



THE CITY OF NEW YORK

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Michael R. Bloomberg
Mayor

Thomas R. Frieden, M.D., M.P.H.
Commissioner

nyc.gov/health

July 16, 2004

Robert Kulikowski, Ph.D.
Director
New York City Office of Environmental Coordination
100 Gold Street, 2nd Floor
New York, NY 10038

RE: Negative Declaration
CEQR No.: 05DOHMH001Y
Proposed amendments to Articles 45, 47
and 173 of the New York City Health Code

Dear Mr. Kulikowski:

In conformance with Executive Order 91, the City Environmental Quality Review (CEQR), as modified by the rules of Procedure for CEQR (effective October 31, 1991), and Article 8 of the New York State Environmental Conservation Law (CEQR) and regulations there under in 6 NYCRR Part 617, the New York City Department of Health and Mental Hygiene (DOHMH) has assumed Lead Agency status for the environmental review of the action described below. This designation is consistent with the underlying mandate of CEQR and SEQRA as well as the Criteria listed in Section 5-03 (h) of the CEQR rules of Procedure.

The proposed action is to: (1) amend §§45.12, 47.44 and 173.13; (2) repeal and re-enact §173.14; and (3) repeal §173.15 of the New York City Health Code.

Under the CEQR Procedure, DOHMH as CEQR lead agency, is required to determine whether a proposed action may or will not have a significant effect on the environment. In accordance with these procedures, DOHMH has determined that the proposed action will not have a significant effect on the environment.

Enclosed is the Negative Declaration for the CEQR Number 05DOHMH001Y proposed amendments to Articles 45, 47 and 173 of the New York City Health Code. If you have any questions, please call me at (212) 676-6323.

Sincerely,



Jessica Leighton, Ph.D.
Assistant Commissioner
Environmental Disease Prevention

Attachment

C: Hon. Gifford Miller, NYCC
Wilfredo Lopez, DOHMH
Wilbur Woods, DCP

Phebe Macrae, Law
Harold Shultz, HPD



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NEGATIVE DECLARATION

Date: July 16, 2004
CEQR Number: 05 DOHMH 001Y

Name of Project: Proposed amendments to Articles 45, 47 and 173 of the New York City Health Code

Location: Citywide

Project Description:

The proposed action is to: (1) amend §§45.12, 47.44 and 173.13; (2) repeal and re-enact §173.14; and (3) repeal §173.15 of the New York City Health Code.

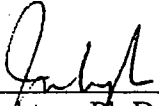
Statement Of No Significant Effect:

The Department of Health and Mental Hygiene, as lead agency, has determined that the above-referenced action will not have a significant effect on the quality of the environment.

Supporting Statements:

This Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617.

The above determination is based upon an Environmental Assessment Statement (EAS) on file with DOHMH and available for public review. The EAS and supporting documentation find that no significant effects upon the environment, which would require the preparation of an Environmental Impact Statement, are foreseeable.



Jessica Leighton, Ph.D.
Assistant Commissioner
Environmental Disease Prevention

7/16/04

Date

PART II, SITE AND ACTION DESCRIPTION

Site Description

EXCEPT WHERE OTHERWISE INDICATED, ANSWER THE FOLLOWING QUESTIONS WITH REGARD TO THE DIRECTLY AFFECTED AREA. THE DIRECTLY AFFECTED AREA CONSISTS OF THE PROJECT SITE AND THE AREA SUBJECT TO ANY CHANGE IN REGULATORY CONTROLS.

- GRAPHICS** Please attach: (1) a Sanborn or other land use map; (2) a zoning map, and (3) a tax map. On each map, clearly show the boundaries of the directly affected area or areas and indicate a 400-foot radius drawn from the outer boundaries of the project site. The maps should not exceed 8 1/2 x 14 inches in size. **Not Applicable**
- PHYSICAL SETTING** (both developed and undeveloped areas)

Total directly affected area (sq. ft.): Not Applicable Water surface area (sq. ft.): _____

Roads, building and other paved surfaces (sq. ft.): _____ Other, describe (sq. ft.): _____
- PRESENT LAND USE**

Residential **Not Applicable**

Total no. of dwelling units _____ No. of low-to-moderate income units _____

No. of stories _____ Gross floor area (sq. ft.) _____

Describe type of residential structures: _____

Commercial **Not Applicable**

Retail: No. of bldgs _____ Gross floor area of each building (sq. ft.): _____

Office: No. of bldgs _____ Gross floor area of each building (sq. ft.): _____

Other: No. of bldgs _____ Gross floor area of each building (sq. ft.): _____

Specify type(s): _____ No. of stories and height of each building: _____

Manufacturing/Industrial **Not Applicable**

No. of bldgs _____ Gross floor area of each building (sq. ft.): _____

No. of stories and height of each building: _____

Type of use(s): _____ Open storage area (sq. ft.) _____

If any unenclosed activities, specify: _____

Community facility **Not Applicable**

Type of community facility: _____

No. of bldgs _____ Gross floor area of each building (sq. ft.): _____

No. of stories and height of each building: _____

Vacant land **Not Applicable**

Is there any vacant land in the directly affected area? Yes No

If yes, describe briefly: _____

Publicly accessible open space **Not Applicable**

Is there any existing publicly accessible open space in the directly affected area? Yes No

If yes, describe briefly: _____

Does the directly affected area include any mapped City, State or Federal parkland? Yes No

If yes, describe briefly: _____

Does the directly affected area include any mapped or otherwise known wetland? Yes No

If yes, describe briefly: _____

Other land use

No. of stories _____ Gross floor area (sq. ft.) _____

Type of use: _____
- EXISTING PARKING** **Not Applicable**

Garages

No. of public spaces: _____ No. of accessory spaces: _____

Operating hours: _____ Attended or non-attended? _____

Lots

No. of public spaces: _____ No. of accessory spaces: _____

Operating hours: _____ Attended or non-attended? _____

Other (including street parking) - please specify and provide same data as for lots and garages, as appropriate.
- EXISTING STORAGE TANKS** **Not Applicable**

Gas or service stations? Yes No Oil storage facility? Yes No Other? Yes No

If yes, specify: _____

Number and size of tanks: _____ Last NYFD inspection date: _____

Location and depth of tanks: _____

If yes, describe briefly:

Does the directly affected area include any mapped City, State, or Federal parkland? Yes No

If yes, describe briefly:

Does the directly affected area include any mapped or otherwise known wetland? Yes No

If yes, describe briefly:

Other land use

Gross floor area (sq. ft.) _____ No. of stories _____ Type of use: _____

11. PROPOSED PARKING

Not Applicable

Garages

No. of public spaces: _____

No. of accessory spaces: _____

Operating hours: _____

Attended or non-attended? _____

Lots

No. of public spaces: _____

No. of accessory spaces: _____

Operating hours: _____

Attended or non-attended? _____

Other (including street parking) - please specify and provide same data as for lots and garages, as appropriate.

No. and location of proposed curb cuts: _____

12. PROPOSED STORAGE TANKS

Not Applicable

Gas or service stations? Yes No

Oil storage facility? Yes No Other? Yes No

If yes, specify: _____

Size of tanks: _____ Location and depth of tanks: _____

13. PROPOSED USERS

Not Applicable

No. of residents: _____

No. and type of businesses: _____

No. and type of workers by businesses: _____ No. and type of non-residents who are not workers: _____

14. HISTORIC RESOURCES (ARCHITECTURAL AND ARCHAEOLOGICAL RESOURCES)

Will the action affect any architectural or archaeological resource identified in response to either of the two questions at number 7 in the Site Description section of the form? Yes No

If yes, describe briefly: **The Rules will apply citywide.**

15. DIRECT DISPLACEMENT

Will the action directly displace specific business or affordable and/or low income residential units? Yes No

If yes, describe briefly:

16. COMMUNITY FACILITIES

Will the action directly eliminate, displace, or alter public or publicly funded community facilities such as educational facilities, libraries, hospitals and other health care facilities, day care centers, police stations, or fire stations? Yes No

If yes, describe briefly:

17. What is the zoning classification(s) of the directly affected area? Not Applicable

18. What is the maximum amount of floor area that can be developed in the directly affected area under the present zoning? Describe in terms of bulk for each use.

Not Applicable

19. What is the proposed zoning of the directly affected area?

Not Applicable

20. What is the maximum amount of floor area that could be developed in the directly affected area under the proposed zoning? Describe in terms of bulk for each use.

Not Applicable

21. What are the predominant land uses and zoning classifications within a 1/4 mile radius of the proposed action?

Not Applicable

SEE CEQR
TECHNICAL MANUAL
CHAPTER III B.,
SOCIO-ECONOMIC
CONDITIONS

SEE CEQR
TECHNICAL MANUAL
CHAPTER III C.,
COMMUNITY FACILI-
TIES & SERVICES

**Zoning
Information**

**Impact
Significance**

PART III, ENVIRONMENTAL ASSESSMENT AND DETERMINATION

TO BE COMPLETED BY THE LEAD AGENCY

The lead agency should complete this Part after Parts I and II have been completed. In completing this Part, the lead agency should consult 6 NYCRR 617.7, which contains the State Department of Environmental Conservation's criteria for determining significance.

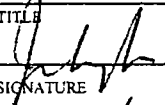
The lead agency should ensure the creation of a record sufficient to support the determination in this Part. The record may be based upon analyses submitted by the applicant (if any) with Part II of the EAS. The CEQR Technical Manual sets forth methodologies developed by the City to be used in analyses prepared for the listed categories. Alternative or additional methodologies may be utilized by the lead agency.

1. For each of the impact categories listed below, consider whether the action may have a significant effect on the environment with respect to the impact category. If it may, answer yes.

LAND USE, ZONING, AND PUBLIC POLICY	<u>NO</u>
SOCIOECONOMIC CONDITIONS	<u>NO</u>
COMMUNITY FACILITIES AND SERVICES	<u>NO</u>
OPEN SPACE	<u>NO</u>
SHADOWS	<u>NO</u>
HISTORIC RESOURCES	<u>NO</u>
URBAN DESIGN/VISUAL RESOURCES	<u>NO</u>
NEIGHBORHOOD CHARACTER	<u>NO</u>
NATURAL RESOURCES	<u>NO</u>
HAZARDOUS MATERIALS	<u>NO</u>
WATERFRONT REVITALIZATION PROGRAM	<u>NO</u>
INFRASTRUCTURE	<u>NO</u>
SOLID WASTE AND SANITATION SERVICES	<u>NO</u>
ENERGY	<u>NO</u>
TRAFFIC AND PARKING	<u>NO</u>
TRANSIT AND PEDESTRIANS	<u>NO</u>
AIR QUALITY	<u>NO</u>
NOISE	<u>NO</u>
CONSTRUCTION IMPACTS	<u>NO</u>
PUBLIC HEALTH	<u>NO</u>

2. Are there any aspects of the action relevant to the determination whether the action may have a significant impact on the environment, such as combined or cumulative impacts, that were not fully covered by other responses and supporting materials? If there are such impacts, explain them and state where, as a result of them, the action may have a significant impact on the environment. **NO**
3. If the lead agency has determined in its answers to questions 1 and 2 of this Part that the action will have no significant impact on the environment, a negative declaration is appropriate. The lead agency may, in its discretion, further elaborate here upon the reasons for issuance of a negative declaration.
4. If the lead agency has determined in its answers to questions 1 and 2 of this part that the action may have a significant impact on the environment, a conditional negative declaration (CND) may be appropriate if there is a private applicant for the action and the action is not Type I. A CND is only appropriate when conditions imposed by the lead agency will modify the proposed action so that no significant adverse environmental impacts will result. If a CND is appropriate, the lead agency should describe here the conditions to the action that will be undertaken and how they will mitigate potential significant impacts.
5. If the lead agency has determined that the action may have a significant impact on the environment, and if a conditional negative declaration is not appropriate, then the lead agency should issue a positive declaration. Where appropriate, the lead agency may, in its discretion, further elaborate here upon the reasons for issuance of a positive declaration. In particular, if supporting materials do not make clear the basis for a positive declaration, the lead agency should describe briefly the impact(s) it has identified that may constitute a significant impact on the environment

**Lead Agency
Certification**

Jessica Leighton, Ph.D.
PREPARER NAME
Assistant Commissioner, Env. Disease Prevention
PREPARER TITLE

PREPARER SIGNATURE
7/16/04
DATE

Same
NAME OF LEAD AGENCY REPRESENTATIVE

TITLE OF LEAD AGENCY REPRESENTATIVE

SIGNATURE OF LEAD AGENCY REPRESENTATIVE

DATE

**Attachment to the Environmental Assessment Statement for Proposed amendments
to Articles 45, 47 and 173 of the New York City Health Code**

This attachment reviews the various environmental criteria pertinent to environmental review, in accordance with the City Environmental Quality Review (CEQR) Technical Manual and its Appendices, and considers whether each is applicable to the action under consideration, amending articles 45, 47 and 173 of the New York City Health Code (Health Code), the provisions relating to the control and management of lead-based paint and the prevention of childhood lead poisoning.

The New York City Department of Health and Mental Hygiene (“Department”) is proposing that various provisions of the Health Code be amended to harmonize current provisions of the Health Code applicable to the control and management of lead-based paint and the prevention of childhood lead poisoning with Local Law 1 of 2004 and current regulations of the U.S. Environmental Protection Agency (“EPA”).

Over the past 30 years there has been a dramatic decline in childhood lead poisoning; however, childhood lead poisoning remains a significant public health concern. Elevated blood lead levels have been associated with intelligence quotient deficiencies, reading and learning disabilities, reduced attention span, hyperactivity and behavior problems. The ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning among New York City children under age 6.

In 1960, the Board of Health amended the Health Code to ban the use of lead-based paint on residential interior surfaces. In 1970, the Health Code was further amended to provide that the Department investigate a child’s home for possible environmental lead hazards when there is a report of a child with an environmental intervention blood lead level (“EIBLL”). Local Law 1 of 1982, the City’s first housing maintenance law aimed at the primary prevention of childhood lead poisoning prevention law, amended the Housing Maintenance Code (Title 27 of the Administrative Code of the City of New York) to require owners to correct lead-based paint hazards in dwelling units in multiple dwellings where children under 7 years resided. In 1999 the City Council enacted Local Law 38, repealing Local Law 1, to create what it characterized as a more pragmatic and workable approach to housing maintenance than was possible under Local Law 1 of 1982. However, on July 1, 2003, New York’s highest court invalidated Local Law 38 on the grounds of inadequate review under the State and City environmental quality laws. On February 5, 2004, the City Council voted to override the Mayor’s veto and enacted Local Law 1 of 2004, repealing Local Law 1 of 1982 and Local Law 38 of 1999.

Local Law 1 of 2004 (Local Law 1) directs the Department to promulgate rules to implement certain provisions of such law on or before August 2, 2004. The City Council has conducted an environmental review of Local Law 1 and has determined that Local Law 1 will have no significant impact on the environment (see Environmental Assessment Statement for Proposed Int. No. 101-A, CEQR #04CCO002Y). The Department is proposing to amend the Health Code to harmonize the Code with Local

certain requirements of federal law do not require any further explicit independent environmental review by the Department.

a. Land Use, Zoning and Public Policy

Citywide application. The proposed action would be applicable to all multiple dwellings (buildings with three or more residential units) in the City that meet the substantive criteria established in particular provisions of Local Law 1 and article 173 of the Health Code, certain private dwellings (buildings having only one or two residential units) and certain non-residential buildings in which day care facilities, as defined in §17-900 of the Administrative Code and article 47 of the Health Code, are located. The proposed action would also be applicable to kindergartens located in Department of Education elementary schools in accordance with § 45.12 of the Health Code; but the proposed amendments require that the same obligations and standards of care be applied in all areas of the City without regard to land use or zoning; and the proposed action does not alter land use in any manner. While the substantive obligations imposed upon owners of residential buildings subject to the amendments may result in more activities being undertaken pursuant to the Health Code in certain geographic areas of the City than in others, it will result from an uneven distribution of buildings that are subject to the same public health-based policy with the same public health objectives. There are no zoning changes that would accompany this proposed action. Those objectives do not vary as a function of land use or zoning or neighborhood characteristic. Consequently, the proposed action is not expected to have significant effects on land use, zoning or other public policies, such as Urban Renewal Plans, Criteria for the Location of City Facilities or those relating to Business Improvement Districts.

b. Socioeconomic Conditions

Analysis of the socioeconomic impacts of a proposed action require examining the population and housing and economic activities of an area and should be conducted if an action "...if an action may be reasonably expected to create substantial socioeconomic changes within the area affected by the action that would not be expected to occur absent the action". The harmful impacts of childhood lead poisoning are felt disproportionately in low-income neighborhoods and among children of color. The socio-economic impacts of childhood lead poisoning can have a significant effect on low-income and minority neighborhoods. However, the proposed Health Code amendments would have citywide application because the incidence of lead-based paint in a dwelling subject to its provisions may occur anywhere within the City.

As this proposed action has citywide application, rather than being limited to a specific geographic area, the changes, if any, are harder to quantify. An element of this analysis is whether there will be direct (involuntary) displacement of residents or businesses from a site, such as requiring people to move from an occupied site for use by a successor user, or indirect displacement, the involuntary displacement of people resulting from changes in socioeconomic conditions **created by the proposed action** (emphasis supplied, see, CEQR Technical Manual, page 3B-2). Examples are higher rents resulting from a new concentration of housing, turnover from industrial to commercial uses spurred by an

f. Historic Resources

There would be no significant effects upon archaeological resources as a result of this legislation. For example, there will be no in-ground disturbance or above-ground construction that will result in below-ground disturbance.

However, there may be some effect upon architectural resources. The proposed amendments would not mandate any physical exterior alterations to any historic structures nor would it mandate any physical alterations to any interior portions of those structures. However, there could be physical alterations of internal portions of existing historic structures or structures in buildings located within historic districts. Buildings that have significant internal historic value may be protected by the landmark provisions of the Administrative Code of the City of New York (Admin. Code Title 25, Chapter 3). Certain physical changes to structures subject to the jurisdiction of the Landmarks Preservation Commission (LPC) require LPC approval. An example is the replacement of windows.

The proposed amendments would not mandate that windows be replaced, merely that the lead-based paint on them be dealt with, nor would the proposed action preclude replacing windows with windows of the same type and design. The proposed amendments would also permit the installation or replacement of window channels or slides on the lead-based painted friction surfaces of windows. The new windows would only have to be free of lead-based paint. It may take some additional time and added ingenuity to adjust the windows in historic multiple dwellings so that the windows and doors do not bind, as required by the legislation but need not result in the removal of certain architectural elements that may also have historic value. To the extent that this could happen, it would be less a direct consequence of the proposed action than an economic decision by a property owner that it is less expensive to remove a lead-based paint covered element than to remove the paint itself. Moreover, to the extent that a dwelling or dwelling unit subject to the provisions of these amendments is subject to LPC jurisdiction or is subject to any similar regulatory structure, there is a greater certainty that the historic integrity of the property will be maintained and that lead-based paint will be removed or managed in a way that does not result in the removal of the architectural or historic element and its replacement with elements that impair the historic value of a structure. Therefore, no significant adverse effects to these resources are expected.

g. Urban Design/Visual Resources

The proposed action would not result in structures or buildings substantially different in height, bulk, form, setbacks, size, scale, use or arrangement than currently exists in any area of the City nor would it change the block form, demap an active street, map a new street, affect the street hierarchy, street walls, curb cuts, pedestrian activity or other streetscape elements. Moreover, it would have no effect on visual resources as the action would not result in any new above-ground development or change the bulk of above-ground development.

h. Neighborhood Character

would adversely affect water pressure. Because there would be no construction or other activities that would result in any increase in stormwater and therefore no adverse impact on the receiving bodies for the City's stormwater.

One of the permissible techniques for remediating lead-based paint is "wet scraping". This technique requires misting the lead-based paint and/or other material being disturbed so as to minimize the amount of dust and other particulate matter that is generated. No amendments are being proposed to further modify procedures to provide for the containment of the wastewater created. In addition, the Local Law 1 Environmental Assessment Statement has determined that the amount of water used and the amount to be contained and controlled may very well be a de minimus amount at many work sites and is likely to be a de minimus amount when compared to overall water usage within the City.

Thus, there would be no significant adverse impacts to the infrastructure.

m. Solid Waste and Sanitation Services

The enactment of the proposed action does not involve the construction of a new solid waste management facility and, because it does not involve the construction of housing or other development, nor does it have unusual waste generation characteristics, would not increase a component of the City's Solid Waste Management Plan beyond the projections for any component of that Plan. Therefore, there is no need for further evaluation of solid waste impacts.

n. Energy

The enactment of the proposed action would not result in the creation of new structures that would consume quantities of energy. Although work will be performed in existing residential structures, or structures housing day care facilities or kindergarten classrooms, these will be modest short-term increases for specific projects resulting from the use of certain equipment. No activities would be required that would increase or affect the transmission or generation of energy.

o. Traffic and Parking

The proposed action will have no significant impact on traffic and parking as reflected in Table 3O-1 of the City Environmental Quality Review Technical Manual (page 3O-2). The promulgation of the proposed amendments will not result in even low- to moderate density development. Consequently, there will be no impact on traffic flow and operating conditions, parking conditions, goods delivery or vehicular and pedestrian safety.

p. Transit and Pedestrians

The promulgation of the proposed amendments will have no adverse impact on transit and pedestrians. No new structures will be built that will result in bringing or attracting additional people to any area of the City and so the volume on mass transit facilities will not be affected by this action. Similarly, this action will not result in the generation of pedestrian traffic and will therefore have no impact on pedestrian flow or conditions,

Among the matters recommended for consideration in a CEQR analysis of the effects of an action on public health, are increased vehicular traffic or emissions from stationary sources, increased exposure from heavy metals, such as lead, and other contaminants in soil/dust resulting in significant adverse impacts, solid waste management practices, vapor infiltration from contaminants in a building, such as those resulting from the presence of a gasoline station or dry cleaner, odors and actions for which the potential impact(s) result in an exceedance of accepted federal, state or local standards (CEQR Technical Manual, pages 3T-2-3T-3). Certain of these criteria have been examined in other sections of this Attachment.

Since the Local Law 1 Environmental Assessment Statement that was generated by the City Council provided a rationale for why the new law is unlikely to have a potential significant impact on the environment, to the extent that their rationale validly supports the adoption of this law, and since this rule merely sets forth the details of the requirements already established by the law, such rationale similarly supports the adoption of this rule. The Department in adopting these rules to harmonize with Local Law 1 will cause no different or additional potential significant impact on public health than those examined by the City Council in its Environmental Assessment Statement for Local Law 1. Additional amendments to the Health Code improve upon current standards and guidelines and thus would also have no significant impact on public health.

EFFECTS OF THE PROPOSED ACTION

For the reasons set forth in the discussion above, it is concluded in accordance with the provisions of Article 8 of the Environmental Conservation Law and its regulations, and the City Environmental Quality Review procedures, that the proposed Health Code amendments, would not have a significant adverse impact on the environment and do not require the preparation of an Environmental Impact Statement, and a Negative Declaration (“determination of nonsignificance”) may properly issue.

NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM Consistency Assessment Form

Proposed actions that are subject to CEQR, ULURP or other local, state or federal discretionary review procedures, and that are within New York City's designated coastal zone, must be reviewed and assessed for their consistency with the *New York City Waterfront Revitalization Program (WRP)*. The WRP was adopted as a 197-a Plan by the Council of the City of New York on October 13, 1999, and subsequently approved by the New York State Department of State with the concurrence of the United States Department of Commerce pursuant to applicable state and federal law, including the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. As a result of these approvals, state and federal discretionary actions within the city's coastal zone must be consistent to the maximum extent practicable with the WRP policies and the city must be given the opportunity to comment on all state and federal projects within its coastal zone. This form is intended to assist an applicant in certifying that the proposed activity is consistent with the WRP. It should be completed when the local, state, or federal application is prepared. The completed form and accompanying information will be used by the New York State Department of State, other state agencies or the New York City Department of City Planning in their review of the applicant's certification of consistency.

A. APPLICANT

1. Name:

New York City Department of Health and Mental Hygiene

2. Address:

253 Broadway, 12th Flr., Box CN #58, New York, New York 10038

3. Telephone: 212-676-6323

Fax: 212-676-6326

4. Project site owner:

Not Applicable

B. PROPOSED ACTIVITY

1. Brief description of activity:

The New York City Department of Health and Mental Hygiene ("Department") proposes to: (1) amend §§45.12, 47.44 and 173.13; (2) repeal and re-enact §173.14; and repeal §173.15 of the New York City Health Code ("proposed action").

2. Purpose of activity:

Local Law 1 of 2004 (Local Law 1) directs the Department to promulgate rules to implement certain provisions of such law on or before August 2, 2004.

5. Location of activity: (street address/borough or site description):

The proposed action will apply citywide.

4. If a federal or state permit or license was issued or is required for the proposed activity, identify the permit type(s), the authorizing agency and provide the application or permit number(s), if known: Not Applicable

5. Is federal or state funding being used to finance the project? If so, please identify the funding source(s). NO

	Yes	No
12. Does the proposed project involve infrastructure improvement, such as construction or repair of piers, docks, or bulkheads? (2.3, 3.2)		X
13. Would the action involve mining, dredging, or dredge disposal, or placement of dredged or fill materials in coastal waters? (2.3, 3.1, 4, 5.3, 6.3)		X
14. Would the action be located in a commercial or recreational boating center, such as City Island, Sheepshead Bay or Great Kills or an area devoted to water-dependent transportation? (3)	X	
15. Would the proposed project have an adverse effect upon the land or water uses within a commercial or recreation boating center or water-dependent transportation center? (3.1)		X
16. Would the proposed project create any conflicts between commercial and recreational boating? (3.2)		X
17. Does the proposed project involve any boating activity that would have an impact on the aquatic environment or surrounding land and water uses? (3.3)		X
18. Is the action located in one of the designated Special Natural Waterfront Areas (SNWA): Long Island Sound- East River, Jamaica Bay, or Northwest Staten Island? (4 and 9.2)	X	
19. Is the project site in or adjacent to a Significant Coastal Fish and Wildlife Habitat? (4.1)	X	
20. Is the site located within or adjacent to a Recognized Ecological Complex: South Shore of Staten Island or Riverdale Natural Area District? (4.1 and 9.2)	X	
21. Would the action involve any activity in or near a tidal or freshwater wetland? (4.2)	X	
22. Does the project site contain a rare ecological community or would the proposed project affect a vulnerable plant, fish, or wildlife species? (4.3)		X
23. Would the action have any effects on commercial or recreational use of fish resources? (4.4)		X
24. Would the proposed project in any way affect the water quality classification of nearby waters or be unable to be consistent with that classification? (5)		X
25. Would the action result in any direct or indirect discharges, including toxins, hazardous substances, or other pollutants, effluent, or waste, into any waterbody? (5.1)		X
26. Would the action result in the draining of stormwater runoff or sewer overflows into coastal waters? (5.1)		X
27. Will any activity associated with the project generate nonpoint source pollution? (5.2)		X
28. Would the action cause violations of the National or State air quality standards? (5.2)		X

	Yes	No
47. Does the proposed project involve publicly owned or acquired land that could accommodate waterfront open space or recreation? (8.4)		X
48. Does the project site involve lands or waters held in public trust by the state or city? (8.5)		X
49. Would the action affect natural or built resources that contribute to the scenic quality of a coastal area? (9)		X
50. Does the site currently include elements that degrade the area's scenic quality or block views to the water? (9.1)		X
51. Would the proposed action have a significant adverse impact on historic, archeological, or cultural resources? (10)		X
52. Will the proposed activity affect or be located in, on, or adjacent to an historic resource listed on the National or State Register of Historic Places, or designated as a landmark by the City of New York? (10)	X	

D. CERTIFICATION

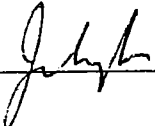
The applicant or agent must certify that the proposed activity is consistent with New York City's Waterfront Revitalization Program, pursuant to the New York State Coastal Management Program. If this certification cannot be made, the proposed activity shall not be undertaken. If the certification can be made, complete this section.

"The proposed activity complies with New York State's Coastal Management Program as expressed in New York City's approved Local Waterfront Revitalization Program, pursuant to New York State's Coastal Management Program, and will be conducted in a manner consistent with such program."

Applicant/Agent Name: New York City Department of Health and Mental Hygiene
Jessica Leighton

Address: 253 Broadway, 12th Flr., Box CN #58, New York, NY 10038

Telephone: 212-676-6323

Applicant/Agent Signature:  Date: 7/16/04

WATERFRONT REVITALIZATION PROGRAM

The following has been prepared in conjunction with part C of the New York City Waterfront Revitalization Program Consistency Assessment Form.

The answer to Question (8) implicates Policy (2)

The answer to Question (14) implicates Policy (3)

The answer to Question (18) implicates Policy (4) and Policy (9.2)

The answer to Question (19) implicates Policy (4.1)

The answer to Question (20) implicates Policy (4.1) and Policy (9.2)

The answer to Question (21) implicates Policy (4.2)

The answer to Question (32) implicates Policy (6)

The answer to Question (38) implicates Policy (7)

The answer to Question (41) implicates Policy (7.3)

The answer to Question (43) implicates Policy (8)

The answer to Question (52) implicates Policy (10)

Question (8) - Because the amendments to Articles 45, 47 and 173 of the New York City Health Code will apply citywide, certain of the multiple dwellings and private dwellings that are or will become subject to the provisions of the proposed action may be located within a "Significant Maritime and Industrial Area", there is no reason to believe that the activities that will occur or are likely to occur due to compliance with Proposed Rules are not consistent with Policy (2) - "Support water-dependent and industrial uses in New York City coastal areas that are well-suited to their continued operation." It should be noted that the rules will not generate new development. The multiple dwellings and private dwellings that are or will become subject to the provisions of the proposed action already exist.

Question (14) - Because the amendments to Articles 45, 47 and 173 of the New York City Health Code will apply citywide, certain of the multiple dwellings and private dwellings that are or will become subject to the provisions of the proposed action may be located within a "commercial or recreation boating center, such as City Island, Sheepshead Bay, or Great Kills, or an area devoted to water-dependent transportation", there is no reason to believe that the activities that will occur or are likely to occur due to compliance with Proposed Rules are not consistent with Policy (3) - "Promote use of New York City's waterways for commercial and recreational boating and water-dependent transportation centers." It should be noted that the proposed action will not

multiple dwellings and private dwellings that are or will become subject to the provisions of the proposed action already exist.

Question (32) - While certain of the multiple dwellings and private dwellings that are or will become subject to the provisions of the proposed action may be located "within a federally designated flood hazard area or state-designated erosion hazards 2 area", there is no reason to believe that the activities that will occur or are likely to occur due to compliance with Proposed Rules are not consistent with Policy (6) – "Minimize loss of life, structures and natural resources caused by flooding and erosion". It should be noted that the rules will not generate new development. The multiple dwellings and private dwellings that are or will become subject to the provisions of the proposed action already exist.

Question (38) – In accordance with a July 2002 memorandum from Elizabeth A. Cotsworth, Director Office of Solid Waste, United States Environmental Protection Agency to RCRA Senior Policy Advisors EPA Regions 1-10, the United States Environmental Protection Agency has taken the position that waste generated as a result of lead-based paint activities is not considered to be hazardous waste under the Federal Resource Conservation and Recovery Act (RCRA).

Section 16-501(f)(2) of the Administrative Code of the City of New York excludes hazardous waste as defined in section 27-0901 of the New York State Environmental Conservation Law from regulation by the New York City Business Integrity Commission as "trade waste" and section 16-130(1)(b)(7) excludes hazardous waste as defined in that same state law from regulation by the Department of Sanitation as "solid waste". However, the storage, transport and disposal of lead-based paint and debris or other material containing lead-based paint is governed by Title 9 of Article 27 of the Environmental Conservation Law and its regulations (6 NYCRR §371.4).

Currently, the New York City Health Code provides for the manner in which waste material resulting from lead-based paint related work must be handled. The proposed action does not directly alter that process in any way and so will not have any adverse impact on Policy 7, "Minimize environmental degradation from solid waste and hazardous substances.

Question (41) – Policy 7.3, "Transport solid waste and hazardous substances and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources" will not be impaired by the enactment of proposed action. The proposed action does not require nor will it result in the siting of any solid or hazardous waste facilities nor should it result in the inappropriate handling of solid waste and hazardous substances.

Question (43) – Because the amendments to Articles 45, 47 and 173 of the New York City Health Code will apply citywide, there may be some residential buildings subject to its provisions that will be located "...adjacent to any federal, state or city park or other land in public ownership protected for open space preservation". However, Policy 8, "Provide public access to and along New York City's coastal waters" will not be affected by any of the activities that may be required to comply with the proposed action. It should be noted that the proposed action will not generate new development. The



THE CITY OF NEW YORK

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Michael R. Bloomberg
Mayor

Thomas R. Frieden, M.D., M.P.H.
Commissioner

nyc.gov/health

July 28, 2004

Robert Kulikowski, Ph.D.
Director
New York City Office of Environmental Coordination
100 Gold Street, 2nd Floor
New York, NY 10038

RE: Correction to Negative Declaration CEQR No.
Proposed Amendments to Articles 45, 47
and 173 of the New York City Health Code

Dear Dr. Kulikowski:

In accordance with New York City Mayor's Office of Environmental Coordination procedures, the New York City Department of Health and Mental Hygiene is changing the City Environmental Quality Review (CEQR) Number for the above referenced Negative Declaration.

CEQR No. "05DOHMH001Y", which was assigned July 16, 2004, is being changed to CEQR No. "05DOH001Y".

If you have any questions, please call me at (212) 676-6323.

Sincerely,

Jessica Leighton, Ph.D.
Assistant Commissioner
Environmental Disease Prevention

Attachment

C: Hon. Gifford Miller, NYCC
Wilfredo Lopez, DOHMH
Wilbur Woods, DCP

Phebe Macrae, Law
Harold Shultz, HPD