

**PETITION FOR RULEMAKING AND
NOTICE FOR EMERGENCY ADOPTION**

**PERMANENTLY CLOSE AND BAN ALL LIVE ANIMAL WET MARKETS
IN NEW YORK STATE**

Submitted to:

- NY State Health Commissioner Howard A. Zucker, M.D., J.D.
- NYC Department of Health Commissioner Dr. Oxiris Barbot
- NY Governor Andrew Cuomo
- NYS Department of State

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Emergency Petition for Rulemaking:

PERMANENTLY CLOSE AND BAN ALL LIVE ANIMAL WET MARKETS

Introduction

New York should lead the world by example. How? By immediately and permanently closing all live animal wet markets. New York is the epicenter in the United States for the global COVID-19 pandemic and just like "wet" markets in China, which gave birth to the current Coronavirus crisis, more than 80 dangerous live animal wet markets are in operation today in New York City alone, despite the New York State of Pause Executive Order.

Live wet markets are ideal environments for the incubation and spreading of zoonotic diseases, as a mix of animals are jam-packed into tight cages awaiting slaughter. These markets are unsanitary and soaked wet with blood, guts, feces, and other bodily fluids and parts. NYC is particularly susceptible to a new, even more uncontrollable virus spreading through its population of over 8 million people, as all residents live in relatively close quarters. As live animal wet markets remain open, public health and safety are at risk. In addition to the current uncontained COVID virus, there could be the introduction of new variants of COVID, which can reinfect and cause a global viral pandemic relapse. Such introductions could be more deadly, and plague more people globally.

In short, live animal wet markets in New York must immediately shut down in the interest of global human public health, safety, and general welfare. The facts are clear: live animal markets (local slaughterhouses) -- whether in Wuhan, China or on the streets of New York -- are breeding grounds for deadly zoonotic diseases that then become communicable human to human viruses.

Legal Authority

Standing: New York Senate Bill S5792 Relates to public petitions for rulemaking for matters of significant public interest. This proposed bill establishes a formal process for the public to petition state agencies for the adoption, amendment or repeal of rules, including a required agency response when a petition is signed by 100 or more New York residents. In alignment with the 2017 proposed bill rules as set forth in Bill §1 adds a new §208 to the State Administrative Procedure Act (SAPA), the public is hereby filing this petition as a notice for emergency adoption and proposed rulemaking to seek immediate adoption, repeal or other changes in state agency rules, as necessary to carry out the intended purpose of the petition.

New York State Health Commissioner Howard A. Zucker, M.D., J.D.

The New York State Department of Health (NYSDOH) is the department of the New York state government responsible for public health. NYSDOH's mission is the health, well-being, and productivity of all New Yorkers. NYSDOH promotes prevention and disease control, environmental health, healthy lifestyles, and emergency preparedness and response. To do so, NYSDOH must design and deliver strategies & initiatives that promote the population's health. NYSDOH must also address any and all issues related to the reduction of diseases by ensuring a healthy environment through the elimination of health disparities. The Commissioner is appointed by the Governor and confirmed by the Senate. [10 CRR-NY Notice, Department of Health](#)

New York City Department of Health Commissioner Dr. Oxiris Barbot

The Commissioner of Health of the City of New York is appointed by the mayor, and the head of the City's Department of Health and Mental Hygiene. The commissioner also serves the City's Board of Health. Duties of this appointed official include, regulating and overseeing matters ranging from reportable contagious diseases, regulation of wild animals, and sending health alerts to the public and doctors. NYC Healthcode Article 161.01(a) prohibits the keeping of wild or other animals without obtaining a permit. In order to obtain a permit all species must receive all appropriate vaccines, including a rabies vaccine licensed and approved by the USDA, and all species must be tested for diseases. Id. The Commissioner may also impose reasonable conditions on exhibitions of live animals. Id. Animals as defined by Article 161.01(b) includes the display and exhibition of all birds and fowls such as roosters, ducks, and turkeys. NYC Healthcode Article 161.19 further states that such animals being kept for sale must be kept in a slaughterhouse authorized by federal and state law and must be subject to inspection by the New York State Department of Agriculture. The slaughterhouses and its surrounding areas must be clean and free of animal nuisances. Furthermore, in the keeping of live rabbit and poultry markets, animals intended for sale shall not be kept on the same premises as multiple dwellings and must be at least 25 feet away from any building.

New York Governor Andrew Cuomo

Executive orders are issued by the governor to direct or instruct the actions of executive agencies or government officials. The governor, by the powers vested in the executive, has the right to issue executive orders for immediate effect. In response to COVID-19, Governor Cuomo issued a “New York State of Pause” executive order to shut down all non-essential businesses. Excluded from this order were slaughterhouses and live animal wet markets. The governor has the ability to immediately sign into effect the closure of all live animal wet markets through an executive order.

Consistent with this petition, but separate from this formal petition, however in accordance with the Governor’s recent State of Pause Executive Order, we recommend the governor signs into effect a 90 day moratorium closure of all slaughterhouses as the conditions are not conducive to social distancing and human workers are dying and spreading the virus as they process meat. [9 CRR-NY Notice, Subtitle A, Chapter 1.](#)

Public Health Law - PBH § 206

The Commissioner shall: (a) take cognizance of the interests of health and life of the people of the state, and of all matters pertaining thereto and exercise the functions, powers and duties of the department prescribed by law;

(b) exercise general supervision over the work of all local boards of health and health officers, unless otherwise provided by law;

(c) exercise general supervision and control of the medical treatment of patients in the state institutions, public health centers and clinics in the department;

(d) investigate the causes of disease, epidemics, the sources of mortality, and the effect of localities, employments and other conditions, upon the public health;

(f) enforce the public health law, the sanitary code and the provisions of the medical assistance program, or its successor, pursuant to titles eleven, eleven-A and eleven-B of the social services law, as amended by this chapter;

(g) cause to be made from time to time examinations and inspections of the sanitary conditions of each state institution and transmit copies of the reports and recommendations thereon to the head of the state department having jurisdiction over the institution examined;

(h) cause to be made from time to time, examinations and inspections of all labor camps and enforce the provisions of the sanitary code relating thereto;

Proposed Rulemaking Action Requested add Part 26 to State Sanitary Code)

10 CRR-NY Notice, Chapter I, State Sanitary Code Part 26 - “Zoonotic Diseases, Planetary Pandemics and Live Animal Wet Markets.”

26.1 Live Animal Wet Market Definition: A place where live animals are sold by vendors and slaughtered on scene upon purchase and in close quarters with other humans and/or animals. This is another term for a local slaughterhouse. These slaughterhouse markets lack regulations, sanitation, and inspections. Such environments constitute a threat to global public health and safety.

26.2 Zoonotic Viruses Historically Cause Deadly Human Pandemics.

(a) In the interest of global public health, safety, and general well-being, and in the interest of viral pandemic prevention, all live wet animal markets in the State of New York shall be permanently closed, as of the effective date of this section.

History has proven that live wet markets are prime transmission locations for deadly human viruses with zoonotic origin. Historically, zoonotic viral transmissions from animals to humans have ultimately mutated into deadly global pandemics killing hundreds of millions of people. (b) Pursuant to Executive Law the Attorney General may seek injunctive relief or any other remedy therein for violation of this section.

26-3 Live Animal Wet Market - Local Slaughterhouse Ban

As a safety measure to prevent future human pandemics, all live animal wet markets shall be permanently closed and banned. The State Health Commissioner, local health officers and local boards of health may also close any such establishments or operations that may be unsanitary, unregulated, and a global health liability due to the unsanitary conditions of animal slaughter and its close proximity to other animals and humans.

Justification and Public Benefit

The CDC says about 75% of infectious diseases are of animal origin, and 3 out of every 4 new or emerging infectious diseases in people come from animals.

COVID-19 is a deadly pandemic plaguing humans across the world. The deadly pathogen was born in a live animal wet market in China. MERS and the deadly SARS outbreak are also linked to live animal wet markets. A live animal wet market is a local slaughterhouse where live animals sit in cages to be purchased and slaughtered on scene. It is called a wet market because the market is soaked in blood, bodily fluids, feces, guts, and water as animal parts are hosed on the ground. It is unsafe and unsanitary to have the public, or any human interact with live and dead animals in such close quarters. History has proven that live wet markets are prime transmission locations for deadly human viruses with zoonotic origin.

COVID-19 has become an uncontrollable virus that has disrupted global society in its entirety. The effects of this virus are being felt in every country and the global economy as a whole has hit a standstill. Even more worrisome, is the amount of infected individuals and the mass number of deaths that are steadily increasing. As of April 8, 2020, the United States alone reached 464,865 confirmed cases with 16,498 fatalities.¹ These figures amount to approximately 30% of the global contamination.

Given the rapid increase and the long shelf-life of COVID-19, it is imperative that immediate action be taken to shut down any breeding ground that will create a favorable environment for the virus to duplicate, or even worse, mutate to an even stronger virus. Absent emergency action, the ripple effects of breeding grounds will cause the growth curve of the virus to continue on an upward trend with no flatline and no vaccine in sight. Already, workers at slaughterhouses are dying of COVID-19. While social distancing of Americans may help contain COVID-19, it does not deal with the root cause of the virus. In addition to finding a vaccine, there is an emergency need to destroy any possible breeding ground for the virus globally, and New York is in a perfect position to set an example for pandemic prevention hygiene.

There are over 80 live animal wet markets in New York City alone. These markets are open and in close proximity to schools, parks, housing, and businesses. These markets are unregulated and unsanitary. Animal blood, guts, feces, urine, eyeballs, body parts and other bodily fluids are on the streets, in the air, and being rinsed into the sewage systems. New York is a densely populated city, and it is a threat to human health and safety to have anyone exposed to these local slaughterhouses. In these contaminated conditions, the virus jumps first to the people working with these animals in the market, and then mutates into a deadly pathogen, which then spreads human to human and plagues the human species on planet earth.

In order to protect global public health, public safety, and general welfare, all live animal wet markets must shut down. Wet markets are particularly dangerous to public health and safety due to the spillover of bodily fluids and parts, lack of sanitation, lack of inspection, and close quarters of humans with live and dead animals. Wet markets are cesspools for highly contagious, deadly human diseases to be born.

¹ <https://www.bing.com/covid/local/unitedstates?form=msntrk>

According to a [New York Times article](#), In 2009, there were about 90 live-poultry markets in the [New York] metropolitan area alone. [New York Senate Bill \(S7345, 2015-2016 Sess \(N.Y. 2016\)\)](#) described the live markets in the following terms.

“Businesses and residents complained regularly about the unbearable odor that emanated from the markets, odor that became virtually intolerable during the hot summer months. Often, markets failed to properly dispose of animal entrails, which created undesirable conditions in the streets and on the sidewalks of the city. Floating feathers clogged sewer drains and air conditioning/heating ducts and presented asthma, allergy and respiratory hazards. Experience in local communities has shown that these markets are not monitored appropriately due to the inadequate number of state and city inspectors necessary to ensure market compliance with health, food safety and environmental laws. Lack of monitoring became especially frightening in light of Mad Cow disease and recent outbreaks of avian influenza (“bird flu”). The continued siting of live poultry markets in the midst of dense, urban and often residential areas has been found to jeopardize both residential and commercial property values as families were forced to move away from their homes and businesses were forced to close or relocate due to employee illness and a loss of customers.”

Viruses transferred to humans from exploitation of animals are not geographic specific. Once born, history has proven these viruses tend to aggressively cross geographical boundaries to plague humankind. This is not a China problem but a global problem.

Three quarters of infectious diseases are zoonotic spillovers. Just consider these deadly human conditions experts link to animal exploitation that are responsible for the deaths of hundreds of millions if not billions of people:

- Coronavirus and SARs are traced to live meat markets, where animals sit alive in cages awaiting onsite slaughter once purchased. The slaughterhouse is a hot bed for viruses to jump from animals to humans and mutate into deadly human viruses.
- Ebola, E. Coli, MRSA, Salmonella, and Hepatitis are all viruses born out of slaughterhouse environments and/or the human exploitation of animals for meat.
- Swine flu strains repeatedly develop during the raising and slaughter of pigs for meat. Mad cow disease (VCJD), a fatal disease which destroys our brain and spinal cord is contracted from the exploitation of cows for meat. Avian flu strains repeatedly develop from the unsanitary conditions of raising and killing birds for meat. Notably, new avian flu outbreaks are happening presently around the globe during the COVID-19 crisis.

- The Spanish flu, which killed 50-100 million people, and affected 500 million, or one-third of the world's population, was an avian flu strain traced to an animal farm in Kansas.
- The HIV virus was introduced as a deadly human to human virus after humans came into contact with contaminated Chimpanzee blood as humans hunted them for meat.
- The measles (MeV), which infects 30 million people annually, and kills close to 200,000 globally, has traced origins to early civilization in the middle east when cattle was introduced to humans as livestock and farmed in close proximity.
- The bubonic plague, or Black Death, plagues humans when they eat animals infected by a deadly bacteria carried by fleas, or come into close contact with their bodily fluids.
- Smallpox, perhaps the deadliest pandemic to mankind, has increasing evidence from DNA and RNA sequencing that it is a zoonotic disease that jumped from animal to human. Some experts believed it originated as cowpox and mutated to evolve to what we call smallpox. It is estimated that the smallpox killed 300 million people in the twentieth century.
- Malaria is speculated to originate in humans from chicken farming before mosquitos became carriers to keep the virus alive.
- Nipah Virus (NiV) is a zoonotic virus transmitted from animals to humans, and can also be transmitted through contaminated food. Its origin is traced back to pig farms, and jumped to humans through sick pigs or close contact with their contaminated tissues.
- Listeria infection is a food borne bacterial illness most commonly caused by eating improperly processed deli meats and unpasteurized dairy products. Notably, processed meat is a group 1 carcinogen, according to the World Health Organization.
- The domestication of the horse led to the common cold virus that still plagues humankind, while the domestication of chickens gave humans chickenpox, shingles, and various strains of the bird flu. The introduction of livestock cattle is responsible for the emergence of measles, smallpox, and tuberculosis.

The next viral pandemic to erupt may be deadlier, and it could come straight out of New York.. Therefore, we petition the New York State Health Commissioner Howard A. Zucker, M.D., J.D., the NYC Department of Health Commissioner Dr. Oxiris Barbot, and the New York Governor Andrew Cuomo, to lead the world by example and prevent the introduction, transmission, or spread of new highly contagious and deadly global human to human communicable diseases by prohibiting the operation of live animal wet markets in New York state -- effective immediately.

While businesses in New York are closed, local live market slaughterhouses and regular slaughterhouses remain open. This is particularly dangerous because the current COVID-19 pandemic is given the opportunity to gain strength through new variants to which humans have no immunity and no vaccine, as is the case with the current pandemic. COVID-19 is plaguing New York, the epicenter, and wreaking havoc on the global economy.

Any constitutional argument to keep live animal wet markets and slaughterhouses open would infringe on constitutional property rights is outweighed by the public global hazard of keeping such markets open. It is because of these markets that the world is being deprived of

fundamental civil liberties: life (as the death toll increases), liberty (as we are forced into quarantine with stay at home government orders), property (as the unemployment rate and economic pursuit of property becomes nearly impossible for many inflicted with the sickness or affected by the stay at home orders).

Why would we allow the culprit business -- live animal wet markets -- to cause the global shutdown of all other businesses, and then still not shut down these markets? Meanwhile, the death toll multiplies exponentially and the public health of the world is at risk for a new virus, a relapse, and/or the introduction of a variant COVID strain.

Conclusion

New York is the epicenter for the COVID-19 plague. New York must lead by example by immediately and permanently closing and banning all live animal wet markets in New York. This emergency action is necessary for the protection of public health and safety of the world at large.

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