisions. They also clarify, to the regulated community, that review of such documents will occur at least once a year.

The amendments also articulate more precise requirements regarding program capacity, level of supervision, response to emergencies, response to medical emergencies, and the administration of some medications. Various other technical edits have been made to the text for consistency.

1 NYS Public Health §3000-C. Epinephrine Auto-injector devices. Effective March 28, 2017.

In order to come into alignment with federal requirements and state policy regarding the vulnerabilities and special needs of children who are homeless or in foster care and thus require accommodations for compliance with certain rules, the proposed language has been modified to provide for a reasonable grace period for implementation of certain provisions pertaining to providing medical records.

Tooth Brushing

The provisions regarding tooth brushing that were included in the original proposal are not included in these amendments. The Department has determined that further consideration is warranted.

Accordingly, the Board amends Health Code Article 47 as follows:

Note: New material is underlined. [Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably unless otherwise specified or unless the context clearly indicates otherwise.

RESOLVED that Section 47.01 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.01 Definitions.

[(a) *Abuse* shall mean any act or failure to act, performed intentionally, knowingly or recklessly, which causes or is likely to cause harm to a child, including, but not limited to:

(1) inappropriate use of a physical restraint, isolation, medication or other means that harms or is likely to harm a child; and

(2) an unlawful act, a threat or menacing conduct directed toward a child that results and/or might be expected to result in fear or emotional or mental distress to a child.

(b) *Assistant teacher* shall mean a person who is part of the teaching staff, works under the supervision of an educational director, group teacher or infant/toddler teacher, and whose assignment to a group of children may be considered in calculating compliance with required staff/child ratios.

(c) *Child care program.*

(1) Child care program means any program providing child care for five (5) or more hours per week, for more than 30 days in a 12-month period, to three (3) or more children under six (6) years of age.

(2) Child care program shall not mean:

(A) Any State-regulated informal child care program, a group family or family day care home, or school age child care program, or a foster care program;

(B) A kindergarten or pre-kindergarten class operated as part of or located within any elementary school; except that school programs that provide care to children younger than three years of age shall be deemed child care programs subject to this Code. "Operated as part of an elementary school" shall mean that there is identical ownership, operation, management and control of kindergarten or pre-kindergarten classes and elementary school classes.

(C) "Mommy and me" or equivalent programs where each child is accompanied by a parent or another adult escorting the child, who is not employed by the child care program; or

(D) Children's camps operating seasonally at any time between June and September that are required to have a permit, pursuant to Article 48 of this Code; or

(E) Adult physical fitness, spa or other recreational facilities, or retail establishments, or other businesses providing supervision for children of patrons or employees of the facility, establishment or business while parents are on the premises, unless children are registered or enrolled and individual children are spending more than eight hours/week in care.

(F) Churches or religious organizations where congregants' children are supervised by employees or members of the congregation while parents attend services.

(d) *Child supervisor* shall mean a person who, under the supervision of a shelter child care liaison, is responsible for the supervision of children at a family shelter-based drop-off child supervision program.

(e) *Corrective action plan* shall mean a written safety assessment required to be prepared, pursuant to 24 RCNY § 47.21, that shall be submitted to and approved by the Department when a permittee hires, plans to hire, or plans to utilize the services of, certain persons, or in such circumstances as are specified in this Article, or as may otherwise be required by the Department to show that a particular person at, or the continuing operation of, a child care program shall not pose a danger to children.

(f) *Educational director* shall mean a person whose responsibilities shall include, but not be limited to, coordination and development of an age appropriate curriculum and program, teaching and other staff training, and supervision of teachers.

(g) *Facility* shall mean interiors and exteriors of buildings, structures and areas of premises under the control of a permittee where services are provided and that are subject to the permit.

(h) *Family shelter-based drop-off child supervision program* shall mean any program provided by any family shelter operated by, or through contracts with, the Department of Homeless Services, the Human Resources Administration, or a successor agency, under Title 18 of the New York Code of Rules and Regulations, that provides child supervision services to children under six years old housed in the shelter.

(i) *Fill and draw pool* shall mean a pool that is not equipped with a recirculation system, but is cleaned by complete removal and disposal of used water and replacement with water at periodic intervals, whose use at any facility regulated by this Article is prohibited.

(j) *Group size* shall mean the maximum number of children that may be cared for as a unit. Group size shall be used to determine the minimum staff/child ratio based upon the age of the children in the group.

(k) *Group teacher* shall mean a person who, under the supervision of an educational director, is responsible for planning and supervising age appropriate activities for a given group of children.

(l) *Health care provider* shall mean a New York State licensed physician, physician's assistant, nurse practitioner or registered nurse, as defined in the State Education Law.

(m) *Imminent or public health hazard* shall mean any violation, combination of violations, conditions or combination of conditions occurring in a facility making it probable that illness, physical injury or death could occur or the continued operation of the program could result in injury or be otherwise detrimental to the health and safety of a child. Any of the following shall be imminent or public health hazards which require the Commissioner or designee to order its immediate correction or to order the permittee to cease operations immediately and institute such corrective action as may be required by the Department or provided by this Code. Imminent or public health hazards shall include, but not be limited to:

(1) Failure to maintain constant and competent supervision of children: for the purpose of this Article, supervision is constant and competent if it

(i) complies with the staff/child ratios required by this Article;

(ii) consists of line of sight observation of all children at all times; and

(iii) is provided by qualified and cleared staff;

(2) Use of corporal punishments or of frightening or humiliating methods of behavior management;

(3) Failure to report instances of alleged child abuse, maltreatment, or neglect to the Department and the Statewide Central Register of Child Abuse and Maltreatment and to take appropriate corrective action to protect children when allegations of such abuse or maltreatment have been reported to or observed by the permittee;

(4) Refusal or failure to provide access to the facility to an authorized employee or agent of the Department;

(5) Uncontained sewage in any part of the facility;

(6) Transporting children in the bed of a truck or trailer or in any other part of any motor vehicle that is not designed for passenger occupancy; or transporting children without adequate supervision; or failing to use appropriate child restraints in vehicles;

(7) Failure to provide two approved means of egress or obstructing any means of egress or a required fire exit;

(8) Failure to properly store flammable liquids or other toxic substances;

(9) Failure to maintain firefighting or fire detection equipment in working order;

(10) Allowing pillows to be used for children younger than two years of age who are not disabled or when not recommended by a health care provider.

(11) Contamination of the potable water supply by cross connection or other faults in the water distribution or plumbing systems;

(12) Serving food to children from an unknown or unapproved source; serving food that is adulterated, contaminated or otherwise unfit for human consumption, or re-serving food that was previously served;

(13) Failing to exclude from work at the program a person with a communicable disease who is required to be excluded, pursuant to Article 11 of this Code;

(14) Failure to implement the program's written safety plan resulting in a child not being protected from any unreasonable risk to his or her safety;

(15) Conducting construction, demolition, painting, scraping, or any repairs other than emergency repairs while children are present in the facility; failing to remove children from areas and rooms while such activities are in progress;

(16) Failure to screen any person who has, or will have the potential for, unsupervised contact with children in accordance with 24 RCNY § 47.19; or

(17) Any other condition(s), violations, or combination of conditions or violations, deemed to be an imminent health hazard by the Commissioner or his or her designee.

(n) *Infant* means a child younger than 12 months of age.

(o) *Infant/toddler care program* shall mean a program of child care that, during all or part of the day or night, provides care to children younger than 24 months of age.

(p) *Infant-toddler teacher* shall mean a person who, under the supervision of an educational director or group teacher, is responsible for a group of children younger than 24 months.

(q) *Night care program* shall mean any child care program, as defined in this section, that accepts children for care starting at 5 P.M., provides child care between the hours of 5 PM and 8 AM, and operates more than one (1) night per week, for more than 30 days in a 12 month period.

(r) *Parent* shall mean a natural or adoptive parent, guardian or other person lawfully charged with a minor child's care or custody.

(s) *Permittee* shall mean a person, organization or other entity that has been issued a permit to operate a program, pursuant to this Article.

(t) *Program* shall mean any child care program or family shelter-based drop-off child supervision program.

(u) *Semester hour* shall mean a credit, point, or other unit granted for the satisfactory completion of a college or university course which requires at least 15 clock hours (of 50 minutes each) of instruction and at least 30 hours of supplementary assignments, as defined in 8 NYCRR § 50.1. This basic measure shall be adjusted proportionately to translate the value of other academic calendars and formats of study in relation to the credits granted for study during the two semesters that comprise an academic year.

(v) *Serious injury* shall mean a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(w) *Services* shall mean any child care or child supervision provided by a child care program or family shelter-based drop-off child supervision program.

(x) *Shelter child care liaison* shall mean a person who is employed in a family shelter-based drop-off child supervision program and whose responsibilities shall include but not be limited to: referring families to child care programs, the Early Intervention Program, and Committees on Preschool Special Education; helping families apply for child care services; arranging in-service training of all staff as required by this Article; and keeping a daily log, to be provided to the Department upon request, reflecting the number of families admitted to the shelter, the number of children under the age of six admitted to the shelter, the number of children referred to licensed child care programs, and the number of enrollments of referred children in licensed child care programs.

(y) *Spa pool, "hydrotherapy pool," "whirlpool," "hot spa," or "hot tub"* shall mean a pool primarily designed for therapeutic use or relaxation that is generally not drained, cleaned or refilled for individual use. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral bath, air induction, bubbles or any combination thereof. Spa pools shall have a maximum water depth of 4 feet at any point and may be equipped with aquatic seats within the perimeter of the pool. Spa pools shall not be used for swimming, wading or diving activities at any facility regulated by this Article.

(z) *Staff/child ratio* shall mean the minimum number of individual group and assistant teachers and teacher aides required to be present to care for a given number of children in a child care program, or the minimum number of child supervisors required to supervise a given number of children in a family shelter-based drop-off child supervision program.

(aa) *Supervision* shall mean the presence of qualified teaching or supervisory staff, within line of sight and hearing of children at all times so that such staff can act to protect the health and safety of such children. Supervision shall not mean mechanical audio or video devices.

(bb) *Toddler* shall mean a child between 12 and 24 months of age.

(cc) *Volunteer* shall mean a person who is an unpaid member of the staff or who otherwise donates any services to a facility regulated by this Article.

(Amended City Record 9/20/2017, eff. 10/10/2017)]

(a) *Abuse* means any act or failure to act, performed intentionally, knowingly or recklessly, which causes or is likely to cause harm to a child, including, but not limited to:

(1) inappropriate use of a physical restraint, isolation, medication or other means that harms or is likely to harm a child; and

(2) an unlawful act, a threat or menacing conduct directed toward a child that results and/or might be expected to result in fear or emotional or mental distress to a child.

(b) *Assistant teacher* means a person who is part of the teaching staff and works under the supervision of an education director or group teacher.

(c) *Certified group teacher* means an individual who qualifies as a group teacher, pursuant to Section 47.13(d)(1) of this Code.

(d) *Child care program.*

(1) Child care program means any program providing child care for five or more hours per week, for more than 30 days in a 12-month period, to three or more children under six years of age.

(2) Child care program does not mean:

(A) Any State-regulated informal child care program, a group family or family day care home, or school age child care program, or a foster care program;

(B) A kindergarten or pre-kindergarten class operated as part of or located within any elementary school; except that school programs that provide care to children younger than three years of age shall be deemed child care programs subject to this Code. "Operated as part of an elementary school" means that there is identical ownership, operation, management and control of kindergarten or pre-kindergarten classes and elementary school classes.

(C) "Mommy and me" or equivalent programs where each child is accompanied by a parent or another adult escorting the child, who is not employed by the child care program; or

(D) Children's camps operating seasonally at any time between June and September that are required to have a permit, pursuant to Article 48 of this Code; or

(E) Adult physical fitness, spa or other recreational facilities, or retail establishments, or other businesses providing supervision for children of patrons or employees of the facility, establishment or business while parents are on the premises, unless children are registered or enrolled and individual children are spending more than eight hours/week in the Program.

(F) Churches or religious organizations where congregants' children are supervised by employees or members of the congregation while parents attend services.

(e) *Competent supervision* includes awareness of and responsibility for the ongoing activity of each child, performed via direct observation and not by mechanical, audio, or video device. It requires that all children be within a caregiver's line of sight and that the caregiver be near enough to respond when redirection or intervention strategies are needed. Competent supervision takes into account the child's age, emotional, physical, and cognitive development, and must be provided by qualified and cleared staff and in compliance with the minimum staff/child ratios required by Section 47.23(f) of this Article.

(f) *Corporal punishment* means punishment inflicted by program staff, or any other individual working for or at a program, directly on the body of a child, including, but not limited to, physical restraint, spanking, biting, shaking, slapping, twisting or squeezing; demanding excessive physical exercise, prolonged lack of movement or motion, or strenuous or bizarre postures; and compelling a child to eat or have in the child's mouth soap, foods, hot spices or irritants or the like.

(g) *Corrective action plan* means a written safety assessment required to be prepared, pursuant to Section 47.21 of this Code, that shall be submitted to and approved by the Department when a permittee hires, plans to hire, or plans to utilize the services of, certain persons, or in such circumstances as are specified in this Article, or as may otherwise be required by the Department to show that a particular person at, or the continuing operation of, a child care program shall not pose a danger to children.

(h) *Early childhood education* means education of children under the age of eight.

(i) *Education director* means a person whose responsibilities include, but are not limited to, coordination and development of an age and developmentally appropriate curriculum and program, training of teaching and other staff, and supervision of group teachers.

(j) *Facility* means interiors and exteriors of buildings, structures and areas of premises under the control of a permittee where services are provided and that are subject to the permit.

(k) *Family shelter-based drop-off child supervision program* means any program provided by any family shelter operated by, or through contracts with, the Department of Homeless Services, the Human Resources Administration, or a successor agency, under Title 18 of the New York Code of Rules and Regulations, that provides child supervision services to children under six years old housed in the shelter.

(l) *Fill and draw pool* means a pool that is not equipped with a recirculation system, but is cleaned by complete removal and disposal of used water and replacement with water at periodic intervals.

(m) *Group size* means the maximum number of children that may be cared for as a unit. Group size shall be used to determine the minimum staff/child ratio based upon the age of the children in the group.

(n) *Group teacher* means a person who, under the supervision of an education director, is responsible for planning and supervising age and developmentally appropriate activities for a given group of children.

(o) *Health care provider* means a New York State licensed physician, physician's assistant, nurse practitioner or registered nurse, as defined in the State Education Law.

(p) *Imminent or public health hazard* means any violation, combination of violations, conditions or combination of conditions occurring in a facility making it probable that illness, physical injury or death could occur or the continued operation of the program could result in injury or be otherwise detrimental to the health and safety of a child. Any of the following are imminent or public health hazards which require the Commissioner or designee to order its immediate correction or to order the permittee to cease operations immediately and institute such corrective action as may be required by the Department or provided by this Code. Imminent or public health hazards include, but not be limited to:

(1) Failure to maintain constant and competent supervision of children;

(2) Use of corporal punishments or of frightening or humiliating methods of behavior management;

(3) Failure to immediately report instances of alleged child abuse, maltreatment, or neglect to the Department and the Statewide Central Register of Child Abuse and Maltreatment and to take appropriate corrective action to protect children when allegations of such abuse or maltreatment have been reported to or observed by the permittee;

(4) Refusal or failure to provide access to the facility to an authorized employee or agent of the Department;

(5) Uncontained sewage in any part of the facility;

(6) Transporting children in the bed of a truck or trailer or in any other part of any motor vehicle that is not designed for passenger occupancy; or transporting children without adequate supervision; or failing to use appropriate child restraints in vehicles;

(7) Failure to provide two approved means of egress or obstructing any means of egress or a required fire exit;

(8) Failure to properly store flammable liquids or other toxic substances;

(9) Failure to maintain firefighting or fire detection equipment in working order;

(10) Allowing pillows to be used for children younger than two years of age who are not disabled or when not recommended by a health care provider.

(11) Contamination of the potable water supply by cross connection or other faults in the water distribution or plumbing systems;

(12) Serving food to children from an unknown or unapproved source; serving food that is adulterated, contaminated or otherwise unfit for human consumption, or re-serving food that was previously served;

(13) Failing to exclude from work at the program a person with a communicable disease who is required to be excluded, pursuant to Article 11 of this Code;

(14) Failure to implement the program's written safety plan resulting in a child not being protected from any unreasonable risk to his or her safety;

(15) Conducting construction, demolition, painting, scraping, or any repairs other than emergency repairs while children are present in the facility; failing to remove children from areas and rooms while such activities are in progress;

(16) Failure to screen any person who has, or will have the potential for, unsupervised contact with children in accordance with Section 47.19 of this Code; or

(17) Any other condition(s), violations, or combination of conditions or violations, deemed to be an imminent health hazard by the Commissioner or his or her designee.

(q) *Infant* means a child younger than 12 months of age.

(r) *Infant/toddler child care program* means a child care program that, during all or part of the day or night, provides care to children younger than 24 months of age.

(s) *Night child care program* means a child care program, as defined in this section, that accepts children for care starting at 5 P.M., provides child care services between 5 P.M. and 8 A.M., and operates more than one night per week, for more than 30 days in a 12-month period.

(t) *Parent* means a natural or adoptive parent, guardian or other person lawfully charged with a minor child's care or custody.

(u) *Permittee* means a person, organization or other entity that has been issued a permit to operate a program, pursuant to this Article.

(v) *Program* means any child care program or family shelter-based drop-off child supervision program.

(w) *Semester hour* means a credit, point, or other unit granted for the satisfactory completion of a college or university course which requires at least 15 clock hours (of 50 minutes each) of instruction and at least 30 hours of supplementary assignments, as defined in 8 NYCRR §50.1. This basic measure shall be adjusted proportionately to translate the value of other academic calendars and formats of study in relation to the credits granted for study during the two semesters that comprise an academic year.

(x) *Serious injury* means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(y) *Services* means any child care or child supervision provided by a child care program or family shelter-based drop-off child supervision program.

(z) *Shelter child supervision liaison* means a person who is employed in a family shelter-based drop-off child supervision program and whose responsibilities shall include but not be limited to: referring families to child care programs, the Early Intervention Program, and Committees on Preschool Special Education; helping families apply for child care services; arranging in-service training of all staff as required by this Article; and keeping a daily log, to be kept on site and made available to the Department upon request, reflecting the number of families admitted to the shelter, the number of children under the age of six admitted to the shelter, the number of children referred to licensed child care programs, and the number of enrollments of referred children in licensed child care programs.

(aa) *Shelter child supervision staff* means shelter child supervision liaisons and child supervisors.

(bb) *Shelter child supervisor* means a person who, under the supervision of a shelter child supervision liaison, is responsible for the supervision of children at a family shelter-based drop-off child supervision program.

(cc) *Spa pool, "hydrotherapy pool," "whirlpool," "hot spa," or "hot tub"* means a pool primarily designed for therapeutic use or relaxation that is generally not drained, cleaned or refilled for individual use. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral bath, air induction, bubbles or any combination thereof. Spa pools shall have a maximum water depth of 4 feet at any point and may be equipped with aquatic seats within the perimeter of the pool. Spa pools shall not be used for swimming, wading or diving activities at any facility regulated by this Article.

(dd) *Staff/child ratio* means the minimum number of teaching staff required to be present to care for a given number of children in a child care program, or the minimum number of shelter child supervisors required to supervise a given number of children in a family shelter-based drop-off child supervision program.

(ee) *Teacher aide* means an individual at least 18 years of age who is part of the teaching staff and works under the supervision of an education director, group teacher, or assistant teacher.

(ff) *Teaching staff* means a child care program's education director, group teachers, assistant teachers, and teacher aides.

(gg) *Toddler* means a child between 12 and 24 months of age.

(hh) *Volunteer* means a person who donates any services to a program regulated by this Article.

(Amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.03 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.03 Permit required.

(a) *Permit required.* No person shall operate a program as defined in this Article without a permit issued by the Commissioner, provided, however, that a pre-kindergarten or kindergarten that is part of or located in and operated by an elementary school may voluntarily apply for and hold a permit as a child care program. Child care program permits issued before the effective date of this Article will be deemed to be child care program permits.

(b) *Term of permit.* The term of a permit shall be determined by the Department, but in no case shall exceed two years.

(c) *Permits not transferable.* A permit shall be issued to a person, as defined in Section 1.03 of this Code, to conduct a program at a specific facility and location. Permits shall specify the number of children that may be cared for in each type of program operated at the facility by the permittee. Permits shall not be transferable or assignable by a permittee to any other person or entity; and shall not be applicable to any other facility or location. Separate permits shall be required for child care programs providing infant/toddler child care, those providing care for children aged two through five, and night child care programs. Any change in building address or location, capacity or permittee not authorized or approved by the Department shall void a permit, and may result in the closure of the program.

(d) *Inspections*. Permittees will allow credentialed Department staff to visit the program while in operation and inspect the documents that are required by this Article to be kept on the premises and provided upon request. Such inspections will occur at least once per year.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Sections 47.05 through 47.19 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

[**§ 47.05 Program capacity and limitation on hours per child.**

(a) Maximum number of children on premises. Each permit shall specify the maximum number of children to be allowed in each specific type of program at any time. The Department shall determine the maximum number of children allowed based upon the number of children for which adequate facilities and teachers or child supervisors are provided, in accordance with the supervision and space requirements of this Code. The total number of children receiving care, pursuant to each permit shall be counted for all purposes, including calculating qualified staff/child ratios, and shall include children or foster children of the individual permittee or other staff or volunteers.

(b) *Capacity not to be exceeded.* A program shall not have children in attendance in excess of the number(s) prescribed in its permit.

(c) *Limitation on hours per child.* Family shelter-based drop-off child supervision programs must provide no more than 20 hours of services in any week to any child who has resided in the shelter for more than 90 days.

(Amended City Record 9/20/2017, eff. 10/10/2017)

§ 47.07 Permit: required approvals and clearances.

No permit shall be issued unless the permit applicant has obtained and submitted to the Department:

(a) *Certificate of Occupancy.* A Certificate of Occupancy, or a statement of approval from the Department of Buildings that the premises comply with all applicable building laws and codes and may be used as a child care or child supervision facility. Where a Certificate of Occupancy is not required by law, the permit applicant shall submit a current inspection report from the Department of Buildings showing that there are no outstanding uncorrected violations of the City's Building Code.

(b) *Fire safety statement.* A statement or report from the Fire Department that the premises have been inspected and currently comply with all applicable laws and regulations pertaining to fire control and prevention. A permit shall not be issued or renewed, unless a statement or report is submitted demonstrating compliance with such laws, based upon the Fire Department's determination on an inspection made within 12 months of the date of submitting the permit renewal application.

(c) *Criminal justice and child abuse screening.* Documentation satisfactory to the Department that the permit applicant has submitted all necessary forms and requests for all persons requiring criminal justice and State Registry of Child Abuse and Maltreatment screening in accordance with § 47.19 of this Code.

(Amended City Record 9/20/2017, eff. 10/10/2017)

§ 47.09 Applications for permits.

A person or entity that has never held a permit issued by the Commissioner to operate a program and that proposes to operate such a program subject to such permit, shall attend a pre-permit orientation session held by the Department and shall thereafter submit an application for a permit to the Department.

(a) *New application.* An application for a new permit shall be submitted on forms approved or provided by the Department and shall include, but not be limited to the following:

(1) Facility pre-permit technical plan. Each plan, consisting of blueprints, architectural or engineering drawings, shall be drawn to scale, and labeled to show floor layout, all indoor rooms and outdoor areas to be occupied or used by the program, dimensions of such rooms and areas, and intended use of each area; outdoor spaces location in relation to actual distance and location from indoor spaces; and all toilets, sinks and kitchen(s) to be used by children and staff.

(2) A copy of a current certificate of occupancy issued by the Department of Buildings, or if no certificate of occupancy is required by applicable law, a statement from the Department of Buildings that the premises and facility to be used for child care or child supervision comply with all applicable building laws and codes.

(3) A report of an inspection or a statement issued by the Fire Department finding that the premises comply with all laws and regulations pertaining to fire prevention and control in a program.

(4) Written safety plan required by this Code.

(5) Proof that teachers' or child supervisors' credentials required by this Code have been submitted for review to and have been verified by an agent designated by the Department; and that the permit applicant has documentation of all required health examinations and immunizations.

(6) Permit fee set forth in Article 5 of this Code.

(7) Proof of workers' compensation and disability benefits insurance covering all employees.

(8) Proof of the program's ability to receive electronic communications. An email address shall be provided for the educational director or the shelter child care liaison and for one or more other persons designated by the permittee or other person in control of a program as persons to receive electronic communications from the Department. The Department shall be notified of changes in email addresses for the educational director, the shelter child care liaison, or other designees when such changes become effective.

(9) Names, including aliases, and other identifying and contact information for all individual owners, managers, or other persons with a controlling interest in the program, officers, directors and board members of a permittee corporation, members of an LLC, partners, educational directors, shelter child care liaisons, executive and administrative director, if any. Identifying information must include the New York State Identification or NYSID number assigned to these individuals when they were fingerprinted by the New York State Division of Criminal Justice Services, in accordance with 24 RCNY § 47.19.

(b) *Notifications of deaths, serious injuries and civil and criminal actions.* Permittees and applicants for new permits shall submit, on forms provided by the Department, such information as may be required by the Department concerning all staff misdemeanor or felony arrests, deaths or serious injuries of children that have occurred, or are alleged to have occurred while such children were in the care of the applicant or permittee, or in the care of any owner, director, employee, or volunteer of the applicant or permittee, or while in the care of any agent of the permittee or applicant; and shall identify, in such detail as may be required by the Department, any related civil or criminal action already adjudicated or currently pending in any jurisdiction related to such serious injuries, deaths, or felony or misdemeanor arrests.

(c) *Renewal application.* An application for renewal of a permit shall be submitted on forms provided by the Department no later than 90 days before the expiration date of the current permit, and shall include the permit fee, and a full description of any changes in teaching staff, written safety plan, written health plan, email communication information, physical facilities, required staff training or program which occurred after submission of the previous permit application.

(d) *Pre-renewal inspection.* A renewal permit shall not be issued unless the Department has conducted an inspection of the program while it is in operation and has found the program to be in substantial compliance with this Code and other applicable law.

(e) *Renovations and modifications.* A permittee shall submit for approval to the Department a request for modification of an existing permit prior to undertaking renovations affecting the size, configuration, or location of rooms or areas used by children.

(f) *Applications to be complete.* No permit shall be issued until the Department has received and has approved all documentation, records, reports, or other information required by this Code. The Commissioner may reject any incomplete application for a new or renewal permit and order an existing program closed and its permit suspended if the permit application contains misleading information, or information is omitted.

(Amended City Record 9/20/2016, eff. 10/20/2016; City Record 9/20/2017, eff. 10/10/2017)

§ 47.11 Written safety plan.

(a) *Safety plan required.* Every current permittee and every applicant for a new permit shall develop, review annually and update, in accordance with changed circumstances, conditions or activities, or as required by the Department, a written safety plan. The written safety plan shall be approved by the Department if it includes all the information required in this Article. Upon permit renewal, if no changed circumstances require changes to a previously approved written safety plan, the permittee shall state in writing that no changes were needed or made to the plan. The safety plan shall be implemented by the permittee, provided to parents on request, kept in an accessible location at the facility. The program must provide all staff and volunteers with copies of the safety plan and training in implementing the policies and procedures of the plan. This training shall include, but not be limited to, training and drills in medical and other critical and emergency response procedures, including evacuation of the premises. Documentation showing that staff have received copies of the plan and training and drills in implementing its provisions must be maintained by the permittee and made available for inspection by the Department while staff remain employed at the program.

(b) *Scope and content.* The written safety plan shall establish policies and procedures for safe operation, including teaching and other staff duties, facility operation and maintenance, fire safety, general and activity-specific safety, emergency management, staff and child health and medical requirements, staff training and parent/child orientation. The written safety plan shall consist of, at a minimum, a table of contents and the following components:

(1) *Staff:* organization chart, job descriptions, responsibilities and supervisory responsibilities.

(2) *Program operation and maintenance:* including, but not limited to, schedules and designated staff for facility inspection, cleaning and maintenance, schedule for boiler/furnace and HVAC system maintenance, maintenance of adequate water pressure, protection of the potable water supply from submerged inlets and cross-connections in the plumbing system, schedule for the annual lead paint survey, inspection of window guards, indoor and outdoor equipment inspection and replacement schedule, evaluation of injury prevention procedures, equipment and structures, identification of procedures for transportation vehicle maintenance, food protection procedures during receipt, storage and preparation, identity of individuals certified in food protection, schedule for sanitization procedures of food prep areas and identification of approved food sources.

(3) *Fire safety:* evacuation of buildings and property, assembly, supervision, and accounting for children and staff; fire prevention; coordination with local fire officials; fire alarm and detection systems and their operation, maintenance, and routine testing; type, location and maintenance of fire extinguishers; inspection and maintenance of exits; required fire drills and log; electrical safety; and reporting to the Department within 24 hours fires which destroy or damage any facilities, or which result in notification of the fire department, or are life or health threatening.

(4) *Health care plan:* statement of policies and procedures to show how the health and medical requirements of this Code shall be implemented for maintaining children's medical histories; addressing individual children's restrictions on activities, policies for medication administration and special needs, if any; initial health screening for children and staff; daily health surveillance of children; procedures for providing basic first aid, handling and reporting medical emergencies and outbreaks; procedures for response to allegations of child abuse; identification of and provisions for medical, nursing and emergency medical services addressing special individual needs; names, qualifications and duties of staff certified in first aid and CPR; description of separation facilities, supervision and other procedures for ill children to be provided by the program until a parent arrives; storage of medications; location and use of first aid and CPR supplies; maintenance of a medical log; description of universal precautions for blood borne pathogens; reporting of child and staff illness and injuries; and sanitary practices. When the permittee has a medication administration policy, the permittee shall immediately notify the Department of any changes in designated exempt or certified staff.

(5) *Corrective action plans:* actions to be taken to protect children on receipt of reports of alleged and confirmed teaching and other staff criminal justice or child abuse histories.

(6) *General and activity specific safety and security:* procedures for establishing and maintaining accountability for children and child supervision during all on and off-site activities; maintaining records of staff schedules and assignments, addressing at a minimum:

(A) Observing and recording children's daily attendance and the times children enter and leave the program, in accordance with 24 RCNY § 47.65;

(B) Recreational and trip supervision and staffing for specific outdoor and off-site activities in accordance with 24 RCNY § 47.57;

(C) Sleep and rest period supervision;

(D) Bathroom use supervision;

(E) Transportation supervision in accordance with 24 RCNY § 47.65;

(F) Procedures for and staff assigned to (i) securing the facility from unauthorized entry and preventing children from leaving the facility unless they are escorted by authorized adults; (ii) observing and monitoring all entrances and exits at all times children are on premises; and (iii) periodic observation and monitoring of stairs, hallways, bathrooms and unoccupied spaces during program operation.

(7) *Infant sleep safety:* practices and policies that establish a safe sleeping environment, promote an infant's comfort and well-being and reduce the risk of suffocation or death occurring while infants are in cribs or asleep. Such practices and policies must be based on current recommendations of the American Academy of Pediatrics, American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education, Caring for our children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, 3rd edition, 2011, or successor recommendations. The plan must include procedures for actively observing and evaluating infants for overheating, breathing status, and other signs of physical or medical distress that may require intervention, at intervals not to exceed 15 minutes. Documentation must be maintained, on forms provided or approved by the Department, of staff infant observations. The infant/toddler education director or the family shelter must maintain the forms for two weeks. Forms with entries indicating problems observed in an individual infant shall be kept in the child's medical record while the child remains enrolled in the program. Observation forms shall be made available for inspection by the Department. The use of infant movement monitors or infant apnea monitors does not relieve the program of the responsibility to conduct and note required observations.

(8) *Staff training:* new employee orientation; training curricula, including how staff will be trained in the provisions of the written safety plan and be made aware of its contents of and any changes to the safety plan; procedures for child supervision, infant sleep safety; behavior management; child abuse recognition and reporting; provision of first aid and emergency medical assistance; reporting of child injury and illness; managing and reporting incidents where children are lost to supervision; fire safety and fire drills; child and staff evacuation procedures; activity specific training for assigned activities; and process to document attendance at staff training.

(9) *Emergency evacuation:* age-specific plans for removal of children from the premises for each shift and program where care is provided. Primary emphasis shall be placed on the immediate evacuation of children in premises which are not fireproof. Emergency evacuation procedures, implementing Fire Department recommendations, shall be posted in conspicuous places throughout the facility. The emergency evacuation plan shall include the following:

(A) How children and staff will be made aware of the emergency;

(B) Primary and secondary routes of egress;

(C) Methods of evacuation, including where children and staff will meet after evacuating the building, and how attendance will be taken;

(D) Roles of the staff and chain of command;

(E) Notification of authorities and the children's parents.

(10) *Parent/child orientation:* orientation curriculum outline; tour of premises; reporting and management of illnesses, injuries and other incidents; evacuation plan; lost child plan; lightning plan; fire safety and fire drills; evacuation procedures; activity specific training for assigned activities; trips (if provided).

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017)

§ 47.13 Teaching staff qualifications in child care services for children ages two to six.

(a) *Accreditation.* In determining teacher and educational director qualifications, the Department may accept documentation from schools, colleges and universities approved by the State Education Department or other teacher accreditation organizations acceptable to the Department certifying that such persons have met the specific Code requirements. All teacher documentation must be submitted for review to an agency designated by the Department.

(b) *Pending certifications.* A permittee may temporarily employ an educational director or individual group teachers pending certification by the State Education Department or other accreditation organization or while a teacher's study plan for obtaining certification is pending approval by the Department, provided that the permittee has complied with criminal justice and State Registry of Child Abuse and Maltreatment screening requirements for staff set forth in this Article.

(c) *Educational director.* Every child care service shall designate a qualified teacher as the educational director who shall be in charge of staff training, educational and child development programs and shall supervise all teaching staff at each permitted child care service.

(1) Coverage for educational director. When an educational director is not present to supervise a child care service, the permittee shall designate a certified group teacher to act as educational director. In addition, the permittee must notify the Department in writing within five business days of the termination or resignation of the educational director. When the educational director will be on anticipated leave for more than five business days, the permittee must notify teaching staff in writing that a certified teacher has been designated as educational director and make this written communication available to the Department for inspection upon request.

(2) *Teaching duties.* The educational director shall have no teaching duties when more than 40 children are enrolled in the child care service. If the child care service holding a permit is part of an elementary school offering classes from grades one through six, and has either child care programs for children under three years of age or has voluntarily applied for a permit, pursuant to this Article, and such school also has a principal with no teaching duties, the educational director shall not have any teaching duties when more than 60 children are enrolled in the child care service.

(3) *Qualifications.* The education director shall have:

(A) A baccalaureate degree in early childhood education or related field of study and State Education Department teacher certification in early childhood education or equivalent certification, pursuant to paragraph (2) of subdivision (d) of this section, and

(B) At least two years of experience as a group teacher in a program for children under six years of age.

(d) *Group teacher.* No person shall be placed in charge of a group of children in a child care service unless s/he is certified or qualified, pursuant to paragraph (1), (2), (3) or (4) of this subdivision.

(1) *Baccalaureate degree and State certification*. A baccalaureate degree in early childhood education or related field of study and current valid certification issued by the State Education Department, pursuant to 8 NYCRR § 80 or successor rule or equivalent certification from another jurisdiction, as a teacher in the field of early childhood education; or

(2) *Equivalent certification.* Certification from a public or private certifying or teacher accrediting organization or agency granted reciprocity by the New York State Department of Education; or

(3) *Baccalaureate degree.* A baccalaureate degree in early childhood education or related field and five years of supervised experience in a pre-school program if currently employed in a permitted child care service; or

(4) *Study plan eligibility.* The person has proposed a plan for meeting the requirements of paragraph (1), (2) or (3) of this subdivision within seven years, and has obtained approval of this plan by an accredited college. A person who is study plan eligible shall submit documentation to the Department indicating proof of enrollment in such college and specifying the time required for completion of training.

(A) The course of study may include the following study areas:

(i) Sociological, Historical, Philosophical Foundations of Education or

(ii) Sociology of Education or History of Education or Philosophy of Education

(iii) Child Development or Child Psychology

(iv) Educational Developmental Psychology or Psychological Foundations of Education

(v) Instructional Materials and Methods Courses - three (3) courses required, including one on the pre-kindergarten or kindergarten level including, but not limited to, such courses as:

(aa) Teaching of Reading, Teaching of Math, Teaching Science to Young Children

(bb) Teaching of Music, Teaching of Art, Methods of Teaching of Language Arts

(cc) Teaching of Computer Technology to Young Children

(vi) Parent Education and Community Relations or Urban Education or Sociology of the Family or Parent, Child, School.

(B) To be study plan eligible, a person shall have:

(i) Associate's (AA or AS) degree in early children education, practicum included; or

(ii) Ninety or more undergraduate college credits and one year classroom experience teaching children in pre-kindergarten, kindergarten or grades 1-2; or

(iii) Baccalaureate in any other academic subject and one year classroom experience teaching children up to third grade.

(e) *Group teacher for children with special needs.* A group teacher for children with special needs shall be certified in special education, or early childhood education, with additional appropriate training in working with special needs children, in accordance with applicable law.

(f) *Assistant teacher.* An assistant teacher shall be at least 18 years of age and have a high school diploma or equivalent (GED).

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017)

§ 47.15 Teaching staff qualifications for infant-toddler child care services.

A child care service authorized to provide care for children under 24 months of age may employ staff with either the qualifications listed in 24 RCNY § 47.13 for each title or the following alternative qualifications; all documents and credentials must be submitted for review to an agency designated by the Department:

(a) *Educational director.* Every infant-toddler child care service shall have an educational director who shall be in charge of staff training, educational and child development programs and shall supervise all teaching staff at each permitted infant-toddler child care service. The permittee must notify the Department in writing within five business days of the termination or resignation of an educational director.

(1) *Qualifications:*

(A) Baccalaureate degree in early childhood education or related field of study, and

(B) At least one year of experience as a group teacher or child care provider in a child care service for children under 24 months of age, or six college credits in infant-toddler coursework, or a study plan leading to six college credits in infant-toddler coursework

(b) *Infant/Toddler teacher.* A teacher for an infant-toddler program shall be at least 21 years of age and have the following qualifications:

(1) Associate's (AA or AS) degree in early childhood education; or

(2) Child Development Associate (CDA) certification and a study plan leading to an associate's degree in early childhood education within 7 years; or

(3) High school diploma or equivalent (GED); nine college credits in early childhood education or child development; two years experience caring for children, and a study plan leading to an associate's degree in early childhood education within seven years; or

(4) High school diploma or equivalent (GED) and five years of supervised experience in an infant-toddler classroom if currently employed in a permitted child care service; or

(5) High school diploma or equivalent (GED); and a study plan that is acceptable to the Department leading to nine credits in early childhood education or childhood development within two years; and a study plan leading to an associate's degree in early childhood education within seven years, if currently employed in a permitted child care service.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record 9/20/2016, eff. 10/20/2016)

§ 47.17 Teaching staff qualifications for night child care services.

(a) Permittees offering night care services shall comply with all requirements of this Article except when such requirements are inconsistent with the provisions of this section, in which case the provisions of this section shall control. All documents and certifications required by this section must be submitted for review to an agency designated by the Department.

(b) *Educational director.* The educational director shall be qualified in accordance with 24 RCNY § 47.13; or hold a baccalaureate degree, including 12 college credits in early childhood education, and have two years of experience in a licensed program with children younger than six years of age. When the educational director is not present to supervise the teachers in a night care service, the permittee shall designate a group teacher qualified, pursuant to 24 RCNY § (d) to act as educational director. The permittee must notify the Department in writing within five business days of the termination or resignation of an educational director.

(c) *Assistant teacher.* An assistant teacher in a night care service shall be at least 18 years of age and have the following qualifications:

(1) High school diploma or equivalent (GED); nine college credits in early childhood education or child development; and two years of experience caring for children; or

(2) High school diploma or equivalent (GED) and five years of supervised experience in a permitted child care service; or

(3) High school diploma or equivalent (GED); and a study plan that is acceptable to the Department leading to completion of nine credits in early childhood education or childhood development within two years.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017)

§ 47.18 Shelter child care liaison and child supervisor requirements and qualifications.

(a) Every family shelter-based drop-off child supervision program must designate at least one qualified individual as a shelter day care liaison for every 30 children enrolled in the program. If a site has more than one liaison, one must be designated head liaison.

(1) *Coverage for shelter child care liaison.* When a shelter child care liaison is not present to supervise a drop-off child care program, the permittee shall designate an interim liaison to act as the liaison. In addition, the permittee must notify the Department in writing within five business days of the termination or resignation of a required shelter child care liaison. When a shelter child care liaison will be on anticipated leave for more than five business days, the permittee must notify families and program staff in writing of the name of the designated interim liaison. This written communication must be made available to the Department for inspection upon request.

(2) *Qualifications.* Each shelter child care liaison must have a baccalaureate degree from an accredited college or university in the social sciences, applied health sciences, human service, or a related degree approved by the Department.

(3) *Accreditation.* In determining shelter child care liaison qualifications, the Department may accept documentation from schools, colleges and universities approved by the State Education Department or other accreditation organization acceptable to the Department certifying that the liaison has met the specific Code requirements. All liaison documentation must be submitted to the Department for review.

(b) A child supervisor in a family shelter-based drop-off child supervision program must have at a minimum an associate's degree in the social sciences, applied health sciences, or human services, or a related degree that is approved by the Department, or a Child Development Associate (CDA) certification.

(Added City Record 9/20/2017, eff. 10/10/2017)

§ 47.19 Criminal justice and child abuse screening of current and prospective personnel; reports to the Department.

(a) *Applicability.* These requirements for child abuse and criminal justice screening shall apply to any person who has, will have, or has the potential for unsupervised contact with children in a program, and shall include, but not be limited to: individual owners, permittees, partners, members and shareholders of corporations, limited liability companies or other entities who are the owners or operators of the program; educational, child supervision, administrative and maintenance employees; employees who are school bus drivers or who are assigned to accompany children during transportation to and from the program; volunteers, including parent volunteers and student teachers, trainees or observers; and consultants and other persons employed by persons, corporations, partnerships, associations or other entities providing services to the program. Employees of independent contractors providing maintenance, construction, transportation, food or any other goods or services to a program shall be screened in accordance with this section, or shall be prohibited from working in any area, vehicle or facility owned, occupied or used by the program unless such person is working under the direct supervision and within the line of sight of a screened employee of the program. These requirements shall not apply to persons authorized by parents to escort or transport children to and from programs where the parents have privately arranged for such escort or transportation.

(b) *Pre-employment verification.* A permittee shall obtain and verify credentials, including certificates and educational transcripts, as applicable, and references prior to employment of all persons listed in subdivision (a) of this section.

(c) *Screening.* A permittee shall arrange for (1) fingerprinting, (2) review of records of criminal convictions and pending criminal actions, and (3) inquiry of the Statewide Central Register of Child Abuse and Maltreatment (hereinafter "SCR") for all prospective employees, and other persons listed in subdivision (a), and for current employees shall repeat the inquiry to the SCR every two years.

(d) *Individual consent.* A permittee shall obtain written consent from each such person for fingerprinting and criminal record review, and shall provide written notice to such persons that there will be an inquiry submitted to the SCR, pursuant to Social Services Law § 424-a(1), or successor law, and that copies of the reports received by the permittee as a result of such review and screening shall be provided to the Department.

(e) *Refusal to consent.* A permittee shall not hire or retain as an employee, or otherwise allow on its premises any person who is required to have, but refuses to consent to, fingerprinting and criminal record review. The permittee shall not hire or retain any person who has a record of criminal convictions or arrests, subject to and consistent with Article 23-A of the New York State Correction Law, except as provided in subdivision (h) of this section.

(f) *Employee to notify permittee.* Employees required to have criminal justice and child abuse screening shall notify the permittee within 24 hours when such employees are arrested, or when such employees receive a notice that an allegation of child abuse or maltreatment has been filed concerning such employees.

(g) *Reports to the Department.* Permittees shall notify the Department within 24 hours when they have received an indicated report from the SCR; an employee report that an allegation has been filed against the employee; and a record or report of criminal conviction(s), pending criminal action, or arrest or criminal charge for any misdemeanor or felony for any person required to have a criminal record review or SCR screening. Permittees must also notify the Department within 24 hours whenever a child attending a program has been seriously injured, has died, or a child in their care or supervision has been unaccounted for, left behind at any location outside the child's assigned classroom or where supervision has not been maintained in the manner required by this Code for any period of time while in the care of the permittee.

(h) *Actions required.* Consistent with Article 23-A of the New York State Correction Law, and except where the permittee has submitted and obtained Department approval of a corrective action plan in accordance with 24 RCNY § 47.21:

(1) A permittee shall not hire, retain, utilize or contract for the services of a person who:

(A) Has been convicted of a felony at any time, or who has been convicted of a misdemeanor within the preceding ten years; or

(B) Has been arrested and charged with any felony or misdemeanor, and where there has been no disposition of the criminal matter; or

(C) Is the subject of an indicated child abuse and maltreatment report, in accordance with a determination made after a fair hearing, pursuant to § 422(8) of the Social Services Law.

(2) A permittee shall not dismiss or permanently deny employment to current and prospective staff solely because they are defendants in pending criminal actions, but may suspend current employees or defer employment decisions on prospective employees until disposition of the pending criminal action.

(3) A permittee shall prohibit unsupervised contact with children by any person who has not received screening clearance for criminal convictions or by the SCR, or as specified in paragraph (1) of this subdivision.

(i) *References.* For all prospective staff, the permittee shall make a written inquiry to an applicant's three most recent employers and shall obtain three references prior to hiring. If prospective staff have not had three prior employers, references may be accepted from persons who are not family members and who state, in writing, that the applicant is well-known to them as a student, volunteer, or other stated capacity, and that the applicant is suited by character, fitness, and ability to work with children.

(j) *Services for certain children.* Permittees must allow access to children receiving assessments and services of professional consultants retained by Early Intervention program providers or New York City Department of Education committees on preschool special education, or successor programs, without requiring proof of consultants' fingerprinting, SCR clearances or references.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017)]

§ 47.05 Program capacity and limitation on hours per child.

(a) Maximum number of children on premises. Each permit shall specify the maximum number of children to be allowed on the premises of each specific type of program at any time that the program is in operation. The total number of children on the premises of the program shall be included for this purpose, regardless of whether such children are enrolled in the program. The Department shall determine the maximum number of children allowed based upon the number of children for which adequate facilities and teaching staff or shelter child supervision staff are provided, in accordance with:

(1) the supervision and space requirements of this Code; and

(2) the maximum number of persons permitted by the certificate of occupancy issued by the New York City Department of Buildings (DOB) or, if applicable, another government entity with the authority to issue a certificate of occupancy to the facility.

(b) *Capacity not to be exceeded.* A program shall not have children in attendance in excess of the number(s) prescribed in its permit.

(c) *Limitation on hours per child.* Family shelter-based drop-off child supervision programs must provide no more than 20 hours of services in any week to any child who has resided in the shelter for more than 90 days.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

§ 47.07 Permit: required approvals and clearances.

No permit shall be issued unless the permit applicant has obtained and submitted to the Department:

(a) *Certificate of occupancy.* A Certificate of occupancy, or a statement of approval that the premises comply with all applicable building laws and codes and may be used as a child care or child supervision facility, issued by DOB or, if applicable, another government entity with the authority to issue a certificate of occupancy to the facility. Where a certificate of occupancy is not required by law, the permit applicant shall submit a current inspection report issued by DOB or, if applicable, an appropriate state or federal government entity certifying that there are no outstanding uncorrected violations of the applicable building code(s). Such documentation shall be kept on site and made available to the Department upon request.

(b) *Fire safety statement.* A statement or report from the New York City Fire Department (FDNY) or, if applicable, the appropriate state or federal government entity, that the premises have been inspected and currently comply with all applicable laws and regulations pertaining to fire control and prevention. A permit shall not be issued or renewed, unless a statement or report is submitted demonstrating compliance with such laws, based upon FDNY's or, if applicable, the appropriate state or federal government entity's, determination on an inspection made within 12 months of the date of submitting the permit renewal application. Such documentation shall be kept on site and made available to the Department upon request.

(c) *Criminal justice and child abuse screening.* Documentation satisfactory to the Department that the permit applicant has submitted all necessary forms and requests for all persons requiring criminal justice and State Registry of Child Abuse and Maltreatment screening in accordance with Section 47.19 of this Code. Such documentation shall be kept on site and made available to the Department upon request.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

§ 47.09 Applications for permits.

A person or entity that has never held a permit issued by the Commissioner to operate a program and that proposes to operate such a program subject to such permit, shall attend a pre-permit orientation session held by the Department and shall thereafter submit an application for a permit to the Department.

(a) *New application.* An application for a new permit shall be submitted on forms approved or provided by the Department and shall include, but not be limited to the following:

(1) Facility pre-permit technical plan. Each plan, consisting of blueprints, architectural or engineering drawings, shall be drawn to scale, and labeled to show floor layout, all indoor rooms and outdoor areas to be occupied or used by the program, dimensions of such rooms and areas, and intended use of each area; outdoor spaces location in relation to actual distance and location from indoor spaces; and all toilets, sinks and kitchen(s) to be used by children and staff.

(2) A copy of a current certificate of occupancy issued by DOB or, if applicable, the other government entity with the authority to issue a certificate of occupancy to the facility, or, if no certificate of occupancy is required by applicable law, a statement from DOB or the appropriate state or federal government entity that the premises and facility to be used for child care or child supervision comply with all applicable building laws and codes.

(3) A report of an inspection or a statement issued by FDNY or, if

applicable, the appropriate state or federal government entity, finding that the premises comply with all laws and regulations pertaining to fire prevention and control in a program.

(4) Written safety plan required by this Code.

(5) Proof that teaching staff or shelter child supervision staff credentials required by this Code have been submitted for review to and have been verified by an agent designated by the Department; and that the permit applicant has documentation of all required health examinations, immunizations, and that at least one staff member has the pediatric cardiopulmonary resuscitation (CPR) and pediatric first aid certification required by Section 47.37(b)(3)(A)(ii)(aa)(*1*) of this Code.

(6) Permit fee set forth in Article 5 of this Code.

(7) Proof of workers' compensation and disability benefits insurance covering all employees.

(8) Proof of the program's ability to receive electronic communications. Email addresses shall be provided for the permittee, the education director or the shelter child supervision liaison, and for one or more other persons designated by the permittee or other person in control of a program as persons to receive electronic communications from the Department. The Department shall be notified of changes in email addresses for the permittee, the program, the education director, the shelter child care liaison, and other designees when such changes become effective.

(9) Names, including aliases, and other identifying and contact information for all individual owners, managers, or other persons with a controlling interest in the program, officers, directors and board members of a permittee corporation, members of an LLC, partners, education directors, shelter child supervision liaisons, executive and administrative director, if any. Identifying information must include the New York State Identification or NYSID number assigned to these individuals when they were fingerprinted by the New York State Division of Criminal Justice Services, in accordance with Section 47.19 of this Code.

(b) *Notifications of deaths, serious injuries and civil and criminal actions.* Permittees and applicants for new permits shall submit, on forms provided by the Department, such information as may be required by the Department concerning all staff misdemeanor or felony arrests, deaths or serious injuries of children that have occurred, or are alleged to have occurred while such children were in the care of the applicant or permittee, or in the care of any owner, director, employee, or volunteer of the applicant or permittee, or while in the care of any agent of the permittee or applicant; and shall identify, in such detail as may be required by the Department, any related civil or criminal action already adjudicated or currently pending in any jurisdiction related to such serious injuries, deaths, or felony or misdemeanor arrests.

(c) *Renewal application.* An application for renewal of a permit shall be submitted on forms provided by the Department no later than 60 days before the expiration date of the current permit, and shall include the permit fee; a full description of any changes in teaching staff, written safety plan, written health plan, email communication information, physical facilities, required staff training or program which occurred after submission of the previous permit application; and specification of any existing modifications of provisions of this Article that the permittee is requesting to be renewed in connection with the new permit.

(d) *Pre-renewal inspection.* A renewal permit shall not be issued unless the Department has conducted an inspection of the program while it is in operation and has found the program to be in substantial compliance with this Code and other applicable law.

(e) *Renovations and modifications.* A permittee shall submit for approval to the Department a request for modification of an existing permit prior to undertaking renovations affecting the size, configuration, or location of rooms or areas used by children.

(f) *Applications to be complete.* No permit shall be issued until the Department has received and has approved all documentation, records, reports, or other information required by this Article or by Section 5.05 of this Code. The Commissioner may reject any incomplete application for a new or renewal permit and order an existing program closed and its permit suspended or revoked if the permit application contains misleading information, or information is omitted.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; City Record June 12, 2018, eff. July 12, 2018)

§ 47.11 Written safety plan.

(a) *Safety plan required.* Every current permittee and every applicant for a new permit shall develop, review annually and update, in accordance with changed circumstances, conditions or activities, or as required by the Department, a written safety plan. The written safety plan shall be approved by the Department if it includes all the information required in this Article. Upon permit renewal, if no changed circumstances require changes to a previously approved written safety plan, the permittee shall state in writing that no changes were needed or made to the plan. The safety plan shall be implemented by the permittee, provided to parents on request, kept in an accessible location at the facility. The program must provide all staff and volunteers with copies of the safety plan and training in implementing the policies and procedures of the plan. This training shall include, but not be limited to, training and drills in medical and other critical and emergency response procedures, including evacuation of the premises. Documentation showing that staff received copies of the plan and training and drills in implementing its provisions must be maintained on site by the permittee and made available to the Department upon request while staff remain employed at the program.

(b) *Scope and content.* The written safety plan shall establish policies and procedures for safe operation, including teaching and other staff duties, facility operation and maintenance, fire safety, general and activity-specific safety, emergency management, staff and child health and medical requirements, staff training and parent/child orientation. The written safety plan shall consist of, at a minimum, a table of contents and the following components:

(1) *Staff:* organizational chart and job descriptions.

(2) *Program operation and maintenance:* schedules and designated staff for facility inspection, cleaning and maintenance, and schedule for boiler/furnace and HVAC system maintenance, maintenance of adequate water pressure, protection of the potable water supply from submerged inlets and cross-connections in the plumbing system, schedule for the annual lead paint survey, inspection of window guards, indoor and outdoor equipment inspection and replacement schedule, evaluation of injury prevention procedures, equipment and structures, identification of procedures for transportation vehicle maintenance, food protection procedures during receipt, storage and preparation, identity of individuals certified in food protection, schedule for sanitization procedures of food prep areas, and identification of approved food sources.

(3) *Fire safety:* evacuation of buildings and property, assembly, supervision, and accounting for children and staff; fire prevention; coordination with local fire officials; fire alarm and detection systems and their operation, maintenance, and routine testing; type, location and maintenance of fire extinguishers; inspection and maintenance of exits; required fire drills and log; electrical safety; and reporting to the Department within 24 hours any fire of which the FDNY or other appropriate state or federal government entity is notified, or that damages any facilities, is threatening to life or health.

(4) *Health care plan:*

(A) a statement of policies and procedures specifying how the health and medical requirements of this Code shall be implemented, including but not limited to the following topics:

(i) individual children's restrictions on activities, needs for medication administration, and other special needs, if any;

(ii) initial health screenings and required immunizations for children and staff, and collection of related documentation prior to enrollment of a child or hire of a staff member;

(iii) daily health surveillance of children;

(iv) provision of basic pediatric first aid, and handling and reporting medical emergencies and outbreaks;

(v) storage of the required epinephrine auto-injectors as directed by the manufacturer, including their storage location, which must be readily accessible to trained staff but not accessible to children; procedures for inspection of the epinephrine auto-injectors to determine whether the storage location continues to be in compliance with the requirements specified by the manufacturer, and whether the auto-injectors have reached their expiration dates, and procedures for replacement when necessary; and procedures for use of the epinephrine auto-injectors. The name and title of the individual responsible for the epinephrine auto-injectors' inspection and maintenance must be included in the plan and kept current;

(vi) response to allegations of child abuse;

(vii) medical, nursing, and emergency medical services addressing special individual needs;

(viii) names, qualifications, and duties of staff certified in pediatric first aid and pediatric CPR;

(ix) separation facilities, supervision, and procedures for caring for ill children until a parent, guardian, or other care giver arrives;

(x) storage of medications;

(xi) location and use of first aid and CPR supplies;

(xii) maintenance of a medical log, to be kept on site and provided to the Department upon request;

(xiii) universal precautions for blood borne pathogens;

(xiv) reporting of child and staff illness and injuries; and

(xv) sanitary practices.

(B) If the permittee has a medication administration policy, the permittee shall immediately notify the Department of any changes in designated exempt or certified staff.

(5) *Corrective action plans:* actions to be taken to protect children on receipt of reports of alleged and confirmed teaching and other staff criminal justice or child abuse histories.

(6) *General and activity specific safety and security:* procedures for establishing and maintaining accountability for children and child supervision during all on and off-site activities; maintaining records of staff schedules and assignments, addressing at a minimum:

(A) Observing and recording children's daily attendance and the times children enter and leave the program, in accordance with Section 47.27(a) of this Code;

(B) Recreational and trip supervision and staffing for specific outdoor and off-site activities in accordance with Section 47.57 of this Code;

(C) Sleep and rest period supervision;

(D) Bathroom use supervision;

(E) Transportation supervision in accordance with Section 47.65 of this Code;

(F) Procedures for and staff assigned to (i) securing the facility from unauthorized entry and preventing children from leaving the facility unless they are escorted by authorized adults; (ii) observing and monitoring all entrances and exits at all times children are on premises; and (iii) periodic observation and monitoring of stairs, hallways, bathrooms and unoccupied spaces during program operation.

(7) *Infant sleep safety:* practices and policies that establish a safe sleeping environment, promote an infant's comfort and well-being and reduce the risk of suffocation or death occurring while infants are in cribs or asleep. Such practices and policies must be based on current recommendations of the American Academy of Pediatrics, American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education, Caring for our children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, 3rd edition, 2011, or successor recommendations. The plan must include procedures for actively observing and evaluating infants for overheating, breathing status, and other signs of physical or medical distress that may require intervention, at intervals not to exceed 15 minutes. A log, on forms provided or approved by the Department, must be maintained. The log for the immediately prior 14 days must be kept on site for two weeks after observations take place, and must be made available to the Department upon request. Forms with entries indicating problems observed in an individual infant shall be kept in the child's medical record while the child remains enrolled in the program. The use of infant movement monitors or infant apnea monitors does not relieve the program of the responsibility to conduct and note required observations.

(8) *Staff training:* new employee orientation; training curricula, including how staff will be trained in the provisions of the written safety plan and be made aware of its contents of and any changes to the safety plan; procedures for child supervision, infant sleep safety; behavior management; child abuse recognition and reporting; prevention of shaken baby syndrome; prevention of and response to emergencies related to food or allergic reaction; prevention and control of infectious diseases (including immunization), provision of first aid and emergency medical assistance, including but not limited to cardiopulmonary resuscitation and response to emergencies related to food or allergic reaction, including but not limited to use of an epinephrine auto-injector; reporting of child injury and illness; managing and reporting incidents where children are lost to supervision; fire safety and fire drills; child and staff evacuation procedures; activity specific training for assigned activities; handling and storage of hazardous materials and appropriate disposal of biochemicals; and process to document attendance at staff training.

(9) *Emergency evacuation:* age-specific plans for removal of children from the premises for each shift and program where care is provided. Primary emphasis shall be placed on the immediate evacuation of children in premises which are not fireproof. Emergency evacuation procedures, implementing recommendations of FDNY or, if applicable, the appropriate state or federal government entity, shall be posted in conspicuous places throughout the facility. The emergency evacuation plan shall include the following:

(A) How children and staff will be made aware of the emergency;

(B) Primary and secondary routes of egress;

(C) Methods of evacuation, including where children and staff will meet after evacuating the building, and how attendance will be taken;

(D) Roles of the staff and chain of command;

(E) Notification of authorities and the children's parents.

(10) *Parent/child orientation:* orientation curriculum outline; tour of premises; reporting and management of illnesses, injuries and other incidents; evacuation plan; lost child plan; lightning plan; fire safety and fire drills; evacuation procedures; activity specific training for assigned activities; trips (if provided).

(Amended City Record 9/20/2017, eff. 10/10/2017; City Record June 12, 2018, eff. July 12, 2018)

§ 47.13 Teaching staff qualifications and coverage in child care programs.

(a) *Accreditation.* In determining teaching staff qualifications, the Department may accept documentation from schools, colleges and universities approved by the State Education Department or other teacher accreditation organizations acceptable to the Department certifying that such persons have met the specific Code requirements. All documents pertaining to teaching staff qualifications must be submitted for review to an agency designated by the Department. All foreign language documents pertaining to teaching staff qualifications shall be accompanied by an English language translation of such documents performed by a translator on the list of foreign language evaluation services maintained by the Department of Citywide Administrative Services.

(b) *Pending certifications.* A permittee may temporarily employ an education director or group teacher whose application for certification is fully submitted and pending certification by the State Education Department or other accreditation organization or whose study plan for obtaining certification is fully submitted and pending approval by the Department, provided that the permittee has complied with criminal justice and State Registry of Child Abuse and Maltreatment screening requirements for staff set forth in this Article. No individual qualifying as an education director under this subsection may serve in that capacity with a pending certification for a total of more than six months. All relevant documentation shall be kept on site and made available to the Department upon request.

(c) *Education director.* Except as provided in Section 47.15 or 47.17, every child care program shall designate a certified group teacher as the education director, who shall be in charge of staff training, educational and child development programs and shall supervise all teaching staff at each permitted child care program. An education director can serve in such capacity for a maximum of two programs, and only if such programs are co-located.

(1) Coverage for education director. Except as provided herein, a program's education director must be on site at all times while the program is caring for one or more children. At any time when the education director is not on the premises to supervise a child care program, the permittee shall designate an individual to act as education director. Except as provided in Section 47.15 or 47.17, such individual shall be a certified group teacher or a group teacher whose application for certification is fully submitted and pending certification by the State Education Department or other accreditation organization, or whose application for certification is fully submitted and pending approval by the Department, provided that the permittee has complied with criminal justice and State Registry of Child Abuse and Maltreatment screening requirements for staff set forth in this Article. In addition, the permittee must notify the Department in writing within five business days of the separation from service of the education director. When the education director is separated from service or will be on leave for more than five business days, the permittee must notify teaching staff and the Department in writing of the certified teacher who has been designated as education director and make this written communication available to the Department for inspection upon request.

(2) *Teaching duties.* The education director shall have no teaching duties when the attendance at a child care program is greater than 40 children, or if the education director is serving in such capacity for two co-located programs. If the child care program holding a permit is part of an elementary school offering classes from grades one through six, and has either child care programs for children under three years of age or has voluntarily applied for a permit, pursuant to this Article, and such school also has a principal with no teaching duties, the education director shall not have any teaching duties when more than 60 children are enrolled in the child care program.

(3) *Qualifications.* Except as provided by Section 47.15 or 47.17, the education director shall have the following qualifications, documentation of which shall be kept on site and made available to the Department upon request:

(A) A baccalaureate degree in early childhood education or a related field of study approved by the Department and at least two years of documented experience as a group teacher in a program for children under six years of age; and

(B) Valid certification issued by the State Education Department, pursuant to 8 NYCRR §80 or successor rule; or

(d) *Group teacher.* Except as provided in Section 47.15 or 47.17, no person shall be placed in charge of a group of children in a child care program unless qualified, pursuant to paragraph (1), (2), or (3) of this subdivision. All relevant documentation shall be kept on site and made available to the Department upon request.

(1) *Baccalaureate degree and State certification*. A baccalaureate degree in early childhood education or a related field of study approved by the Department and valid certification issued by the State Education Department, pursuant to 8 NYCRR §80 or successor rule; or

(2) *Baccalaureate degree and experience.* A baccalaureate degree in early childhood education or a related field of study approved by the Department and two years of supervised and documented relevant experience in a pre-school program if currently employed in a permitted child care program; or

(3) *Study plan.* The person has proposed a plan for meeting the requirements of paragraph (1) or (2) of this subdivision within seven years, and has obtained approval of this plan by an accredited college. A person who is eligible, pursuant to a study plan shall submit documentation to the Department indicating proof of enrollment in such college and specifying the time, not to exceed seven years, required for completion of the study plan.

(A) The course of study may include the following study areas:

(i) Sociological, Historical, Philosophical Foundations of Education or

(ii) Sociology of Education or History of Education or Philosophy of Education

(iii) Child Development or Child Psychology

(iv) Educational Developmental Psychology or Psychological Foundations of Education

(v) Instructional Materials and Methods Courses - three courses required, including one on the pre-kindergarten or kindergarten level including, but not limited to, such courses as:

(aa) Teaching of Reading, Teaching of Math, Teaching Science to Young Children

(bb) Teaching of Music, Teaching of Art, Methods of Teaching of Language Arts

(cc) Teaching of Computer Technology to Young Children

(vi) Parent Education and Community Relations or Urban Education or Sociology of the Family or Parent, Child, School.

(B) To be study plan eligible, a person shall have:

(i) Associate's (AA or AS) degree in early children education, practicum included; or

(ii) Ninety or more undergraduate college credits and one year classroom experience teaching children in pre-kindergarten, kindergarten or grades 1-2; or

(iii) Baccalaureate in any other academic subject and one year classroom experience teaching children up to third grade.

(e) *Group teacher for children with special needs.* A group teacher for children with special needs shall be certified in special education, or early childhood education, with additional appropriate training in working with special needs children, in accordance with applicable law. All relevant documentation shall be kept on site and made available to the Department upon request.

(f) *Assistant teacher.* An assistant teacher shall be at least 18 years of age and have a high school diploma or equivalent (GED). All relevant documentation shall be kept on site and made available to the Department upon request.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

§ 47.15 Teaching staff qualifications for infant/toddler child care programs.

A child care program authorized to provide care for children under 24 months of age may employ staff with either the qualifications listed in Section 47.13 of this Code for each title or the following alternative qualifications. All documents and credentials must be submitted for review to an agency designated by the Department and shall be kept on site and made available to the Department upon request:

(a) *Education director qualifications.*

(1) Baccalaureate degree in early childhood education or related field of study, and

(2) At least one year of experience as a group teacher or on the teaching staff in a child care program for children under 24 months of age, or six college credits in infant/toddler coursework, or a study plan leading to six college credits in infant/toddler coursework

(b) Group teacher in an *infant/toddler program.* A group teacher for an infant/toddler program shall be at least 21 years of age and have the following qualifications:

(1) Associate's (AA or AS) degree in early childhood education; or

(2) Child Development Associate (CDA) certification and a study plan leading to an associate's degree in early childhood education within seven years; or

(3) High school diploma or equivalent (GED); nine college credits in early childhood education or child development; two years' experience caring for children, and a study plan leading to an associate's degree in early childhood education within seven years; or

(4) High school diploma or equivalent (GED) and five years of supervised experience in an infant/toddler classroom if currently employed in a permitted child care program; or

(5) High school diploma or equivalent (GED); and a study plan that is acceptable to the Department leading to nine credits in early childhood education or childhood development within two years; and a study plan leading to an associate's degree in early childhood education within seven years, if currently employed in a permitted child care program.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

§ 47.17 Teaching staff qualifications for night child care programs.

(a) Night child care programs may employ staff with either the qualifications listed in Section 47.13 of this Code for each title or the following alternative qualifications. All documents and certifications required by this section must be submitted for review to an agency designated by the Department and shall be kept on site and made available to the Department upon request.

(b) *Education director qualifications.* The education director shall be qualified in accordance with Section 47.13 of this Code; or hold a baccalaureate degree, including 12 college credits in early childhood education, and have two years' experience in a licensed program with children younger than six years of age.

(c) *Assistant teacher.* An assistant teacher in a night child care program shall be at least 18 years of age and have the following qualifications:

(1) High school diploma or equivalent (TASC or GED); nine college credits in early childhood education or child development; and two years' experience caring for children; or

(2) High school diploma or equivalent (TASC or GED) and five years of supervised experience in a permitted child care program; or

(3) High school diploma or equivalent (TASC or GED); and a study plan that is acceptable to the Department leading to completion of nine credits in early childhood education or childhood development within two years.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

§ 47.18 Shelter child supervision liaison and shelter child supervisor requirements and qualifications.

(a) Every family shelter-based drop-off child supervision program must designate at least one qualified individual as a shelter child supervision liaison for every 30 children enrolled in the program. If a site has more than one liaison, one must be designated head liaison.

(1) *Coverage for shelter child supervision liaison.* When a shelter child supervision liaison is not present to supervise a family shelter-based drop-off child supervision program, the permittee shall designate an interim liaison. In addition, the permittee must notify the Department in writing within five business days of the separation from service of a required shelter child supervision liaison. When a shelter child supervision liaison is separated from service or will be on leave for more than five business days, the permittee must notify families and program staff in writing of the name of the designated interim liaison. This written communication must be kept on site and made available to the Department upon request.

(2) *Qualifications.* Each shelter child supervision liaison must have a baccalaureate degree from an accredited college or university in the social sciences, applied health sciences, or human services, or a related degree approved by the Department.

(3) *Accreditation.* In determining shelter child supervision liaison qualifications, the Department may accept documentation from schools, colleges, and universities approved by the State Education Department or other accreditation organization acceptable to the Department certifying that the liaison has met the specific Code requirements. All liaison documentation must be submitted to the Department for review and shall be kept on site and made available to the Department upon request.

(b) A shelter child supervisor must have at a minimum an associate's degree in the social sciences, applied health sciences, or human services, or a related degree that is approved by the Department, or a Child Development Associate (CDA) certification. In determining shelter child supervision liaison qualifications, the Department may accept documentation from schools, colleges, and universities approved by the State Education Department or other accreditation organization acceptable to the Department certifying that the liaison has met the specific Code requirements. All liaison documentation must be submitted to the Department for review and shall be kept on site and made available to the Department upon request.

(Added City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

§ 47.19 Criminal justice and child abuse screening of current and prospective personnel; reports to the Department.

(a) *Applicability.* These requirements for child abuse and criminal justice screening shall apply to any person who has, will have, or has the potential for unsupervised contact with children in a program, and shall include, but not be limited to: individual owners, permittees, partners, members and shareholders of corporations, limited liability companies or other entities who are the owners or operators of the program; educational, child supervision, administrative and maintenance employees; employees who are school bus drivers or who are assigned to accompany children during transportation to and from the program; volunteers, including parent volunteers and student teachers, trainees or observers; and consultants and other persons employed by persons, corporations, partnerships, associations or other entities providing services to the program. Employees of independent contractors providing maintenance, construction, transportation, food or any other goods or services to a program shall be screened in accordance with this section, or shall be prohibited from working in any area, vehicle or facility owned, occupied or used by the program unless such person is working under the direct supervision and within the line of sight of a screened employee of the program. These requirements shall not apply to persons authorized by parents to escort or transport children to and from programs where the parents have privately arranged for such escort or transportation.

(b) *Pre-employment verification.* A permittee shall obtain and verify credentials, including certificates and educational transcripts, as applicable, and references prior to employment of all persons listed in subdivision (a) of this section. All such documents, along with any English language translations required, pursuant to Section 47.13(a), shall be kept on site and made available to the Department upon request.

(c) *Screening.* The permittee shall not permit any employee or individual in any other capacity specified in Section 47.19(a) to begin work in any area, vehicle, or facility owned, occupied, or used by the program until either:

(1) the following, arranged by the permittee, have been completed: (. : (a) fingerprinting, and receipt and review of records of criminal convictions and pending criminal actions, and (b) receipt and review of report from the Statewide Central Register of Child Abuse and Maltreatment (hereinafter "SCR"), and either:

(A) the results of the screenings are satisfactory; or

(B) if any of the results of the screenings are unsatisfactory, the permittee has received approval of a corrective action plan submitted, pursuant to Section 47.21 of this Code; or

(2) the permittee has ensured that the individual shall be continuously supervised by a satisfactorily screened staff member with authority to intervene in the actions of such individual.

For all employees, the permittee shall request a new report from the SCR every two years. All documents obtained in accordance with the requirements of this section, along with any required English language translations, shall be kept on site and made available to the Department upon request.

(d) *Individual consent.* A permittee shall obtain written consent from each such person for fingerprinting and criminal record review, and shall provide written notice to such persons that there will be an inquiry submitted to the SCR, pursuant to Social Services Law §424-a(1), or successor law, and that copies of the reports received by the permittee as a result of such review and screening shall be provided to the Department.

(e) *Refusal to consent.* A permittee shall not hire or retain as an employee, or otherwise allow on its premises any person who is required to have, but refuses to consent to, fingerprinting and criminal record review. To the extent consistent with Article 23-A of the New York State Correction Law, the permittee shall not hire or retain any person who has a record of criminal convictions or arrests, except as provided in subdivision (h) of this section.

(f) *Employee to notify permittee.* Permittees shall require all employees to have criminal justice and child abuse screening and to notify the permittee immediately or as soon thereafter as possible upon being arrested, and immediately upon receiving notice of the filing of an allegation of child abuse, maltreatment, neglect, or other inappropriate behavior that could threaten the welfare of a child.

(g) *Reports to the Department.* Permittees shall notify the Department within 24 hours when they have received an indicated report from the SCR; an employee report that an allegation has been filed against the employee; or a record or report of criminal conviction(s), pending criminal action, or when they learn or should have learned of an arrest or criminal charge for any misdemeanor or felony for any person required to have a criminal record review or SCR screening. Permittees must also notify the Department within 24 hours whenever a child attending a program has been seriously injured, has died, or a child in their care or supervision has been unaccounted for, left behind at any location outside the child's assigned classroom or where supervision has not been maintained in the manner required by this Code for any period of time while in the care of the permittee.

(h) *Actions required.* To the extent consistent with Article 23-A of the New York State Correction Law, and except where the permittee has submitted and obtained Department approval of a corrective action plan in accordance with Section 47.21 of this Code:

(1) A permittee shall not hire, retain, utilize or contract for the services of a person who:

(A) Has been convicted of a felony at any time, or who has been convicted of a misdemeanor within the preceding ten years; or

(B) Has been arrested and charged with any felony or misdemeanor, and where there has been no disposition of the criminal matter; or

(C) Is the subject of an indicated child abuse and maltreatment report, in accordance with a determination made after a fair hearing, pursuant to §422(8) of the Social Services Law.

(2) A permittee shall not dismiss or permanently deny employment to current and prospective staff solely because they are defendants in pending criminal actions, but may suspend current employees or defer employment decisions on prospective employees until disposition of the pending criminal action.

(3) A permittee shall prohibit unsupervised contact with children by any person who has not received screening clearance for criminal convictions or by the SCR, or as specified in paragraph (1) of this subdivision.

(i) *References.* For all prospective staff, the permittee shall make a written inquiry to an applicant's three most recent employers and shall obtain three references prior to hiring. If prospective staff have not had three prior employers, references may be accepted from persons who are not family members and who state, in writing, that the applicant is well-known to them as a student, volunteer, or other stated capacity, and that the applicant is suited by character, fitness, and ability to work with children. Such documentation shall be kept on site and made available to the Department upon request.

(j) *Services for certain children.* Permittees must allow access to children receiving assessments and services of professional consultants retained by Early Intervention program providers or New York City Department of Education committees on preschool special education, or successor programs, without requiring proof of consultants' fingerprinting, SCR clearances or references.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.21 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.21 Corrective action plan.

(a) *Approved corrective action plan required.* A corrective action plan shall be submitted by the permittee to the Department within five business days for review and approval by the Department:

(1) Prior to the permittee hiring, retaining or utilizing the services of persons listed in subdivision (a) of [24 RCNY §]Section 47.19 of this Code when such persons are reported as having:

(A) A criminal conviction as specified in [24 RCNY §]Section 47.19(h) of this Code; or

(B) Pending criminal charges as specified in [24 RCNY §]Section 47.19(h) of this Code; or

(C) SCR reported incidents of child abuse or maltreatment which have been indicated or which are under investigation.

(2) When a death or serious injury of a child or an incident involving a lost child has occurred while under the care or supervision of an applicant for a permit or a permittee, or of any owner, director, employee, or volunteer of the applicant or permittee or of any agent of

the permittee, or if a related criminal or civil action has been already adjudicated or adjudication is pending in any jurisdiction with respect to such death or serious injury or incident involving a lost child.

(3) When required by the Department, including but not limited to after the permittee has been cited for violations or conditions deemed imminent health hazards, or when the Department determines that the permittee has been operating with serious or uncorrected violations over a period of time, to demonstrate the permittee's willingness and ability to continue in operation in accordance with applicable law.

(b) *Contents of corrective action plan.* A corrective action plan shall assess the risk to children in the program, and shall clearly and convincingly demonstrate that such person presents no danger to any child, or other persons. The plan shall include, but not be limited to, consideration of the following factors:

(1) Seriousness of the incident(s) or crimes cited in the report(s);

(2) Seriousness and extent of injuries, if any, sustained by the child(ren) named or referred to in the indicated report(s) or disclosed upon investigation of the criminal charge;

(3) Any detrimental or harmful effect on child(ren) as a result of the person's actions or inactions and relevant events and circumstances surrounding these actions and inactions as these relate to any report(s);

(4) The age of the person and child at the time of the incident(s);

(5) Time elapsed since the most recent incident(s);

(6) Number of indicated incident(s) or crimes; where more than one incident or crime, an evaluation of each separately, and an assessment of the total effect of all indicated incidents on risks to children currently under care or supervision;

(7) Duties of the person under consideration; degree of supervision, interaction, opportunity to be with children on regular, substantial basis and if position may involve being alone with children or will always involve presence of other adults;

(8) Information provided by person, re: rehabilitation, i.e., showing positive, successful efforts to correct the problems resulting in the indicated child abuse or criminal report so that children in [care] the program will not be in danger, demonstrated by no repeated incidents or showing that the person has undergone successful professional treatment;

(9) Employment or practice in a child care field without incident involving injuries to children;

(10) Extra weight and scrutiny shall be accorded child abuse and maltreatment reports involving fatality, sexual abuse, subdural hematoma, internal injuries, extensive lacerations, bruises, welts, burns, scalding, malnutrition or failure to thrive; and crimes involving homicides, sexual offenses (misconduct, rape, sodomy, abuse); kidnapping; felony possession or sale of a controlled substance; felony promotion of prostitution; obscenity offenses; disseminating indecent material involving, or to, minors; incest; abandonment of a child; endangering welfare of a child; promoting sexual performance by a child; felony weapon possession; assault; reckless endangerment; coercion; burglary; arson and robbery; driving while intoxicated or under the influence of alcohol if the person will have responsibilities for unsupervised contact or driving motor vehicles at the program.

(c) *Contents of corrective action plan for imminent health hazards or serious repeat violations.* When the Department requires a corrective action plan to show that imminent health hazards or patterns of serious repeat violations are being corrected, the permittee must:

(1) Address each hazard, condition or violation;

(2) Identify their causes; and

(3) Provide a plan satisfactory to the Department showing that the causes have been addressed, and that the conditions or violations have been corrected and will not recur.

(d) *Implementing the plan.* If the Department determines that such plan adequately safeguards the health and safety of children, the permittee shall be responsible for implementation of the plan, subject to periodic monitoring by the Department.

(e) *Rejection of plan.* If the Department determines that such plan fails to provide adequate safeguards, a permittee that intends to hire or retain the employee shall resubmit the plan until it is acceptable to Department and shall not allow such employee to have unsupervised contact with any children until the plan is approved by the Department.

[(f) *Remedies.* Any person aggrieved by the action of the Department in enforcing this section may request that the Department provide him or her with an opportunity to be heard in accordance with 24 RCNY § 7-02(a)(1) (24 RCNY Chapter 7). The decision of the Department after such opportunity to be heard shall be a final agency determination.]

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.23 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

[§ 47.23 Supervision; staff/child ratios and group size.

(a) *Constant supervision required.* Staff included in the staff/child ratios set forth below shall maintain direct line of sight, visual supervision of children at all times. Children shall be supervised by qualified staff at all times in each type of program for which a permit is issued. In the event of breaks, lunch periods, and short term absence, no more than three (3) days, the required staff/child ratio in a child care program may be maintained with assistant teaching staff.

(1) When any program is in operation, the number of qualified staff required by this Code shall be assigned and on duty to protect the health and safety of the children in care or supervision.

(2) No child or group of children shall be unsupervised at any time.

(b) *Group teacher.* Except in night care, a group teacher in a child care program shall be in charge of each group of children ages two to six years.

(c) *Infant/toddler program supervision.* An educational director or a group teacher with equivalent qualifications shall be present at all times of a child care program's operation to supervise an infant/toddler program.

(d) *Infant/Toddler teacher.* An infant/toddler teacher in a child care program, under the supervision of the educational director, may be in charge of individual groups of infants and toddlers, or children in night care.

(e) *CPR and first aid certifications.* At least one staff member certified in cardiopulmonary resuscitation and first aid shall be on the premises of a program during all hours when children are present

(f) *Minimum staff/child ratios.*

(1) The minimum ratios of staff to children in a child care program shall be as follows:

AGE OF CHILDREN	MINIMUM STAFF/ CHILD RATIO	MAXIMUM GROUP SIZE
under 12 months	1:4 or 1:3	8 per room/area
12 to 24 months	1:5	10
2 years to under 3	1:6	12
3 years to under 4	1:10	15
4 years to under 5	1:12	20
5 years to under 6	1:15	25

(2) The minimum ratios of staff to children in a family shelter-based drop-off child supervision program shall be as follows:

AGE OF CHILDREN	MINIMUM STAFF/CHILD RATIO	MAXIMUM GROUP SIZE
under 3 years	1:4 or 1:3	10 per room/area
3 years to under 6	1:8	16

(3) When children 12 months of age and older are in a group of mixed but contiguous ages, the minimum staff/child ratio and group size shall be based on the predominant age of the children in the group.

(4) Programs that maintain a staff/child ratio of 1:4 for children under 12 months of age shall demonstrate through their Written Safety Plan that they have sufficient staff in the program at all times to provide a staff/child ratio of 1:3 for the safe evacuation of children younger than 12 months of age during emergency situations.

(g) *Mixed groups.* Infants shall not be placed in older age groups.

(h) *Night care program supervision.*

(1) Staff included in the staff/child ratios set forth above shall be awake at all times, and shall maintain direct line of sight, visual supervision of children.

(2) An educational director or a staff teacher with equivalent

qualifications, or a child supervisor, shall be present at all times to supervise the night care program and may not have a specific classroom assignment if more than 40 children are receiving night care or nighttime supervision.

(3) If a family-shelter based child drop-off program requires more than one child supervisor to be present at any time to attain the required child/staff ratio, the permittee must designate one child supervisor to be the lead child supervisor, responsible for directing the supervision of children during that time period.

(Amended City Record 9/20/2017, eff. 10/10/2017)]

§ 47.23 Supervision; staff/child ratios and group size.

(a) *Constant competent supervision required.* Staff included in the staff/child ratios set forth below shall maintain direct line of sight, constant competent supervision of all of the children in the program at all times. Children in a child care program shall be competently supervised by a qualified group teacher or education director at all times in each type of child care program for which a permit is issued, with the sole exception that in the event of breaks or lunch periods, absence of no more than three days, the required staff/child ratio in a child care program may be maintained with assistant teachers and teacher aides, so long as at least one assistant teacher is included for each group of children in attendance. Children in a family shelter-based drop-off child supervision program shall be competently supervised by shelter child supervision staff at all times.

(1) When any program is in operation, the number of qualified staff required by this Code shall be assigned and on duty to protect the health and safety of the children on the program's premises, and in the case of trips off-site the required number of staff shall accompany the children at all times wherever the children travel.

(2) Each program shall maintain a daily log, to be kept on site and provided to the Department upon request, reflecting the arrival and departure time of each member of the teaching staff or shelter child supervision staff.

(b) *Group teacher.* Except in a night child care program, a group teacher in a child care program shall be in charge of each group of children ages two to five years.

(c) *Infant/toddler child care program supervision.* An education director or a group teacher with equivalent qualifications shall be present at all times of a child care program's operation to supervise an infant/toddler child care program.

(d) *Infant/Toddler teacher.* An infant/toddler teacher in a child care program, under the supervision of the education director, may be in charge of individual groups of infants and toddlers, or children in a night child care program m.

(e) *CPR and first aid certifications.* The permittee shall ensure that at least one staff member certified in CPR and first aid is on the premises of the program during all hours when children are present. Upon application for a new permit or for renewal of an existing permit, such certifications must be in pediatric CPR and pediatric first aid, and must be based on successful completion of appropriate training that includes hands-on skill tests.

(f) *Minimum staff/child ratios.*

(1) The staff of a child care program for purposes of staff/child ratios shall include only the teaching staff.

The minimum ratios of staff to children in a child care program shall be as follows:

AGE OF CHILDREN	MINIMUM STAFF/ CHILD RATIO	MAXIMUM GROUP SIZE
under 12 months	1:4 or 1:3	8 per room/area separated from other rooms/ areas by a physical barrier
12 to 24 months	1:5	10
2 years to under 3	1:6	12
3 years to under 4	1:10	15
4 years to under 5	1:12	20
5 years to under 6	1:15	25

(2) The staff of a family shelter based child supervision program for purposes of staff/child ratios shall include only shelter child supervision staff. Volunteers may count as staff for these purposes only if they meet all of the requirements to qualify as shelter child supervisors. The minimum ratios of staff to children in a family shelter-based drop-off child supervision program shall be as follows:

AGE OF CHILDREN	MINIMUM STAFF/ CHILD RATIO	MAXIMUM GROUP SIZE
under 3 years	1:4 or 1:3	10 per room/ area separated from other rooms/areas by a physical barrier
3 years to under 6	1:8	16

(3) When children 12 months of age and older are in a group of mixed but contiguous ages, the minimum staff/child ratio and group size shall be based on the predominant age of the children in the group.

(4) Programs that maintain a staff/child ratio of 1:4 for children under 12 months of age shall demonstrate through their Written Safety Plan that they have sufficient staff in the program at all times to provide a staff/child ratio of 1:3 for the safe evacuation of children younger than 12 months of age during emergency situations.

(g) *Mixed groups.* Infants shall not be placed in older age groups.

(h) *Night child care program supervision.*

(1) Staff included in the staff/child ratios set forth above shall be awake at all times, and shall maintain direct line of sight, visual supervision of children.

(2) An education director or a group teacher with equivalent qualifications, or a member of the child supervision staff, shall be present at all times to supervise the night child care program and may not have a specific classroom assignment if more than 40 children are receiving night care or nighttime supervision.

(3) If a family shelter-based child drop-off child supervision program requires more than one shelter child supervisor to be present at any time to attain the required child/staff ratio, the permittee must designate one shelter child supervisor to be the lead shelter child supervisor, responsible for directing the supervision of children during that time period.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.25 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.25 Health; children's examinations and immunizations.

(a) *Required examinations, screening and immunizations.*

(1) Physical examinations and screening. Prior to admission, or within 90 days after admission for children who are either homeless, as defined by section 11434a of chapter 119 of title 42 of the United States code, or in foster care, all children shall receive a complete age appropriate medical examination, including but not limited to a history, physical examination, developmental assessment, nutritional evaluation, lead poisoning screening, and, if indicated, screening tests for dental health, tuberculosis, vision, and anemia.

(2) *Immunizations.*

(A) All children shall be immunized against diphtheria, tetanus, pertussis, poliomyelitis, measles, mumps, rubella, varicella, hepatitis B, pneumococcal disease and haemophilus influenzae type b (Hib), in accordance with New York Public Health Law §[ ]2164, or successor law. Exemption from specific immunizations may be permitted if the immunization may be detrimental to the child's health or on religious grounds, in accordance with Public Health Law §[ ]2164. In addition, there shall be a 90-day grace period after admission for children who are either homeless, as defined by section 11434a of chapter 119 of title 42 of the United States code, or in foster care, to obtain the required immunizations. Documentation of immunizations and exemptions shall be kept on site and made available to the Department upon request except as otherwise required by law.

(B) (i) Children aged from 6 months to 59 months shall be immunized each year before December 31 against influenza with a vaccine approved by the U.S. Food and Drug Administration as likely to prevent infection for the influenza season that begins following July 1 that calendar year, unless the vaccine may be detrimental to the child's health, as certified by a physician licensed to practice medicine in this state, or the parent, parents, or guardian of a child hold genuine and sincere religious beliefs which are contrary to the practices herein required. The permittee may require additional information supporting either exemption.

(ii) The permittee may refuse to allow any child to attend

a program without acceptable evidence of the child meeting the requirements of clause (i) of this subparagraph. A parent, guardian, or other person in parental relationship to a child denied attendance by a permittee may appeal by petition to the commissioner. A child who first enrolls in a program after June 30 of any year is not required to meet the requirements of clause (i) of this paragraph for the flu season that ends before July 1 of that calendar year.

(C) A permittee that fails to maintain documentation showing that each child in attendance has received each vaccination required by this subdivision or is exempt from such a requirement, pursuant to paragraph A or B of this subdivision will be subject to fines for each child not meeting such requirements as provided for under this Code. Documentation required by A of this subdivision must be kept on site and made available to the Department upon request.

(D) All children shall have[such] any additional immunizations required by[as] the Department[may require].

(b) *Form with results of examination.* Health care providers examining children, pursuant to this section shall furnish permittees with a signed statement, in a form provided or approved by the Department, containing a summary of the results of examination, past medical history, and, if a disease or condition which affects the child's ability to participate in program activities is found, a summary of the evaluation and findings associated with that condition. The examination form shall include the health care provider's recommendations for exclusion or treatment of the child, modifications of activities, and plans for any necessary health supervision.

(c) *Periodic examinations.* Each child shall have periodic medical examinations at 2, 4, 6, 9, 12, 15, 18 and 24 months and 3, 4, 5 and 6 years of age.

(d) *Medical records to be maintained.* A permittee shall maintain an individual paper or electronic medical record file for each child on the premises of the program and make the file available for review by the Department upon request. This file shall include:

(1) A cumulative record consisting of a form provided or approved by the department, including: child's name, address, date of admission and date of birth: parents' names, home and business addresses and telephone numbers; names and telephone contact information of person(s) to contact in case of emergency, including name, address and telephone number of the child's primary health care provider; pertinent family medical history, and child's history of allergies, medical illnesses, special health problems and medications, immunization records; and parental consent for emergency treatment.

(2) Copies of all individual health records required by this Code, including new admission and periodic medical examination forms, parents' and health care provider notes regarding episodic illnesses, and a history of all illnesses, accidents, and other health data.

(e) *Records to be confidential.* All records required by this section shall be maintained as confidential records and shall not be made available for inspection or copying by any persons other than parents, other persons who present a written authorization from a parent, or authorized staff of the Department.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.29 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

[**§ 47.29 Health; emergencies.**

(a) *Emergency procedures and notices.* Written policies and procedures for managing health and other emergencies shall be included in the written health and safety plans and approved by the Department prior to the issuance of a permit. Permittees shall provide notice of the location and contact telephone numbers of the program to local hospitals, police precincts, fire houses and emergency transport services and information about emergency policies and procedures shall be provided to parents. Emergency procedures and emergency telephone contact numbers (for Police, Fire Department, Poison Control Center, Child Abuse Hotline, and the Department of Health and Mental Hygiene) shall be conspicuously posted in each classroom or area used by children.

(b) *Necessary emergency medical care.* When a child is injured, or becomes ill under such circumstances that immediate care is needed, the permittee or designee shall obtain necessary medical care and immediately notify the child's parent.

(c) *First aid supplies*. A first aid kit, completely stocked for emergency treatment of cuts and burns, shall be provided by the permittee and shall be easily accessible for use. The first aid kit shall be kept out of reach of children and inspected periodically.

(d) Log of children's illnesses and accidents. The permittee shall maintain a log of illnesses, accidents, and injuries sustained by children in the program, in a form provided or approved by the Department. The permittee shall provide a child's parent with information concerning such incidents pertaining to the child, and shall report serious injuries to the Department. Logged entries shall include the name and date of birth of the child, the place, date and time of the accident or injury, names and positions of staff and other adults present, a brief statement as to how the accident or injury occurred, emergency treatment obtained, if any, and parental notification made or attempted.

(Amended City Record 9/20/2017, eff. 10/10/2017)]

§ 47.29 Health; emergencies.

(a) *Emergency procedures and notices.* Written policies and procedures for managing health and other emergencies shall be included in the written health and safety plans and approved by the Department prior to the issuance of a permit. Permittees shall provide notice of the location and contact telephone numbers of the program to local hospitals, police precincts, fire houses and emergency transport services and information about emergency policies and procedures shall be provided to parents. Emergency procedures and emergency telephone contact numbers (for NYPD, FDNY, Poison Control Center, Child Abuse Hotline, and the Department) shall be conspicuously posted in each classroom or area used by children.

(b) *Necessary emergency medical care.* When a child is injured, or becomes ill under such circumstances that emergency care is needed, the permittee or designee shall obtain such emergency medical care in accordance with the requirements of this section and immediately notify the child's parent or guardian.

(1) Each permittee must:

(A) at the time of the child's admission into the program, obtain written consent from a parent or guardian authorizing the permittee or other caregivers to obtain emergency health care for the child; and

(B) secure emergency care when needed, and notify a parent or guardian immediately and

(C) arrange for any needed transportation of any child in need of emergency health care and ensure that the staff/child ratios required by Section 47.23 of this Code are maintained for the children remaining in the program; and

(D) advise a parent or guardian, or the person authorized to pick up the child that day, of any developing symptoms of illness or minor injury sustained while the child is in the program.

(2) Where a parent has provided a written, individualized health care plan indicating the specific medications that can be administered and the schedule of such administration(s) for their child, including in cases of emergency, and there is a direct conflict between such plan and any provision of this section, nm the permittee shall follow the child's individualized health care plan.

(c) *Epinephrine auto-injectors*.

(1) Each permittee shall maintain on site at the program facility at least two epinephrine auto-injectors with retractable needles in each dosage appropriate for children who may be in the program, stored in an area inaccessible to children and maintained in an unexpired, operable condition such that they are available for immediate use in case of need for emergency administration to a child.

(2) Each permittee shall designate a sufficient number of staff to be trained to administer an epinephrine auto-injector to a child in the program in accordance with New York State Public Health Law §3000-c, or any successor statute or applicable regulation. At least one staff person trained to administer an epinephrine auto-injector shall be on site at all times children are present. The epinephrine auto-injector training must include:

(A) How to recognize signs and symptoms of severe allergic reactions, including anaphylaxis;

(B) Recommended dosage for adults and children;

(C) Standards and procedures for the storage and use of an epinephrine auto-injector; and

(D) Emergency follow-up procedures.

(3) Each permittee shall designate at least one staff person to be responsible for the storage, maintenance, control, disposal, and general oversight of each such epinephrine auto-injector to ensure such device remains available for use in an unexpired, operable condition.

(4) Notwithstanding the requirements of Section 47.31(e) of this Article, and subject to the terms of a child's individualized health plan as described in Section 47.29(b)(2) of this Code, if a child appears to be experiencing anaphylactic symptoms, staff trained in accordance with the requirements of Section 47.29(b)(2) of this Code may administer an epinephrine auto-injector to such child, whether or not there is a prior or known history of severe allergic reaction in such child.

(5) Immediately following any emergency administration of an epinephrine auto-injector to a child, the permittee shall contact 911 for emergency medical care and notify the child's parent or guardian.

(6) Within 24 hours following any emergency administration of an epinephrine auto-injector, the permittee shall contact the Department to report the incident.

(7) Each epinephrine auto-injector shall be disposed of in accordance with applicable law.

(d) *First aid supplies*. A first aid kit, completely stocked for emergency treatment of cuts and burns, shall be provided by the permittee and shall be easily accessible for use. The first aid kit shall be kept out of reach of children and inspected periodically.

(e) *Incident log.* The permittee shall maintain a log, to be kept on site and made available to the Department upon request, of illnesses, accidents, epinephrine auto-injector administrations, and injuries sustained by children in the program, in a form provided or approved by the Department. The permittee shall provide a child's parent with information concerning each such incident pertaining to the child, on the date of such incident, and shall report same to the Department within 24 hours. Logged entries shall include the name and date of birth of the child, the place, date and time of the incident, names and positions of staff and other adults present, a brief statement describing the incident, emergency treatment obtained, if any, and parental notification made or attempted. The incident log shall be maintained on site and made available to the Department upon request.

(f) The Department may promulgate rules to specify how permittees shall comply with this section.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.31 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.31 Health; medication administration.

(a) *Medication policy required.* Each permittee shall establish a policy as to whether the permittee will or will not administer medication, and incorporate such policy in the program's health care plan component of the written safety plan required by Section 47.11 of this Code. Notwithstanding any program's general policy not to administer medication, such policy shall indicate that the program may be required to administer medication to a child with a disability, pursuant to the Americans with Disabilities Act.

(b) *Exempt staff.* A program that employs staff who are also currently State licensed physicians, physician[s] assistants, registered nurses, nurse practitioners, licensed practical nurses, or emergency medical technicians may administer medications without such staff obtaining additional qualifications or certification.

(c) *Health care consultant and duties.* All permittees that choose to administer medications to children shall designate a health care consultant of record, who shall be a health care provider as defined in this Article. The permittee shall confer with the health care consultant and shall obtain approval of the consultant for the portion of the health care plan regarding policies and procedures related to the administration of medications. The consultant shall review documentation of all staff authorized to administer medications and determine if staff have required professional licenses or certificates of completion of required training. A health care plan shall be valid for two years and shall be updated when designated staff has changed. The health care consultant shall visit the program at least once every two years and shall review the permittee's health care policies, procedures, documentation, practice and compliance with its health care plan for administering medications. If the consultant determines that the approved health care plan is not being reasonably followed by the permittee, the consultant may revoke his or her approval of the plan. If the consultant revokes his or her approval of the health care plan, the health care consultant shall immediately [notify] provide written notification to the permittee and the Department, upon which notification the program shall immediate cease administering medication, and immediately notify all parents and guardians of children in the program of such cessation, until such time as a new health care plan is approved. All relevant documentation shall be kept on site and made available to the Department upon request.

(d) *Staff members certified to administer medications.* Only a trained, designated staff person may administer medications to children, except for administration of over-the-counter ("OTC") topical ointments, including sunscreen lotion and topically applied insect repellant; and of asthma inhalers, nebulizers, and epinephrine auto-injectors to children whose parent or guardian has provided written consent, medical authorization, and training. The trained, designated staff person administering medications to children shall be at least 18 years of age, possess current certifications in first aid, [cardio-pulmonary resuscitation (]CPR[)], and medication administration training (MAT) in a course approved or administered by the Department or the State Office of Children and Family Services. MAT certificates shall be made available for inspection by the Department on request. MAT certifications shall be effective for a period of three years from the date of issuance. Recertification training shall extend certification for additional three-year periods. If a designated staff person ceases to work in a program for a continuous period of one year, certification shall automatically lapse. Where certification lapses, the person may be recertified after repeating initial MAT or recertification training, as required by the Department. Where a permittee has failed to comply with requirements for the administration of medications set forth in this section, the Department may require retraining or may prohibit the permittee from administering medications.

(e) *Medication administration procedures.* Except as provided in Section 47.29(c) of this Code, [Permittees]permittees and designated staff may administer prescription and[nonprescription (over-the-counter)] OTC medications for eyes or ears, oral medications, topical ointments and medications, and inhaled medications in accordance with the provisions of this section.

(1) A copy of the permittee's written policies regarding the administration of medications shall be reviewed,[and] explained, and provided to parents at the time of enrollment[, and provided to parents].

(2) The permittee shall obtain from a child's parent and health care provider a statement in writing that indicates medicine to be administered and schedule of administration.

(3) A parent, or other adult authorized in writing by the parent, may administer medications to a child while the child is attending a program at any time.

(4) [The permittee shall maintain a medication administration log to document name of child, date, time and name of staff, parent, or other adult authorized by a parent to administer medications.] The permittee shall maintain a medication administration log, to be kept on site and made available to the Department upon request, to document the name of the child to whom medication was administered, the date and time of administration, the type and quantity of medication administered, and name of the staff member, parent, or other parentally authorized adult who administered the medication.

(5) Permittees and designated staff may not administer medications by injection, vaginally or rectally, except as follows:

(A)[Epinephrine auto-injector devices when necessary to prevent anaphylaxis for an individual child when the parent and the child's healthcare provider have indicated such treatment is appropriate; or

(B] For a child with special health care needs where the parent, program and the child's health care provider have agreed on a plan, pursuant to which the permittee or designated staff may administer medications by injection, vaginally or rectally; or

([C]B) Where the permittee or designated staff hold a valid New York State license as a physician, physician's assistant, registered nurse, nurse practitioner, licensed practical nurse, or advanced emergency medical technician.

(6) Nothing in this section shall be deemed to require any permittee to administer any medication, treatment, or other remedy except to the extent that such medication, treatment or remedy is required under the provisions of the Americans with Disabilities Act.

(7) Permittees who agree to administer medications shall do so, unless they observe circumstances specified by a child's health care provider, if any, under which medication shall not be administered. In such instances, the permittee shall contact the parent immediately.

(8) Medication may only be administered with written consent of the parent in accordance with written instructions from the child's health care provider including, but not limited to circumstances, if any, under which the medication or prescription shall not be administered. Medication shall be returned to the parent when no longer required by the child.

(9) When the permittee has written parental consent and written instructions from a health care provider authorizing administration of a specified medication if the permittee observes a specific condition or change of condition in the child while the child is in[care] the program, the permittee may administer the medication without obtaining additional authorization from the child's parent or health care provider.

(10) To the extent that such information is not included on the medication label, written instructions by the health care provider shall include:

(A) child's name;

(B) health care provider's name, telephone number, and signature;

(C) date authorized;

(D) name of medication and dosage;

(E) frequency the medication is to be administered;

(F) method of administration;

(G) date the medication shall be discontinued or length of time, in days, the medication is to be given;

(H) reason for medication (unless this information shall remain confidential, pursuant to law);

(I) most common side effects or reactions; and

(J) special instructions or considerations, including but not limited to possible interactions with other medications the child is receiving or concerns regarding the use of the medication as it relates to a child's age, allergies, or any pre-existing conditions.

(11) Medications shall be kept in the original labeled bottle or container. Over-the-counter medication shall be kept in the originally labeled container and shall be labeled with the child's first and last name. Prescription medications shall contain the original pharmacy label.

(12) If medication is to be given on an ongoing, long-term basis, the parent's consent and health care provider's written instructions shall be renewed in writing at least once every six months. Any changes in the original medication shall require a permittee to obtain new written instructions from the health care provider.

(13) A permittee may administer over-the-counter topical ointments, including sunscreen lotion and topically applied insect repellant, upon the written instructions of the parent. Such administration shall be consistent with any directions for use noted on the original container, including but not limited to precautions related to age and special health conditions, and no additional certifications to administer medications are required by the permittee or designated staff. If the only administration of medication offered by the program will be the administration of over-the-counter topical ointment, including sunscreen lotion and topically applied insect repellant, a designated health care consultant is not required. The permittee or designated staff shall record in the medication log applications of such topically applied ointments, sunscreen lotions and topically applied insect repellants, with the name of the child, date and time administered, and staff signature.

(14) For all children for whom the permittee administers over-the-counter medications, pursuant to this paragraph, copies of parental written consent and instructions shall be maintained in the child's medical record file.

(15) Medications shall be kept in a clean area that is inaccessible to children. If refrigeration is required, medications shall be stored in either a separate refrigerator or a leak-proof container in a designated area of a food storage refrigerator, separated from food and inaccessible to children. Permittees shall comply with all applicable law for secure storage of all medications.

(16) Staff shall document dosages and times that medications are given, observable side effects, reasons for not giving medication and medication administration errors, and shall report to the parent and to the child's health care provider, in accordance with the provider's written instructions; medication errors shall be immediately reported to the Department.

(17) No children shall independently self-administer medications or assist in the administration of their own medications except under direct supervision of designated staff.

(18) Nothing in this section shall prevent a parent, guardian or other legally authorized individual in relation to a child from administering medication to a child while such child is in a program. In these circumstances, the permittee shall document the dosages and time that the medications were administered to the child by such individual. If the only administration of medication in such[service] program is done by such individual, no certifications to administer medication are required by the permittee or staff.

(f) *Repealed.*

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.33 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

47.33 Health; staff.

(a) *Staff to be excluded.* The permittee shall exclude any staff person from work in accordance with Article 11 of this Code, if such staff person reports having an illness or symptoms of a communicable disease reportable, pursuant to Article 11 of this Code. Such staff person shall not be permitted to return to the program without a written statement of recovery from a health care provider if the staff person was a case of measles, mumps, rubella, pertussis (whooping cough), scarlet fever, meningitis (all types), or poliomyelitis, or if the staff person was a case of any other communicable disease reportable, pursuant to Article 11.

(b) *Physical examination certificates.* No member of the teaching staff or shelter child supervision staff, or[educational director, shelter child care liaison, teacher,] substitute, volunteer worker, office worker, kitchen worker, maintenance worker,[child supervisor,] or other staff member who regularly associates with children shall be permitted to work in a program unless such person is healthy and capable of carrying out the responsibilities of the job. Prior to commencing work, all such[staff and volunteers] individuals shall present a certificate from a licensed health care provider certifying that, on the basis of medical history and physical examination, such[staff member or volunteer] individual is physically and mentally able to perform assigned duties. Such certificate shall be submitted every two[(2)] years thereafter as a condition of employment. Certificates of required physical examinations and other medical or personal health information about staff shall be kept on file on paper or electronically, on the premises of the program, and shall be kept confidential and separate from all other personnel or employment records and made available for review by the Department upon request.

(c) *Staff immunizations.* Each staff person and volunteer shall obtain a report from a health care provider who is a licensed physician, nurse practitioner, physician's assistant, or doctor of osteopathy certifying that such person has been immunized against measles; mumps; rubella; varicella (chicken pox); and tetanus, diphtheria and acellular pertussis (Tdap) in accordance with recommendations of the CDC Advisory Committee on Immunization Practices (ACIP). Persons born on or before December 31, 1956 are not required to have measles, mumps or rubella vaccines. A history of having health care provider documented varicella or herpes zoster disease shall be accepted in lieu of varicella vaccine. A history of having measles, mumps or rubella disease shall not be substituted for the measles, mumps, or rubella vaccine. A laboratory test demonstrating detectable varicella, measles, mumps, or rubella antibodies shall also be accepted in lieu of varicella, measles, mumps and rubella vaccine. An employee may be exempted from this immunization requirement for ACIP-recognized medical contraindications upon submission of appropriate documentation from a licensed physician. Each staff person and volunteer shall submit such report of immunization to the permittee. Reports of immunizations shall be confidential and shall be kept by the permittee in a paper or electronic file with other staff and volunteer health information, except that such reports shall be kept on site and made available to the[department] Department upon request. Documentation of exemption from immunization shall also be kept on site and made available to the Department upon request.

(d) *Test for tuberculosis infection.* The Department may require testing for tuberculosis at any time of any persons in a program when such testing is deemed necessary for epidemiological investigation.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.35(h) of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.35 Personal hygiene practices; staff and children

(h) *Smoking prohibited.* There shall be no smoking of tobacco or other substances, or use of e-cigarettes, in any indoor or outdoor area of any premises on which a program is located.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Sections 47.37 through 47.41 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

[§ 47.37 Training.

(a) *Educational director/shelter child care liaison responsibility.* The educational director of a child care program and the shelter child care liaison of a family shelter-based drop-off child supervision program shall arrange for and verify continuing in-service training of all employees and any other staff or volunteers, as required by this Article. The educational director or the liaison may be certified to conduct such training or may designate other teaching staff to obtain such certification and conduct such training. The educational director or shelter child care liaison shall maintain copies of certificates verifying completion of required training; shall document written safety plan training, including dates and times that emergency response drills were conducted, evaluation of staff performance, and recommendations for improvements in training or amendments to the safety plan; and shall make such records available for inspection by the Department.

(b) *All employees.*

(1) Child *abuse and maltreatment.* All employees, and any other staff or volunteers or other persons who have, will have, or have the potential for, unsupervised contact with children in a program, shall receive two hours of training in child abuse and maltreatment identification, reporting, and prevention, and requirements of applicable statutes and regulations. Such training shall be provided by a New York State Office of Children and Family Services certified trainer. New employees shall receive such training within six (6) months of hire. All employees shall receive such training every 24 months.

(2) Infection control. All teachers and child supervisors shall receive training in infection control and reporting infectious diseases.

(3) Emergency procedures. The permittee shall provide A(ii)(bb)47.37(b)(3)A(iii)annual training to all staff, volunteers and other individuals providing services on a regular basis in the emergency procedures contained in the approved written safety plan, including:

(i) in-depth review of the provisions of the plan; and

(ii) announced and unannounced real-time drills demonstrating competency of all staff members in:

(A) Emergency medical response;

(B) CPR and first aid proficiency of certified staff

(C) Critical incident response; and

(D) Evacuation procedures other than the monthly fire drills required by 24 RCNY § 47.59(d).

(c) *Infant/toddler and night care program staff, and child supervisors.* In addition to the training requirements in paragraph (1) above, infant/toddler and night care program staff and child supervisors shall complete sudden infant death syndrome ("SIDS") and "shaken baby" identification and prevention training.

(d) *Assistant teachers.* Assistant teachers shall complete 15 hours of training every 24 months, including the mandatory child abuse prevention and identification training in paragraph (1), and other subjects related to child health and safety, and early childhood development. The educational director shall develop a training curriculum based on assessment of the professional development needs of individual assistant teachers. The curriculum shall include, but not be limited to, the following topics:

(1) Preventing, recognizing signs of, and reporting injuries, infectious diseases, other illnesses and medical conditions;

(2) First aid and CPR;

(3) Lead poisoning prevention;

(4) Physical activities, scheduling and conducting guided and structured physical activity;

(5) Asthma prevention and management;

(6) Setting up and maintaining staff and child health records including immunizations;

(7) Growth and child development; including:

(A) Early intervention;

(B) Early childhood education curriculum development and appropriate activity planning;

(C) Appropriate supervision of children;

(D) Meeting the needs of children with physical or emotional challenges;

(E) Behavior management;

(F) Meeting nutritional needs of young children;

(G) Parent, staff, and volunteer, communication and orientation: roles and responsibility;

(H) The selection of appropriate equipment and classroom arrangement; and

(I) Safety and security procedures for fire safety, emergency evacuation, playgrounds, trips and transportation.

(e) *Child care liaisons and supervisors.* In addition to the other training required by this section, child care liaisons and supervisors shall receive the following training at least every 24 months:

(1) Mental health first aid training;

(2) Social-emotional learning training; and

(3) Family engagement training.

(f) The Department may provide the training required by this section, or any part thereof, or accept training provided by others found satisfactory to the department. All trainers' qualifications must be submitted for review to an agency designated by the Department. Persons who enroll in workshops conducted by the Department may be charged a reasonable fee to defray all or part of the costs incurred by the Department for workshop registration materials, training, testing, and certificate issuance.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017)]

[§ 47.39 Space allowance; reservation for children's use.

(a) *Space for children's exclusive use.* Rooms, areas and other spaces utilized by children in a program shall be reserved for their exclusive use and shall not be shared with other children or adults while the program is in operation.

(b) *Minimum square footage/child.* The minimum allowance of space for each child in a classroom or a room used for a family shelter-based drop-off child supervision program shall be 30 square feet of wall to wall space.

(Amended City Record 9/20/2017, eff. 10/10/2017)]

[§ 47.41 Indoor physical facilities.

(a) *Egress.* All programs receiving a first permit after January 1, 1989, shall have two means of egress. Fire escapes shall not be counted as a second means of egress.

(b) *No child care or child supervision provided above third floor.* No programs receiving a first permit after January 1, 1989, shall allow children to utilize any rooms, areas or other spaces above the third floor of a building, except that the Department may allow programs to occupy spaces above the third floor where the Department of Buildings and Fire Department have approved such use and the Department has approved the applicant or permittee's evacuation plan.

(c) *Infant/toddler care or supervision limited to first floor.* No infant/toddler care program, or family shelter-based drop-off child supervision program that supervises infants or toddlers, receiving a first permit on or after September 1, 2008, shall provide services in any room, area or other space above the first floor or below the ground level floor of a building, except that the Department may allow such programs to occupy spaces above the first floor or one level below the ground level floor of a building, where the Department of Buildings and Fire Department have approved such use and the Department has approved the applicant or permittee's evacuation plan.

(d) *Basements.* A program receiving a first permit on or after September 1, 2008, shall not allow children to utilize any rooms, areas or other spaces lower than one level below the ground level floor of a building.

(e) *Window guards.* Windows guards shall be installed in accordance with specifications provided or approved by the Department on all windows in all rooms, hallways, and stairwells, except windows giving access to fire escapes.

(f) *Passageways free of obstruction.* All corridors, doorways, stairs, and exits shall be kept unobstructed at all times.

(g) *Protective barriers in stairways.* Protective barriers shall be provided in all stairways used by children. Stairways shall be equipped with low banisters or handrails for use of children. Protective barriers providing visual access shall be installed in lofts used by children.

(h) *Shielding required.* Columns, radiators, pipes, poles, and any other free-standing or attached structures in classrooms and play areas shall have protective guards.

(i) *Door locks.* No door to a bathroom, closet or other enclosed space shall be equipped with a lock that allows the door to be locked from inside the space, except that devices may be used to secure privacy if they can be overridden from the outside in an emergency.

(j) *Finishes and maintenance.* Walls, ceilings and floors shall be finished with non-toxic finishes, constructed of materials enabling thorough cleaning, and maintained in good repair, with no holes, missing tiles, peeling plaster, or other defects.

(k) *Securing entrances and exits.*

(1) *Monitoring.* All interior entrances and exits of the facility must be monitored and kept secure by individual staff, contractors, and/or electronic or other surveillance providing unobstructed views of entrances and exits at all times during operation of the program. Panic bars must be installed on all exterior doors of the facility. When used in this paragraph a "panic bar" means a door latching assembly incorporating a device that releases the latch upon the application of a force in the direction of egress travel.

(2) *Entry access.* All entrances providing access to the facility must be secured with pass key identification or other means that effectively limit access to staff, parents and other authorized persons.

(Amended City Record 9/20/2017, eff. 10/10/2017)]

§ 47.37 Training.

(a) *Education director/shelter child supervision liaison responsibility.* The education director of a child care program and the shelter child supervision liaison of a family shelter-based drop-off child supervision program shall arrange for and verify all required training of all teaching staff and shelter child supervision staff. The education director or the shelter child supervision liaison may be certified to conduct such training or may designate other teaching staff or shelter child supervision staff to obtain such certification and conduct such training. The education director or shelter child supervision liaison shall maintain copies of certificates verifying completion of all required training; shall document written safety plan training, including dates and times that emergency response drills were conducted, evaluation of staff performance, and recommendations for improvements in training or amendments to the safety plan. All documents relevant to compliance with this section shall be kept on site and made available to the Department upon request.

(b) *Employees*

(1) Child *abuse, maltreatment, and neglect.* All teaching staff and shelter child supervision staff shall receive at least two hours of training every 24 months in preventing, identifying, and reporting child abuse, maltreatment, and neglect, and requirements of applicable statutes and regulations. Such training shall be provided by a New York State Office of Children and Family Services certified trainer. New teaching and shelter child supervision staff shall receive such training within three months of hire or of the effective date of this rule, whichever is later. Training completed while employed at a different program holding a permit under this Article shall count for purposes of compliance with this subsection. Certificates of completion of all training required, pursuant to this subsection shall be kept on site and made available to the Department upon request.

(2) *Infection control, administration of medication, protection from hazards, and additional safety topics.* Within three months of hire or of the effective date of this rule, whichever is later, all teaching staff and shelter child supervision staff shall receive training in infection control, reporting infectious diseases; administration of medication; protection from hazards; handling and storage of hazardous materials; appropriate disposal of biocontaminants; building and physical premises safety; including protection from hazards, bodies of water, and vehicular traffic; and, if applicable, safe transportation of children. Training completed while employed at a different program holding a permit under this Article shall count for purposes of compliance with this subsection. Certificates of completion of all training required, pursuant to this subsection shall be kept on site and made available to the Department upon request.

(3) *Emergency procedures.*

(A) Except as provided in Section 47.37(b)(3)(A)(ii)(aa), all new teaching staff and shelter child supervision staff shall receive, within three months of hire or of the effective date of this rule, whichever is later, and, all staff, volunteers, and other individuals regularly providing services shall receive on an annual basis, training in the emergency procedures contained in the approved written safety plan, including:

(i) In-depth review of the provisions of the plan;

(ii) Announced and unannounced real-time drills demonstrating competency of all staff members in:

(aa) Emergency medical response, including:

(1) Pediatric CPR and pediatric first aid training approved by the Department. Such training is required only for staff and must be completed before staff begin providing services or within three months of the effective date of this rule, whichever is later, and every two years thereafter. Upon application for a new permit or for renewal of an existing permit, for those staff whose presence will be used for compliance with Section 47.23 of this Article, such training must include successful completion of hands-on skill tests and certification; and

(2) Administration of epinephrine auto-injector. Such training is required only for those staff selected by the permittee for compliance with Section 47.29(c) of this Code; and

(bb) Emergency preparedness and response planning for emergencies resulting from natural disasters or a human-caused events, including procedures for evacuation other than the monthly fire drills required by Section 47.59(d) of this Code, relocation, shelter-in-place and lockdown, staff and volunteer emergency preparedness training and practice drills, communication and reunification with families, continuity of operations, and accommodation of infants, toddlers, and children with disabilities or chronic medical conditions. This training shall include response to critical incidents such as

(1) Loss of a child;

(2) Situation requiring lockdown;

(3) Gas, sewer, or water main break; and

(4) Extreme weather event; and

(B) Training completed while employed at a different program holding a permit under this Article shall count for purposes of compliance with this subsection. Certificates of completion of all training required by this subsection shall be kept on site and made available to the Department upon request.

(4) *SIDS, safe sleep practices, and abusive head trauma ("shaken baby syndrome").* All child care program staff and shelter child supervision staff shall complete sudden infant death syndrome ("SIDS"), safe sleep practices, and "shaken baby syndrome" identification and prevention training before beginning to provide services or within three months of the effective date of this rule, whichever is later. Certificates of completion of such training shall be kept on site and made available to the Department upon request.

(5) *Allergic reactions.* All teaching staff and child supervision staff shall receive training in prevention and control of allergic reactions.

(6) *Additional topics.*

(A) All teaching staff and shelter-based child supervision staff shall receive training every 24 months on the following topics:

(i) Cognitive social, emotional, and physical development;

(ii) Family engagement; and

(iii) Mental health first aid for children.

(B) All teaching staff shall complete at least 15 hours of training every 24 months, at least five hours of which shall be completed in each 12-month period, including the mandatory child abuse prevention and identification training in paragraph (1), and other subjects related to child health and safety, and early childhood development. The educational director shall develop a training curriculum based on assessment of the professional development needs of individual assistant teachers. The curriculum shall include, but not be limited to, the following topics:

(i) Preventing, recognizing signs of, and reporting injuries, infectious diseases, lead poisoning, asthma, and other illnesses and medical conditions;

(ii) Providing first aid and CPR;

(iii) Scheduling and conducting guided and structured physical activity;

(iv) Setting up and maintaining staff and child health records including records of immunizations;

(v) Growth and child development; including:

(aa) Early intervention;

(bb) Early childhood education curriculum development and appropriate activity planning;

(cc) Appropriate supervision of children;

(dd) Meeting the needs of children with physical or emotional challenges;

(ee) Behavior management;

(ff) Meeting nutritional needs of young children;

(gg) Parent, staff, and volunteer, communication and orientation regarding roles and responsibilities;

(hh) The selection of appropriate equipment and classroom arrangement; and

(ii) Safety and security procedures for fire safety, emergency evacuation, playgrounds, trips, and transportation.

(C) Certificates of completion of such training shall be kept on site and made available to the Department upon request.

(c) The Department may provide the training required by this section, or any part thereof, or accept training provided by others found satisfactory to the Department. All trainers' qualifications must be submitted for review to an agency designated by the Department. Persons who enroll in workshops conducted by the Department may be charged a reasonable fee to defray all or part of the costs incurred by the Department for workshop registration materials, training, testing, and certificate issuance.

(d) The Department may promulgate rules to specify how permittees shall comply with this section.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

…

§ 47.39 Space allowance; reservation for children's use.

(a) *Space for children's exclusive use.* Rooms, areas and other spaces utilized by children in a program, including bathrooms, shall

be reserved for their exclusive use and shall not be shared with other children or adults while the program is in operation.

(b) *Minimum square footage/child.* The minimum allowance of space for each child in a room/area separated from other rooms/areas by a physical barrier shall be 30 square feet of wall to wall space.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

...

§ 47.41 Indoor physical facilities.

(a) *Egress.* All buildings in which child care or supervision is provided by programs that received their first permit after January 1, 1989, shall have two unobstructed means of egress, separated by at least half the diagonal dimension of the occupied space of the building or as otherwise specified by applicable building code. Fire escapes shall not be counted as means of egress.

(b) *No child care or child supervision provided above third floor.* No programs receiving a first permit after January 1, 1989, shall allow children to utilize any rooms, areas or other spaces above the third floor of a building, except that the Department may allow programs to occupy spaces above the third floor where DOB and FDNY or other appropriate government entities have approved such use and the Department has approved the applicant or permittee's evacuation plan.

(c) *Infant/toddler child care or supervision limited to first floor.* No infant/toddler child care program, or family shelter-based drop-off child supervision program that supervises infants or toddlers, receiving a first permit on or after September 1, 2008, shall provide services in any room, area or other space above the first floor or below the ground level floor of a building, except that the Department may allow such programs to occupy spaces above the first floor or one level below the ground level floor of a building, where DOB and FDNY or other appropriate government entities have approved such use and the Department has approved the applicant or permittee's evacuation plan.

(d) *Basements.* A program receiving a first permit on or after September 1, 2008, shall not allow children to utilize any rooms, areas or other spaces lower than one level below the ground level floor of a building.

(e) *Window guards.* Windows guards shall be installed in accordance with specifications provided or approved by the Department on all windows in all rooms, hallways, and stairwells, except windows giving access to fire escapes.

(f) *Passageways free of obstruction.* All corridors, doorways, stairs, and exits shall be kept unobstructed at all times.

(g) *Protective barriers in stairways.* Protective barriers shall be provided in all stairways used by children. Stairways shall be equipped with low banisters or handrails for use of children. Protective barriers providing visual access shall be installed in lofts used by children.

(h) *Shielding required.* Columns, radiators, pipes, poles, and any other free-standing or attached structures in classrooms and play areas shall have protective guards.

(i) *Door locks.* No door to a bathroom, closet or other enclosed space shall be equipped with a lock that allows the door to be locked from inside the space, except that such devices may be used to secure privacy if they can be overridden from the outside in an emergency, and may otherwise be used as required for compliance with applicable law or regulations regarding lockdown procedures.

(j) *Finishes and maintenance.* Walls, ceilings and floors shall be finished with non-toxic finishes, constructed of materials enabling thorough cleaning, and maintained in good repair, with no holes, missing tiles, peeling plaster, or other defects.

(k) *Securing entrances and exits.*

(1) *Monitoring.* All interior entrances and exits of the facility must be monitored and kept secure by individual staff, contractors, and/or electronic or other surveillance providing unobstructed views of entrances and exits at all times during operation of the program. Panic bars must be installed on all exterior doors of the facility. When used in this paragraph a "panic bar" means a door latching assembly incorporating a device that releases the latch upon the application of a force in the direction of egress travel.

(2) *Entry access.* All entrances providing access to the facility must be secured with pass key identification or other means that effectively limit access to staff, parents and other authorized persons.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.43 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.43 Plumbing; toilets, hand wash, and diaper changing facilities.

(a) *Plumbing installation.* Plumbing shall be installed only by a licensed plumber and shall be free of cross-connections and other hazards to health. Drinking water from faucets and fountains shall be tested for lead content by an existing permittee upon the effective date of this provision or by a new permittee within 60 days of receiving a permit and by all permittees every five years thereafter using a method approved by the Department. Copies of test results must be sent to the Department upon receipt by mail, email or fax and the permittee shall investigate and take remedial action if lead levels at or above 15 parts per billion (ppb) are detected. Remedial action must be described in a corrective action plan to be submitted to the Department with reports of elevated test results. Until remedial action is completed, the permittee must provide and use bottled potable water from a source approved by the Department or the State Department of Health.

(b) *Adequate toilets and sinks to be provided.* One toilet and one hand wash sink shall be provided for every 15 children ages 24 months and older, or fraction thereof, based on permit capacity. When an extended hand wash facility is equipped with several faucets supplying tempered water, each faucet shall be considered the equivalent of one hand wash sink.

(c) *Located near children's rooms.* Toilets and hand wash sinks shall be located as close as practicable to children's playrooms and classrooms.

(d) *Staff toilets.* Separate adult toilets shall be provided for staff.

(e) *Sink water supply.* Hand wash sinks with an adequate supply of hot and cold running water shall be provided in or adjacent to toilets. Water temperature in hand wash sinks used by children shall not exceed 115 degrees Fahrenheit (46.11 degrees Celsius).

(f) *Accessibility to children.* Toilets and hand wash sinks shall be installed at a height that allows unassisted use by children. If adult-size toilets or hand wash sinks are in place, platforms with easily cleaned surfaces shall be provided for use by children. Such platforms shall be[permanently installed] securely affixed to a permanent structure and free of hazards.

(g) *Soaps and drying devices.* All sinks shall be equipped with liquid soap dispensers, individual paper towels or sanitary driers, located within easy reach of the children.

(h) *Diaper changing.*

(1) A firm, non-absorbent, easily cleanable, counter height surface directly adjacent to a sink with running hot and cold water shall be provided in or adjacent to the classroom for diaper changing when needed.

(2) A disposable covering shall be provided on diaper changing counters and shall be changed after each use. The counter surface shall be disinfected after each use.

(3) A readily accessible receptacle with secure lid and removable plastic liner shall be provided for the disposal of diapers; separate equipment shall be provided for cloth diapers, if used. A properly labeled spray bottle of approved disinfectant shall be provided.

(4) Staff changing diapers shall wear disposable rubber or other barrier gloves.

(5) Potties shall be used only in bathroom or toilet facilities, and shall be washed and disinfected after each use in a designated utility sink that is not used by staff or children as a hand wash sink.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.45 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.45 Ventilation and lighting.

(a) *Ventilation.* Ventilation, by natural or artificial means, shall be provided in each room used by children. Internal temperature and humidity shall be regulated so the facility is free of nuisance conditions, including, but not limited to excessive heat, dust, fumes, vapors, gases, odors or condensate. The windows, inlets, outlets and artificial ventilation shall be located and the rate of air flow shall be controlled so as not to subject the children to drafts.

(b) *Lighting.* All parts of a building used for the care or supervision of children shall be adequately lighted by natural or artificial means. All lighting shall be evenly distributed and diffused, free from glare, flickering or shadows. The following lighting levels shall be provided and maintained at children's activity level:

(1) Fifty foot-candles of light in all classrooms used for partially sighted children;

(2) Thirty foot-candles of light in all other classrooms, study halls or libraries;

(3) Twenty foot-candles of light in recreation rooms;

(4) Ten foot-candles of light in auditoriums, cafeterias, locker rooms, washrooms, corridors containing lockers;

(5) Five foot-candles of light in open corridors and store rooms; and

(6) Five foot-candles of light shall be provided during sleeping hours in bathrooms, sleeping areas and exit paths.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.47 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.47 Outdoor play areas and facilities.

(a) Adequate, easily accessible outdoor play areas shall be provided at child care programs and may be provided at family shelter-based drop-off child supervision programs. They shall be kept clean and safe, and shall be suitable for children's use.

(b) Outdoor play areas located on the premises of a facility shall be enclosed by climb-proof fencing that is a minimum of five[(5)] feet in height. No razor or barbed wire shall be used at the top of a fence, unless the fence is more than six and one half[(6-1/2)] feet in height.

(c) Rooftop play areas may be provided in fireproof buildings, when such use is approved by the Department,[the Department of Buildings] DOB, and[the Fire Department] FDNY or other appropriate government entities. Rooftop play areas shall be enclosed by a climb-proof fence, at least 10 feet in height with an additional 45° inwardly angled panel.

(d) Outdoor equipment, including, but not limited to, swings, slides, and climbing apparatus, shall be age and developmentally appropriate, shall be installed, maintained and used in accordance with manufacturers' specifications and instructions, approved by the U.S. Consumer Product Safety Commission, and maintained in good repair.

(e) Outdoor play areas shall be maintained free of broken glass or other debris, poison ivy or other poisonous vegetation, pest harborages, or other hazards.

(f) Resilient surfaces, approved by the U.S. Consumer Product Safety Commission, that do not contain asphalt or cement, shall be provided under and surrounding climbing and other elevated equipment.

(g) Play equipment shall be in good repair, and free from hazards such as sharp edges or pointed parts, or toxic or poisonous finishes or materials, including but not limited to, lead and arsenic.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.49 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.49 General sanitation and maintenance.

(a) *Maintenance.* Indoor and outdoor rooms, play areas, and other spaces, including cellars, basements, and adjoining yards and courts, and all furnishings and equipment shall be kept clean of food and debris and maintained in good condition. Interior rooms used by children shall not be cleaned by dry sweeping in the presence of children.

(b) *Trash and garbage.* Trash and garbage shall be stored in rodent proof containers with tightly fitted lids. Trash, garbage, and combustible materials shall not be stored in the furnace or boiler rooms or in rooms or outdoor areas adjacent to the facility that are ordinarily occupied by or accessible to children.

(c) *Toxic and poisonous materials to be contained.* All matches, lighters, medicines, drugs, cleaning materials, detergents, aerosol cans and other poisonous or toxic materials shall be stored in their original containers. Such materials shall be used in such a way that they will not contaminate play surfaces, equipment, food or food preparation areas or constitute a hazard to children. Such materials shall be kept in places that are inaccessible to children, and that can be securely locked.

(d) *Environmentally sensitive cleaning products.* Whenever feasible, programs shall utilize environmentally sensitive cleaning products, as defined in State Education Law §[ ]409-i, or successor statute.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.51 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.51 Rodents, insects and other pests prohibited; pesticide application notice.

(a) *Pest free premises.* Premises shall be kept free of rodents, insects and other pests and free of any condition conducive to rodent, insect and other pest life.

(b) *Pest control.* Pest control methods shall emphasize prevention of pest infestation by preventing the free movement of pests into, and within the premises and by eliminating the conditions conducive to pests such as clutter and the availability of food and water. Such methods shall include, but not be limited to: closing and filling holes, cracks, and gaps at baseboards, where plumbing, radiator and other pipes and conduits enter the premises, where food storage cabinets join walls, and where shelves meet food storage cabinet interiors, using plaster, spackle, caulk or other appropriate sealants: storing all food products in sealed insect and rodent proof containers; installing door sweeps to prevent pest movement between rooms and areas. When necessary to control pests, permittees shall utilize pest control services provided by exterminators certified to apply pesticides by the New York State Department of Environmental Conservation (NYSDEC). Extermination logs shall be kept on site and maintained for inspection by the NYSDEC. Permittees shall request that exterminators utilize the least toxic methods and substances to control infestations, including but not limited to the use of: boric acid, diatomaceous earth, silica gel, insecticidal baits and gels for cockroaches; and shall not utilize glue traps [and]or rodenticidal bait [only if]unless inserted in tamper-resistant containers and placed in locations inaccessible to children. Routine extermination shall not include the use of insecticidal aerosol sprays or foggers. Exterminators' logs of pesticide applications equivalent in content to NYSDEC Form 44-15-26 (Applicator/Technician Pesticide Report) shall be kept on site for three years and made available to[maintained for inspection by] the Department[for three years] upon request.

(c) *Notice of pesticide applications.* Notice of pesticide applications shall be provided to parents not less than 48 hours before such application and shall include: (1) location and specific dates of applications; (2) pesticide product name and U.S. EPA registration number; (3) the name and telephone number of a program staff person to contact for more information; and (4) the following statement: "This notice is to inform you of a pending pesticide application at this child care program/family shelter-based drop-off child supervision program. You may wish to discuss with a representative of the child care program/family shelter-based drop-off child supervision program what precautions are being taken to protect your child from exposure to these pesticides. Further information about the product or products being applied, including any warnings that appear on the label of the pesticide or pesticides that are pertinent to the protection of humans, animals, or the environment, can be obtained by calling the National Pesticide Telecommunication Network Information line at 1-800-858-7378 or the NYS Department of Health Center for Environmental Health Info Line at 1-800-458-1158."

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.53 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.53 Pet animals.

No reptiles, dogs, cats,[and] or any other animals whose possession is prohibited by[24 RCNY §] Section 161.01 of this Code, or successor rule, shall be harbored in a facility. Any animals that are harbored in a facility shall be in good health, show no evidence of carrying any disease, and shall pose no threat to children. Pets shall be kept in cages, and waste material within cages shall be cleaned daily or more often, if needed.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.55 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.55 Equipment and furnishings.

(a) *Furnishings.* Tables, chairs, furniture and equipment shall be age and size appropriate, finished with non-toxic surface coverings, easily cleanable, and cleaned and sanitized as needed, in a manner consistent with the health and safety of the children in the program.

(b) *Naps.*

(1) A separate firm sanitary cot, crib, mat, playpen or other

sleeping arrangement specifically approved by the Department shall be provided for each child who spends more than four hours a day in the program.

(2) Stackable cribs shall be prohibited.

(3) Cots or other sleep equipment shall be placed at least two feet apart unless separated by a screen or partition.

(4) Pillows shall not be used for children under two years of age except when recommended by a child's health care provider.

(5) A clean sheet shall be provided for the exclusive use of each child.

(6) Blankets that are sufficient to maintain adequate warmth shall be made available for each child and shall be used when necessary.

(7) Sheets, pillows and blankets shall be stored separately for each child to avoid cross-contamination, and sheets, pillow cases and blankets shall be washed at least weekly.

(c) *Space for clothing.* Space shall be provided and arranged so that each child's outer garments may be hung separately, safely and within each child's reach.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.57 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.57 Safety; general requirements.

(a) *Telephone service.* The permittee shall provide and maintain at least one dedicated land line listed telephone for emergency use, and shall conspicuously post adjacent to the telephone current telephone numbers and instructions for obtaining fire, police and emergency medical assistance, contacting the Department's poison control hotline and Bureau of Child Care, or successor program, and the SCR child abuse hotline.

(b) *Eliminate safety hazards.* Precautions shall be taken to eliminate all conditions in areas accessible to children that pose a safety or health hazard.

(c) *Choking hazards.* Handbags, backpacks, briefcases, or other personal items belonging to adults or children, plastic bags, toys and objects small enough for children to swallow shall be stored in manner that they are not accessible to children.

(d) *Cold weather.* When outdoor temperatures are below 55°F, and children are on premises, permittees shall maintain indoor air temperatures between 68°F and 72°F in all rooms, areas and other spaces used by children.

(e) *Heat advisories.* On designated heat advisory, excessive heat warnings or watches, or ozone or other air pollution advisory days, the permittee shall maintain physical comfort levels of children and staff by providing adequate facility ventilation and/or air conditioning. The permittee shall implement policies to increase children's fluid intake and facilitate adequate hydration. Activities shall be modified to protect children from heat associated disorders and conditions, including but not limited to heat stress and heat strain, and scheduled activities shall be otherwise restricted or cancelled in response to restrictions or recommendations of the New York City Office of Emergency Management or the National Weather Service. During severe weather or other advisories, the permittee shall take appropriate action to protect the safety and health of children, including but not limited to, early dismissal, closing of the program, and employing appropriate precautions during transportation. Such precautions shall be described in the written safety plan.

(f) *Approved areas to be used.* Children shall not be kept for any period of time in any areas of a building or other premises not previously approved by the Department and by[the New York City Fire Department and Department of Buildings] FDNY and DOB or other appropriate government entities for such use. Such approval shall not be granted by the Department unless the premises and the area surrounding the premises are free from fire, traffic, and other safety or health hazards.

(g) *Environmental hazards.* Programs obtaining a first permit after September 1, 2008, shall not be co-located in any building or other premises containing commercial or manufacturing establishments associated with environmental hazards including, but not limited to those associated with dry cleaners, gas stations and petrochemical storage and distributors, automotive dealerships/maintenance or repair facilities, commercial printing, industrial/manufacturing plants and machine/equipment servicing, nuclear laboratories or power plants, or on premises identified as a federal or state superfund or other cleanup site, or any property with known contaminated ground or water supplies. No permit shall be issued or renewed for any program located in any building or other premises unless such building or premises are free of environmental hazards including but not limited to those identified above, or any other condition dangerous to life and health. When the permittee or the operators or other persons in control of any premises occupied by any program learn of a current or prior commercial activity or condition that may result in potential exposure to environmental hazards, such persons shall submit written notification on a form provided by or satisfactory to the Department of the existence of such activity or condition. When the Department determines that a condition may expose children or other persons to environmental hazards at the premises occupied by any program, it may order the abatement or remediation of such condition. In such cases as it deems necessary the Department may conduct and/or order the owner or other persons in control of the premises occupied by the program to conduct an environmental assessment consisting of but not limited to environmental sampling and to take such other action as it deems essential to protect the public health.

(h) *Adults restricted.* Adults allowed on the premises occupied by a program shall be limited to staff, parents and/or guardians and other authorized relatives and volunteers, student teacher trainees or observers, credentialed Department staff and other[public] governmental inspectors, and persons providing authorized services to the program.

(1) *Authorized escorts.* The permittee must obtain and maintain for every child a list of the name, relationship to child, address and contact information of every person the parent has authorized to escort a child from the program. The permittee shall not release any child to any individual who has not been identified by the parent as a person who is authorized to escort a child out of the facility.

(2) *Notification to parents.* The permittee must notify parents that the Health Code requires that no child is permitted to leave the program at any time with any person whose name is not on file at the program as an authorized escort. If any other person appears to escort a child out of the program, the permittee must immediately verify with the parent that the parent has authorized the escort before allowing the child to leave the program.

(i) *Instructional swimming and aquatic activities.* Programs shall obtain written approval of the Department prior to offering any swimming or other aquatic activities. Aquatic activities for group child care programs or family shelter-based drop-off child supervision programs are limited to learn to swim or water safety programs that use a supervision protocol approved by the State Commissioner of Health to protect children from injury or drowning. When authorized by the Department, such activities shall be conducted in accordance with the program's written safety plan and the following requirements:

(1) *Facilities and equipment.*

(A) Programs may utilize only swimming pools operating, pursuant to a permit issued by the Department, or other State permit issuing official, in accordance with Article 165 of this Code and Subpart 6-1 of the New York State Sanitary Code, or successor regulations.

(B) Swimming at bathing beaches, spa pools and in "fill and draw" pools is prohibited.

(C) Swimming pools or other bodies of water within the grounds of a facility shall be surrounded by a barrier sufficient to form an obstruction to children having access to such body of water in accordance with Article 165 of this Code.

(D) Barrier walls, fences and gates shall be at least six[(6)] feet high, except for wading pools, which shall be enclosed by barriers at least four[(4)] feet high, and shall be firmly attached to the adjacent ground, and shall completely enclose the pool or body of water.

(E) Pathways, walkways, decks, or other connecting entrance to the pool or body of water shall be obstructed by barriers that prevent children from having access to the pool or body of water.

(2) *Supervision: aquatic staff responsibilities and qualifications.*

(A) At least one qualified lifeguard shall be provided by the pool or the program for every 25 children or portion thereof and for every 3,400 square feet of pool surface area. Qualified lifeguards, as defined in Article 165 of this Code, shall actively supervise children participating in swimming and aquatic activities, as detailed in the written safety plan, and shall not be engaged in any other duties or activities that distract them from direct supervision of children in the pool.

(B) The permittee shall identify an employee to act as an aquatics director responsible for direct supervision of all swimming and aquatic activities. The aquatics director shall be present during all swimming and aquatic activities; shall establish and oversee all such activities on and off-site; and shall supervise all staff, volunteers, and children participating in these activities.

(C) During all swimming and aquatics activities, the aquatics director or designee shall have in his or her possession the approved written safety plan; and shall maintain for each swimming session an accountability system detailed in the written safety plan and approved

by the Department for recording the name of each child, the swimming area to which the child is assigned, the adult to whom the child is assigned in the swimming area, and the dates and times of initiation and cessation of aquatic and swimming activities.

(D) The aquatics director shall:

(i) be at least 18 years of age;

(ii) possess either: a current [cardiopulmonary resuscitation (] CPR[)] certificate, not exceeding one year in duration, in CPR for the Professional Rescuer issued by the American Red Cross (ARC); or a current CPR certificate, not exceeding one year in duration, issued by a certifying agency determined by the State Commissioner of Health to provide an adequate level of CPR training; and

(iii) be either:

(aa) a progressive swimming instructor who is a currently certified ARC water safety instructor or possesses a current certificate issued by certifying agency determined by the State Commissioner of Health to provide an adequate level of similar training ; or

(bb) a qualified lifeguard, as specified in the New York State Sanitary Code §[ ]7-2.5(g), or successor regulation, who meets lifeguarding, first aid and CPR certification requirements detailed in Part 6 of the State Sanitary Code including minimum lifeguard supervision level IIa.

(E) The permittee shall restrict swimming and aquatic activities to group sizes[per 24 RCNY §] consistent with Sections 47.23([e]f) and 165.15 of this Code.

(F) At least one progressive swimming instructor (PSI) shall be provided by the pool or permittee during all learn-to-swim programs, and shall provide instruction to no more than 10 children in the water at one time. A PSI shall be in the water at all times with the children and shall not be engaged in any other duties or activities that distract from direct instruction of children in the pool. The PSI shall be:

(i) at least [eighteen (]18[)] years of age; and

(ii) be a water safety instructor currently certified by the American Red Cross, or possess a current certificate issued by a certifying agency determined by the State Commissioner of Health to provide an adequate level of similar training; and

(iii) possess either: a [current cardiopulmonary resuscitation (]CPR[)] certificate, not exceeding one year in duration, in CPR for the Professional Rescuer issued by the American Red Cross (ARC); or a current CPR certificate, not exceeding one year in duration, issued by a certifying agency determined by the State Commissioner of Health to provide an adequate level of CPR training.

(G) There shall be at least one staff member, parent,[or] volunteer, or PSI located in the water in close proximity to children in the water, so as to provide immediate assistance to children in distress, with direct visual surveillance of:

(i) every two children in water that is less than chest deep as measured on the children; or

(ii) every one child in water that is greater than chest deep as measured on the children; or

(iii) every three children in the water if children are wearing non-inflatable, properly fitted flotation devices that are secured to their bodies.[

(iv) The PSI may be included in the above staff: child ratios.]

(H) Staff members, parents, or volunteers in the water shall not be engaged in any other duties or activities that distract from direct supervision and support of children in the pool, and shall:

(i) be at least [eighteen (]18[)] years of age.

(ii) have their ability to swim established by the PSI prior to supervising children in the water. The PSI must assess their swimming capability, record the results, and incorporate them in the written safety plan which is maintained on file by the permittee.

(I) Learn-to-swim programs shall operate in water less than chest deep for all PSI, staff members, parents, and volunteers in the water.

(J) At least one staff member certified in[infant, child or] pediatric CPR shall be present during all swimming and aquatic activities.

(3) *Child safety.*

(A) Children under 3 years of age are prohibited from participating in all swimming and aquatic activities.

(B) The written safety plan shall incorporate the safety requirements and supervision procedures applicable to swimming activities.

(C) An accountability system for supervising and accounting for children shall be established and detailed in the written safety plan approved by the Department, and shall[be established for supervising and accounting for children, that shall] include, but not be limited to:

(i) an accountability system which identifies each child by name, the swimming area to which the child is assigned, the adult to whom the child is assigned in the pool, and a record of the dates and times of initiation and cessation of aquatic and swimming activities.

(ii) accountability checks of the children are made at least every 15 minutes and results recorded in an accountability log or in accordance with the accountability system detailed in the program's written safety plan approved by the Department. Any logs maintained in connection with this requirement shall be kept on site and made available to the Department upon request.

(D) The program's written safety plan shall specify duties of all staff in case of swimming and aquatic activity emergencies, including but not limited to emergency procedures for "lost swimmers."

(E) Prior to each swimming and aquatic activity, the aquatics director shall meet with all staff and volunteers assigned to the activity and review their roles and duties at the area, including the children to whom each adult is assigned, and emergency procedures for "lost swimmers."

(F) Prior to every trip to an off-site swimming facility not owned by the program, the permittee shall obtain and maintain on file for each child a written consent from a parent or guardian. A consent form approved by the Department shall be incorporated in the written safety plan and shall include the child's name and age, the destination and type of activities authorized during the field trip, and the date of the trip.

(j) *Taking children off-site.* When scheduling off-site trips or activities, the permittee must designate from among the staff accompanying the children on the trip or activity a staff member to serve as a trip coordinator. The trip coordinator is responsible for overall child supervision and must accompany each group of children when they go to off-site locations. Staff/child ratios for each group on the trip or participating in the activity must be at least the same as the ratios required by[24 RCNY §] Section 47.23 of this Code.

(1) *Staffing.* The trip coordinator shall determine whether and how many additional staff and/or adult volunteers are required to maintain constant line of sight supervision of each child during the time children are offsite in addition to maintaining the staff/child ratios required by[24 RCNY §] Section 47.23 of this Code. The duties of the trip coordinator and instructions for determining the number of additional staff must be included in the program's written safety plan.

(2) *Child accountability.* A system for maintaining accountability for children must be detailed in the written safety plan and include, at a minimum, provisions for:

(A) *Name-to-face headcounts.* During each trip offsite, staff must conduct name-to-face headcounts before leaving the facility, upon arrival at the offsite location, at periodic intervals while at the location, before departing from the location and upon arrival back at the facility.

(B) *Identification of children.* The permittee must provide each child with a piece of clothing and/or other item that identifies and provides contact information for the program, but shall not include any child's given or family name.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.59 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.59 Fire safety.

(a) All exits shall have clear and legible illuminated exit signs. All exit signs and emergency lighting shall be maintained in working condition.

(b) Programs shall have approved fire extinguishers in good working order and have them inspected as required by the Fire Department.

(c) In a program holding a permit for more than 30 children, an approved interior fire alarm system shall be provided. All programs applying for a new permit or that are located in premises undergoing material alterations must be equipped with Fire Department approved interior fire alarm systems. Infant-toddler child care programs, and family shelter-based drop-off child supervision programs that supervise infants or toddlers, obtaining a new permit or that are located in premises undergoing material alterations must be equipped with a sprinkler system that complies with the New York City Building Code.

(d) Fire drills shall be conducted monthly and logged. Such logs shall be kept on site and made available to the Department and the[for] Fire Department[inspection] upon request.

(e) Heating apparatus shall be equipped with adequate protective guards. Space heaters shall not be used.

(f) Premises shall be free of electrical, chemical, mechanical and all other types of hazards.

(g) Smoke and carbon monoxide detectors with audible alarms shall be provided in accordance with applicable law or as required by the Department or the Fire Department, and shall be maintained in working condition.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.61 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.61 Food and food safety.

(a) Food shall be stored, served to, and prepared for children in accordance with Article 81 of this Code, except that no additional permit to operate a food service establishment shall be required. The permittee shall designate as a supervisor of food service operations a person who has a certificate in food protection issued, pursuant to[24 RCNY §] Section 81.15(a)(1) or (2) of this Code, or successor rule. Such person shall be on premises to supervise all food storage, preparation, cooking, holding, and cleaning activities, whenever such activities are in progress.

(b) Food supplied to children shall be wholesome, of good quality, properly prepared in accordance with nutritional guidelines provided or approved by the Department, age-appropriate in portion size and variety, and served at regular hours at appropriate intervals.

(1) Beverages with added sweeteners, whether artificial or natural, shall not be provided to children.

(2) Juice shall only be provided to children over two[(2)] years of age, and only 100% juice shall be permitted. Children shall receive no more than four[(4)] ounces of 100% juice per day.

(3) When milk is provided, children ages two and older shall only be served milk with 1% or less milk-fat unless milk with a higher fat content is medically required for an individual child, as documented by the child's medical provider.

(4) Water shall be made available and shall be easily accessible to children throughout the day, including at all meals. Potable drinking water supplies shall be located in or near classrooms and playrooms. Except when bubbler fountains are used, individual disposable drinking cups shall be provided within reach of children. If bubbler fountains are used, they shall be of the angle jet type with suitable guards and shall have water pressure sufficient to raise the water high enough above the spout to avoid contamination.

(5) Any special diet shall be provided only in accordance with a note from a physician, except that such diet may be provided without a physician's note for up to 90 days after admission for children who are homeless, as defined by section 11434a of chapter 119 of title 42 of the United States code, or in foster care.

(6) The provisions of this subdivision shall not apply to programs operated by a religious organization in instances where religious dietary requirements would be inconsistent with such provisions.

(c) When parents or other responsible persons provide meals, such foods shall be properly refrigerated and the operator shall provide such persons with age-appropriate nutritional guidelines approved or provided by the Department.

(d) Milk shall be stored at a temperature below 41 degrees Fahrenheit, may not be kept beyond its expiration date, and may not be dispensed or served by children except under adequate supervision.

(e) Dry food shall be stored in insect and rodent-proof containers.

(f) All utensils, dishes and other materials used in association with food shall be properly cleaned and sanitized as required by the Department or disposed of after each use.

(g) Feeding bottles shall be marked with the child's full name and date of preparation.

(h) Unused portions of formula milk and/or baby food shall be discarded after each feeding or meal.

(i) Bottles shall not be propped or kept by children while sleeping. No styrofoam cups shall be used by children two years or younger.

(j) The food service at a night child care program shall be provided as follows:

(1) Evening meals shall be served at the same time daily.

(2) Breakfast shall be provided for all children who have been at the facility through the night and are present between 6:00 A.M. and 8:00 A.M.

(Amended City Record 9/20/2017, eff. 10/10/2017)

RESOLVED that Section 47.63 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.63 Lead-based paint restricted.

(a) *Peeling lead-based paint prohibited.*

(1) There shall be no peeling lead-based paint or peeling paint of unknown lead content on any surface in a facility.

(2) Peeling lead-based paint and peeling paint of unknown lead content shall be immediately abated or remediated upon discovery by the permittee, or the owner of a building in which a program is located, regardless of whether there has been an inspection or order issued by the Department, in accordance with[24 RCNY §] Section 173.14 of this Code.

(3) When there has been an order to abate or remediate lead-based paint hazards issued by the Department, the permittee, or the owner of the building in which the program is located shall use only the methods specified in such order

(4) When the Department finds a lead-based paint hazard as defined in[24 RCNY §] Section 173.14(b) of this Code, or a lead dust hazard as defined in EPA 40 C.F.R. 745.227(h)(3)(i), on the interior of the facility, or concentrations of lead in the paint of the exterior surfaces of the facility, that may be creating a danger to health, it may in such cases as it deems essential, order the abatement or remediation of any such condition in a manner and under such safety conditions as it may specify. The Department may also order the removal or covering of soil appurtenant to any facility when it determines that there are concentrations of lead in such soil which exceed allowable limits of the U.S. Environmental Protection Agency published in 40 C.F.R. Part 745 or successor regulations and further determines that such concentrations may be dangerous to health.

(5) The work practices of[24 RCNY §] Section 173.14 of this Code shall not apply to repair and maintenance work in a facility which disturbs surfaces of less than two[(2)] square feet of peeling lead-based paint per room or[ten (]10[)] percent of the total surface area of peeling paint on a type of component with a small surface area, such as a window sill or door frame.

(6) Maintenance staff workers in facilities that contain lead based paint or paint of unknown lead content, and who regularly do repair work that may disturb such paint, shall attend a HUD/EPA approved 8-hour course on lead safe work practices in accordance with[24 RCNY §] Section 173.14(2)(b) of this Code.

(7) Children shall not be present and shall not have access to any room undergoing abatement, remediation or other work which disturbs lead-based paint or paint of unknown lead content until after completion of final clean-up and clearance dust testing.

(8) The permittee, or the owner of a building in which a program is located, in which paint has not been tested by X-ray fluorescent (XRF) analysis by or on behalf of the Department for lead content, may object to an order issued to remediate peeling lead-based paint or peeling paint of unknown lead content, by submitting evidence satisfactory to the Department that the surface of any component cited in the order as requiring remediation does not contain lead-based paint, as follows:

(A) Such evidence shall consist of a sworn written statement by the person who performed the testing on behalf of the permittee, or building owner supported by: lead-based paint testing or sampling results, including a description of the testing methodology and manufacturer and model of instrument used to perform such testing or sampling; a copy of the certificate of training of the certified lead-based paint inspector or risk assessor; a copy of the inspection report of the inspector or risk assessor, including a description of the surfaces in each room where such testing or sampling was performed; and a copy of the results of XRF testing and/or such laboratory tests of paint chip samples performed by an independent laboratory certified by the state of New York where such testing has been performed.

(B) Such written statement and all supporting documentation shall be submitted to the department not later than [thirty (]30[)] days before the date set for compliance with an order to remediate, and shall only be submitted where the Department has not performed an XRF test prior to issuing such order. Receipt by the Department of a complete application in accordance with this paragraph including such written statement and such supporting documentation shall toll the time period to comply with the order. Receipt of an incomplete application shall not toll the time period for compliance with the order.

(C) The Department shall notify the applicant of its determination in writing, and, if the Department rejects the application, such notice shall set a date for compliance.

(D) The performance of lead-based paint testing shall be in accordance with the definition of lead-based paint established in[24 RCNY §] Section 173.14 of this Code. Laboratory analysis of paint chip samples shall be permitted only where XRF tests fall within

the inconclusive zone for the particular XRF machine or where the configuration of the surface or component to be tested is such that an XRF machine cannot accurately measure the lead content of such surface or component. Laboratory tests of paint chip samples, where performed, shall be reported in mg/cm2, unless the surface area of a paint chip sample cannot be accurately measured, or if an accurately measured paint chip sample cannot be removed, in which circumstance the laboratory test may be reported in percent by weight. Where paint chip sampling has been performed, the sworn written statement by the person who performed the testing shall include a statement that such sampling was done in accordance with 40 CFR §[ ]745.227 or successor provision.

(E) Testing for lead-based paint may only be conducted by a person who has been certified as a lead-based paint inspector or risk assessor in accordance with subparts L and Q of 40 CFR part 745 or successor provisions and such testing shall be performed in accordance with 40 CFR § 745.227(a) and (b) or successor provisions.

(b) *Child care programs in operation prior to May 1, 1997.* No child care program permit shall be issued or renewed, unless all interior window sills and window wells accessible to children, chewable surfaces, deteriorated subsurfaces, friction surfaces, or impact surfaces, and such other surfaces in the facility as may be determined by the Department, containing or covered with lead-based paint or paint of unknown lead content shall have been abated or remediated in accordance with[24 RCNY §] Section 173.14 of this Code or as otherwise directed by the Department.

(c) *Programs commencing operation on or after May 1, 1997.* No program which received its first permit or which, if no permit was previously required, commenced operation after May 1, 1997, shall be issued a permit where there is lead-based paint on any interior surface in its facility.

(d) All paint or other similar surface coating material on furniture and equipment shall be lead-free.

(e) *Annual survey.* Each year the permittee operating a program in which any surfaces are covered with lead-based paint or paint of unknown origin shall conduct a survey of the condition of all such surfaces, note the results of the survey on a form provided by or satisfactory to the Department, and shall provide to the Department a copy of the results of such survey. Submission of such survey shall be on or before the permit issuance date, or the anniversary thereof. Copies of such survey results may be submitted by mail, fax or electronically.

(f) *Declaration, pursuant to Administrative Code §[ ]17-145.* The existence of a lead-based paint hazard in a facility, or failure to comply with this Section or[24 RCNY §] Section 173.14 of this Code in correcting such hazard, is hereby declared to constitute a public nuisance and a condition dangerous to life and health, pursuant to §[ ]17-145 of the Administrative Code. Every person obligated to comply with the provisions of this section of this Code is hereby ordered to abate or remediate such nuisance by complying with any order or direction issued by the Department.

(g) *Failure to comply with Department orders.* In the event that the Department determines that a permittee, or the owner of a building in which a program is located has failed to substantially comply with an order issued, pursuant to this section within[forty-five ()45[)] days after service thereof, the Department shall, in accordance with §[ ]17-911(d) of the Administrative Code, request an agency of the City to execute such order, pursuant to the provisions of §[ ]17-147 of the Administrative Code.

(h) *Definitions.* Except as otherwise provided, all terms used in this section shall have the same meanings as the terms defined in[24 RCNY §] Section 173.14 of this Code.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.65 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.65 Transportation.

(a) Motor vehicles used to transport children to or from a program shall comply with all requirements of the New York State Department of Transportation specified in 17 NYCRR Part 720 or successor rule, and shall prominently display a current certificate of inspection issued by or on behalf of the State Department of Transportation, and shall be operated in accordance with all applicable law.

(b) A program that provides transportation facilities shall supervise the transportation so as to preserve the health, safety and comfort of the children.

(c) All children shall be secured in safety seats or by safety belts as appropriate for the age of the child in accordance with the requirements of the Vehicle and Traffic Law before any child may be transported in a motor vehicle where such transportation is provided for or arranged for by the operator.

(d) When transportation is provided by or on behalf of the program, the driver of the vehicle may not be included in the staff/child ratios.

(e) A transportation schedule shall be arranged so that no child will regularly travel more than one hour between his or her home and the place where the program is operated.

(f) *Parental consent.*

[(1)] The permittee shall obtain and maintain on file written consent from the parent or guardian for any transportation of children that is provided or arranged for by the permittee, including, but not limited to, trips to an offsite park, playground or library. The consent form shall include the child's name and age, the destination, mode of transportation, whether by motor vehicle, mass transit, walking, carriage, buggy, or on foot, and the maximum length of travel time and the types of activities children will engage in at the offsite location.

(g) *Documentation of transfers.* The permittee must supervise and document all transfers of children between the program and drivers of school buses and other vehicles provided by the program or by a transportation service under contract with the program and must incorporate its policies and procedures for transfers and transportation in the program's written safety plan. A permittee must be able to immediately verify that no child has at any time been left on a school bus, other vehicle or other means of transportation without appropriate adult supervision. At a minimum, the written safety plan must describe how the permittee will maintain the following minimum accountability procedures:

(1) Transfer supervision, including name-to-face visual identification and confirmation for each child received from or delivered to a driver.

(2) Providing drivers with updated lists daily of the names and addresses of children who are scheduled to receive transportation services on each route, and completing and maintaining a daily log of children placed aboard vehicles for transport home. Such logs shall be kept on site and made available to the Department upon request.

(3) Drivers employed by the permittee or a transportation contractor must maintain a daily trip log with the names of the driver and other staff of the permittee or transportation service assigned to the vehicle to maintain supervision; the name, address, and contact information of the contractor transport service, if applicable; the name of each child and the times of entry and departure from the transport vehicle. A paper or electronic copy of the log must be given to the permittee when children arrive at the facility.

(4) Permittees must maintain all required records on site for at least six months and make such records available[for inspection by] to the Department upon request.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.67 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.67 Child development policies, activities, rest periods and clothing.

(a) *Activities.* A program's activities shall be varied in order to promote the physical, intellectual, and emotional well-being of the children. Corporal punishment and humiliating or frightening methods of control shall be prohibited. Food, rest or isolation shall not be used as a means of punishment. Punitive methods of toilet training are prohibited.

(b) *Schedules.* A written daily schedule of program activities and routines which offer reasonable regularity, including snack and meal periods, nap and rest periods, indoor and outdoor activities, and activities which provide children with opportunities for learning and self-expression in small and large groups is required. When night child care is provided, this schedule shall include routine personal hygiene, including changing into night clothes, brushing teeth, and washing before bed in the manner to be agreed between the parent and the operator.

(c) *Child behavior management.* A written[statement on the philosophy of] policy regarding[managing] management of the behavior of children, consistent with the requirements of this Article, shall be distributed to every staff member, posted in a prominent location within the facility and made available to parents upon request. Permittees shall act consistently with such policy.

(d) *Parents.*

(1) *Unrestricted access.* Parents shall have unrestricted access to their children at all times, unless an Order of Protection prevents access.

(2) *Enrollment and orientation.* At the time children are enrolled in a program, parents must be provided with information that acquaints parents with the policies and procedures of the program for supervision, attendance, admission, discharge, emergency and illness management as specified in the written safety plan and the requirements of this Code, and a copy of the Department brochure, "How to Get Information about Child Care Programs in New York City," or successor publication.

(3) *Video surveillance.* The parents of all children receiving care or supervision in a facility equipped with video surveillance cameras installed for the purpose of allowing parents to view their children in the facility by means of the internet shall be informed in writing that cameras will be used for this purpose. All staff of the program also shall be informed in writing if video surveillance cameras will be used for this purpose. The program shall make available copies of such notices to the Department upon request.

(A) All parents of children enrolled in the program and all staff of the program shall be made aware of the locations of all video surveillance cameras used at the facility.

(B) Programs opting to install and use video surveillance equipment shall comply with all law applicable to the use of such equipment.

(C) Video surveillance cameras may not be used as a substitute for competent direct supervision of children.

(D) Programs opting to allow parents to view their children in the child care setting by means of the internet shall use and maintain adequate internet security measures at all times. Such measures include but are not limited to: passwords that are frequently changed that enable parents to access the internet site for viewing children; filtering measures that prohibit public access to or viewing of child care or supervision activities via the internet; and immediate corrective action in response to any report of abuse of the system or inappropriate access. Such programs shall also advise the parents having access to views of the program through the internet of the importance of security in regard to such viewing and of the importance of the privacy rights of other children who may be viewed.

(E) Video surveillance cameras shall be used only to transmit images of children in common rooms, hallways and play areas. Bathrooms and changing areas shall remain private and free of all video surveillance equipment.

(F) Programs that use video surveillance equipment shall allow inspectors and other representatives of the Department to have access to such equipment and to have viewing privileges as required by the Department.

(e) Children shall be comforted when distressed.

(f) *Safe sleep environment for infants.*

(1) An infant/toddler child care program or family shelter-based drop-off child supervision program providing services to infants or toddlers must provide a safe sleep environment for each infant, consisting of a single crib or bassinet per child that is approved by the U.S. Consumer Product Safety Commission, and that complies with standards of the American Society for Testing and Materials (ASTM) International for infant sleep equipment; and a firm crib mattress specifically designed for the equipment used, covered by a tight fitting sheet flush with the sides of the crib/bassinet. The crib or bassinet must be free of bumper pads, pillows or sleep positioning devices not medically prescribed, loose bedding, blankets, toys and other possible suffocation risks.

(2) *Positioning*. Infants must be placed in a supine position unless written medical instructions directing otherwise are provided by the infant's primary health care provider. The program must maintain written medical instructions and make the instructions available for inspection by the Department. Infants capable of turning over by themselves in any direction may remain in the position the infant attains.

(3) *Prohibitions.* Infants must not be allowed to sleep or nap in a car safety seat except during transportation. Infants must not be allowed to sleep on bean bag chairs, futons, bouncy seats, infant swing or highchairs, playpens or other furniture/equipment not designed and approved for infant sleep purposes and meeting safe sleep environment criteria. Infants found sleeping in other than a safe sleep environment must be moved to a safe sleep environment upon discovery. Only one infant may occupy a single crib or bassinet at any given time.

(4) *Bedding.* Bedding must be changed prior to placing an infant in a crib or bassinet previously occupied by another infant.

(5) *Choking, tangling hazards.* Bibs, necklaces, and garments with ties or hoods must be removed prior to placing an infant in a crib or bassinet.

(g) Each child in full time child care shall have a quiet, relaxed period of approximately one hour a day. Shorter, comparable periods of quiet and relaxation shall be provided for each child who spends less time in a program.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.69 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.69 Night child care.

(a) *Information required.* A night child care program shall include in each child's record the arrangements provided for care when the child is not in night child care as well as information regarding family bedtime routines and other information which would assist staff in providing a smooth transition for the child.

(b) *Time in night child care program limited.* No child shall spend more than 12 hours in a night child care[setting] program in any 24 hour period.

(c) *Services.* A night child care program shall have services that incorporate the following elements:

(1) When possible, children shall be left for care before and picked up after their normal sleeping period so that there are minimal disturbances of the child during sleep.

(2) The program shall facilitate a relaxed atmosphere characterized by informal quiet activities.

(3) Scheduling shall reflect the need for regularity in meeting basic needs such as relaxation, meals, self-care/hygiene and sleep.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.71 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.71 Physical activity and limits on television viewing.

(a) *Physical activity.* Each program shall provide age and developmentally appropriate physical activity.

(1) Children ages 12 months or older attending a full-day program shall be scheduled to participate in at least 60 minutes of physical activity per day. Children attending less than a full day program shall be scheduled to participate in a proportionate amount of such activities. For children ages three[(3)] and older, at least 30 of the 60 minutes shall be structured and guided physical activity. The remainder of the physical activity may be concurrent with other active play, learning and movement activities.

(2) Structured and guided physical activity shall be facilitated by teachers and/or caregivers and shall promote basic movement, creative movement, motor skills development, and general coordination.

(3) Permittees shall document structured and guided physical activities.[and make such] Such documentation shall be kept on site and made available to the Department upon request. This documentation shall be included in the program daily schedule and program lesson/activity plans.

(4) Children shall not be allowed to remain sedentary or to sit passively for more than 30 minutes continuously, except during scheduled rest or naptime.

(b) *Play equipment.* In the indoor and outdoor play areas, the permittee shall make available sufficient equipment, appropriate to the stage of development of the children, and designed to foster physical and motor development, and that shall enable all children to engage in structured and guided physical activities.

(c) *Outdoor play.*

(1) Adequate periods of outdoor play shall be provided daily for all children, except during inclement weather.

(2) During outdoor play, children shall be dressed appropriately for weather and temperature. In inclement weather, active play shall be encouraged and supported in safe indoor play areas.

(d) *Television viewing.*

(1) Television, video and other visual recordings shall not be used with children under two years of age.

(2) For children ages two[(2)] and older, viewing of television, videos, and other visual recordings shall be limited to no more than 30 minutes per week of educational programming or programming that actively engages child movement.

(3) Children attending less than a full-day program shall be limited to a proportionate amount of such viewing.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.73 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.73 Required postings.

(a) The permittee shall maintain an updated copy of this Code and make it available to all staff.

(b) The permittee shall post the following at the front door of its public entrance where staff, parents and others may review them:

(1) The current permit securely encased in a weather-resistant glass or plastic protective frame[, and];

(2) A sign provided or approved by the Department stating that the Department's most recent summary inspection report for the program may be obtained from the Department's website, or by calling 311, and that complaints about the program may be made to, and more information about requirements for operation of programs may be obtained by calling 311[.]; and

(3) The valid relevant performance summary card posted in accordance with Chapter 3 of Title 24 of the rules of the City of New York.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Section 47.75 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.75 Modification of provisions.

(a) *Modification of provisions.* When the strict application of any provision of this article presents practical difficulties, or unusual or unreasonable hardships, the Commissioner in a specific instance may modify the application of such provision consistent with the general purpose and intent of this Code and upon such conditions as in his/her opinion are necessary to protect the health of the children. Unless a shorter duration is specified by the Department, all modifications shall remain in effect for the remainder of the permit period in which they are issued and shall expire at the end of the permit period.

(b) *Fee waiver.* Upon the submission of proof satisfactory to the Commissioner that an applicant for a permit is a program which is fully funded by the Administration for Children's Services (ACS), the New York City Human Resources Administration, the New York City Department of Homeless Services, or a successor agency, as an ACS Group Child Care Center, Head Start or other child care or supervision program, the permit fee required by Article 5 of this Code shall be waived. Such waiver shall continue in effect provided the applicant program remains fully funded.

(Amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

RESOLVED that Sections 47.77 of Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory note, to read as follows:

§ 47.77 Closing and enforcement.

(a) Imminent health hazards.

(1) When the Department determines that any program is being operated in a manner that may give rise to an imminent health hazard, or is maintaining one or more conditions that constitute an imminent health hazard, or that its operation otherwise presents a risk of endangering the health or safety of children or other persons, the Commissioner may order such program to close and to discontinue operations, suspending its permit, without further proceedings, by service of an order upon the permittee, or other person(s) managing or in control of such program. An order issued, pursuant to this section shall provide the permittee, or other person(s) in control, an opportunity to be heard and to show cause why such program should not remain closed until there are changed circumstances, or the correction, removal or abatement of the dangerous or detrimental condition(s).

(2) The Commissioner may require any permittee that consistently fails to correct imminent or repeat, serious violations to prepare a corrective action plan in which factors contributing to violations are analyzed and a plan is created to address and correct violations. When, in the opinion of the Commissioner, a permittee is unable or unwilling to write or implement a corrective action plan that adequately protects the health and safety of children, the Commissioner shall provide the permittee with an opportunity to show cause at a hearing why its permit should not be suspended or revoked.

(b) *Operating without a permit.* Operating any program without a currently valid permit shall be deemed to present an imminent health hazard to children in attendance, for which such program shall be ordered closed without further proceedings.

(c) *Additional operating terms and conditions authorized.* If the Department determines that the reopening of a program that has been ordered closed and its continuing operation will not present any risk to any person, the Department may authorize such reopening and may impose such additional conditions upon continuing operation that it deems necessary to avoid recurrence of imminent health hazards.

(d) *Service of orders.* Service of any order issued, pursuant to this Article may be made upon any person to whom the order is addressed, to a permittee, to a person required to hold a permit or upon any other person of suitable age and discretion who is asserting ownership, management or control of such program. Service of any order may be made in any manner provided in[24 RCNY §] Section 3.05(b) of this Code, or successor provision, and may be delivered to the home or business address of the permittee listed in the permit issued by the Commissioner, or in the permit application or at the place where the program is being operated.

(e) *Posting orders to close; notifying parents.* Upon issuing an order to close a program for any reason, the Department shall post a copy of the order at the entrance to the premises subject to such order, and shall notify and provide a copy of the closing order to the parents or other persons who arrive at the program to pick up children attending the program.

(f) *Padlocking.* Upon finding that any order issued, pursuant to this section has not been complied with, the Department may, without further notice, seal or padlock the premises where services are provided and take any other measures deemed necessary to obtain compliance with the order.

(g) *Operation in violation of order prohibited.* No person shall remove a padlock, seal or an order posted, pursuant to this section, or open to the public or operate a program in violation of an order issued, pursuant to this section.

(h) *Other actions.* In addition to any action authorized by this[article] Article or Article 5 of this Code, the Commissioner may refuse to renew, or may revoke or deny issuance of a permit if:

(1) the program's permit was ordered suspended more than once during the past 36 months, or

(2) the program's permit was previously ordered suspended for having lost a child, or another instance of inadequate supervision or inappropriate behavioral management of children; or

(3) the permittee failed to submit or implement a fully responsive corrective action plan; or

(4) a permit applicant or permittee continued operating a program when a permit was either ordered suspended or the program was ordered closed for operating without a permit; or

(5) the Commissioner determines that a permittee is unable or unwilling to correct a pattern of serious, repeated violations including, but not limited to, those defined as imminent health hazards; or

(6) the Commissioner finds out after issuing a permit that a previous or current permit, license, registration or other authorization to operate a program, held by the permittee, or any officer, manager or director of the permitted entity, was or is being suspended or revoked in any jurisdiction.

(i) *Department authority not limited by this section.* Nothing herein shall be construed to limit the authority of the Department to take any action it deems appropriate, including[issue] issuance of notices of violation seeking monetary penalties for violations cited by the Department, or[commence any other] commencement of a proceeding or action provided for by this Code or other applicable law, including actions or issuance of orders[to deny, suspend or revoke] denying, suspending, or revoking permits.

(j) *Effect of permit revocation.* When a permit has been ordered revoked by the Commissioner, and the Commissioner finds that the circumstances resulting in revocation show that the permittee or other persons exercising management and control are unable or unwilling to operate a program in compliance with this Code, an application for a new permit will not be accepted for at least five years from the date revoked from either the permittee or from any individual person exercising management and control of the program that had its permit revoked.

(Amended City Record 9/20/2016, eff. 10/20/2016; amended City Record 9/20/2017, eff. 10/10/2017; amended City Record June 12, 2018, eff. July 12, 2018)

Notice of Adoption of Amendments to Article 43 of the New York City Health Code

In accordance with §1043(b) of the New York City Charter (the "Charter") and, pursuant to the authority granted to the Board of Health (the "Board") by §558 of the Charter, a notice of intention to amend Article 43 of the New York City Health Code (the "Health Code") was published in the City Record on March 19, 2018, and a public hearing was held on April 18, 2018. Twenty-seven individuals testified at the joint hearing on this amendment and the companion amendment to Article 47, and 92 written comments were received, including seven from individuals who also testified. As discussed below, a number of changes were made, including several in response to the comments received. At its meeting on June 5, 2018, the Board adopted the following resolution.

Statement of Basis and Purpose

Statutory Authority

The Board's authority to codify these proposed amendments is found in Sections, 556, 558, and 1043 of the New York City Charter (the "Charter"). Sections 558(b) and (c) of the Charter empower the Board to amend the Health Code and to include all matters to which the Department's authority extends. Section 556 of the Charter provides the Department with jurisdiction to protect and promote the health of all persons in the City of New York. Section 1043 grants the Department rule-making authority.

Background

Article 43 of the New York City Health Code governs school-based programs for children aged three through five. The Board is amending Article 43 to add requirements for maintaining epinephrine auto-injectors on site and for certain teacher training. The basis for the changes is set forth below.

Emergency Medical Care and Epinephrine Auto-Injectors

The Centers for Disease Control and Prevention estimates that four to six percent of children nationally have a food allergy; such food allergies include ones that are life-threatening. Rapid administration of an epinephrine auto-injector following a life-threatening allergen exposure is critical to preventing significant negative outcomes, including death. Having epinephrine auto-injectors on the premises at all times can save the lives of children with life-threatening food allergies who do not bring an epinephrine auto-injector with them to the school-based program, and of children who have life-threatening food allergies identified for the first time while the child is there.

In 2016, the New York State Public Health Law was amended[1] to allow certain entities, including child care providers, to obtain non-patient specific epinephrine auto-injectors and to administer them in an emergency. This new State law creates the opportunity for such programs to have this critical, lifesaving program enrolling a child whose enrollment is paid for by federal child care subsidies.

The rule language is modified to include training regarding prevention of and response to emergencies related to food or allergic reaction, and prevention and control of infectious diseases (including immunization).

Other requirements

In order to come into alignment with federal requirements and state policy regarding the vulnerabilities and special needs of children who are homeless or in foster care and thus require accommodations for compliance with certain rules, the proposed language has been modified to provide for a reasonable grace period for certain provisions pertaining to providing medical records.

Tooth Brushing

The provisions regarding tooth brushing that were included in the original proposal are not included in these amendments. The Department has determined that further consideration is warranted.

The Department's authority to promulgate these proposed amendments is found in Sections 556, 558, and 1043 medication available. Accordingly, the amendments clarify requirements for emergency medical care and add a mandate that school-based programs maintain on site at least two unexpired epinephrine auto-injectors in each dosage appropriate for children who may be in the program, stored so they are easily accessible to staff and inaccessible to children. Whenever children are present, programs are required to have at least one staff person on site trained to recognize signs and symptoms of anaphylactic shock and to administer epinephrine as appropriate. The amendments also require programs to monitor the auto-injectors' expiration dates and call 911 after any administration, as required by the medication directions; to obtain parental consent at the time the child is enrolled in the program; and to have all staff trained in preventing and responding to emergencies related to food allergies.

The proposed language is modified to require that epinephrine auto-injectors have retractable needles and to clarify storage requirements.

Training requirements

The amendments expand teacher training requirements to enhance child safety and assure alignment with the health and safety training requirements in the federal Child Care Development Block Grant Act (CCDBG) Act of 2014. Sections 558(b) and (c) of the Charter empower the Board to amend the Health Code and to include all matters to which the Department's authority extends. Section 556 of the Charter provides the Department with jurisdiction to protect and promote the health of all persons in the City of New York. Section 1043 grants the Department rule-making authority.

Accordingly, the Board amends Health Code Article 43 as follows:

Note: New material is underlined. [Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably unless otherwise specified or unless the context clearly indicates otherwise.

RESOLVED, that Paragraph (7) of Subdivision (b) of Section 43.07 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes, to read as follows:

(7) *Staff training:* new employee orientation; training curricula; procedures for child supervision and discipline; child abuse and neglect recognition and reporting; provision of pediatric first aid and pediatric cardiopulmonary resuscitation, and other emergency medical assistance; emergency preparedness and response planning for emergencies resulting from natural disasters or a human-caused events, including procedures for evacuation, relocation, shelter-in-place and lockdown, staff and volunteer emergency preparedness training and practice drills, communication and reunification with families, continuity of operations, and accommodation of infants, toddlers, and children with disabilities or chronic medical conditions; prevention of and response to emergencies due to food and allergic reactions; prevention and control of infectious diseases (including immunization); reporting of child injury and illness; fire safety and fire drills; child and staff evacuation procedures; activity specific training for assigned activities; administration of medication, consistent with standards for parental consent; building and physical premises safety, including protection from hazards, bodies of water, and vehicular traffic; handling and storage of hazardous materials and appropriate disposal of biocontaminants; safe transportation of children if applicable; use of safe sleep practices and prevention of sudden infant death syndrome ("SIDS"); prevention of abusive head trauma ("shaken baby syndrome") and child maltreatment; and process to document attendance at staff training.

NOTE: Paragraph amended by vote of Board of Health on June 5, 2018.

RESOLVED, that Paragraph (2) of Subdivision (a) of Section 43.17 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes, to read as follows:

(2) *Immunizations.*

***

[(C) A school that fails to maintain documentation showing that each child in attendance has either received each vaccination required by this subdivision or is exempt from such a requirement, pursuant to paragraph A or B of this subdivision will be subject to fines for each child not meeting such requirements, as provided for under this Code.]

(C) In addition, for children who are either homeless, as defined by section 11434a of chapter 119 of title 42 of the United States code, or in foster care, there shall be a 90-day grace period to obtain the required immunizations after enrollment.

(D) A school that fails to maintain documentation showing that each child in attendance has either received each vaccination required by this subdivision, or is exempt from such a requirement, pursuant to paragraph A or B of this subdivision or eligible for the grace period specified in paragraph C of this subdivision, will be subject to fines for each child not meeting such requirements, as provided for under this Code.

([D]E) All children shall have such additional immunizations as the Department may require.

NOTE: Paragraph amended by vote of Board of Health on June 5, 2018.

RESOLVED, that Subdivision (a) of Section 43.17 of the New York City Health Code be amended, to be printed together with explanatory notes, to read as follows:

1 NYS Public Health §3000-C. Epinephrine Auto-injector devices. Effective March 28, 2017.

(a) *Required examinations, screening and immunizations.*

(1) *Physical examinations and screening.* Prior to initial admission to a school, or within 90 days after admission for children who are either homeless, as defined by section 11434a of chapter 119 of title 42 of the United States code, or in foster care, all children shall receive a complete age appropriate medical examination, including but not limited to a history, physical examination, developmental assessment, nutritional evaluation, lead poisoning screening, and, if indicated, screening tests for dental health, tuberculosis, vision, and anemia.

(2) *Immunizations.*

(A) All children shall be immunized against diphtheria, tetanus, pertussis, poliomyelitis, measles, mumps, rubella, varicella, hepatitis B, pneumococcal disease and haemophilus influenzae type b (Hib), in accordance with New York Public Health Law § 2164, or successor law. Exemption from specific immunizations may be permitted if the immunization may be detrimental to the child's health or on religious grounds, in accordance with Public Health Law § 2164. In addition, there shall be a 90-day grace period after admission for children who are either homeless, as defined by section 11434a of chapter 119 of title 42 of the United States code, or in foster care, to obtain the required immunizations.

*****

NOTE: Subdivision amended by vote of Board of Health on June 5, 2018.

RESOLVED that Section 43.21 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes, to read as follows:

§ 43.21 Health; emergencies.

(a) *Emergency procedures and notices.* Written policies and procedures for managing health and other emergencies shall be included in the written health and safety plan. Persons in charge of a school shall provide notice of the location and contact telephone numbers of the school to local hospitals, police precincts, fire houses and emergency transport services and information about emergency policies and procedures shall be provided to parents. Emergency procedures and emergency telephone contact numbers (for Police, Fire Department, Poison Control Center, Child Abuse Hotline, and the Department of Health and Mental Hygiene) shall be conspicuously posted in each classroom or area used by children.

(b) *Necessary emergency medical care.* When a child is injured, or becomes ill under such circumstances that [immediate] emergency care is needed, the person in charge of a school or designee shall obtain [necessary] such emergency medical care in accordance with the requirements of this section and immediately notify the child's parent or guardian.

(1) The person in charge of a school-based program or their designee must:

(A) At the time of the child's admission into the program, obtain written consent from a parent or guardian authorizing the program or other caregivers to obtain emergency medical care for the child; and

(B) Secure emergency medical care when needed, and notify a parent or guardian immediately; and

(C) Arrange for any needed transportation of any child in need of emergency health care and ensure that the supervision ratios required by §43.09 of this Article are maintained for the children remaining in the program; and

(D) Advise a parent or guardian, or the person authorized to pick up the child that day, of any developing symptoms of illness or minor injury sustained while the child is in the program.

(2) Where a parent has provided a written, individualized health care plan indicating the specific medications that can be administered and the schedule of such administration(s) for their child, including in cases of emergency, and there is a direct conflict between such plan and any provision of this section, the program shall follow the child's individualized health care plan.

(c) *Epinephrine auto-injectors.*

(1) Each person in charge of a school-based program shall maintain on site at the school-based program facility at least two epinephrine auto-injectors with retractable needles in each dosage appropriate for children who may be in the program, stored in an area inaccessible to children and maintained in an unexpired, operable condition such that they are available for immediate use in case of need for emergency administration to a child.

(2) Each person in charge of a school-based program shall designate a sufficient number of staff to be trained to administer an epinephrine auto-injector to a child in accordance with New York State Public Health Law §3000-c, or any successor statute or applicable regulation. At least one staff person trained to administer such epinephrine auto-injector shall be on-site in the school-based program at all times children are present. The epinephrine auto-injector training must include:

(A) How to recognize signs and symptoms of severe allergic reactions, including anaphylaxis;

(B) Recommended dosage for adults and children;

(C) Standards and procedures for the storage and use of an epinephrine auto-injector; and

(D) Emergency follow-up procedures.

(3) Each person in charge of a school-based program shall designate at least one staff person to be responsible for the storage, maintenance, control, disposal, and general oversight of such epinephrine auto-injector to ensure such device remains available for use in an unexpired, operable condition, and that the storage location is in compliance with the requirements specified by the manufacturer.

(4) Staff trained in accordance with the requirements of paragraph (2) of this subdivision may administer an epinephrine auto-injector to a child, whether or not there is a prior or known history of severe allergic reaction in such child.

(5) Immediately following any emergency administration of an epinephrine auto-injector to a child, the person in charge of a school-based program or designee shall contact 911 for emergency medical care and notify the child's parent or guardian.

(6) Within 24 hours following any emergency administration of an epinephrine auto-injector, the person in charge of a school-based program or designee shall contact the Department to report the incident.

(7) Each epinephrine auto-injector shall be disposed of in accordance with applicable law.

([c]d) *First aid supplies.* A first aid kit, completely stocked for emergency treatment of cuts and burns, shall be provided by the person in charge of a school and shall be easily accessible for use. The first aid kit shall be kept out of reach of children and inspected periodically.

([d]e) *Incident [L]log [of children's illnesses, and accidents*]. The school shall maintain an incident log of illnesses, accidents, epinephrine auto-injector administrations, and injuries sustained by children in the school, in a form provided or approved by the Department. The school shall provide a child's parent with information concerning such incident[s] pertaining to the child[,] on the date of such incident and shall report same [serious injuries] to the Department within 24 hours. Logged entries shall include the name and date of birth of the child, the place, date and time of the [accident or injury,] incident, names and positions of staff and other adults present, a brief statement [as to how] describing the incident, [accident, or injury occurred,] emergency treatment obtained, if any, and parental notification made or attempted. The incident log shall be made available to the Department upon request.

NOTE: Section amended by vote of Board of Health on June 5, 2018.

RESOLVED that Section 43.25 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes, to read as follows:

§ 43.25 Modification of provisions.

When the strict application of any provision of this article presents practical difficulties, or unusual or unreasonable hardships, the Commissioner in a specific instance may modify the application of such provision consistent with the general purpose and intent of these articles and upon such conditions as in[his] the Commissioner's opinion are necessary to protect the health of the children. The denial by the Commissioner of a request for modification may be appealed to the Board in the manner provided by 24 RCNY §5.21.

NOTE: Section amended by vote of Board of Health on June 5, 2018.

RESOLVED that Article 43 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to add a new Section 43.27, to read as follows:

§ 43.27 Inspections.

School-based programs will allow credentialed Department staff to visit the programs while in operation and inspect the documents that are required by this Article to be kept on the premises and provided upon request. Such inspections will occur at least once per year.

NOTE: Section added by vote of Board of Health on June 5, 2018.

Notice of Adoption of Amendment to Article 207 of the New York City Health Code

In compliance with section 1043(b) of the New York City Charter ("the Charter") and, pursuant to the authority granted to the Board of Health by section 558 of said Charter, a notice of intention ("NOI") to amend Article 207 of the New York City Health Code ("the Health Code") was published in the New York City Record on March 19, 2018, and a public hearing was held on April 23, 3018. At the hearing, 15 people testified, many of whom also submitted written comments. In all, 964 written comments were received, 59 of which were signatures to one petition and 827 of which were signatures to a second petition; many of these signatories also submitted their own written comments. After consideration of the comments received, no changes have been made to the proposed amendment. At its meeting on June 5, 2018, the Board of Health adopted the following resolution.

Statement of Basis and Purpose

Background

Adoption of schedule for transfer of vital records

Birth and death records are considered private records. During a person's life and for an appropriate period after death, birth and death records are protected from being accessed by the general public because they contain individually identifiable information. These records, however, eventually become historical documents of interest to family members and persons researching their ancestries. For these reasons, the Board of Health recently fixed schedules for making these records public and transferring them to the Department of Records and Information Services ("DORIS"): section 207.21 of the Health Code now makes birth records public records after 125 years after birth, and death records public records after 75 years after death.

The schedule set in section 207.21 of the Health Code drew numerous comments from the public. Many of these comments emphasized a keen community interest in third parties being able to access birth and death records prior to their transfer to DORIS. The comments also made a variety of different suggestions, from making all birth and death records immediately available to the public, to releasing birth and death records to family members prior to the records becoming public, to creating a special category for release of records to genealogist. The Department agreed that certain family members should have access to birth and death records prior to the records becoming public, and therefore proposed amending section 207.11 of the Health Code for this purpose. The Board now adopts those amendments. The Department believes these new provisions will allow family members to access information while protecting the confidentiality of vital records for appropriate periods of time.

Current Administrative and Health Code provisions allowing release of birth and death records

Section 17-169(a) of the Administrative Code delineates who may access birth records. While section 17-169(a)(1) restricts who may obtain a certified copy of a record of birth, section 17-169(a)(2) authorizes the Department to honor requests for certifications of birth when providing the information is "necessary or required for a proper purpose." As noted below, the Department believes that ascertaining facts related to one's family history is a proper purpose.

Section 17-169(b) of the Administrative Code provides for access to death records when "necessary or required for a proper purpose." Section 207.1(b) of the Health Code provides that death records can be made available to the following persons:

(1) the spouse, domestic partner, parent, child, sibling, grandparent or grandchild of the decedent;

(2) the legal representative of the estate of the decedent, or the individual identified on a death certificate filed with the Department as the person in control of the disposition;

(3) a party with a property right who demonstrates to the Department that information beyond the fact of the death of the decedent is necessary to protect or assert a right of that party;

(4) a funeral director who requests the record or information within twelve (12) months of when the death of his or her client was registered; or

(5) persons or government agencies who otherwise establish that such records are necessary or required for a judicial or other proper purpose, or to prevent the misuse or misappropriation of City, state or federal governmental funds.

Health Code Amendment

The Board is expanding the group of family members who can access birth and death records prior to their public release. This new group is within a close degree of consanguinity (blood relation) to the individual whose records are sought. Specifically, the Board is expanding the list of relatives given in Health Code section 207.11(b)(1) who can request a death certificate to also include great-great grandchildren, nephews, nieces, aunts, uncles, grandnephews, and grandnieces. The Board is also expanding access to allow spouses, domestic partners, parents of children over the age of 18, children, siblings, nieces, nephews, aunts, uncles, grandchildren, great grandchildren, grandnieces, and grandnephews to request of the certification of birth of a deceased individual. The Board finds that allowing such access is within the meaning of "proper purpose" as used in the Administrative and Health Codes.

Most of the comments on the proposed rule requested that the Board give additional categories of individuals access to birth and death records prior to their transfer to DORIS. Some comments suggested that professional researchers with no family connection to the people's histories they are researching should have broad access to birth and death records. Other comments requested that additional family and social relationships be added to the list of individuals with such access. The Department believes that the amendment appropriately balances the privacy and historical interests at stake, does not agree that any additional changes should be made to the amendment. The Board is making these amendments effective January 1, 2019.

Statutory Authority

Pursuant to section 556(c) of the Charter and section 17-166 of the Administrative Code, the Department is responsible for supervising and controlling the registration of births and deaths that occur in New York City. Section 558(c) of the Charter requires the Board to include in the Health Code provisions related to maintaining a registry of births and deaths, as well as provisions related to changes or alterations of any birth or death certificate upon proof satisfactory to the Commissioner of Health and the manner in which these certificates may be issued and otherwise examined. Administrative Code section 17-169 and Health Code sections 3.25 and 207.11 make birth and death records confidential and restrict access to these records beyond certain classes of specified people. Section 207.21 of the Health Code sets the time periods by which birth and death records are transferred to DORIS and become public records. Section 558(b) of the Charter specifically authorizes the Board to add to, alter, and amend the Health Code.

RESOLVED, that section 207.11 of Article 207 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes, to read as follows:

§ 207.11. Inspection of vital records or data; transcripts.

(a) Except as provided in [§§] sections 201.07, 203.07 [and], 205.07, and 207.21 of this Code, inspection of vital records or data filed with the Department, pursuant to this Title may be made and transcripts of records may be obtained, pursuant to the provisions of [§] section 3.25 of this Code and [§] section 17-169 of the Administrative Code, respectively. [Requests by governmental agencies, whether foreign or domestic, for certified copies of birth and spontaneous termination of pregnancy records or for certifications of birth, pursuant to § 17-169, or for any individually identifiable information contained in the Department's vital records maintained, pursuant to this Title, or for verifications thereof, shall specify the official use to which the requested information will be put and why the information is necessary for a proper purpose.] The request to inspect vital records may be granted only if the Commissioner or the Commissioner's designee agree that the requested information is necessary for a proper purpose. Inspection of any vital records or data for the collection of information for sale or release to the public, or for other speculative purposes shall not be deemed a proper purpose. The Department may impose reasonable conditions as to the use and redisclosure of information, and may limit access to the minimum necessary to fulfill the purpose for which information is requested.

(1) Requests by governmental agencies, whether foreign or domestic, for certified copies of birth and spontaneous termination of pregnancy records or for certifications of birth, pursuant to section 17-169 of the Administrative Code, or for any individually identifiable information contained in the Department's vital records maintained, pursuant to this Title, or for verifications thereof, shall specify the official use to which the requested information will be put.

(2) A request for a certification of birth made by the following persons must be accompanied by proof that the individual named on such certification of birth is deceased: spouse, domestic partner, parent of a child over the age of 18, child, sibling, niece, nephew, aunt, uncle, grandchild, great grandchild, grandniece, or grandnephew. Proof of death for this purpose may include, but is not limited to, certified copies of death certificates and letters testamentary.

(b) Except as provided in section 205.07 of this Code, no transcript, paper, file, report, record, or proceeding concerning a

death shall be provided, except to:

(1) the spouse, domestic partner, parent, child, sibling, niece, nephew, aunt, uncle, grandparent, [or] grandchild, great grandchild, great-great grandchild, grandniece, or grandnephew of the decedent;

(2) the legal representative of the estate of the decedent, or the individual identified on a death certificate filed with the Department as the person in control of the disposition;

(3) a party with a property right who demonstrates to the Department that information beyond the fact of the death of the decedent is necessary to protect or assert a right of that party;

(4) a funeral director who requests the record or information within twelve (12) months of when the death of his or her client was registered; or

(5) persons or government agencies who otherwise establish that such records are necessary or required for a judicial or other proper purpose, or to prevent the misuse or misappropriation of City, state or federal governmental funds.

(c) Except as provided in [§] section 205.07 (a) of this Code, the Commissioner or the Commissioner's designee may grant access to unidentifiable line or cell vital records data or identifiable vital records information to qualified researchers for scientific purposes. Researchers shall submit a written request for access to such information to the Commissioner or the Commissioner's designee for review. The Commissioner or the Commissioner's designee may require such researcher to agree to conditions governing the possession and use of the data by the researcher. No person shall violate any term or condition of a written data use agreement filed with the Department upon which the Department or the Commissioner has relied to grant access to information or data.

(d) Proof satisfactory to the Department of the identity of the person making a request to inspect vital records or data such as a government issued identification record which may include a birth certificate, passport and other photographic identification, shall be provided to Department prior to inspection.

NOTE: This provision was adopted on June 5, to expand access to birth and death records for certain family members.

RESOLVED FURTHER, that the foregoing amendments to section 207.11 of the Health Code, set forth in Title 24 of the Rules of the City of New York, shall be effective January 1, 2019.

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SPECIAL MATERIALS

AGING

■ **NOTICE**

In advance of the release of Request for Proposals for Caregiver Services Program, the Department for the Aging (DFTA), is issuing a concept paper presenting the purpose and plan for this program. The concept paper will be posted on the Department's website http://www.nyc.gov/aging, beginning on June 14, 2018. Public comment is encouraged and should be emailed to DFTA, at conceptpaper@aging.nyc.gov. The concept paper will be posted until July 30, 2018.

j7-13

OFFICE OF LABOR RELATIONS

■ **NOTICE**

Local 246, SEIU
2010- 2017 Automotive Service Worker Collective Bargaining Agreement

COLLECTIVE BARGAINING AGREEMENT entered into this 1st **of** June, **2018** by and between the **City of New York** and related public employers, pursuant to and limited to their respective elections or statutory requirement to be covered by the New York City Collective Bargaining Law and their respective authorizations to the City to bargain on their behalf and the **New York City Health and Hospitals Corporation** (hereinafter referred to jointly as the "**Employer**"), and **Local 246, Service Employees International Union, AFLCIO** (hereinafter referred to as the "**Union**"), for the eighty-eight month period from August 7, 2010 through December 6, 2017.

W I T N E S S E T H:

WHEREAS, the parties hereto have entered into collective bargaining and desire to reduce the results thereof to writing,

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE I UNION RECOGNITION AND UNIT DESIGNATION

Section 1.
The **Employer** recognizes the **Union** as the sole and exclusive collective bargaining representative for the bargaining unit set forth below, consisting of employees of the **Employer**, wherever employed, whether fulltime, parttime per annum, hourly or per diem, in the below listed title(s), and in any successor title(s) that may be certified by the **Board of Certification of the Office of Collective Bargaining** to be part of the unit herein for which the **Union** is the exclusive collective bargaining representative and in any positions in Restored Rule X titles of the Classified Service the duties of which are or shall be equated by the City Personnel Director and the Director of the Budget for salary purposes to any of the below listed title(s):

Title Code	Title
92501	Autobody Worker
92508	Automotive Service Worker Level I
92508	Automotive Service Worker Level II
05205, 91237	Oil Burner Specialist
92587	Marine Maintenance Mechanic Level I
92587	Marine Maintenance Mechanic Level II

Section 2.
The terms "**employee**" and "**employees**" as used in this **Agreement** shall mean only those persons in the unit described in Section 1 of this Article.

ARTICLE II DUES CHECKOFF

Section 1.

a. The **Union** shall have the exclusive right to the checkoff and transmittal of dues on behalf of each **employee** in accordance with the Mayor's Executive Order No. 98, dated May 15, 1969, entitled "**Regulations Relating to the Checkoff of Union Dues**" and in accordance with the Mayor's Executive Order No. 107, dated December 29, 1989, entitled "**Procedures for Orderly Payroll Check-Off of Union Dues and Agency Shop Fees**" or any other applicable Executive Order.

b. Any **employee** may consent in writing to the authorization of the deduction of dues from the **employee's** wages and to the designation of the Union as the recipient thereof. Such consent, if given, shall be in a proper form acceptable to the City, which bears the signature of the **employee**.

Section 2.
The parties agree to an agency shop to the extent permitted by applicable law, as described in a supplemental agreement hereby incorporated by reference into this **Agreement**.

ARTICLE III SALARIES

Section 1.

a. This Article III is subject to the provisions, terms and conditions of the **Alternative Career and Salary Pay Plan Regulations**, dated March 15, 1967 as amended, except that the specific terms and conditions of this Article shall supersede any provisions of such **Regulations** inconsistent with this **Agreement** subject to the limitations of applicable provisions of law.

b. Unless otherwise specified, all salary provisions of this **Agreement**, including minimum and maximum salaries, advancement increases, general increases and any other salary adjustments, are based upon a normal work week of 40 hours, except for the titles Marine Maintenance Mechanic Level I and Level II, which are based upon a normal work week of 35 hours. An **employee** who works on a parttime per annum basis and who is eligible for any salary adjustments provided in this **Agreement** shall receive the appropriate prorata portion of such salary adjustment computed on the relationship between the number of hours regularly worked each week by such **employee** and the number of hours in the said normal work week, unless otherwise specified.

c. Employees who work on a per diem or hourly basis and who are eligible for any salary adjustment provided in this **Agreement** shall receive the appropriate prorata portion of such salary adjustment computed as follows, unless otherwise specified:

Per diem rate 1/261 of the appropriate minimum basic salary.
Hourly Rate 40 hour week basis 1/2088 of the appropriate minimum basic salary.
Hourly Rate – 35 hour week basis – 1/1827 of the appropriate minimum basic salary.

Section 2.
Employees in the following title(s) shall be subject to the following specified salary(ies), salary adjustment(s), and/or salary range(s):

a. EFFECTIVE August 7, 2010

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$42,564	$48,097	$54,956
Automotive Service Worker**			
Level I	$30,679	$34,667	$35,680
Level II	$35,927	$40,597	$45,745
Oil Burner Specialist	$43,812	$49,508	$59,404
Marine Maintenance Mechanic			
Level I	$53,391	$60,332	$73,381
Level II	$59,164	$66,855	$81,533

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

EFFECTIVE August 7, 2010 (second year rate)

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$43,725	$48,097	$54,956
Automotive Service Worker**			
Level I	$31,515	$34,667	$35,680
Level II	$36,906	$40,597	$45,745
Oil Burner Specialist	$45,007	$49,508	$59,404
Marine Maintenance Mechanic			
Level I	$54,847	$60,332	$73,381
Level II	$60,777	$66,855	$81,533

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

b. EFFECTIVE February 7, 2012

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$42,989	$48,578	$55,506
Automotive Service Worker**			
Level I	$30,986	$35,014	$36,037
Level II	$36,286	$41,003	$46,202
Oil Burner Specialist	$44,250	$50,003	$59,998
Marine Maintenance Mechanic			
Level I	$53,925	$60,935	$74,115
Level II	$59,756	$67,524	$82,348

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

EFFECTIVE February 7, 2012 (second year rate)

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$44,162	$48,578	$55,506
Automotive Service Worker**			
Level I	$31,831	$35,014	$36,037
Level II	$37,275	$41,003	$46,202
Oil Burner Specialist	$45,457	$50,003	$59,998
Marine Maintenance Mechanic			
Level I	$55,395	$60,935	$74,115
Level II	$61,385	$67,524	$82,348

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

c. EFFECTIVE February 7, 2013

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$43,419	$49,064	$56,061
Automotive Service Worker**			
Level I	$31,296	$35,364	$36,397
Level II	$36,649	$41,413	$46,664
Oil Burner Specialist	$44,693	$50,503	$60,598
Marine Maintenance Mechanic			
Level I	$54,464	$61,544	$74,856
Level II	$60,353	$68,199	$83,171

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

EFFECTIVE February 7, 2013 (second year rate)

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$44,604	$49,064	$56,061
Automotive Service Worker**			
Level I	$32,149	$35,364	$36,397
Level II	$37,648	$41,413	$46,664
Oil Burner Specialist	$45,912	$50,503	$60,598
Marine Maintenance Mechanic			
Level I	$55,949	$61,544	$74,856
Level II	$61,999	$68,199	$83,171

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

d. EFFECTIVE February 7, 2014

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$43,854	$49,555	$56,622

Automotive Service Worker**			
Level I	$31,609	$35,718	$36,761
Level II	$37,015	$41,827	$47,131
Oil Burner Specialist	$45,140	$51,008	$61,204
Marine Maintenance Mechanic			
Level I	$55,008	$62,159	$75,605
Level II	$60,957	$68,881	$84,003

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

EFFECTIVE February 7, 2014 (second year rate)

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$45,050	$49,555	$56,622
Automotive Service Worker**			
Level I	$32,471	$35,718	$36,761
Level II	$38,025	$41,827	$47,131
Oil Burner Specialist	$46,371	$51,008	$61,204
Marine Maintenance Mechanic			
Level I	$56,508	$62,159	$75,605
Level II	$62,619	$68,881	$84,003

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

e. EFFECTIVE February 7, 2015

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$44,512	$50,298	$57,471
Automotive Service Worker**			
Level I	$32,083	$36,254	$37,312
Level II	$37,570	$42,454	$47,838
Oil Burner Specialist	$45,817	$51,773	$62,122
Marine Maintenance Mechanic			
Level I	$55,833	$63,091	$76,739
Level II	$61,871	$69,914	$85,263

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

EFFECTIVE February 7, 2015 (second year rate)

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$45,725	$50,298	$57,471
Automotive Service Worker**			
Level I	$32,958	$36,254	$37,312
Level II	$38,595	$42,454	$47,838
Oil Burner Specialist	$47,066	$51,773	$62,122
Marine Maintenance Mechanic			
Level I	$57,355	$63,091	$76,739
Level II	$63,558	$69,914	$85,263

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

f. EFFECTIVE February 7, 2016

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$45,624	$51,555	$58,908
Automotive Service Worker**			
Level I	$32,885	$37,160	$38,245
Level II	$38,509	$43,515	$49,034
Oil Burner Specialist	$46,962	$53,067	$63,675
Marine Maintenance Mechanic			
Level I	$57,228	$64,668	$78,657
Level II	$63,418	$71,662	$87,395

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

EFFECTIVE February 7, 2016 (second year rate)

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$46,868	$51,555	$58,908
Automotive Service Worker**			
Level I	$33,782	$37,160	$38,245
Level II	$39,559	$43,515	$49,034
Oil Burner Specialist	$48,243	$53,067	$63,675
Marine Maintenance Mechanic			
Level I	$58,789	$64,668	$78,657
Level II	$65,147	$71,662	$87,395

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

g. EFFECTIVE February 7, 2017

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$45,624	$51,555	$58,908
Automotive Service Worker**			

Level I	$32,885	$37,160	$38,245
Level II	$38,509	$43,515	$49,034
Oil Burner Specialist	$46,962	$53,067	$63,675
Marine Maintenance Mechanic			
Level I	$57,228	$64,668	$78,657
Level II	$63,418	$71,662	$87,395

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

EFFECTIVE February 7, 2017 (second year rate)

TITLE	i. Minimum (1) Hiring Rate*	Minimum (2) Incumbent Rate	ii. Maximum
Autobody Worker	$46,868	$51,555	$58,908
Automotive Service Worker**			
Level I	$33,782	$37,160	$38,245
Level II	$39,559	$43,515	$49,034
Oil Burner Specialist	$48,243	$53,067	$63,675
Marine Maintenance Mechanic			
Level I	$58,789	$64,668	$78,657
Level II	$65,147	$71,662	$87,395

* See Article III, Section 4 (New Hires)
** This title was revised, pursuant to DCAS Resolution 12-08 dated March 7, 2012.

Section 3. Wage Increase:

A. General Wage Increases

a. The general increases, effective as indicated, shall be:

(i) Effective February 7, 2012, employees shall receive a general increase of 1.00%.

(ii) Effective February 7, 2013, employees shall receive a general increase of 1.00%.

(iii) Effective February 7, 2014, employees shall receive a general increase of 1.00%.

(iv) Effective February 7, 2015, employees shall receive a general increase of 1.50%.

(v) Effective February 7, 2016, employees shall receive a general increase of 2.50%.

(vi) Effective February 7, 2017, employees shall receive a general increase of 3.00%.

(vii) Parttime per annum, per session, hourly paid and per diem employees (including seasonal appointees) and employees whose normal work year is less than a full calendar year shall receive the increases provided in Sections 3(A)(a)(i) through 3(A)(a)(vi) on the basis of computations heretofore utilized by the parties for all such Employees.

b. The general increases provided for in Section 3(A) shall be calculated as follows:

(i) The general increase in Section 3(A)(a)(i) shall be based upon the base rates (which shall include salary or incremental schedules) of applicable titles in effect on February 6, 2012;

(ii) The general increase in Section 3(A)(a)(ii) shall be based upon the base rates (which shall include salary or incremental schedules) of the applicable titles in effect on February 6, 2013 ;

(iii) The general increase in Section 3(A)(a)(iii) shall be based upon the base rates (which shall include salary or incremental schedules) of the applicable titles in effect on February 6, 2014;

(iv) The general increase in Section 3(A)(a)(iv) shall be based upon the base rates (which shall include salary or incremental schedules) of the applicable titles in effect on February 6, 2015;

(v) The general increase in Section 3(A)(a)(v) shall be based upon the base rates (which shall include salary or incremental schedules) of the applicable titles in effect on February 6, 2016; and

(vi) The general increase in Section 3(A)(a)(vi) shall be based upon the base rates (which shall include salary or incremental schedules) of the applicable titles in effect on February 6, 2017.

c. The general increases provided for in this Section 3(A)(a)(i) through 3(A)(a)(vi) shall be applied to the base rates, the minimum and maximum rates (including levels), if any, fixed for the applicable titles.

d. The general increases provided for in this Section 3(A)(a)(i) through 3(A)(a)(iv) shall be payable as soon as practicable upon execution of the 2010-2018 Local 246 Memorandum of Agreement.

e. The general increases provided for in this Section 3(A)(a)(v) shall be payable as soon as practicable after the effective date of such increases.

f. The general increases provided for in this Section 3(A)(vi) shall be payable as soon as practicable upon the execution of this *Agreement*.

Section 4. New Hires

a. The following provisions shall apply to Employees newly hired on or after May 1, 2005:

i. During the first year of service, the "appointment rate" for a newly hired employee shall be thirteen percent (13%) less than the applicable "incumbent minimum" for said title that is in effect on the date of such appointment as set forth in this *Agreement*.

ii. Upon completion of one (1) year of service such employees shall be paid ten percent (10%) less than the applicable "incumbent minimum" for the applicable title that is in effect on the one (1) year anniversary of their original date of appointment as set forth in this *Agreement*.

iii. Upon completion of two (2) years of service, such employees shall be paid the applicable "incumbent minimum" for the applicable title that is in effect on the two (2) year anniversary of their original date of appointment.

b. For the purposes of Section 4(a), employees 1) who were in active pay status before May 1, 2005, and 2) who are affected by the following personnel actions after said date shall not be treated as "newly hired" employees and shall be entitled to receive the indicated minimum "incumbent rate" set forth in subsections 2(a)(i)(2), 2(b)(i)(2), 2(c)(i)(2), 2(d)(i)(2), 2(e)(i)(2), 2(f)(i)(2), and 2(g)(i)(2) of this Article III:

i. Employees who return to active status from an approved leave of absence.

ii. Employees in active status (whether full or part-time) appointed to permanent status from a civil service list, or to a new title (regardless of jurisdictional class or civil service status) without a break in service of more than 31 days.

iii. Employees who were laid off or terminated for economic reasons who are appointed from a recall/preferred list or who were subject to involuntary redeployment.

iv. Provisional employees who were terminated due to a civil service list who are appointed from a civil service list within one year of such termination.

v. Permanent employees who resign and are reinstated or who are appointed from a civil service list within one year of such resignation.

vi. Employees (regardless of jurisdictional class or civil service status) who resign and return within 31 days of such resignation.

vii. A provisional employee who is appointed directly from one provisional appointment to another.

For employees whose circumstances were not anticipated by the parties, the First Deputy Commissioner of Labor Relations is empowered to issue, on a case-by-case basis, interpretations concerning application of this Section 4. Such case-by-case interpretations shall not be subject to the dispute resolution procedures set forth in Article VI of this *Agreement*.

c.

i. For a title subject to an incremental pay plan, the employee shall be paid the appropriate increment based upon the employee's length of service.

ii. Employees who change titles or levels before attaining two years of service will be treated in the new title or level as if they had been originally appointed to said title or level on their original hiring date.

d. The First Deputy Commissioner of Labor Relations may, after notification to the affected union(s), exempt certain hard to recruit titles from the provisions of subsection 4(a).

Section 5.
Each general increase provided herein, effective as of each indicated date, shall be applied to the rate in effect on the date as specified in Section 3 of this Article. In the case of a promotion or other advancement to the indicated title on the effective date of the general increase specified in Section 3 of this Article, such general increase shall not be applied, but the general increase, if any, provided to be effective as of such date for the title formerly occupied shall be applied.

Section 6.
In the case of an **employee** on leave of absence without pay the salary rate of such **employee** shall be changed to reflect the salary adjustments specified in Article III.

Section 7.
A person permanently employed by the **Employer** who is appointed or promoted on a permanent, provisional, or temporary basis in accordance with the Rules and Regulations of the New York City Personnel Director or, where the Rules and Regulations of the New York City Personnel Director are not applicable to a public employer, such other Rules or Regulations as are applicable to the public employer, without a break in service to any of the following title(s) from another title in the direct line of promotion or from another title in the Career and Salary Plan, the minimum rate of which is exceeded by at least 8 percent by the minimum rate of the title to which appointed or promoted, shall receive upon the date of such appointment or promotion either the minimum basic salary for the title to which such appointment or promotion is made, or the salary received or receivable in the lower title plus the specified advancement increase, whichever is greater:

Advancement Increase

	Effective:	**8/7/10**
Title		
Senior Automotive Service Worker		$845

Section 8.
Employees with one year or more of service shall receive a service increment in the pro-rata amounts set below. Eligible employees shall begin to receive such pro-rata payments on their anniversary date. The pro-rata payments provided for in this section shall be deemed included in the base rate for all purposes.

Service Increment

Effective:	**8/7/10**
	$170

Section 9. Annuity Fund

a.

Effective August 7, 2010, contributions on behalf of covered employees shall continue to be remitted by the Employer to a mutually agreed upon annuity fund subject to the terms of a signed supplemental agreement approved by the Corporation Counsel.

i. The employer shall pay into the fund on behalf of covered full-time per annum and full-time per diem employees, on a twenty-eight (28) day cycle basis, a pro-rata daily contribution for each paid working day, in the applicable amount identified in Section 9(b) for each employee in full pay status in the prescribed twelve (12) month period.

ii. For covered employees who work a compressed work week, the employer shall pay into the fund, on a twenty-eight (28) day cycle basis, a pro-rata daily contribution for each set of paid working hours which equate to the daily number of hours that title is regularly scheduled to work, in the applicable amount identified in Section 9(b) for each employee in full pay status in the prescribed twelve (12) month period.

iii. For covered employees who work less than the number of hours for their full-time equivalent title, the employer shall pay into the fund, on a twenty-eight (28) day cycle basis, a pro-rata daily contribution calculated against the number of hours associated with their full-time equivalent title, in the applicable amount identified in Section 9(b) for each employee in full pay status in the prescribed twelve (12) month period.

iv. For those covered employees who are appointed on a seasonal basis, the employer shall pay into the fund, on a twenty-eight (28) day cycle basis, a pro-rata daily contribution for each paid working day, in the applicable amount identified in Section 9(b) for each employee in full pay status in the prescribed twelve (12) month period.

b.

i. Effective August 7, 2010, the contribution shall be $4.93 for each paid working day, which amount shall not exceed $1,287.85 per annum.

ii. Effective February 7, 2017, the contribution shall be $5.08 for each paid working day, which amount shall not exceed $1,327 per annum.

iii Effective August 7, 2017, the contribution shall be $5.42 for each paid working day, which amount shall not exceed $1,415.74 per annum.

c. For the purpose of this Section 9 excluded from paid working days are all scheduled days off, all days in non-pay status, and all paid overtime. All days in non-pay status as used in this Section 9(b) shall be defined as including, but not limited to, the following:

i. time on preferred or recall lists;

ii. time on the following approved unpaid leaves:

(1) maternity/child care leave;

(2) military leave;

(3) unpaid time while on jury duty;

(4) unpaid leave for union business, pursuant to Executive Order 75;

(5) unpaid leave pending workers compensation determination;

(6) unpaid leave while on workers compensation option 2;

(7) approved unpaid time off due to illness or exhaustion of paid sick leave;

(8) approved unpaid time off due to family illness; and

(9) other pre-approved leaves without pay;

iii. time while on absence without leave;

iv. time while on unapproved leave without pay; or

v. time while on unpaid suspensions.

Section 10. Longevity Differential

a. Effective August 7, 2017, employees in the title of Autobody Worker (Title Code 92501) shall receive the following longevity differential based on years of service within the occupational group:

After 5 years of service	After 10 years of service
$500	$1,300

b. The longevity differentials set forth in this Article III, Section 10 shall not become part of the basic salary rate and shall not pensionable until they have been received by the employee for two years. The longevity shall be effective on the January 1st, April 1st, July 1st, or October 1st immediately following the employees anniversary date.

Section 11. Ratification Bonus

A lump sum cash payment in the amount of $1,000, pro-rated for other than full time employees, shall be payable as soon as practicable upon ratification of the 2010-2018 Local 246 Memorandum of Agreement to those employees who are on payroll as of the date of ratification of the 2010-2018 Local 246 Memorandum of Agreement. The lump sum cash payment shall be pensionable, consistent with applicable law.

a. Full-time per annum and full-time per diem employees shall receive a pro-rata lump sum cash payment the computation of which shall be based on service during the period of July 1, 2014 through June 30, 2015.

b. Part-time per annum, part-time per diem (including seasonable appointees), per session, hourly paid employees and employees whose normal work year is less than a full calendar year shall receive a pro-rata portion of the lump sum cash payment based on their regularly scheduled hours and the hours in a full calendar year.

c. The lump sum cash payments shall not become part of the employee's basic salary rate nor be added to the employee's basic salary for the calculation of any salary based benefits including the calculation of future collective bargaining increases.

d. For circumstances that were not anticipated by the parties, the First Deputy Commissioner of Labor Relations may elect to issue, on a case-by-case basis, interpretations concerning the application of this Article III, Section 11, as incorporated from Section 4 of the 2010-2018 Local 246 Memorandum of Agreement. Such case-by-case interpretations shall not be subject to any dispute resolution procedures as per past practice of the parties.

e. The lump sum cash payment, pursuant to this Article III, Section 11, as incorporated from Section 4 of the 2010-2018 Local 246

Memorandum of Agreement, shall be payable as soon as practicable upon ratification of the 2010-2018 Local 246 Memorandum of Agreement.

ARTICLE IV WELFARE FUND

Section 1.

a. In accordance with the election by the **Union**, pursuant to the provisions of Article XIII of the ***1995-2001 Citywide Agreement*** as amended between the City of New York and related public employers and District Council 37, A.F.S.C.M.E., AFL-CIO, or its successor(s), the Welfare Fund provisions of that ***Citywide Agreement*** as amended or any successor(s) thereto shall apply to **employees** covered by this **Agreement**.

b. When an election is made by the **Union**, pursuant to the provisions of Article XIII, Section l(b), of the ***1995-2001 Citywide Agreement*** as amended between the City of New York and related public employers and District Council 37, A.F.S.C.M.E., AFL-CIO, or any successor(s) thereto, the provisions of Article XIII, Section l(b) of the ***Citywide Agreement*** as amended or any successor(s) thereto, shall apply to **employees** covered by this **Agreement**, and when such election is made, the **Union** hereby waives its right to training, education and/or legal services contributions provided in this **Agreement**. In no case shall the single contribution provided in Article XIII, Section l(b) of the ***Citywide Agreement*** as amended or any successor(s) thereto, exceed the total amount that the **Union** would have been entitled to receive if the separate contributions had continued.

Section 2.

The union agrees to provide welfare fund benefits to domestic partners of covered Employees in the same manner as those benefits are provided to spouses of married covered Employees.

Section 3

In accordance with the Health Benefits Agreement dated January 11, 2001, each welfare fund shall provide welfare fund benefits equal to the benefits provided on behalf of an active Employee to widow(er)s, domestic partners and/or children of any Employee who dies in the line of duty as that term is referenced in Section 12-126(b)(2) of the New York City Administrative Code. The cost of providing this benefit shall be funded by the Stabilization Fund.

ARTICLE V MANAGEMENT RIGHTS

It is the right of the Employer to determine the standards of service to be offered by the agency; determine the standards of selection for employment; direct its employees; determine, establish and revise standards of acceptable employee performance; take disciplinary action; relieve its employees from duty because of lack of work or for any other legitimate reasons; maintain the efficiency of its operations; determine the methods, means and personnel by which its operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

ARTICLE VI GRIEVANCE PROCEDURE

Section 1.

Definition: The term "*Grievance* " shall mean:

a. A dispute concerning the application or interpretation of the terms of this **Collective Bargaining Agreement**;

b. A claimed violation, misinterpretation or misapplication of the rules or regulations, written policy or orders of the **Employer** applicable to the agency which employs the grievant affecting terms and conditions of employment; provided, disputes involving the **Rules and Regulations of the New York City Civil Service Commission** or the **Rules and Regulations of the Health and Hospitals Corporation** with respect to those matters set forth in the first paragraph of **Section 7390.1 of the Unconsolidated Laws** shall not be subject to the grievance procedure or arbitration;

c. A claimed assignment of **employees** to duties substantially different from those stated in their job specifications;

d. A claimed improper holding of an opencompetitive rather than a promotional examination;

e. A claimed wrongful disciplinary action taken against a permanent **employee** covered by **Section 75(1) of the Civil Service Law** or a permanent **employee** covered by the **Rules and Regulations of the Health and Hospitals Corporation** upon whom the agency head has served written charges of incompetency or misconduct while the **employee** is serving in the **employee's** permanent title or which affects the **employee's** permanent status.

f. Failure to serve written charges as required by Section 75 of the Civil Service Law or the Rules and Regulations of the Health and Hospitals Corporation upon a permanent employee covered by Section 75 (1) of the Civil Service Law or a permanent competitive employee covered by the Rules and Regulations of the Health and Hospitals Corporation where any of the penalties (including a fine) set forth in Section 75 (3) of the Civil Service Law have been imposed.

g. A claimed wrongful disciplinary action taken against an eligible provisional employee who has served without a break in service for two years in the same or similar title or related occupational group in the same agency on a full-time per annum or full-time per diem basis and has been assigned regularly to work the normal, full-time work week established for that title, consistent with all terms of the Provisional Due Process Agreement between the City and District Council 37.

Section 2.

The Grievance Procedure, except for grievances as defined in Sections 1d and 1e of this Article, shall be as follows:

Employees may at any time informally discuss with their supervisors a matter which may become a grievance. If the results of such a discussion are unsatisfactory, the **employees** may present the grievance at **Step I**.

All grievances must be presented in writing at all steps in the grievance procedure. For all grievances as defined in Section 1c, no monetary award shall in any event cover any period prior to the date of the filing of the **Step I** grievance unless such grievance has been filed within thirty (30) days of the assignment to alleged out-of-title work. No monetary award for a grievance alleging a miscalculation of salary rate resulting in a payroll error of a continuing nature shall be issued unless such grievance has been filed within the time limitations set forth in Step I below for such grievances; if the grievance is so filed, any monetary award shall in any event cover only the period up to six years prior to the date of the filing of the grievance.

Step I - The **employee** and/or the **Union** shall present the grievance verbally or in the form of a memorandum to the person designated for such purpose by the agency head no later than 120 days after the date on which the grievance arose. The **employee** may also request an appointment to discuss the grievance. The person designated by the **Employer** to hear the grievance shall take any steps necessary to a proper disposition of the grievance and shall issue a reply in writing by the end of the third work day following the date of submission.

NOTE: *The following **STEP I(a)** shall be applicable only in the Health and Hospitals Corporation in the case of grievances arising under Section 1a through 1c and 1f of this Article and shall be applied prior to **Step II** of this Section:*

STEP I(a) - An appeal from an unsatisfactory determination at **Step I** shall be presented in writing to the person designated by the agency head for such purpose. The appeal must be made within five (5) work days of the receipt of the **Step I** determination. A copy of the grievance appeal shall be sent to the person who initially passed upon the grievance. The person designated to receive the appeal at this Step shall meet with the **employee** and/or the **Union** for review of the grievance and shall issue a written reply to the **employee** and/or the **Union** by the end of the fifth work day following the day on which the appeal was filed.

STEP II - An appeal from an unsatisfactory determination at **STEP I** or **STEP I(a)**, where applicable, shall be presented in writing to the agency head or the agency head's designated representative who shall not be the same person designated in **STEP I**. The appeal must be made within five (5) work days of the receipt of the **STEP I** or **STEP I(a)** determination. The agency head or designated representative, if any, shall meet with the **employee** and/or the **Union** for review of the grievance and shall issue a determination in writing by the end of the tenth work day following the date on which the appeal was filed.

STEP III - An appeal from an unsatisfactory determination at **STEP II** shall be presented by the **employee** and/or the **Union** to the **Commissioner of Labor Relations** in writing within ten (10) work days of the receipt of the **STEP II** determination. Copies of such appeal shall be sent to the agency head. The **Commissioner of Labor Relations** or the **Commissioner's** designee shall review all appeals from **STEP II** determinations and shall issue a determination on such appeals within fifteen (15) work days following the date on which the appeal was filed.

STEP IV - An appeal from an unsatisfactory determination at **STEP III** may be brought solely by the **Union** to the Office of Collective Bargaining for impartial arbitration within fifteen (15) work days of receipt of the **STEP III** determination. In addition, the **Employer** shall have the right to bring directly to arbitration any dispute between the parties concerning any matter defined herein as a "grievance". The **Employer** shall commence such arbitration by submitting a written request therefor to the Office of Collective Bargaining. A copy of the notice requesting impartial arbitration shall be forwarded to the opposing party. The arbitration shall be conducted in accordance with the Consolidated Rules of the Office of Collective Bargaining. The costs and fees of such arbitration shall be borne equally by the **Union** and

the **Employer**. The determination or award of the arbitrator shall be final and binding in accord with applicable law and shall not add to, subtract from or modify any contract, rule, regulation, written policy or order mentioned in Section 1 of this Article.

Section 3.
As a condition to the right of the **Union** to invoke impartial arbitration set forth in this Article, including the arbitration of a grievance involving a claimed improper holding of an open-competitive rather than a promotional examination, the **employee** or **employees** and the **Union** shall be required to file with the Director of the Office of Collective Bargaining a written waiver of the right, if any, of the **employee** or **employees** and the **Union** to submit the underlying dispute to any other administrative or judicial tribunal except for the purpose of enforcing the arbitrator's award.

Section 4.
In any case involving a grievance under Section 1e of this Article, the following procedure shall govern upon service of written charges of incompetency or misconduct:

STEP A - Following the service of written charges, a conference with such **employee** shall be held with respect to such charges by the person designated by the agency head to review a grievance at **STEP I** of the Grievance Procedure set forth in this **Agreement**. The **employee** may be represented at such conference by a representative of the **Union**. The person designated by the agency head to review the charges shall take any steps necessary to a proper disposition of the charges and shall issue a determination in writing by the end of the fifth day following the date of the conference.

If the **employee** is satisfied with the determination in **STEP A** above, the **employee** may choose to accept such determination as an alternative to and in lieu of a determination made, pursuant to the procedures provided for in **Section 75 of the Civil Service Law** or the **Rules and Regulations of the Health and Hospitals Corporation**. As a condition of accepting such determination, the **employee** shall sign a waiver of the **employee's** right to the procedures available to him or her under **Sections 75 and 76 of the Civil Service Law** or the **Rules and Regulations of the Health and Hospitals Corporation**.

STEP B(i) - If the **employee** is not satisfied with the determination at **STEP A** above then the **Employer** shall proceed in accordance with the disciplinary procedures set forth in **Section 75 of the Civil Service Law** or the **Rules and Regulations of the Health and Hospitals Corporation**. As an alternative, the **Union** with the consent of the **employee** may choose to proceed in accordance with the Grievance Procedure set forth in this **Agreement**, including the right to proceed to binding arbitration, pursuant to **STEP IV** of such Grievance Procedure. As a condition for submitting the matter to the Grievance Procedure the **employee** and the **Union** shall file a written waiver of the right to utilize the procedures available to the **employee**, pursuant to **Sections 75 and 76 of the Civil Service Law** or the **Rules and Regulations of the Health and Hospitals Corporation** or any other administrative or judicial tribunal, except for the purpose of enforcing an arbitrator's award, if any. Notwithstanding such waiver, the period of an **employee's** suspension without pay pending hearing and determination of charges shall not exceed thirty (30) days.

STEP B(ii) - If the election is made to proceed, pursuant to the Grievance Procedure, an appeal from the determination of **STEP A** above, shall be made to the agency head or designated representative. The appeal must be made in writing within five (5) work days of the receipt of the determination. The agency head or designated representative shall meet with the **employee** and the **Union** for review of the grievance and shall issue a determination to the **employee** and the **Union** by the end of the tenth work day following the day on which the appeal was filed. The agency head or designated representative shall have the power to impose the discipline, if any, decided upon, up to and including termination of the accused **employee's** employment. In the event of such termination or suspension without pay totaling more than thirty (30) days, the **Union** with the consent of the grievant may elect to skip **STEP C** of this Section and proceed directly to **STEP D**.

STEP C - If the grievant is not satisfied with the determination of the agency head or designated representative the grievant or the **Union** may appeal to the Commissioner of Labor Relations in writing within ten (10) days of the determination of the agency head or designated representative. The **Commissioner of Labor Relations** shall issue a written reply to the grievant and the **Union** within ten (10) work days.

STEP D - If the grievant is not satisfied with the determination of the **Commissioner of Labor Relations**, the **Union** with the consent of the grievant may proceed to arbitration, pursuant to the procedures set forth in **STEP IV** of the Grievance Procedure set forth in this **Agreement**.

Section 5.
Any grievance of a general nature affecting a large number of **employees** and which concerns a claimed misinterpretation, inequitable application, violation or failure to comply with the provisions of this **Agreement** shall be filed at the option of the Union at **STEP III** of the grievance procedure, without resort to previous steps.

Section 6.
If a determination satisfactory to the **Union** at any level of the Grievance Procedure is not implemented within a reasonable time, the **Union** may reinstitute the original grievance at **STEP III** of the Grievance Procedure; or if a satisfactory **STEP III** determination has not been so implemented, the **Union** may institute a grievance concerning such failure to implement at **STEP IV** of the Grievance Procedure.

Section 7.
If the **Employer** exceeds any time limit prescribed at any step in the Grievance Procedure, the grievant and/or the **Union** may invoke the next step of the procedure, except that only the **Union** may invoke impartial arbitration under **STEP IV**.

Section 8.
The **Employer** shall notify the **Union** in writing of all grievances filed by **employees**, all grievance hearings, and all determinations. The **Union** shall have the right to have a representative present at any grievance hearing and shall be given forty-eight (48) hours' notice of all grievance hearings.

Section 9.
Each of the steps in the Grievance Procedure, as well as time limits prescribed at each step of this Grievance Procedure, may be waived by mutual agreement of the parties.

Section 10.

a. Any grievance relating to a claimed improper holding of an open-competitive rather than a promotional examination shall be presented in writing by the **employee** or the **Union** representative to the **Commissioner of Labor Relations** not later than thirty (30) days after the notice of the intention to conduct such open-competitive examination, or copy of the appointing officer's request for such open-competitive examination, as the case may be, has been posted in accordance with **Section 51 of the Civil Service Law**. The grievance shall be considered and passed upon within ten (10) days after its presentation. The determination shall be in writing, copies of which shall be transmitted to both parties to the grievance upon issuance.

b. A grievance relating to the use of an open-competitive rather than a promotional examination which is unresolved by the **Commissioner of Labor Relations** may be brought to impartial arbitration as provided in Sections 2 and 3 above. Such a grievance shall be presented by the **Union**, in writing, for arbitration within 15 days of the presentation of such grievance to the **Commissioner of Labor Relations**, and the arbitrator shall decide such grievance within 75 days of its presentation of such grievance to the **Commissioner of Labor Relations,** and the arbitrator shall send a copy of such request to the other party. The costs and fees of such arbitration shall be borne equally by the **Employer** and the **Union**.

Section 11.
A nonMayoral agency not covered by this **Agreement** but which employs **employees** in titles identical to those certified by this contract may elect to permit the **Union** to appeal an unsatisfactory decision received at the last step of its Grievance Procedure prior to arbitration on fiscal matters only to the **Commissioner of Labor Relations**. If such election is made, the **Union** shall present its appeal to the **Commissioner of Labor Relations** in writing within ten (10) work days of the receipt of the last step determination. Copies of such appeals shall be sent to the agency head. The **Commissioner of Labor Relations**, or the **Commissioner's** designee, shall review all such appeals and answer all such appeals within ten (10) work days. An appeal from a determination of the **Commissioner of Labor Relations** may be taken to arbitration under procedures, if any, applicable to the nonMayoral agency involved.

Section 12.
The grievance and the arbitration procedure contained in this **Agreement** shall be the exclusive remedy for the resolution of disputes defined as "grievances" herein. This shall not be interpreted to preclude either party from enforcing the arbitrator's award in court. This Section shall not be construed in any manner to limit the statutory rights and obligations of the **Employer** under **Article XIV** of the **Civil Service Law**.

Section 13. Expedited Arbitration Procedure

a. The parties agree that there is a need for an expedited arbitration process which would allow for the prompt adjudication of grievances as set forth below.

b. The parties voluntarily agree to submit matters to final and binding arbitration, pursuant to the New York City Collective Bargaining Law and under the jurisdiction of the Office of Collective Bargaining. An arbitrator or panel of arbitrators, as agreed to by the parties, will act as the arbitrator of any issue submitted under the expedited procedure herein.

c. The selection of those matters which will be submitted shall include, but not be limited to, out-of-title cases concerning all titles, disciplinary cases wherein the proposed penalty is a monetary fine of one week or less or written reprimand, and other cases, pursuant to mutual agreement by the parties. The following procedures shall apply:

i. SELECTION AND SCHEDULING OF CASES:

(1) The Deputy Chairperson for Disputes of the Office of Collective Bargaining shall propose which cases shall be subject to the procedures set forth in this Section 13 and notify the parties of proposed hearing dates for such cases.

(2) The parties shall have ten business days from the receipt of the Deputy Chairperson's proposed list of cases and hearing schedule(s) to raise any objections thereto.

(3) If a case is not proposed by the Deputy Chairperson for expedited handling, either party may, at any time prior to the scheduling of an arbitration hearing date for such case, request in writing to the other party and to the Deputy Chairperson of Disputes of the Office of Collective Bargaining that said case be submitted to the expedited procedure. The party receiving such request shall have ten business days from the receipt of the request to raise any objections thereto.

(4) No case shall be submitted to the expedited arbitration process without the mutual agreement of the parties.

ii. CONDUCT OF HEARINGS

(1) The presentation of the case, to the extent possible, shall be made in the narrative form. To the degree that witnesses are necessary, examination will be limited to questions of material fact and cross examination will be similarly limited. Submission of relevant documents, etc., will not be unreasonably limited and may be submitted as a "packet" exhibit.

(2) In the event either party is unable to proceed with hearing a particular case, the case shall be rescheduled. However, only one adjournment shall be permitted. In the event that either party is unable to proceed on a second occasion, a default judgment may be entered against the adjourning party at the Arbitrator's discretion absent good cause shown.

(3) The Arbitrator shall not be precluded from attempting to assist the parties in settling a particular case.

(4) A decision will be issued by the Arbitrator within two weeks. It will not be necessary in the Award to recount any of the facts presented. However, a brief explanation of the Arbitrator's rationale may be included. Bench decisions may also be issued by the Arbitrator.

(5) Decisions in this expedited procedure shall not be considered as precedent for any other case nor entered into evidence in any other forum or dispute except to enforce the Arbitrator's award.

(6) The parties shall, whenever possible, exchange any documents intended to be offered in evidence at least one week in advance of the first hearing date and shall endeavor to stipulate to the issue in advance of the hearing date.

ARTICLE VII UNION ACTIVITY

Section 1.
Time spent by Union Officials and representatives in the conduct of labor relations with the City and on **Union** activities shall be governed by the terms of **Executive Order No. 75**, as amended, dated March 22, 1973, entitled "**Time Spent on the Conduct of Labor Relations between the City and Its employees and on Union Activity**" or any other applicable Executive Order. No employee shall otherwise engage in union activities during the time he/she is assigned to his/her regular duties.

Section 2.
The Employer agrees not to discriminate in any way against any employee for union activity, but such activity shall not be carried on during working hours or in working areas.

Section 3.
There shall be no union activity on Employer time other than that which is specifically permitted by the terms of this Agreement.

ARTICLE VIII NO STRIKES

In accordance with the New York City Collective Bargaining Law, as amended, neither the **Union** nor any **employee** shall induce or engage in any strikes, slowdowns, work stoppages, mass absenteeism, or induce any mass resignations during the term of this **Agreement**.

ARTICLE IX OVERTIME

Section 1.
All overtime shall, as far as practicable, be distributed equitably among the employees in each work area within a department.

Section 2.
The designation of work areas for the purposes of overtime shall be made by each department.

Section 3.
Overtime records in each department may be available for inspection by a duly authorized officer of the Union.

Section 4.
Whenever possible, officers of the Union will be notified of the distribution of overtime.

Section 5.
An employee directed to return to work after completing a shift shall be guaranteed a minimum of two (2) hours of work.

ARTICLE X - TRANSFERS

Section 1.
The term "transfer" shall mean the reassigning of an employee from one "geographic location" to another. For purposes of the Article, the parties shall define "geographic location" as it applies to the Department of Sanitation, the Police Department and the Fire Department.

Section 2.
With the exception of temporary transfers, voluntary transfers from one geographic location to another shall be made on the basis of seniority in title, work performance, attendance record, disciplinary record, as well as the qualifications to perform the specific work.

Section 3.
With the exception of temporary transfers, involuntary transfers from one geographic location to another shall be made on the basis of least seniority in title, providing the remaining personnel have the ability and qualifications to perform the required work.

Section 4.
Temporary transfers shall be limited to a period of not more than thirty (30) calendar days. Effective January 1, 2018, involuntary temporary transfers shall be limited no more than two (2) per employee in a calendar year.

Section 5.
With the exception of temporary transfers, all vacancies that the Employer has decided to fill shall be posted on a department bulletin board five (5) working days in advance of the effective date prior to filling except when such vacancies are to be filled in an emergency. (With respect to the Department of Sanitation, the posting period as set forth in this Section, shall be for ten (10) working days and shall apply to transfers between zones only).

Section 6.
In the event that the Employer subsequently hires employees, an employee who was involuntarily transferred, pursuant to Section 3 of this Article, has the right within one year and without a bid to return to the work location from which he was transferred before any other employee can be placed in that work location.

Section 7.
With the exception of temporary transfers, an opening from which an employee is transferred and its resulting vacancy, if any, may be processed in accordance with Section two (2) and three (3) of this Article. Further transfers resulting from the aforementioned vacancy shall be exempt from this Article VI, and filled in the manner set forth in Section three (3) of this Article.

ARTICLE XI - BULLETIN BOARDS AND NOTICES

Section 1.
The **Union** may post notices on bulletin boards in places and locations where notices usually are posted by the **Employer** for the **employees** to read. All notices shall be on **Union** stationery, and shall be used only to notify **employees** of matters pertaining to **Union** affairs. The minimum space to be provided on any such bulletin board shall be sufficient for a document on paper size "8-1/2 x 13".

Section 2.
Notices or announcements shall not contain anything political or controversial or anything reflecting upon the Employer, any of its employees, or any labor organization among its employees and no material, notices or announcements which violate the provisions of this Section shall be posted. A violation of this Section which continued after notice to the Union shall result in revocation of the rights and privileges contained in this Article XI.

Section 3.
The Union shall be given copies of all notices which pertain to the employees and which a department has decided to post or otherwise publicize within the department.

ARTICLE XII - WORKING CONDITIONS

Section 1.
Where practicable a minimum temperature of 50 degrees Fahrenheit shall be maintained in all indoor areas where employees are directed to work, wash up, and dress.

Section 2.
Where practicable, areas not exclusively used for repairs and in which traffic is allowed, shall be segregated for employees when they are required to work in said areas. Such segregated areas shall have warning devices such as signs, lights and other safety equipment to prevent accidental entrance of vehicles.

Section 3.
The Employer shall make all reasonable efforts to provide employees with sanitary washing and toilet facilities, including hot and cold running water, toilet paper, paper towels, proper lighting and ventilation.

Section 4.
An ample supply of potable drinking water shall be available to all employees in their respective work locations.

Section 5.
Adequate locker space shall be provided for each employee.

Section 6.
All vehicles shall be reasonably free of debris, human waste, insects, animals and other such waste which would lead to an unhealthy and unsafe condition before employees shall be required to work on them.

Section 7.
All employee work areas shall be properly ventilated in order to prevent the collection of noxious, explosive or other dangerous fumes.

Section 8.
The May 5, 2014 Letter Agreement regarding health savings and welfare fund contributions between the City of New York and the Municipal Labor Committee, will be attached as an Appendix, and is deemed to be part of this Agreement.

Section 9.
The City agrees to take all necessary steps to safeguard all tools and tool cabinets, brought on its property by the members of Local 246, SEIU, in the titles covered by this agreement.

To the extent that there are issues at agencies and/or facilities regarding the appropriate safeguarding of personal equipment, the parties shall form a joint labor-management committee to quickly address those concerns.
This Section 9 shall not be construed to change any existing policies, practices, or procedures relating to Local 246 members bringing their own tools into the workplace.

ARTICLE XIII LABOR-MANAGEMENT COMMITTEE

Section 1.
The **Employer** and the **Union**, having recognized that cooperation between management and **employees** is indispensable to the accomplishment of sound and harmonious labor relations, shall jointly maintain and support a labor-management committee in each of the agencies having at least fifty **employees** covered by this **Agreement**.

Section 2.
Each labor-management committee shall consider and recommend to the agency head changes in the working conditions of the **employees** within the agency who are covered by this **Agreement**. Matters subject to the Grievance Procedure shall not be appropriate items for consideration by the labor-management committee.

Section 3.
Each labor-management committee shall consist of six members who shall serve for the term of this **Agreement**. The **Union** shall designate three members and the agency head shall designate three members. Vacancies shall be filled by the appointing party for the balance of the term to be served. Each member may designate one alternate. Each committee shall select a chairperson from among its members at each meeting. The chairperson ship of each committee shall alternate between the members designated by the agency head and the members designated by the **Union**. A committee shall make its recommendations to the agency head in writing.

Section 4.
The labor-management committee shall meet at the call of either the **Union** members or the **Employer** members at times mutually agreeable to both parties. At least one week in advance of a meeting the party calling the meeting shall provide, to the other party, a written agenda of matters to be discussed. Minutes shall be kept and copies supplied to all members of the committee.

ARTICLE XIV - SAFETY

Section 1.
Adequate, clean, structurally safe and sanitary working facilities shall be provided for all employees covered by this Agreement.

Section 2.
All alleged unsafe conditions not acted upon expeditiously may become the subject of a grievance.

Section 3:
In construing Articles XII and XIV, an arbitrator shall initially have the power only to decide whether the subject facilities meet the standards of Section 1 of this Article XIV but may not affirmatively direct how the Employer should comply with Section 1. If the arbitrator determines that the Employer is in violation of that Section, the Employer shall take appropriate steps to remedy the violation. If in the opinion of the Union the Employer does not achieve compliance within a reasonable period of time, the Union may reassert its claim to the arbitrator. Upon such second submission if the arbitrator finds that the Employer has had a reasonable time to comply with the terms of this Section and has failed to do so, then and only then, the arbitrator may order the Employer to follow a particular course of action which will effectuate compliance with the terms of Section 1. However, such a remedy shall not exceed appropriations available in the current budget allocation for the involved agency for such purposes.

ARTICLE XV - BARGAINING BAR DURING TERM OF AGREEMENT

Section 1.
The parties acknowledge that they have raised and negotiated in good faith concerning all mandatory subjects of collective bargaining. The parties acknowledge that when a successor agreement to this collective bargaining agreement is fully executed, including all required approvals, such successor agreement shall supersede this Agreement. A dispute concerning the application or interpretation of the terms of this economic collective bargaining agreement shall be subject to the Grievance Procedure of this Agreement. Except for the foregoing, the terms of this collective bargaining agreement represent the entire agreement of the parties. All subjects, not provided for herein, were disposed of in the course of negotiations; and the parties, accordingly, acknowledge that there remains no further duty to bargain concerning them unless consented to in writing.

Section 2.
Nothing herein shall authorize or require collective bargaining between the parties during the term of this Agreement, except that the parties may mutually agree in writing to engage in collective bargaining where (a) the matter was not specifically covered by the agreement or raised as an issue during the negotiations out of which such agreement arose and (b) there shall have arisen a significant change in circumstances with respect to such matter which could not reasonably have been anticipated by both parties at the time of the conclusion of negotiations.

Section 3.
There shall be no resumption of negotiations during the term of an agreement upon the claim that the agreement is not consummated or not executed or that one of the parties promised to resume negotiations on any particular matter unless such claim is substantiated by a written document signed by the party against whom the claim is made.

Section 4.
This contract expresses all agreements and understandings between the parties and no other agreements, understanding or practice shall be of any force or effect.

ARTICLE XVI - PERSONNEL AND PAY PRACTICES

In the scheduling of vacations for employees, subject to the vacation policy and procedures of the employer, the employer agrees that vacation picks for employees covered by this Agreement shall be, by seniority in the employee's Civil Service Title.

ARTICLE XVII FINANCIAL EMERGENCY ACT

The provisions of this **Agreement** are subject to applicable provisions of law, including the New York State Financial Emergency Act for the City of New York as amended.

ARTICLE XVIII APPENDICES

The Appendix or Appendices, if any, attached hereto and initialed by the undersigned shall be deemed a part of this Collective Bargaining **Agreement** as if fully set forth herein.

ARTICLE XIX SAVINGS CLAUSE

In the event that any provisions of this Agreement are found to be invalid, such invalidity shall not impair the validity and enforceability of the remaining provisions of this **Agreement**.

ARTICLE XX CITYWIDE ISSUES

This Agreement is subject to the provisions, terms and conditions of the Agreement which has been or may be negotiated between the City and the Union recognized as the exclusive collective bargaining representative on Citywide matters which must be uniform for specified employees, including the employees covered by this Agreement.

Employees in Rule X titles shall receive the benefits of the *Citywide Agreement* unless otherwise specifically excluded herein.

ARTICLE XXI - PERFORMANCE COMPENSATION

The Union acknowledges the Employer's right to pay additional compensation for outstanding performance.

The Employer agrees to notify the Union of its intent to pay such additional compensation.

WHEREFORE, we have hereunto set our hands and seals this 1st **day of** June **2018**.

FOR THE CITY OF NEW YORK AND RELATED PUBLIC EMPLOYERS AS DEFINED HEREIN:

BY:_____/s/_____ /s/
ROBERT W. LINN
Commissioner of Labor Relations

FOR LOCAL 246, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO

BY:_____/s/_____
JOSEPH A. COLANGELO
President

FOR THE NEW YORK CITY HEALTH AND HOSPITALS CORPORATION

BY:_____/s/_____
SALVATORE RUSSO
Senior Vice President and General Counsel

/s/

APPROVED AS TO FORM:

BY:_____/s/_____
ERIC EICHENHOLTZ
Acting Corporation Counsel

CERTIFIED TO THE FINANCIAL CONTROL BOARD:

DATE: June 1, 2018

UNIT: Automotive Service Worker

TERM: August 7, 2010 through December 6, 2017

The City of New York
Office of Labor Relations
40 Rector Street, New York, NY 10006-1705

June 1, 2018

Mr. Joseph A. Colangelo
President
Local 246, SEIU
217 Broadway - Room 501
New York, NY 10007

RE: 2010-2017 Auto Service Worker Agreement

Dear Mr. Colangelo:

Pursuant to Article IX, Section 1 of the labor agreement between the parties dated for the duration of the term of said agreement, the term "Geographic Location" shall have the following meaning in the following administrations and/or departments.

In the Sanitation Department the term geographic location shall mean a "zone", i.e., a borough shop and its satellite garages.

The borough shops and satellite garages are presently designated as follows:

Manhattan Command
Borough Shop, M1, M2, M3, M3A, M4, M4A, M5, M6, M7, M8, M8A, M9, M10, M11, M12, Manhattan Lot Cleaning.

Bronx Command
Borough Shop, BX1, BX2, BX3, BX3A, BX4, BX5, BX6, BX6A, BX7, BX8, BX9, BX10, BX11, BX12, Bronx Lot Cleaning.

Queens Command
Queens North Borough Shop, BKN1, BKN2, BKN3, BKN4, BKW6, BKSA, QW1, QW2, QW3, QW4, QW5, QW5A, QW6, QN7, QN7A, QW9, QN11B, QN13A, Enforcement.

Cioffe Command
Cioffe Borough Shop, BKN5, BKS7, BKN8, BKS9, BKS10, BKS11, BKS12, BKS13, BKS14, BKS15, BKS15A, BKS16, BKS17, BKS18, BK Lot Cleaning, Derelict Vehicle Operations, QN8, QN10, QN12, QS13, QS14.

Richmond Command
Richmond Borough Shop, R1, R2, R3, Transfer Station and Plant 1

Central Repair Shop - 5th Floor Operations
Special Chassis Shop, Forge Shop, Body Shop and Passenger Car Shop.

Central Repair Shop - 4th Floor Operations
Major Component Shop, Minor Component Shop, Motor Room and Machine Shop.

In the Police Department "geographic locations" shall be co-extensions with the following subgroups:

1. All shops within the borough of the Bronx.
2. All shops within the borough of Manhattan.
3. All shops within the borough of Brooklyn.
4. All shops within the borough of Staten Island.
5. The Central Repair Shop in Queens.
6. All other shops in the borough of Queens.

For the Fire Department "Geographic Locations" shall include:

35th Street (Fire), Pumper Section, Chiefs Cars, Ladder Section, Machine Shop, Electrical Shop, Randalls Island Preventive Maintenance, Tire Shop.

58th Street (EMS), Support Shop, Ambulance Shop, Body Repair Section, Satellite Shops:
1. Coney Island
2. Seaview
3. Gouverneur
4. Jacobi
5. Randalls Island

Very truly yours,
/s/
Robert W. Linn

AGREED AND ACCEPTED ON BEHALF OF Local 246

BY:_____/s/_____
JOSEPH A. COLANGELO

The City of New York
Office of Labor Relations
40 Rector Street, New York, NY 10006-1705

June 1, 2018

Mr. Joseph A. Colangelo
President
Local 246, SEIU
217 Broadway - Room 501
New York, NY 10007

Re: 2010-2017 Auto Service Worker Agreement

Dear Mr. Colangelo:

This is to confirm certain mutual understandings and agreements regarding the above captioned Agreement.

For the purposes of Article III Section 4(b)(i), "approved leave" is further defined to include:

a. maternity/childcare leave
b. military leave
c. unpaid time while on jury duty
d. unpaid leave for union business, pursuant to Executive Order 75
e. unpaid leave pending workers' compensation determination
f. unpaid leave while on workers' compensation option 2
g. approved unpaid time off due to illness or exhaustion of paid sick leave
h. approved unpaid time off due to family illness
i. other pre-approved leaves without pay

If the above accords with your understanding, please execute the signature line provided below.

Very truly yours,
/s/
Robert W. Linn

AGREED AND ACCEPTED ON BEHALF OF Local 246

BY:_____/s/_____
JOSEPH A. COLANGELO

The City of New York
Office of Labor Relations
40 Rector Street, New York, NY 10006-1705

June 1, 2018

Mr. Joseph A. Colangelo
President
Local 246, SEIU
217 Broadway - Room 501
New York, NY 10007

Re: 2010-2017 Auto Service Worker Agreement

Dear Mr. Colangelo:

This is to confirm the understanding of the parties that nothing in this agreement shall preclude the parties from their continuing discussions to identify, review, recommend, and develop initiatives that will generate workplace savings, maximize the potential of the City workforce, and ensure the provision of essential services, while at the same time providing increased compensation for the workforce. These discussions may include proposals related to the use of personal equipment to increase worker productivity and efficiency. Any claim that either party has of enforcement of a mutually agreed upon savings proposal shall be submitted to an expedited arbitration panel with the assistance of the Office of Collective Bargaining. The expedited arbitration panel shall not be used to decide the substance, merit, or value of either of the parties' specific savings proposals.

If the above accords with your understanding, please execute the signature line provided below.

Very truly yours,

/s/

Robert W. Linn

AGREED AND ACCEPTED ON BEHALF OF LOCAL 246

BY:_____/s/_____
JOSEPH A. COLANGELO

The City of New York
Office of Labor Relations
40 Rector Street, New York, NY 10006-1705

June 1, 2018

Mr. Joseph A. Colangelo
President
Local 246, SEIU
217 Broadway - Room 501
New York, NY 10007

Re: 2010-2017 Auto Service Worker Agreement

Dear Mr. Colangelo:

This is to confirm the understanding of the parties that, pursuant to the 2002-2005 agreement between the parties, Lincoln's Birthday shall continue to be a regular holiday with pay for employees covered by the above-referenced agreement.

If the above accords with your understanding, please execute the signature line provided below.

Very truly yours,

/s/

Robert W. Linn

AGREED AND ACCEPTED ON BEHALF OF LOCAL 246

BY:_____/s/_____
JOSEPH A. COLANGELO

☛ **j12**

CHANGES IN PERSONNEL

HRA/DEPT OF SOCIAL SERVICES
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
CAMPBELL	MARLENE	D	1024A	$142000.0000	INCREASE	YES	05/06/18	069
CAMPBELLE	MICHELLE	T	10104	$35140.0000	APPOINTED	NO	04/29/18	069
CARR	MARK		10104	$35140.0000	APPOINTED	NO	05/06/18	069
CASSAR-CHARLES	ANNE	J	10104	$35140.0000	APPOINTED	NO	04/29/18	069
CASTRO	ANNE		10248	$82616.0000	RETIRED	YES	05/10/18	069
CASTRO	ANNE		52316	$67974.0000	RETIRED	NO	05/10/18	069
CHAMBERS	DENISE		10104	$35140.0000	APPOINTED	NO	05/06/18	069
CHEEKS	KEVIN	L	10104	$35140.0000	APPOINTED	NO	05/06/18	069

HRA/DEPT OF SOCIAL SERVICES
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
CHONG	KIN SUN		10251	$38956.0000	INCREASE	NO	04/29/18	069
CHOO-YING	WILMA	O	10104	$35140.0000	INCREASE	NO	04/29/18	069
CHOWDHURY	TASLIMA	B	12626	$57590.0000	APPOINTED	NO	03/18/18	069
CLARKE	ROLSTON	E	10124	$56798.0000	INCREASE	NO	04/29/18	069
COACHMAN	ELAINE		12626	$68362.0000	RETIRED	NO	05/08/18	069
CORBETT	MONIQUE		10251	$35167.0000	RESIGNED	NO	05/06/18	069
COTTO	MELODY		10104	$35140.0000	APPOINTED	NO	05/06/18	069
DAVIDSON	MARIA		10104	$35140.0000	INCREASE	NO	05/06/18	069
DEAR	CAROLANN	T	10104	$35140.0000	INCREASE	NO	04/29/18	069
DELAPAZ	EVELYN		10104	$35140.0000	INCREASE	NO	05/06/18	069
DUPASS	AFIFAH	R	10104	$35140.0000	APPOINTED	NO	04/29/18	069
FELDMAN	CAROL	S	1002D	$121825.0000	RETIRED	NO	05/09/18	069
FIELDS	JAMES	D	1024A	$116500.0000	INCREASE	NO	05/06/18	069
FLORES	RAMON	E	95005	$162000.0000	INCREASE	YES	05/06/18	069
FOOTMAN	YOLANDA		10104	$35140.0000	APPOINTED	NO	05/06/18	069
FORTE-CHANDLER	DANIELLA		10124	$56798.0000	INCREASE	NO	04/29/18	069
FRANCOIS	JACQUES		10124	$50763.0000	DECEASED	NO	04/28/18	069
FREEMAN	B. LEE		10104	$35140.0000	INCREASE	NO	05/06/18	069
FUENTES	MELISSA	M	10104	$35140.0000	INCREASE	NO	05/06/18	069
GALASHEV	ELIZA		10124	$50763.0000	PROMOTED	NO	04/22/18	069
GARRISON	PATRICIA		52314	$45378.0000	RESIGNED	NO	03/09/18	069
GEORGES	FELICIA	L	10104	$35140.0000	INCREASE	NO	05/06/18	069
GIANNAKOPOULOS	STEVEN		13632	$91392.0000	RESIGNED	YES	05/06/18	069
GOODRIDGE-MCDUF	DORCIA	M	8297A	$92879.0000	RESIGNED	YES	04/29/18	069
GOODRIDGE-MCDUF	DORCIA	M	40562	$62561.0000	RESIGNED	NO	04/29/18	069
GORELIN	MARSHA		13632	$98696.0000	INCREASE	NO	03/04/18	069
GRAHAM	TREVORLY		10104	$35140.0000	APPOINTED	NO	05/06/18	069
GREEN	DEBRA		10104	$35140.0000	INCREASE	NO	04/29/18	069
GUERRERO JR	MANUEL	P	13632	$57590.0000	APPOINTED	NO	03/18/18	069
GUPTA	MONIKA	R	10050	$119000.0000	INCREASE	YES	04/29/18	069
HALL	ULA	D	10104	$35140.0000	APPOINTED	NO	04/29/18	069
HANNAH	ROBERTA		1024A	$116500.0000	INCREASE	YES	05/06/18	069
HAQUE	AFSANA		10104	$35140.0000	APPOINTED	NO	05/06/18	069
HARDYAL	SANDRA	H	10104	$35140.0000	APPOINTED	NO	05/06/18	069
HARRIS	QUANZA	T	10104	$35140.0000	APPOINTED	NO	05/06/18	069
HARRIS	TIFFANY	J	10104	$35140.0000	APPOINTED	NO	05/06/18	069
HAWKINS	DERRICK	L	52316	$65080.0000	INCREASE	NO	04/29/18	069
HEIMOWITZ	DONALD	M	12626	$66875.0000	RESIGNED	NO	04/29/18	069
HEMINGWAY	ROSHAWN	F	10104	$38956.0000	APPOINTED	NO	04/15/18	069
HILLMAN	LORRAINE	M	10104	$35140.0000	APPOINTED	NO	05/06/18	069
HINDS	JOYCELIN	E	10124	$62834.0000	INCREASE	NO	05/06/18	069
HODGE	TENAGNE		10104	$35140.0000	INCREASE	NO	05/06/18	069
HOSSAIN	MOHAMMED	L	10104	$35140.0000	INCREASE	NO	05/06/18	069
HURST	GREGORY	S	10104	$35140.0000	INCREASE	NO	05/06/18	069
JAMES	CYNTHIA		10104	$35140.0000	APPOINTED	NO	05/06/18	069
JAMES	KEOSHA	L	10104	$35140.0000	TERMINATED	NO	05/02/18	069
JOHNSON	ANTHONY	M	10104	$35140.0000	INCREASE	NO	05/06/18	069
JOHNSON	SHAKIYLA	U	70810	$46737.0000	RESIGNED	NO	05/01/18	069
JOHNSON	TAMEKA	W	10104	$35140.0000	INCREASE	NO	04/29/18	069
JONES	JESSICA	N	52613	$47549.0000	APPOINTED	YES	04/29/18	069
JONES	KIERRA	A	10104	$35140.0000	APPOINTED	NO	05/06/18	069

HRA/DEPT OF SOCIAL SERVICES
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
JORDAN	ASHLEE	N	10104	$35140.0000	APPOINTED	NO	05/06/18	069
KACZMARCZYK	SUSAN	K	30086	$57944.0000	APPOINTED	YES	04/29/18	069
KALLUS	LARRY	A	10104	$35140.0000	APPOINTED	NO	05/06/18	069
KAR	LAKSHMAN	K	10104	$35140.0000	APPOINTED	NO	05/06/18	069
KAYHARRY	NADIRA		8297A	$75000.0000	APPOINTED	YES	04/29/18	069
KEARSE	ALKIA	C	31113	$44409.0000	RESIGNED	NO	05/06/18	069
KHAN	KHISRO	S	10104	$35140.0000	APPOINTED	NO	05/06/18	069
KING	SADE	C	10104	$35140.0000	APPOINTED	NO	04/29/18	069
KORDOV	DMITRIY		13652	$87731.0000	APPOINTED	NO	04/29/18	069
KULKARNI	ANIL	R	1001A	$103782.0000	RETIRED	YES	05/01/18	069
KULKARNI	ANIL	R	20315	$65698.0000	RETIRED	NO	05/01/18	069
KYSER	JUANITA		10104	$35140.0000	APPOINTED	NO	05/06/18	069
LIPETS	MARINA		10104	$35140.0000	APPOINTED	NO	05/06/18	069
LORD	MICHELLE	A	10104	$35140.0000	APPOINTED	NO	05/06/18	069
LOW	JANE	Y	10251	$38956.0000	INCREASE	NO	04/29/18	069
LUCIDO	LAURIE	M	10104	$35140.0000	INCREASE	NO	05/06/18	069
MANSARY	MARIAMA		10104	$35140.0000	APPOINTED	NO	05/06/18	069
MARRERO	TRACEY	A	10104	$35140.0000	APPOINTED	NO	05/06/18	069
MASSIAH	BETTY	E	10124	$56977.0000	RETIRED	NO	05/09/18	069
MAURO	BENJAMIN	M	21744	$70286.0000	APPOINTED	YES	04/15/18	069
MCBEAN	OPHELIA	C	10104	$35140.0000	APPOINTED	NO	04/29/18	069
MCNEIL	MICHAEL	J	10104	$35140.0000	APPOINTED	NO	05/06/18	069
MEDINA	ALEXANDE	M	51110	$57002.0000	INCREASE	YES	05/06/18	069
MEENATTOOR	JOSEPH		10104	$40411.0000	RETIRED	NO	05/03/18	069
MOORE	CRISPIN	A	31113	$44409.0000	APPOINTED	NO	04/29/18	069
MOORE	JACLYN	R	10056	$128696.0000	INCREASE	YES	04/29/18	069
MUDRIK	SVETLANA		13632	$87731.0000	PROMOTED	NO	03/25/18	069
MULDROW	DARREN		10104	$35140.0000	APPOINTED	NO	05/06/18	069
MURIEL	IRIS	N	10124	$63303.0000	RETIRED	NO	05/01/18	069
MURPHY	DEANDREA		10104	$35140.0000	APPOINTED	NO	05/06/18	069
MURRAY	LISA	S	10104	$35140.0000	APPOINTED	NO	05/06/18	069
NOEL	ISHA	N	10104	$35140.0000	APPOINTED	NO	04/29/18	069
NZEAMA	ANULI	E	10104	$35140.0000	APPOINTED	NO	05/06/18	069
OJEH	BENJAMIN		52304	$44624.0000	RETIRED	NO	05/06/18	069
OLIVACCE	UNIQUE		52613	$47549.0000	RESIGNED	YES	05/12/18	069
OLIVO	DALILA		10104	$35140.0000	APPOINTED	NO	05/06/18	069
ONILUDE	TAIWO	B	10104	$35140.0000	APPOINTED	NO	04/29/18	069
OWENS	ROCHELLE	O	10104	$35140.0000	APPOINTED	NO	04/29/18	069
PALMER	SHAQUANA	T	10251	$38956.0000	INCREASE	NO	04/29/18	069
PEARSON	DOREEN	L	10104	$35140.0000	APPOINTED	NO	05/06/18	069
PIERRE	BIKENS		31113	$54756.0000	RESIGNED	NO	05/03/18	069
PIERRE	DIANA		10104	$35140.0000	INCREASE	NO	05/06/18	069
POLI	JESSIE	T	1024A	$116500.0000	INCREASE	NO	05/06/18	069
RADA	VERNICE	T	10104	$35140.0000	INCREASE	NO	04/29/18	069
REYNOLDS	HUGH	E	10104	$35140.0000	INCREASE	NO	05/06/18	069
RICHARDSON	SHANNON		40526	$40369.0000	RESIGNED	NO	05/08/18	069
ROBBS	EUPHORAI	J	10104	$35140.0000	APPOINTED	NO	05/06/18	069
ROBERTSON	ALIYA	M	56058	$56229.0000	DECREASE	YES	04/10/18	069
ROBERTSON	ELLICE	E	10104	$40411.0000	INCREASE	NO	04/29/18	069
ROBINSON	EBONY	L	10104	$35140.0000	INCREASE	NO	05/06/18	069
RODRIGUES	DOLORES		10056	$103000.0000	INCREASE	NO	04/22/18	069

HRA/DEPT OF SOCIAL SERVICES
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
RODRIGUES	ELLIJAH	L	10104	$35140.0000	INCREASE	NO	04/29/18	069
RODRIGUEZ CASTI	ALICIA	R	10104	$35140.0000	APPOINTED	NO	05/06/18	069
ROSADO	MELISAND		10104	$40411.0000	RESIGNED	NO	05/01/18	069
ROSENFELD	DANIEL		10050	$67410.0000	INCREASE	YES	05/06/18	069
ROTONDI	ERIC		95821	$147290.0000	INCREASE	YES	04/29/18	069
SAMPSON	LATOYA		10251	$38956.0000	INCREASE	NO	04/29/18	069
SANCHEZ	ROBERTO	E	10104	$35140.0000	APPOINTED	NO	05/06/18	069
SANTIAGO	KRISTY		10104	$35140.0000	INCREASE	NO	05/06/18	069
SASS	MICHAEL		91628	$457.3600	APPOINTED	NO	04/01/18	069
SCOTT	TAMEKA	V	10104	$35140.0000	APPOINTED	NO	05/06/18	069
SHORT	SHEILA		52314	$45622.0000	DISMISSED	NO	05/02/18	069
SHOUMACKHER	KLARA		13275	$102016.0000	RESIGNED	YES	04/15/18	069
SHOUMACKHER	KLARA		1002A	$74597.0000	RESIGNED	NO	04/15/18	069
SIERRA	JUSMERY		52316	$65080.0000	INCREASE	NO	04/29/18	069
SINCLAIR	MAUREEN	R	52314	$54720.0000	RESIGNED	NO	06/18/17	069
SINGLETON	RONALD	P	10104	$39034.0000	RESIGNED	NO	04/15/18	069
SLATER	MARIE	E	10104	$35140.0000	INCREASE	NO	05/06/18	069
SMALLS	SHAKINNA		10104	$35140.0000	INCREASE	NO	05/06/18	069
SORIANO	SHANICE	S	10251	$38956.0000	INCREASE	NO	05/06/18	069
STEPHENSON	LORNA		10104	$35140.0000	INCREASE	NO	05/06/18	069
STOKES	SHAWN	G	10104	$35140.0000	INCREASE	NO	04/29/18	069
SUERO	AMPARO		52316	$71770.0000	RETIRED	NO	05/03/18	069
SUTTON	JACQUELI	H	10104	$35140.0000	INCREASE	NO	05/06/18	069
TABASSUM	RIZWANA		10104	$35140.0000	APPOINTED	NO	05/06/18	069
TALLIS	ANDREW		95005	$143132.0000	INCREASE	YES	04/08/18	069
TELUSMA	GWENDY	K	10104	$35140.0000	INCREASE	NO	05/06/18	069
THAI	THIEN	B	13632	$87731.0000	PROMOTED	NO	03/25/18	069
TOTTEN	TONI	N	10124	$56798.0000	INCREASE	NO	05/06/18	069
TREZIL	JHONNY		10104	$35140.0000	INCREASE	NO	04/29/18	069
TURNER	ERICA	C	10104	$35140.0000	APPOINTED	NO	05/06/18	069
UDUNZE	HELEN	C	10104	$35140.0000	APPOINTED	NO	05/06/18	069
VASQUEZ	CRYSTAL		10104	$35140.0000	APPOINTED	NO	05/06/18	069
VELASQUEZ	DAYSI	S	10104	$35140.0000	RESIGNED	NO	04/20/18	069
VOLYNSKIY	KATERYNA		52304	$38617.0000	RESIGNED	NO	04/20/18	069
WATERMAN	YVETTE	C	52304	$44687.0000	RETIRED	NO	05/05/18	069
WHEELER	CHRISTIN	Y	10104	$35140.0000	INCREASE	NO	05/06/18	069
WHITTEN	BARRON	T	10104	$35140.0000	INCREASE	NO	04/29/18	069
WILLIAMS	DELORES		31113	$54705.0000	RETIRED	NO	04/25/18	069
WILLIAMS	RICHARD		10104	$35140.0000	APPOINTED	NO	05/06/18	069
WOFFARD	DONNA	E	10124	$57030.0000	RETIRED	NO	04/04/18	069
WOODS	LANCE		10104	$35140.0000	APPOINTED	NO	05/06/18	069
WRIGHT	ALGON	X	10104	$35140.0000	APPOINTED	NO	05/06/18	069
XIE	YU	L	10124	$50763.0000	PROMOTED	NO	04/22/18	069
ZELMAN	DORA		52304	$44409.0000	RETIRED	NO	05/05/18	069

DEPT. OF HOMELESS SERVICES
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
ABREU	AUDRIS	D	52275	$55977.0000	INCREASE	YES	04/22/18	071
AWAD	SHEREEN	A	56058	$50362.0000	APPOINTED	YES	04/29/18	071
BARKSDALE	JAMAL	L	70810	$32426.0000	APPOINTED	NO	03/18/18	071
BENEJAN-GREEN	TAMARA	L	10056	$154000.0000	INCREASE	NO	05/06/18	071
BERNARD	NADERGE		56058	$50362.0000	APPOINTED	YES	04/29/18	071
DOUGLAS	SADE	K	70810	$33498.0000	RESIGNED	NO	04/21/18	071
FRANCIS	EGBERT	C	70810	$40589.0000	DISMISSED	NO	04/30/18	071
FULFORD	CLAUDINE	M	70810	$46737.0000	DISMISSED	NO	04/29/18	071
GARCIA	RAYMOND		56058	$50362.0000	RESIGNED	YES	04/29/18	071
GERMAN	DARRYL		56057	$35683.0000	APPOINTED	YES	04/29/18	071
HODGE	MARLENE	P	70817	$73715.0000	DISMISSED	NO	03/25/18	071
IBIAM	JOHN	C	52613	$54681.0000	APPOINTED	YES	04/03/16	071
JEAN- MARIE	YOUANICA		31113	$38617.0000	APPOINTED	NO	04/29/18	071
JOARDER	SARWAT	M	31113	$38617.0000	APPOINTED	NO	03/18/18	071
JOHNSON	LANESHA	S	70810	$32426.0000	RESIGNED	NO	05/25/17	071
KEARSE	ALKIA	C	52304	$45688.0000	RESIGNED	NO	05/06/18	071
LEE	BARRY	E	92210	$312.6900	RETIRED	NO	05/04/18	071
PARRIS	JAZEEL	T	52275	$55977.0000	APPOINTED	YES	04/29/18	071
PARSONS	BROOKE	A	56058	$50362.0000	APPOINTED	YES	04/29/18	071
ROBERTS-PETER	TYEISHA	I	70817	$59754.0000	RESIGNED	NO	04/07/18	071
RODRIGUEZ	RYAN		52275	$64374.0000	INCREASE	YES	05/06/18	071
STERNS	ALVIS	J	12627	$84243.0000	RETIRED	NO	05/01/18	071
SUAREZ	VICTOR		56058	$50362.0000	APPOINTED	YES	04/29/18	071
TELLERIA	ALBERTO	F	10056	$120000.0000	INCREASE	NO	03/18/18	071
THOMANN-HOWE	DOREEN	E	10056	$154000.0000	INCREASE	NO	04/29/18	071
THOMAS	NADINE	C	70810	$31482.0000	RESIGNED	NO	03/15/17	071
TITTLE	AMADI	K	31113	$44409.0000	APPOINTED	NO	04/29/18	071
YOEL	ZIPPORAH		52613	$54681.0000	RESIGNED	NO	05/09/18	071
ZHANG	WARREN		31113	$38617.0000	APPOINTED	NO	03/18/18	071

DEPARTMENT OF CORRECTION
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
ADAMS	CYNTHIA		1002A	$68607.0000	APPOINTED	NO	04/17/18	072
AFARI-YEBOAH	MARTINSO		70410	$44333.0000	RESIGNED	NO	04/25/18	072
ALADIN	LAURENT		70410	$85292.0000	RESIGNED	NO	04/13/18	072
ALAM	IFTEKHAR		70410	$44333.0000	RESIGNED	NO	04/25/18	072
BANKS	WAKIM	J	70410	$57587.0000	TERMINATED	NO	05/10/18	072
BARBECHO	OSVALDO		70410	$44333.0000	RESIGNED	NO	04/23/18	072
BOLLIN	DAVID	M	90733	$391.6000	APPOINTED	NO	04/19/18	072
BUCO	RYAN	A	70410	$44333.0000	RESIGNED	NO	04/27/18	072
BURKERT	GEORGE		91232	$54321.0000	RETIRED	NO	04/11/18	072
CHARKOWICK	BRIAN	K	10074	$164098.0000	INCREASE	NO	04/01/18	072
CLARK	BRANDI	N	70410	$48371.0000	RESIGNED	NO	05/11/18	072
DAVIS	PRAVEEN		70410	$44333.0000	RESIGNED	NO	04/25/18	072

DEPARTMENT OF CORRECTION
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
DIXON	BENONI		90235	$43174.0000	RETIRED	YES	05/10/18	072
EIMICKE	ANNEMARI		1002A	$84984.0000	APPOINTED	NO	04/17/18	072
GAYNOR	RABIAH	M	52620	$97200.0000	INCREASE	YES	04/29/18	072
GRANDISON	RYAN	A	70410	$48371.0000	RESIGNED	NO	04/25/18	072
GROCE	ANDREA		7048B	$121875.0000	RETIRED	NO	05/08/18	072
HARVEY	JADONTE		70410	$44333.0000	RESIGNED	NO	04/23/18	072
HENDERSON-BLACK	ANASTASI	A	70488	$187656.0000	PROMOTED	NO	04/20/18	072
HUSBANDS	AARON		70410	$44333.0000	RESIGNED	NO	04/25/18	072
JOSEPH	ALVIN		70410	$44333.0000	RESIGNED	NO	04/25/18	072
KISHNA	LEON	M	91225	$84906.0000	INCREASE	YES	04/15/18	072
LABARBERA	MICHAEL	R	70410	$44333.0000	RESIGNED	NO	04/22/18	072
LAMB III	JAMES		70410	$48371.0000	RESIGNED	NO	04/30/18	072
LEE	NYEEMA		70410	$44333.0000	RESIGNED	NO	04/29/18	072
MACK	PATRICIA	L	90210	$34096.0000	APPOINTED	YES	04/29/18	072
MAIO	NICHOLAS		70410	$43042.0000	RESIGNED	NO	04/25/18	072
MAJOR	TYRELL		70410	$44333.0000	RESIGNED	NO	04/25/18	072
MARZOCCHI	THOMAS		70410	$44333.0000	RESIGNED	NO	04/25/18	072
MEDINA	JUAN	J	70410	$44333.0000	RESIGNED	NO	05/02/18	072
MOHAMED	MAHMOUD		70410	$44333.0000	RESIGNED	NO	03/17/18	072
MOLINA	BRANDON		70410	$44333.0000	RESIGNED	NO	03/25/18	072
MONROY	JULIAN		70410	$44333.0000	RESIGNED	NO	04/25/18	072
ORTEGA	HILDA	D	91232	$50353.0000	INCREASE	YES	04/23/18	072
PAPOULIS	KONSTANT		90735	$296.7300	APPOINTED	YES	04/29/18	072
PERTUZ	ELLISON		70410	$44333.0000	RESIGNED	NO	05/09/18	072
REED	JASMIN	M	90510	$31675.0000	APPOINTED	NO	05/06/18	072
RUGGIERO	MICHAEL		70410	$44333.0000	RESIGNED	NO	05/09/18	072
SAFIUDDIN	MOHAMMAD		70410	$43042.0000	DECREASE	NO	05/07/18	072
SEABROOK	CAROLYN	A	70410	$43042.0000	RESIGNED	NO	04/22/18	072
SINGH	VINCENT	A	92511	$322.4000	DECREASE	YES	04/23/18	072
SINGLETARY	MAURICE		70410	$44333.0000	RESIGNED	NO	04/25/18	072
SPIVEY	ZENDEL		70410	$48371.0000	RESIGNED	NO	04/25/18	072
SPRUILL	EUGENE		91232	$46930.0000	APPOINTED	YES	04/29/18	072
THOMAS	STEVE	A	70410	$85292.0000	RESIGNED	NO	04/25/18	072
TOSCANO	RICHARD		70410	$44333.0000	RESIGNED	NO	03/25/18	072
TOWNSEND	SARENA	T	06793	$190000.0000	INCREASE	YES	04/22/18	072
TYRELL	SHERIKA		70410	$44333.0000	RESIGNED	NO	05/08/18	072
WALTERS	KARIN	D	10605	$38956.0000	RESIGNED	NO	04/23/18	072
WASHINGTON	SHAWN		90510	$31675.0000	APPOINTED	NO	05/06/18	072
WILLIAMS	DOUGLAS	P	91212	$37200.0000	APPOINTED	NO	05/06/18	072
WIT	PAWEL		90698	$232.0000	RESIGNED	NO	04/29/18	072
WYLLIE	KESHIA	M	10095	$75000.0000	APPOINTED	YES	04/29/18	072

MAYORS OFFICE OF CONTRACT SVCS
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
CASCIARO	HELEN		05277	$58000.0000	APPOINTED	YES	05/06/18	082
GUERRASIO	JESSICA	L	0527A	$60000.0000	INCREASE	YES	04/29/18	082
RAMOS	FRANKLIN	E	13652	$100000.0000	TRANSFER	NO	12/03/17	082
WONG	LING-YOU		0527A	$100000.0000	APPOINTED	YES	04/29/18	082

CITY COUNCIL
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
ALTMAN	GARY	L	94451	$204947.0000	RETIRED	YES	05/02/18	102
AMBEKAR	DEEPA	S	94451	$95000.0000	RESIGNED	YES	05/01/18	102
ARZT	ELIZABET	F	30183	$50000.0000	APPOINTED	YES	05/06/18	102
AYALA	ROSA	B	94074	$40000.0000	APPOINTED	YES	05/06/18	102
BERNSTEIN	ERIC	N	94451	$95000.0000	RESIGNED	YES	05/05/18	102
BOWEN	BRITTANY		94074	$50000.0000	APPOINTED	YES	04/29/18	102
CHOWDHURY	JOY		94074	$25000.0000	APPOINTED	YES	04/24/18	102
DAMSKY	ABIGAIL	K	94074	$35000.0000	APPOINTED	YES	05/06/18	102
DECKER	ANNE	O	94459	$126690.0000	RESIGNED	YES	05/12/18	102
EDWARDS	MAURICE	A	94074	$19200.0000	RESIGNED	YES	04/28/18	102
GONZALEZ	ANDRES	I	94424	$38000.0000	APPOINTED	YES	05/06/18	102
HE	DOROTHY	S	94440	$41200.0000	RESIGNED	YES	05/09/18	102
JONES	BARBARA		94074	$30000.0000	APPOINTED	YES	04/25/18	102
SACKEY	CHOTSANI	J	94451	$95000.0000	APPOINTED	YES	04/29/18	102
SHARON	SHACHAR	S	94074	$64000.0000	RESIGNED	YES	05/05/18	102
SMITH	BENJAMIN	J	94451	$79000.0000	APPOINTED	YES	04/29/18	102
SOMOZA	ANASTASI		30183	$31.9600	APPOINTED	YES	04/29/18	102

DEPARTMENT FOR THE AGING
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
PONGRATZ	LOUIS	W	09749	$13.0000	DECEASED	YES	02/22/18	125
RAY	DOROTHY	M	09749	$13.0000	APPOINTED	YES	04/22/18	125

FINANCIAL INFO SVCS AGENCY
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
MARTINO	ANGELA		10050	$161888.0000	INCREASE	YES	05/06/18	127
PATURI	SAILAJA		10050	$129710.0000	INCREASE	YES	04/29/18	127
RADU	IOSEFINA	S	10050	$126500.0000	INCREASE	YES	04/29/18	127
YUSUFOV	ELCHIN		10050	$126500.0000	INCREASE	YES	04/29/18	127

OFF OF PAYROLL ADMINISTRATION
FOR PERIOD ENDING 05/18/18

NAME			TITLE NUM	SALARY	ACTION	PROV	EFF DATE	AGENCY
MCLEOD	SEAN	A	56057	$41036.0000	INCREASE	YES	05/06/18	131
RODRIGUEZ	BETTY	M	40510	$67891.0000	RESIGNED	YES	05/05/18	131

READER'S GUIDE

The City Record (CR) is published each business day. The Procurement section of the City Record is comprised of notices of proposed New York City procurement actions, contract awards, and other procurement-related information. Notice of solicitations and other notices for most procurement methods valued at or above $100,000 for goods, services, and construction must be published once in the City Record, among other requirements. Other procurement methods authorized by law, such as sole source procurements, require notice in the City Record for five consecutive editions. Unless otherwise specified, the agencies and offices listed are open for business Monday through Friday from 9:00 A.M. to 5:00 P.M., except on legal holidays.

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 where the public work is being done. Additionally, New York State Labor Law §§ 220 and 230 provide that a contractor or subcontractor doing public work in construction or building service must pay its employees no less than the prevailing wage. Section 6-109 (the Living Wage Law) of the New York City Administrative Code also provides for a "living wage", as well as prevailing wage, to be paid to workers employed by City contractors in certain occupations. The Comptroller of the City of New York is mandated to enforce prevailing wage. Contact the NYC Comptroller's Office at www.comptroller.nyc.gov, and click on Prevailing Wage Schedules to view rates.

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 $17 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. Registration for these lists is free of charge. To register for these lists, prospective suppliers should fill out and submit the NYC-FMS Vendor Enrollment application, which can be found online at www.nyc.gov/selltonyc. To request a paper copy of the application, or if you are uncertain whether you have already submitted an application, call the Vendor Enrollment Center at (212) 857-1680.

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 at 110 William Street, New York, NY 10038. Sessions are convened on the second Tuesday of each month from 10:00 A.M. to 12:00 P.M. For more information, and to register, call (212) 618-8845 or visit www.nyc.gov/html/sbs/nycbiz and click on Summary of Services, followed by Selling to Government.

PRE-QUALIFIED LISTS

New York City procurement policy permits agencies to develop and solicit from pre-qualified lists of vendors, under prescribed circumstances. When an agency decides 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 lists 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 an Agency 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. Any denial or revocation of pre-qualified status can be appealed to the Office of Administrative Trials and Hearings (OATH). Section 3-10 of the Procurement Policy Board Rules describes the criteria for the general use of pre-qualified lists. For information regarding specific pre-qualified lists, please visit www.nyc.gov/selltonyc.

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, and the Housing Authority. Suppliers interested in applying for inclusion on bidders lists for Non-Mayoral entities should contact these entities directly at the addresses given in the Vendor Information Manual.

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 9:30 A.M. to 5:00 P.M., except on legal holidays. For more information, contact the Mayor's Office of Contract Services at (212) 341-0933 or visit www.nyc.gov/mocs.

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. To obtain a copy of the certification application and to learn more about this program, contact the Department of Small Business Services at (212) 513-6311 or visit www.nyc.gov/sbs and click on M/WBE Certification and Access.

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 pays interest on all late invoices. However, there are certain types of payments that are not eligible for interest; these are listed in Section 4-06 of the Procurement Policy Board Rules. The Comptroller and OMB determine the interest rate on late payments twice a year: in January and in July.

PROCUREMENT POLICY BOARD RULES

The Rules may also be accessed on the City's website at www.nyc.gov/selltonyc

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:

ACCO	Agency Chief Contracting Officer
AMT	Amount of Contract
CSB	Competitive Sealed Bid including multi-step
CSP	Competitive Sealed Proposal including multi-step
CR	The City Record newspaper
DP	Demonstration Project
DUE	Bid/Proposal due date; bid opening date
EM	Emergency Procurement
FCRC	Franchise and Concession Review Committee
IFB	Invitation to Bid
IG	Intergovernmental Purchasing
LBE	Locally Based Business Enterprise
M/WBE	Minority/Women's Business Enterprise
NA	Negotiated Acquisition
OLB	Award to Other Than Lowest Responsive Bidder/Proposer
PIN	Procurement Identification Number
PPB	Procurement Policy Board
PQL	Pre-qualified Vendors List
RFEI	Request for Expressions of Interest
RFI	Request for Information
RFP	Request for Proposals
RFQ	Request for Qualifications
SS	Sole Source Procurement
ST/FED	Subject to State and/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:
CSP	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	CSB or CSP 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; CSP not advantageous
WA	Solicitation Based on Waiver/Summary of Circumstances (Client Services/CSB or CSP 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
SCE	Service Contract Extension/insufficient time; necessary service; fair price Award to Other Than Lowest Responsible & Responsive Bidder or 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.

☛**m27-30**

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 A.M.	Bid submission due 4-21-03 by 11:00 A.M.; bid opening date/ time is the same.
Use the following address unless otherwise specified or submit bid/proposal documents; etc.	Paragraph at the end of Agency Division listing providing Agency
☛	Indicates New Ad
m27-30	Date that notice appears in The City Record