

## CHAPTER 100

### UNTITLED

#### Subchapter A Administration

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### SUBCHAPTER A

#### ADMINISTRATION\*

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- §100-02 Waiver of Certain Construction Documents Required to be Submitted by Registered Design Professionals for Certain Work.
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- §101-13 Requirements for Filing Technical Reports of Inspections for Applications for Permits in Process on July 1, 2008.

#### §101-01 Definition of existing building.

For the purposes of §27-123.3 of the administrative code, the term “existing building” shall mean a building in existence prior to December 6, 1968 or a building constructed in accordance with the building laws and regulations in force prior to such date. For the purposes of §27-123.1 of the administrative code, the term “existing building” shall mean a building in existence prior to the effective date of local law number 58 of 1987 (August 5, 1987). For the purposes of §27-123.2 of the administrative code, the term “existing building” shall mean a building in existence prior to the effective date of local law number 10 of 1999 (March 24, 1999).

#### HISTORICAL NOTE

Section added City Record July 1, 2008 §1, eff. July 1, 2008 per City Record notice. [See Note ]

#### NOTE

1. Statement of Basis and Purpose in City Record July 1, 2008:

The foregoing rule is adopted pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter.

The adopted rule clarifies an ambiguity created by the addition in Local Law 33 of 2007 of Administrative Code §27-123.3, which defines an existing building in a way that differs from the definitions of the same term set forth in sections 27-123.1 and 27-123.2 of the Administrative Code. This rule makes clear that, notwithstanding the language of §27-123.3, the provisions of Local Law 58 of 1987 apply to buildings in existence prior to the effective date of that local law (August 5, 1987), to the extent provided in §27-123.1, and, further, that the provisions of Local Law 10 of 1999 apply to buildings in existence prior to the effective date of that local law (March 24, 1999), to the extent provided in §27-123.2.

#### Statement of Substantial Need for Earlier Implementation

I hereby find, pursuant to §1043, subdivision e, paragraph 1(c) of the New York City Charter, and hereby represent to the Mayor, that there is substantial need for the implementation of new

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\* Subchapter A added City Record July 1, 2008 §1, eff. July 1, 2008 per City Record notice. [See T1 §101-01 Note 1]

§101-01 of Title 1 of the Rules of the City of New York, governing the definition of existing building, upon the publication in the City Record of its Notice of Adoption.

This is one of the rules needed to implement the City's new Construction Codes. The rule clarifies an ambiguity created by the addition in Local Law 33 of 2007 of Administration Code §27-123.3, which defines an existing building in a way that differs from the definitions of the same term set forth in §§27-123.1 and 27-123.2 of the Administrative Code. By making the rule effective upon publication, the City will more quickly clarify any potential ambiguity regarding the definition of existing building and promote efficient administration of the new Construction Codes.

**§100-02\* Waiver of Certain Construction Documents Required to be Submitted by Registered Design Professionals for Certain Work.**

(a) Pursuant to section 28-104.6.4 of the administrative code, the commissioner is authorized to allow persons other than registered design professionals to be the applicant for the approval of construction documents. Pursuant to section 28-104.7.12 of the administrative code, the commissioner is authorized to waive the submission of any of the required construction documents and other data if review of such documents is not necessary to ascertain compliance with this code or not required for the phase of work for which a permit is sought. Notwithstanding the following provisions, the commissioner reserves the right to require the filing of narratives or sketches showing compliance with the provisions of this code for the categories of work described below.

(1) *Selected plumbing work.* In connection with the filing of applications for construction document approval, the applicant need not be a registered design professional and required plans need not be submitted for temporary exhibits, defined for purposes of this rule as plumbing for temporary installations used for exhibition purposes when not designed for sanitary use and not directly connected to a sewerage, water supply, or water distribution system.

(2) *Selected mechanical work.* In connection with the filing of applications for construction document approval, the applicant need not be a registered design professional and required plans need not be submitted for the following types of mechanical applications:

(i) *Fuel-oil burning equipment.* Replacement of or alteration to existing fuel-oil burning equipment, provided that the applicant is a licensed oil burner-installer, the aggregate capacity of the equipment does not exceed 600,000 BTU per hour and the number of fuel-oil burning devices does not increase or decrease by more than one unit.

(ii) *Fuel-oil storage tanks.* Replacement of existing fuel-oil storage tanks, provided the applicant is a licensed oil burner-installer, the capacity of each replacement tank does not exceed 330 gallons and each such replacement tank meets the alternate tank design and construction standards contained in Section MC 1305.14.

(b) Work shall comply with all requirements of the applicable codes and other applicable laws and rules, including, where applicable, those imposed by other governmental agencies.

(c) Nothing in this rule is intended to alter or diminish any obligation otherwise imposed by law on others, including but not limited to, the owner, construction manager, general contractor, contractor, materialman, architect, engineer, site safety manager, land surveyor, or other party involved in a construction project to engage in sound engineering, design, and construction practices, and to act in a reasonable and responsible manner to maintain a safe construction site.

**HISTORICAL NOTE**

Section added City Record Sept. 2, 2008 §1, eff. Sept. 2, 2008 per City Record notice. [See Note 1]

\* Probably should be "§101-02".

**NOTE**

1. Statement of Basis and Purpose in City Record Sept. 2, 2008:

The foregoing rule is promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter.

The rule promotes efficiency at no expense to public safety by continuing under the new construction codes the practice under Title 27 of the Administrative Code of dispensing with certain filing requirements for selected plumbing and mechanical work. Plumbing for temporary installations used in connection with construction operations has been omitted from the exception. The adopted rule benefits the public by decreasing unnecessary bureaucracy as well as the construction industry by advancing efficiency.

**Statement of Substantial Need for Earlier Implementation**

I hereby find, pursuant to §1043, subdivision e, paragraph 1(c) of the New York City Charter, and hereby represent to the Mayor, that there is substantial need for the implementation of new §100-02 of Title 1 of the Rules of the City of New York, governing the waiver of certain construction documents required to be submitted by registered design professionals for certain work, upon the publication in the City Record of its Notice of Adoption.

This is one of the Rules needed to implement the City's new Construction Codes, including the Building Code, which became effective on July 1, 2008. Pursuant to §28-104.6.4 of the Administrative Code, the Commissioner is authorized to allow persons other than registered design professionals to be the applicant for the approval of construction documents. Pursuant to §28-104.7.12 of the Administrative Code, the Commissioner is authorized to waive the submission of any of the required construction documents and other data if review of such documents is not necessary to ascertain compliance with this code or not required for the phase of work for which a permit is sought. The rule dispenses with certain filing requirements for selected plumbing and mechanical work, but changes the practice under the 1968 Building Code by requiring full filings for plumbing for temporary installations used in connection with construction operations. The new codes are in effect already and thus this rule must be in effect as soon as possible.

**§100-03\* Fees Payable to the Department of Buildings.**

The department shall charge the following fees:

Equipment inspection fee: <input type="checkbox"/> High-pressure boiler periodically inspected as provided by §28-303.10 <input type="checkbox"/> Reinspection fee following a violation.	\$65 for each inspection, for each boiler. \$65
Acknowledgement.	\$2 each
Certificate of occupancy.	\$5 per copy
Certificate of pending violation: Multiple and private dwellings.	\$30 per copy
Certified copy of license.	\$5 per copy
Microfilming of applications for new buildings and alterations and associated documentation for certificates of occupancy, temporary certificates of occupancy and/or letters of completion, as required by rule of the commissioner.	\$35
Preparing only or preparing and certifying a copy of a record or document filed in the department, other than a plan, certificate of occupancy or certificate of pending violation.	\$8.00 for the first page and \$5.00 for each additional page or part thereof (a page consists of one face of a card or other record).

\* Probably should be "§101-03".

Half-size print from microfilm of a plan thirty-six by forty-eight inches or less.	\$8.00 per copy		\$5.00 per additional copy	
Half-size print from microfilm of a plan exceeding thirty-six by forty-eight inches.	\$16.00 per copy		\$5.00 per additional copy	
Electrician’s license.	Original \$310	Renewal \$90	Late Renewal \$310 + \$90	Reissue \$310
License examination fee:				
□ Elevator agency director certificate of approval.	\$350			
□ Elevator agency inspector certificate of approval.	\$350			

**HISTORICAL NOTE**

Section added City Record May 23, 2008 §1, eff. July 1, 2008 per City Record notice. [See Note 1]

**NOTE**

1. Statement of Basis and Purpose in City Record May 23, 2008:

The foregoing rule is proposed pursuant to the authority of the Commissioner of Buildings under §§643 and 1043(a) of the New York City Charter.

The proposed rule implements the fee structure provided for in §§28-112.1, 28-112.7.2, 28-112.8 and 28-401.15 of the NYC Administrative Code by setting forth the fees which may be charged by rule of the Department of Buildings pursuant to those sections. This rule also repeals Chapter 14 of Title 1 of the Official Compilation of the Rules of the City of New York, which set forth fees charged by rule of the Department of Buildings under the 1968 Building Code.

**§101-06 Special Inspectors and Special Inspection Agencies.**

(a) *Definitions.* For the purposes of this chapter, the following terms shall have the following meanings:

(1) *Accreditation.* Evaluation of agencies, including testing and calibration laboratories, fabricators and inspection bodies, against internationally acceptable standards to demonstrate their performance capability. Such accreditation is required to be conducted by a nationally recognized accreditation agency accrediting to ASTM E329-07 international standard, the requirements of this rule, and approved by the department.

(2) *Approved Construction Documents.* For the purpose of this rule approved construction documents shall include any and all documents that set forth the location and entire nature and extent of the "work" proposed with sufficient clarity and detail to show that the proposed work conforms to the provisions of this code and other applicable laws and rules. Such documents shall include but not be limited to shop drawings, specifications, manufacturer’s instructions and standards that have been accepted by the design professional of record or such other design professional retained by the owner for this purpose.

(3) *Certification.* Documented acknowledgment by a nationally recognized organization of a technician’s competency to perform certain functions.

(4) *Commissioner.* The commissioner of buildings or his or her designee.

(5) *Department.* The department of buildings.

(6) *Initial acceptable qualifications.* With respect to supplemental special inspectors for which Appendix A of this rule requires a certification, such technician shall be deemed

qualified without such certification provided that such individual has the underlying skills, education and training for which such certification would provide validation, and the relevant experience prescribed by Appendix A of this rule or by the certifying body.

(7) *Job*. A construction project that is the subject of one (1) or more department-issued permits.

(8) *Materials*. Materials, assemblies, appliances, equipment, devices, systems, products and methods of construction regulated in their use by this code or regulated in their use by the 1968 building code.

(9) *New York City Construction Codes*. The New York City Plumbing Code, the New York City Building Code, the New York City Mechanical Code, the New York City Fuel Gas Code, and Title 28, chapters 1 through 5 of the Administrative Code. Any reference to "this code" or "the code" shall be deemed a reference to the New York City Construction Codes as here defined.

(10) *Registered Design Professional*. A New York State licensed and registered architect (RA) or a New York State licensed and registered professional engineer (PE).

(11) *Registered Design Professional of Record*. The registered design professional who prepared or supervised the preparation of applicable construction documents filed with the department.

(12) *Relevant Experience*. Direct participation and practice related to the underlying construction activities that are the subject of the special inspection where such participation has led to accumulation of knowledge and skill required for the proper execution of such inspection.

(13) *Special Inspection*. Inspection of selected materials, equipment, installation, methods of construction, fabrication, erection or placement of components and connections, to ensure compliance with the code.

(14) *Special Inspection Agency*. An agency employing one (1) or more persons who are special inspectors and that has met all requirements of this rule.

(15) *Special Inspector*. An individual employed by a special inspection agency, who has the required qualifications, set forth in this rule to perform or witness particular special inspections required by the code or by the rules of the department, including but not limited to a qualified registered design professional.

(16) *Supervise/Supervision*. With respect to a designated Primary Inspector or Inspection Supervisor as indicated in Appendix A, supervision shall mean oversight and responsible control by a registered design professional having the necessary qualifications and relevant experience to perform responsibilities associated with the special inspection. Such supervision shall include ensuring training and/or education necessary to qualify the special inspector for his or her duties, including continued training and education necessary to keep pace with developing technology. Field supervision shall include responsibility for determining competence of special inspectors for the work they are authorized to inspect and on-site monitoring of the special inspection activities at the job site to assure that the qualified special inspector is performing his or her duties when work requiring inspection is in progress. With respect to a Director of a Special Inspection Agency, supervision shall mean oversight and responsible control by a registered design professional who shall ensure that qualified inspectors are dispatched for special inspections, that such special inspectors properly document their activities, and that reports and logs are prepared in accordance with section 28-114.2 of the Administrative Code. Such supervision shall include ensuring training and/or education necessary to qualify the special inspector for his or her duties, including continued training and education necessary to keep pace with developing technology.

(17) *Technician*. An employee of the inspection or testing agency assigned to perform the actual operations of inspection or testing. See ASTM E 329-07, paragraph 3.1.17.

(18) *Work*. The construction activity including techniques, tests, materials and equipment that is subject to special inspection.

(b) *Duties*.

(1) *Availability and Compliance*. A special inspector and/or special inspection agency shall have responsibilities as set forth in chapter 17 of the New York City Building Code and elsewhere in the codes where special inspections are required. The responsibilities of the special inspector or special inspection agency at a special inspection shall include those tasks and standards set forth in chapter 17 of the code, the reference standards and elsewhere in the code, this rule or any rule of any agency in connection with the work that is the subject of such special inspection.

(2) *Obligation to Avoid Conflict of Interest*. A special inspector and/or a special inspection agency shall not engage in any activities that may conflict with their objective judgment and integrity, including but not limited to having a financial and/or other interest in the construction, installation, manufacture or maintenance of structures or components that they inspect.

(3) *Approved Construction Documents*. The special inspector and/or special inspection agency shall:

(i) Examine all approved construction documents that relate to the work that is the subject of the special inspections.

(ii) Confirm that the documents are sufficient to enable the proper performance of the special inspection.

(iii) Confirm that the documents are acceptable to the registered design professional of record or another design professional retained by the owner and who prepared the documents for the construction of the job. Acceptance shall be demonstrated in writing by the design professional on the documents.

(iv) Confirm that the work that is the subject of the special inspection is in compliance with all relevant approved construction documents and with chapter 17 of the code or elsewhere in the construction codes or their referenced standards.

(4) *Documentation*. A special inspection agency shall maintain records of special inspections on a job-by-job basis for at least six (6) years or for such period as the commissioner shall determine, and shall make such records available to the department upon request. Such records shall include field logs, test results, laboratory reports, notes, noted deficiencies and dates of cures of such deficiencies, photographs and such other information as may be appropriate to establish the sufficiency of the special inspection.

(i) The supervisor shall review special inspection progress reports and final reports for conformance with the approved plans, specifications and workmanship provisions of chapter 17 of the code or elsewhere in the construction codes or their referenced standards. Such supervision and control shall be evidenced by the supervisor's signature and seal upon any required statements, applications and/or reports.

(ii) The principal of the special inspection agency shall file with the department within ten (10) days of satisfactory completion of any special inspection, notice of such completion on the forms and in the manner required by the department.

(5) *Obligation to Cooperate with Inquiries*. All special inspectors and/or special inspection agencies shall cooperate in any investigation by the department, or other city or law enforcement agency, into the activities at any job site or fabricating/manufacturing facility for which they have been designated a special inspector or special inspection agency and shall provide prompt, accurate and complete responses to reasonable in-

quiries by the department and other appropriate agencies about the conduct of such business.

(6) *Limitation of Duties.* Activities as a special inspection agency are specifically limited to those special inspections for which the special inspection agency has been registered and for which it has satisfied the requirements set forth in this rule and chapter 17 of the code. No special inspector or special inspection agency shall conduct any special inspection that such inspector or inspection agency is not qualified or registered to perform in accordance with the requirements of this rule and chapter 17.

(7) *Obligation to Comply with an Order of the Commissioner.* All special inspectors and/or special inspection agencies shall comply with an order of the commissioner.

(8) *Equipment and Tools.* The special inspection agency shall possess and maintain tools and equipment required to perform the specific special inspection. Such tools and equipment shall be maintained and calibrated periodically in accordance with applicable nationally accepted standards governing that equipment or tool.

(9) *Reporting.* The special inspection agency shall report any discrepancies noted during the inspection to the contractor and when applicable to the superintendent of construction, as well as to the site safety coordinator or site safety manager, for correction. If the discrepancies are not corrected, the discrepancies shall be brought to the attention of the owner, and the registered design professional of record prior to the completion of that phase of the work. The special inspector/special inspection agency shall immediately report conditions noted as hazardous to life, safety or health, to the attention of the commissioner.

(c) *Registration of Special Inspection Agencies.*

(1) *Effective Date.* On or after the effective date of this rule, all agencies including single person agencies performing special inspections must comply with the requirements of this section. All such agencies performing special inspections must be registered with the department as special inspection agencies by January 1, 2009 unless otherwise extended by the commissioner, as provided in paragraph (c)(9) of this rule.

(2) *Form and Manner of Registration.* An application for registration shall be submitted in a form and manner determined by the commissioner, including electronically, and shall provide such information as the commissioner may require. Such registration shall be deemed an acknowledgement by the special inspection agency of its obligations hereunder.

(3) *Qualifications.* Special inspection agencies shall be required to demonstrate accreditation by International Accreditation Service, Inc. or an equivalent accreditation agency accrediting to the standards set forth in this rule and ASTM E329-07 or a federal agency. Accrediting agencies, other than federal agencies must be members of an internationally recognized cooperation of laboratory and inspection accreditation bodies subject to a mutual recognition agreement. Agencies must insure that the special inspectors employed by the agency meet the qualification requirements set forth in Appendix A of this rule and perform special inspections only within the area of expertise for which such special inspector is qualified. A Professional Engineer who is listed in Appendix A as requiring qualification in civil, structural, mechanical, electrical, fire protection, geotechnical or such other designation shall have had the education, training and experience, including having passed the Principles and Practice of Engineering examination offered by the National Council of Examiners for Engineering and Surveying (NCEES) in the specific discipline or having obtained a bachelors degree in the specific field, that has led to an accumulation of knowledge and skill required for the Professional Engineer to hold himself/herself out as a professional practicing in that field.

(4) *Insurance.* A special inspection agency must have the following insurance coverage:

(i) Professional liability/errors and omissions insurance policy, for the minimum amount of five hundred thousand dollars (\$500,000.00), occurrence based, for the term of the registration,

(ii) General liability insurance policy for the minimum amount of one million dollars (\$1,000,000.00) and

(iii) Insurance required by the provisions of the New York State disability benefits law and other applicable provisions of the workers' compensation law.

(5) *Agency Structure.* The special inspection agency shall have a full-time director who is a registered design professional in responsible charge and all special inspections shall be performed under his or her direct supervision. The director shall not be retained by any other agency that provides special inspection or testing services. The director shall possess relevant experience in the inspection and testing industry and hold a management position in the agency. The agency structure shall comply with all relevant New York State and Federal laws. Notwithstanding anything to the contrary set forth in this paragraph, an agency that is limited to conducting fuel-oil storage and fuel-oil piping inspections (BC1704.16), fire alarm tests, sprinkler systems (BC1704.21), standpipe systems (BC1704.22), emergency power systems or site storm drainage disposal and detention (BC1704.20) may have a director who satisfies the requirements of inspection supervisor for such tests and inspections as set forth in Appendix A of this rule.

(6) *Small Building Exception.* Notwithstanding anything to the contrary set forth in the provisions of this rule and its appendix, with respect to jobs in connection with the construction or alteration of Occupancy Group R-3 buildings, 3 stories or less in height, a registered design professional with relevant experience shall be qualified to perform special inspections other than inspections involving soils investigations, pier and pile installation, underpinning of structures, and protection of the sides of excavations greater than 10 feet in depth.

(7) *Audits.* The operations of special inspectors and special inspection agencies shall be subject to audit by the department at any time. Audits may examine applications for registration as well as the performance and documentation of special inspections. Audits may also be conducted upon receipt of complaints or evidence of falsification, negligence or incompetence.

(8) *Interim Status and Application Deadlines.* An agency employing special inspector(s) with initial acceptable qualifications shall be entitled until July 1, 2010 to perform those special inspections for which it is qualified, subject to the following requirements:

(i) The agency must certify compliance with this rule.

(ii) The agency must diligently pursue accreditation as a special inspection agency pursuant to the provisions of section (c)(3) of this rule.

(iii) Notwithstanding anything to the contrary set forth in this rule and Appendix A, an individual who satisfies all requirements set forth in Appendix A to qualify as a special inspector except for the required certification shall be deemed a special inspector until July 1, 2009 provided that such individual meets the initial acceptable qualifications. In order to continue as a special inspector beyond July 1, 2009, such individual shall obtain the certification required in Appendix A.

(iv) The agency shall certify such initial acceptable qualifications on such form as the department may require and shall file such certification with the department prior to performing any special inspections after the effective date of this rule

(9) *Additional Powers of the Commissioner.* Notwithstanding anything to the contrary set forth in the provisions of this rule, the commissioner may upon a determination of

good cause extend the interim status of qualifications for any specific special inspection agency to a date beyond July 1, 2010 but in no event later than July 1, 2011.

(i) In the event the agency has failed by January 1, 2010 to receive the accreditation required by section (c)(8)(i) of this rule, the agency may apply to the commissioner who may, upon the showing of good cause by the agency, grant an extension of time and allow the continuance of the interim status of such agency, but in no event later than January 1, 2011.

(ii) The requirements and standards prescribed in this rule shall be subject to variation in specific cases by the commissioner, or by the Board of Standards and Appeals, under and pursuant to the provisions of paragraph two of subdivision (b) of section six hundred forty-five and section six hundred sixty-six of the New York City Charter, as amended.

(10) *Registration Term.* An initial registration issued under this rule is valid until July 1, 2010 unless otherwise extended by the commissioner in accordance with section (c)(9) of this rule. A renewal or initial registration issued after July 1, 2010 is valid for three years from the date of issuance.

(11) *Registration Fees.* The department shall charge the following registration fees:

(i) A one (1) year initial fee of \$35;

(ii) A triennial renewal fee of \$35; and

(iii) A later renewal surcharge of \$35.

(12) *Renewals.* A renewal application shall be submitted between thirty (30) and sixty (60) days prior to the expiration date of the registration and shall be accompanied by proof that the agency has, during the one (1) year period immediately preceding renewal, maintained all certifications/accreditations and other requirements set forth in this rule and its Appendix.

(i) Renewal shall be precluded where there has been a finding by the commissioner that any special inspection or test conducted by the special inspector or special inspection agency has not been performed in accordance with the requirements set forth in the code, applicable reference standards or the rules of the department, or where there has been a finding by the commissioner of fraud or misrepresentation on any document or report submitted to the department by the special inspector or special inspection agency.

(ii) No special inspector or special inspection agency shall perform an inspection or test with an expired or lapsed registration.

(d) *Disciplinary Actions.*

(1) *Suspension or revocation of registration and refusal to accept filings.* The commissioner may, in accordance with the rules of the department, suspend or revoke a special inspection agency registration, with or without the imposition of penalties, for violation of any provision of the code or the rules of the department, or any other applicable laws or rules. The commissioner may refuse to accept any application or other document submitted pursuant to or in satisfaction of any requirement of this rule or of chapter 17 of the code or any rule or regulation of any agency that bears the signature of any special inspector who has been found, after an opportunity to be heard to have knowingly or negligently made a false statement or to have knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application, report or certification of the correction of a violation required under the provisions of this chapter, the code or any rule or regulation of any agency.

(2) *Stop work and Suspension of Permits.* Upon any suspension or revocation of registration pursuant to paragraph (d)(1) of this rule, unless replaced by another registered special inspector and/or special inspection agency within five (5)

business days of such suspension or revocation, all jobs on which the special inspector and/or special inspection agency whose registration was suspended or revoked is designated, shall be stopped and the permits shall be suspended until such time as a duly registered special inspector and/or special inspection agency is designated to re-inspect such tests or such inspections performed by the disciplined special inspection agency, or until such permits expire.

(e) *Obligations of Others.* Nothing in this rule is intended to alter or diminish any obligation otherwise imposed by law, including but not limited to the obligation of an owner, construction manager, general contractor, contractor, materialman, architect, engineer, site safety manager, land surveyor, superintendent of construction or other party involved in a construction project to engage in sound engineering, design, and construction practices, and to act in a reasonable and responsible manner to maintain a safe construction site.

**APPENDIX A**

Special Inspection Category	2008 Code Section	Qualifications <sup>1,2</sup>		
		Primary Inspector or Inspection Supervisor	Supplemental Inspector (Alternative 1)– under direct supervision of Inspection Supervisor	Supplemental Inspector (Alternative 2)– under direct supervision of Inspection Supervisor
<b>1. General Building Construction</b>				
Wall Panels, Curtain Walls, and Veneers	BC 1704.10	<ul style="list-style-type: none"> <li>• RA or PE–Civil or Structural Engineering; and</li> <li>• 1 Year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s degree in Architecture or Civil Engineering or Structural Engineering; and</li> <li>• 2 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with 3 years relevant experience</li> </ul>
Exterior Insulation Finish Systems (EIFS)	BC 1704.12	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul>	N/A	<ul style="list-style-type: none"> <li>• Technician with 2 years relevant experience</li> </ul>
Chimneys	BC 1704.24	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s degree in Architecture or Engineering; and</li> <li>• 2 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with ICC Certification as a Residential or Commercial Mechanical Inspector; and</li> <li>• 5 years relevant experience</li> </ul>
Flood Hazard Mitigation	BC G105	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul>	N/A	N/A
Photoluminescent Exit Path Markings	1 RCNY 1026-01 (formerly RS 6-1)	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• relevant experience</li> </ul>	N/A	<ul style="list-style-type: none"> <li>• Technician with relevant experience</li> </ul>
Small Building Special Inspections (Group R-3, 3 stories or less in height) <sup>3</sup>		<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• relevant experience</li> </ul>	N/A	<ul style="list-style-type: none"> <li>• Technician with relevant experience</li> </ul>
<b>2. Fire Protection Systems &amp; Fire-Resistant Construction</b>				

Special Inspection Category	2008 Code Section	Qualifications <sup>1,2</sup>		
		Primary Inspector or Inspection Supervisor	Supplemental Inspector (Alternative 1)– under direct supervision of Inspection Supervisor	Supplemental Inspector (Alternative 2)– under direct supervision of Inspection Supervisor
Sprayed Fire-resistant Materials	BC 1704.11	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor's degree in Architecture or Engineering; and (a or b)</li> <li>a. 1 year relevant experience; or</li> <li>b. ICC Certification as a Spray-applied Fireproofing Special Inspector</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with ICC Certification as a Spray-applied Fireproofing Special Inspector; and</li> <li>• 3 years relevant experience</li> </ul>
Smoke Control Systems	BC 1704.14	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience (mechanical and/or fire protection)</li> </ul>	N/A	<ul style="list-style-type: none"> <li>• Technician with NEBB Air Balancer Certification; and</li> <li>• 3 years relevant experience</li> </ul>
Standpipe Systems and Sprinkler Systems	BC 1704.21 BC 1704.22	<ul style="list-style-type: none"> <li>• PE–Mechanical Engineering; and</li> <li>• 1 year relevant experience</li> </ul> OR <ul style="list-style-type: none"> <li>• NYC Licensed Class A or Class B Master Fire Suppression Piping Contractor License; and</li> <li>• Independent of installer</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor's degree in Mechanical Engineering; and</li> <li>• 3 years relevant experience</li> </ul>	Technician with NICET Level II Certification in Fire Protection–Inspection and Testing of Water-based Systems
Firestop, Draftstop, and Fireblock Systems	BC 1704.25	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor's degree in Architecture or Engineering; and</li> <li>• 2 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with 3 years relevant experience</li> </ul>
Fire Alarm Test (When FDNY inspection not required)		<ul style="list-style-type: none"> <li>• PE–Electrical or Fire Protection; and</li> <li>• 1 year relevant experience</li> </ul> OR <ul style="list-style-type: none"> <li>• Licensed electrician independent of installer; and</li> <li>• 3 years relevant experience</li> </ul>	N/A	Technician with NICET Level II Certification in Fire Alarm Systems.
Emergency Power Systems (Generators)		<ul style="list-style-type: none"> <li>• PE–Mechanical, Electrical, or Fire Protection; and</li> <li>• 1 year relevant experience</li> </ul> OR <ul style="list-style-type: none"> <li>• Licensed electrician independent of installer; and</li> <li>• 3 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with 5 years relevant experience</li> </ul>	N/A

3. Plumbing & Mechanical Systems

Special Inspection Category	2008 Code Section	Qualifications <sup>1,2</sup>		
		Primary Inspector or Inspection Supervisor	Supplemental Inspector (Alternative 1)– under direct supervision of Inspection Supervisor	Supplemental Inspector (Alternative 2)– under direct supervision of Inspection Supervisor
Mechanical Systems	BC 1704.15	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience; or</li> <li>• ICC Certification as a Residential or Commercial Mechanical Inspector</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s Degree in Architecture, or Engineering; and</li> <li>• 2 years relevant experience; and</li> <li>• ICC Certification as a Residential or Commercial Mechanical Inspector</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with ICC Certification as a Residential or Commercial Mechanical Inspector; and</li> <li>• 3 years relevant experience</li> </ul>
Fuel-Oil Storage and Fuel-Oil Piping Systems	BC 1704.16	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul> OR <ul style="list-style-type: none"> <li>• Licensed New York City Class A and B Oil Burner Equipment Installer; and</li> <li>• 1 year experience in the inspection of heating systems, Fuel burning- Fuel storage systems.</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelors degree in Architecture, or Mechanical, Marine or Civil Engineering; and</li> <li>• 3 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with ICC Certification as a Residential or Commercial Mechanical Inspector; and</li> <li>• 5 years relevant experience</li> </ul>
Site Storm Drainage Disposal and Detention Facilities	BC 1704.20	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul> OR <ul style="list-style-type: none"> <li>• NYC Licensed Master Plumber; and</li> <li>• 3 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s Degree in Architecture, Civil or Mechanical Engineering; and</li> <li>• 3 years relevant experience</li> </ul>	N/A
Heating Systems	BC 1704.23	<ul style="list-style-type: none"> <li>• PE or RA–Civil or Mechanical Engineering; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s Degree in Architecture, or Civil or Mechanical Engineering; and</li> <li>• 3 years relevant experience; and</li> <li>• ICC Certification as a Residential or Commercial Mechanical Inspector</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with ICC Certification as a Residential or Commercial Mechanical Inspector; and</li> <li>• 5 years relevant experience</li> </ul>
<b>4. Structural Materials &amp; Construction Operations</b>				
Welding: Steel Highpressure Steam Piping High pressure Gas Piping Aluminum (2 RNCY 25–BSA RULE)	BC 1704.3.1 BC 1704.17 BC 1704.18 BC 1704.26	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• AWS Certified Welding Inspector (AWS-CWI);</li> </ul> OR <ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• ICC Certification as a Structural Welding Inspector (ICC-SWI); and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• AWS Certified Welding Inspector (AWS-CWI)</li> </ul> OR <ul style="list-style-type: none"> <li>• ICC Certification as a Structural Welding Inspector (ICC-SWI)</li> <li>• 3 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• AWS Certified Associate Welding Inspector (AWS-CAWI)</li> </ul> <p><b>Note:</b> AWS-CAWI only permitted to inspect when an AWS-CWI or ICC-SWI is on site supervising</p>
Structural Steel–Erection & High-Strength Bolting  <b>Note:</b> Inspection can also be performed by agency approved to inspect welding	BC 1704.3.2, BC 1704.3.3	<ul style="list-style-type: none"> <li>• PE–Civil/Structural; and</li> <li>• ICC Certification as a Structural Steel and Bolting Inspector; and</li> <li>• 1 year relevant experience</li> </ul>	N/A	<ul style="list-style-type: none"> <li>• Technician with ICC Certification as a Structural Steel and Bolting Inspector; and</li> <li>• 3 years relevant experience</li> </ul>

Special Inspection Category	2008 Code Section	Qualifications <sup>1,2</sup>		
		Primary Inspector or Inspection Supervisor	Supplemental Inspector (Alternative 1)– under direct supervision of Inspection Supervisor	Supplemental Inspector (Alternative 2)– under direct supervision of Inspection Supervisor
Structural Cold-formed Steel	BC 1704.3.2.4	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor's degree in engineering or architecture; and</li> <li>• 2 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with ICC Certification as a Structural Steel and Bolting Special Inspector; and</li> <li>• 3 years relevant experience</li> </ul>
Concrete–Cast-in-place & Precast  <b>Note:</b> Licensed concrete testing lab to perform sampling and testing of cylinders	BC 1704.4	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• ACI Certification as Concrete Construction Special Inspector (ACI-CCSI) OR</li> <li>• ICC Certification as Concrete Special Inspector (ICC-CSI)</li> </ul>	<ul style="list-style-type: none"> <li>• ACI Certification as an Associate Concrete Construction Special Inspector (ACI-ACCSI)</li> </ul> <p><b>Note:</b> ACI-ACCSI only permitted to perform inspection under on-site supervision by PE, RA, ACI-CCSI, or ICC-CSI</p>
Prestressed Concrete	BC 1704.4	<ul style="list-style-type: none"> <li>• PE–Civil/Structural; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor's degree in engineering; and</li> <li>• ICC Certification as Prestressed Concrete Special Inspector; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• ICC Certification as Prestressed Concrete Special Inspector; and</li> <li>• 3 years relevant experience</li> </ul>
Masonry	BC 1704.5	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor's degree in engineering or architecture; and</li> <li>• ICC Certification as a Structural Masonry Special Inspector; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• ICC Certification as a Structural Masonry Special Inspector; and</li> <li>• 2 years relevant experience</li> </ul>
Wood construction– Prefabricated wood I-joists and metal-plate-connected wood trusses	BC 1704.6	<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• 1 year relevant experience</li> </ul>	N/A	<ul style="list-style-type: none"> <li>• ICC Certification as a Commercial or Residential Building Inspector; and</li> <li>• 2 years relevant experience</li> </ul>
Soils—Site Preparation	BC 1704.7.1, BC 1704.7.2, BC 1704.7.3	<ul style="list-style-type: none"> <li>• PE–Geotechnical, Civil, or Structural; and</li> <li>• 1 year relevant experience</li> </ul>	N/A	N/A
Soils- Fill Placement, In-place Density	BC 1704.7.1, BC 1704.7.2, BC 1704.7.3	<ul style="list-style-type: none"> <li>• PE–Geotechnical, Civil, or Structural; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor's degree in Geotechnical, Civil, or Structural engineering; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with NICET Level I Geotechnical Certification; and</li> <li>• 2 years relevant experience</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Technician with ICC Certification Soils Special Inspector</li> <li>• 1 year relevant experience</li> </ul>

Special Inspection Category	2008 Code Section	Qualifications <sup>1,2</sup>		
		Primary Inspector or Inspection Supervisor	Supplemental Inspector (Alternative 1)– under direct supervision of Inspection Supervisor	Supplemental Inspector (Alternative 2)– under direct supervision of Inspection Supervisor
Soils Investigations	BC 1704.7.4	<ul style="list-style-type: none"> <li>• PE–Geotechnical, Civil, or Structural; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s degree in Geotechnical, Civil, or Structural engineering; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with NICET Level II Geotechnical Certification; and</li> <li>• Must take and pass Soils classification sections of NICET certification</li> </ul>
Pile Foundations and Drilled Pier Installation	BC 1704.8 BC 1808.2.2	<ul style="list-style-type: none"> <li>• PE–Geotechnical, Civil, or Structural; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s degree in Geotechnical, Civil, or Structural engineering; and</li> <li>• 3 years relevant experience</li> </ul> <p><b>Note:</b> Supplemental Inspector only permitted to inspect when multiple driving rigs are used on the same site and Primary Inspector is on site supervising</p>	<ul style="list-style-type: none"> <li>• Technician with NICET Level III Geotechnical Certification</li> </ul> <p><b>Note:</b> Supplemental Inspector only permitted to inspect when multiple driving rigs are used on the same site and Primary Inspector is on site supervising</p>
Pier Foundations	BC 1704.9	<ul style="list-style-type: none"> <li>• PE–Geotechnical, Civil, or Structural; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s degree in Geotechnical, Civil or Structural; and</li> <li>• 3 years relevant experience</li> </ul>	N/A
Underpinning	BC 1704.9.1	<ul style="list-style-type: none"> <li>• PE–Geotechnical, Civil, or Structural; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s degree in Geotechnical, Civil or Structural; and</li> <li>• 3 years relevant experience</li> </ul>	N/A
Structural safety— Stability, and Mechanical Demolition	BC 1704.19	<ul style="list-style-type: none"> <li>• PE –Civil/Structural; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s Degree in Civil or Structural Engineering; and</li> <li>• 3 years relevant experience</li> </ul>	N/A
Excavation—Sheeting, Shoring, and Bracing	BC 1704.19, 3304.4.1	<ul style="list-style-type: none"> <li>• PE–Geotechnical, Civil, or Structural; and</li> <li>• 1 year relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s degree in Geotechnical, Civil or Structural; and</li> <li>• 3 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Technician with 5 years relevant experience</li> </ul>
Seismic Isolation Systems	BC 1707.8	<ul style="list-style-type: none"> <li>• PE; and</li> <li>• 2 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• Bachelor’s degree in Geotechnical, Civil, or Structural engineering; and</li> <li>• 5 years relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>

Notes:

1. Abbreviations in the qualifications descriptions:

ACI—American Concrete Institute

AWS—American Welding Society

ICC—International Code Council

NEBB—National Environmental Balancing Bureau

NICET—National Institute for Certification in Engineering Technologies

PE—A New York State Licensed and Registered Professional Engineer

RA—A New York State Licensed and Registered Architect

2. Bachelor’s Degrees must be from an accredited institution or equivalent

Special Inspection Category	2008 Code Section	Qualifications <sup>1,2</sup>		
		Primary Inspector or Inspection Supervisor	Supplemental Inspector (Alternative 1)– under direct supervision of Inspection Supervisor	Supplemental Inspector (Alternative 2)– under direct supervision of Inspection Supervisor

3. Small Building Inspections - For Group R-3 buildings, 3 stories or less in height, all special inspections may be performed by a qualified PE or RA or a qualified person under their direct supervision without the need for certification by the department, with the exception of the special inspection of the following operations:

- a. Soils Investigations
- b. Pier and Pile installation
- c. Underpinning of structures
- d. Protection of the sides of excavations greater than 10 feet in depth

**HISTORICAL NOTE**

Section added City Record July 1, 2008 §1, eff. July 1, 2008 per City Record notice. [See Note 1]

**NOTE**

1. Statement of Basis and Purpose in City Record July 1, 2008:

The foregoing rule is promulgated pursuant to the authority of the commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter. The rule implements section 28-115.1 of the Administrative Code by specifying the qualifications of special inspectors and the processes through which the department will regulate their activities.

Under current law, registered design professionals are the only people authorized to conduct "controlled inspections," inspections performed during the progress of work at certain critical junctures and on certain critical components of a structure. In fact, many of such inspections are performed by technicians working under the supervision of a registered design professional and there are no required qualifications for such technicians. This void has enabled inspections and tests to be performed by those who may not necessarily have the appropriate knowledge to evaluate the installation or material in light of technical standards.

The rule addresses that problem. It will require that people with prescribed qualifications perform the required inspections and tests. And by prescribing qualifications beyond those possessed by registered design professionals, it will expand the supply of such trained personnel.

By setting consistent standards for the qualification of special inspectors, the rule will enhance the safety and integrity of construction inspections and tests.

**Statement of Substantial Need for Earlier Implementation**

I hereby find, pursuant to §1043, subdivision e, paragraph 1(c) of the New York City Charter, and hereby represent to the Mayor, that there is substantial need for the implementation of new §101-06 of Title 1 of the Rules of the City of New York, regarding qualification and approval of special inspection agencies, upon the publication in the City Record of its Notice of Adoption.

This is one of the rules needed to implement the City's new Construction Codes. Under current law, registered design professionals are the only people authorized to conduct "controlled inspections," inspections performed during the progress of work at certain critical junctures and on certain critical components of a structure. In fact, many of such inspections are performed by technicians working under the supervision of a registered design professional and there are no required qualifications for such technicians. This has enabled inspections and tests to be performed by those who may not necessarily have the appropriate knowledge to evaluate the installation or material in light of technical standards.

The rule addresses that problem. It will require that people with prescribed qualifications perform the required inspections and tests. And by prescribing qualifications beyond those possessed by registered design professionals, it will expand the supply of such trained personnel. Finally, by setting consistent standards for the qualification of special inspectors, the rule will enhance the safety and integrity of construction inspections and tests.

**§101-07 Inspections and approved agencies.**

(a) *Definitions.* For the purposes of this section, all terms used herein shall have the same meanings as set forth in the building code. In addition, the following terms shall have the following meanings:

(1) *Approved construction documents.* Any and all documents that set forth the location and entire nature and extent of the work proposed with sufficient clarity and detail to show that the proposed work conforms to the provisions of the building code and other applicable laws and rules. Such documents shall include shop drawings, specifications,

manufacturer's instructions and standards that have been accepted by the design professional of record or such other design professional retained by the owner for this purpose.

(2) *Approved boiler inspection agency.* An agency employing qualified boiler inspectors, as defined below.

(3) *Approved inspection agency.* An agency that is approved by the department as qualified to inspect at regular intervals the material that is to be or is listed and labeled, to verify that the labeled material is representative of the material tested. Such term shall include, when approved pursuant to department rules, a third party testing or certification agency, evaluation agency, testing laboratory, testing service or other entity concerned with product evaluation.

(4) *Approved progress inspection agency.* An agency that is approved by the department as qualified to perform one or more of the progress inspections required by section BC 109 of the building code.

(5) *Approved testing agency.* An agency that is approved by the department as qualified to test and evaluate the performance of one or more of the materials regulated in its use by the building code. Such term shall include, when approved pursuant to department rules, a third party testing or certification agency, evaluation agency, testing laboratory, testing service or other entity concerned with product evaluation. Such term shall also include a licensed concrete testing laboratory.

(6) *Certificate of compliance.* A certificate stating that materials meet specified standards or that work was done in compliance with approved construction documents and other applicable provisions of law.

(7) *Qualified boiler inspector.* An inspector who has been issued a certificate of competence by the State Department of Labor and who is employed by an authorized insurance company, a high pressure boiler operating engineer licensed pursuant to the provisions of the New York City Administrative Code, a class A or class B oil burning equipment installer licensed pursuant to the provisions of such Code, a master plumber licensed pursuant to the provisions of such Code, or a journeyman plumber acting under the direct and continuing supervision of a master plumber licensed pursuant to the provisions of such Code. For inspection of boilers at properties owned or managed by the Department of Education, such term shall include an individual who has passed the National Board Commission examination and who has 5 years relevant experience, as defined below, approved by the department.

(8) *Qualified exterior wall inspector.* A New York State licensed civil or structural engineer with 1 year relevant experience or a New York State registered architect with 1 year relevant experience.

(9) *Relevant experience.* Direct participation and practice related to the underlying construction activities that are the subject of the special or other inspection where such participation has led to accumulation of knowledge and skill required for the proper execution of the special or other inspection.

(10) *Supervision.* Oversight and responsible control by a registered design professional having the necessary qualifications and relevant experience to effectively perform responsibilities associated with the inspection being supervised. Such supervision shall include ensuring the inspector's training/education through whatever arrangements are necessary to the inspector's duties and shall also include plans for continued training to keep pace with developing technology. Field supervision shall include responsibility for determining competence of special inspectors for the work they are authorized to inspect and monitoring the inspection activities at the jobsite to assure that the qualified inspector is performing his or her duties when work requiring inspection is in progress.

The supervisor shall review inspection progress reports and final reports for conformance with the approved plans, specifications and workmanship provisions of the building code. Such supervision and control shall be evidenced by the supervisor's signature and seal upon any required statements, applications and/or reports.

(11) *Technician*. An employee of the inspection or testing agency assigned to perform the actual operations of inspection or testing. See ASTM E 329-07, paragraph 3.1.17.

(b) *General requirements for approved agencies*.

(1) *Availability and compliance*. An approved agency shall have responsibilities set forth in this rule and in the building code. Such agency shall employ experienced personnel qualified to conduct, supervise and evaluate the tests or inspections that it undertakes.

(2) *Duties*. The approved agency shall:

(i) Examine all relevant documents, including approved construction documents and/or manufacturers' instructions that define and describe requirements in connection with the test or inspection to be performed.

(ii) Confirm that the documents are sufficient to enable the proper performance of the test or inspection.

(iii) Confirm that any relevant approved construction documents are acceptable to the registered design professional of record or another design professional retained by the owner for the purpose of accepting shop drawings and that the manufacturers' instructions are current. Acceptance shall be demonstrated in writing on the drawing by the registered design professional.

(iv) Confirm through the test or inspection that the installation and materials are in compliance with all relevant documents, reference standards and the building code.

(3) *Documentation*. An approved agency shall maintain records of inspections and tests for at least 6 years or for such shorter period as the commissioner shall determine and shall make such records available to the department upon request. Such records shall include field logs, test results, laboratory reports, notes, photographs and such other information as may be necessary or appropriate to establish the sufficiency of the inspection. The principal of the approved agency shall furnish to the department upon request such records of any inspection or test, in the manner required by the department.

(4) *Obligation to cooperate with inquiries*. All approved agencies shall cooperate with any investigation by the department, or other city or law enforcement agency, into the activities at any job site or fabricating/manufacturing/testing facility for which such agencies have undertaken any inspections or tests and shall provide prompt, accurate and complete responses to reasonable inquiries by the department and other such city or law enforcement agencies about the conduct of such activities .

(5) *Limitation of duties*. An approved agency shall not engage in any activity for which it has not been registered, licensed or accredited. An inspector or technician employed by an approved agency shall not perform inspections or tests beyond the area of expertise for which he or she is qualified in accordance with the standards set by the department, the accrediting agency, if applicable, and the agency supervisor.

(6) *Obligation to comply with an order of the commissioner*. All approved agencies shall comply with an order of the commissioner.

(7) *Insurance*. Every approved agency shall maintain the following insurance coverage:

(i) A general liability insurance policy for the amount of one million dollars;

(ii) Insurance required by the provisions of the New York State Worker's Compensation and Disability Laws; and

(iii) For progress inspection agencies and qualified exterior wall inspectors only, in addition to the requirements of (i) and (ii) above, a Professional Liability/Errors and Omissions insurance policy, occurrence based, for the term of the registration or accreditation.

(8) *Agency structure.* An approved agency's structure shall comply with all applicable New York State and Federal laws.

(9) *Audits.* The operations of approved agencies shall be subject to audit at any time. Audits may examine applications for registration or accreditation as well as the performance and documentation of inspections and tests. Audits may also be conducted upon receipt of complaints or evidence of falsification, negligence or incompetence.

(c) *Qualifications of approved agencies.*

(1) Except as otherwise provided in subdivision (d) of this section, on or after the effective date of this section, all approved agencies, including single person approved agencies, shall comply with the requirements of this section and Title 28-114 of the New York City Administrative Code and shall meet the qualifications set forth herein.

(2) *Testing and inspection agencies.*

(i) A testing and/or inspection agency shall be deemed an approved testing and/or approved inspection agency for testing and/or inspecting materials and listing and labeling materials to specified standards in accordance with the building code and its referenced standards where such agency has achieved accreditation for such testing and/or inspections from International Accreditation Service, Inc. or an equivalent accrediting agency accrediting to the standards set forth in ASTM Designation: E 329-07 or a federal agency. Accrediting agencies, other than federal agencies, must be members of an internationally recognized cooperation of laboratory and inspection accreditation bodies subject to a mutual recognition agreement.

(ii) An approved testing and/or approved inspection agency shall have in responsible charge a director who shall be qualified by education and relevant experience to undertake the tests or inspections performed. Qualification may be based on the standards set forth in ASTM E329-07. The director shall personally supervise the testing and/or inspection of materials for compliance with prescribed nationally recognized standards. Concrete testing laboratories shall follow the provisions of subdivision (c)(6) of this section.

(iii) Technicians shall be qualified by education and relevant experience to perform all tests or inspections they may be required to conduct under the supervision of the director. Qualification may be based on the standards set forth in ASTM E329-07.

(iv) An approved testing agency shall furnish to the department such proof of qualifications of all personnel and information regarding the equipment used to perform tests as the department may from time to time request, and any other such information that the commissioner deems appropriate in assessing the competency of the agency's operations.

(v) All approved testing and approved inspection agency inspection and test reports shall be retained in a form acceptable to the department and shall bear the name of the approved agency, its accreditation, license or department acceptance identification information where applicable, the name of the director who supervised the inspection or test, the names of all personnel who performed the inspection or test, and the names of all witnesses to such inspection or test.

(3) *Progress inspection agencies.*

(i) Registered design professionals with relevant experience shall be deemed approved progress inspection agencies, without further requirement of registration or ac-

creditation, for the purpose of conducting the progress inspections required by section BC 109 of the building code. Such progress inspections shall include the following:

(A) Preliminary. See section 28-116.2.1 of the New York City Administrative Code and section 109.2 of the building code.

(B) Footing & foundation. See section 109.3.1 of the building code.

(C) Lowest floor elevation. See section 109.3.2 of the building code.

(D) Frame inspection. See section 109.3.3 of the building code.

(E) Energy Code Compliance Inspections. See section 109.3.5 of the building code.

(F) Fire-resistant rated construction. See section 109.3.1 of the building code.

(G) Final. See section 28-116.2.4.2 of the New York City Administrative Code and section 109.5 of the building code.

(H) Public assembly emergency lighting. See section 1006 and 1024 of the building code and section 28-116.2.2 of the Administrative Code.

(ii) A progress inspection agency shall conduct required progress inspections, provided such inspections are conducted by a registered design professional with relevant experience or a person under such design professional's direct supervision.

(iii) A progress inspection agency's performance of a progress inspection shall include verification that any special inspections that were required to have been conducted prior to the progress inspection have been documented as completed.

(4) *Elevator inspection agencies.*

(i) Notwithstanding anything to the contrary set forth herein, elevator inspection companies, including their agency directors and agency inspectors that currently hold or hereafter secure a Certificate of Approval from the department issued pursuant to Chapter 11 of Title 1 of the Rules of the City of New York shall be deemed approved elevator inspection agencies without further requirement of registration or accreditation, for the purpose of conducting the periodic elevator inspections and tests required by section 28-304.6 of the Administrative Code.

(ii) Written or oral tests required by 1 RCNY 11-01(2)(ii) shall require familiarity with the standards set forth in section 3001.2 and appendix K of the building code.

(iii) Tests and inspections performed after the effective date of this section shall be performed in compliance with reference standards set forth in section 3012.1 and appendix K of the building code, provided that for the period from January 1, 2008 through September 15, 2008, inspections and tests need not be witnessed by another approved elevator inspection agency.

(iv) Effective January 1, 2009, periodic elevator inspections and tests required by section 28-304.6.1 of the Administrative Code shall be performed in compliance with the following requirements:

(A) The test must be performed by an approved elevator inspection agency and witnessed by an approved elevator inspection agency not affiliated with the agency performing the test.

(B) The approved elevator inspection agency responsible for performing the test shall designate skilled elevator trade personnel in its employment to perform the test under the direct supervision of a director who holds a Certificate of Approval from the department issued pursuant to the 1968 Building Code and 1 RCNY 11-01. Such designation by the director shall be in writing and shall indicate the director's endorsement of the qualification of the personnel designated to conduct the test.

(C) The approved elevator inspection agency responsible for witnessing the test shall designate to witness such test an inspector in its employment who holds a Certificate of Approval from the department issued pursuant to the 1968 Building Code and 1 RCNY 11-01.

(D) The witnessing inspector shall affix the inspection date and his or her agency's Certificate of Approval number to the inspection certificate at the site. The witnessing inspector and the director of the witnessing agency shall further sign and indicate that agency's Certificate of Approval number in the test report.

(5) *Boiler inspection agencies.*

(i) Notwithstanding anything to the contrary set forth herein, a qualified boiler inspector shall be deemed an approved boiler inspection agency, without further requirement of registration or accreditation, for the purpose of conducting the periodic inspections required by section 28-303.2 of the Administrative Code. Such approved boiler inspection agencies may complete required periodic boiler inspections for the period from January 1, 2008 through December 31, 2008 in compliance with the requirements of the 1968 Building Code and 1 RCNY 2-01. Notwithstanding the above, reports of periodic boiler inspections for the period January 1, 2008 to December 31, 2008 shall be accompanied by a certification that identified defects have been corrected. The inspection report must be submitted to the department prior to December 31, 2008.

(ii) Effective January 1, 2009, periodic boiler inspections required by section 28-303.2 of the Administrative Code shall be performed in compliance with the following requirements:

(A) Low pressure boiler annual inspection reports shall be submitted for each calendar year on such forms and in such manner as required by the department. The report shall include:

((a)) An inspection report for each boiler identifying the inspector or inspection agency;

((b)) The owner's annual statement completed in compliance with section 28-303.6 of the Administrative Code; and

((c)) A certification by the owner that identified defects have been corrected. The report must be filed within 45 days of the inspection but in no event later than December 31st of each calendar year. Any required part of the report not filed within 45 days of the inspection and on or before December 31st shall be deemed late and shall subject the owner to penalties as provided in Administrative Code sections 28-201.2.2 and 28-202.1.

(B) A low pressure boiler annual inspection must be conducted between November 16th of the preceding calendar year through November 15th of the calendar year for which the report is being submitted at a date that follows the preceding annual inspection by 6 months or more. The inspector must verify that a department-issued boiler number is affixed to the boiler and such number must be used in all correspondence between the inspector and the department. If an inspection reveals any dangerous condition in a boiler that threatens life or safety and that requires an immediate shut down of the boiler, the inspector must immediately notify the boiler division at the department of the condition via fax or email at the number or address provided on the department's website, <http://www.nyc.gov/buildings>.

(C) Low pressure boiler annual inspection reports not filed within 12 months from the date of the inspection will be deemed expired. Expired inspection reports will not be accepted by the department to satisfy the annual inspection report filing requirement as prescribed by section 28-303 of the Administrative Code and this section.

(6) *Concrete testing laboratories.*

(i) Except as provided in subdivision (d) of this rule, a concrete testing laboratory shall be deemed an approved agency and a licensed concrete testing laboratory pursuant to the provisions of Article 406 of Title 28 of the Administrative Code for purposes of testing and inspecting concrete-related construction activities in accordance with the building code and its referenced standards where such laboratory has achieved accred-

itation from AASHTO Accreditation Program or an equivalent accrediting agency accrediting to the standards set forth in ASTM Designations: C1077, C1093 and E 329-07 or a federal agency. Accrediting agencies, other than federal agencies, must be members of an internationally recognized cooperation of laboratory and inspection accreditation bodies subject to a mutual recognition agreement.

(ii) A licensed concrete testing laboratory shall have in responsible charge a director who shall be qualified by education and relevant experience to undertake the tests or inspections performed. Qualification may be based on the standards set forth in ASTM C1077, C1093 and E 329-07. The director shall personally supervise the inspection and tests for compliance with prescribed nationally recognized standards. The director shall be a registered design professional.

(iii) Technicians shall be qualified by education and relevant experience to perform all tests or inspections they may be required to conduct under the supervision of the director. Field technicians shall be certified as ACI Field Testing Technician – Grade I, or other equivalent certification acceptable to the commissioner.

(iv) Laboratory technicians shall be certified as ACI Concrete Testing Laboratory Technician – Level 1, or other equivalent certification acceptable to the commissioner. Qualification may be based on the standards set forth in ASTM C1077, C1093 and E 329-07.

(v) The concrete testing laboratory shall furnish to the department such proof of qualifications of all personnel and information regarding the equipment used to perform tests as the department may from time to time request, and any other such information that the commissioner deems appropriate in assessing the competency of the laboratory's operations.

(vi) All concrete testing laboratory inspection and test reports shall be presented in a form acceptable to the department and shall bear the name of the laboratory or service and its accreditation and department-issued license number where applicable, the name of the director who supervised the inspection or test, the names of all personnel who performed the inspection or test, and the names of all witnesses. Reports shall be signed and sealed by the director who supervised the inspection or test

(7) *Exterior wall inspections.*

(i) Examination of a building's exterior walls and appurtenances thereof pursuant to section 28-302 of the Administrative Code shall be performed by or under the direct supervision of a qualified exterior wall inspector.

(ix) A qualified exterior wall inspector shall maintain records of inspections and tests for at least 6 years and shall make such records available to the department upon request.

(iii) A qualified exterior wall inspector shall maintain insurance coverage as set forth in subdivision (b)(7) above.

(iv) Except as modified by the building code and this section, the provisions of 1 RCNY 32-02 shall apply.

(d) *Interim status and application deadlines.* An approved agency that is required to achieve accreditation shall be entitled, until July 1, 2010, to perform those inspections and tests for which it is seeking accreditation, provided that the following are true:

(1) The agency is diligently pursuing accreditation by the required accreditation services or an equivalent accreditation agency approved by the department.

(2) The agency is in good standing with the department and is licensed and/or accepted by the department pursuant to the laws in effect prior to July 1, 2008 to perform specific tests and inspections. Such agencies shall be limited to the performance of those

tests for which they are under such prior law specifically licensed or accepted to perform.

(3) On or before July 1, 2010, an agency with interim status as an approved agency shall achieve accreditation as set forth in this rule. In the event the approved agency has failed by July 1, 2010 to achieve such accreditation, the agency may apply to the commissioner who may, upon a showing of good cause, grant an extension of time to achieve accreditation and allow the continuance of the interim status.

(e) *Suspension or revocation of approved agency status.*

(1) In accordance with department rules, the commissioner may suspend or revoke an approved agency's approval, with or without the imposition of penalties, for violation of any provision of Title 28 of the Administrative Code or the building code or the rules of the department, or any other applicable law or rule. The commissioner may refuse to accept any application or other document submitted pursuant to or in satisfaction of any requirement of law or rule that bears the signature of any approved agency or director that has been found, after notice and an opportunity to be heard, to have knowingly or negligently made a false statement or to have knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application, report or certification of the correction of a violation required under the provisions of Title 28 of the Administrative Code or the building code or any rule of any agency.

(2) Invalidation of tests and inspections upon suspension or revocation of approved agency status. Upon any suspension or revocation of approved agency approval pursuant to subdivision (e), the owner of a building at which such approved agency was required or scheduled to perform special, progress or periodic inspections shall immediately designate another approved agency to re-do such tests or inspections performed by the disciplined agency. Any periodic inspections performed by a disciplined agency shall be rejected in the current cycle of such inspections and any owner of a building requiring such periodic inspection shall, upon notice of such disciplinary action, retain another approved agency to perform the periodic inspection.

(f) *Obligations of others.* Nothing in this section is intended to alter or diminish any obligation otherwise imposed by law on others, including but not limited to, the owner, construction manager, general contractor, contractor, materialman, architect, engineer, site safety manager, land surveyor, superintendent of construction or other party involved in a construction project, to engage in sound engineering, design, and construction practices, and to act in a reasonable and responsible manner to maintain a safe construction site.

#### HISTORICAL NOTE

Section added City Record July 1, 2008 §1, eff. July 1, 2008 per City Record notice. [See Note 1]

#### NOTE

1. Statement of Basis and Purpose in City Record July 1, 2008:

The foregoing rule is promulgated pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) of the New York City Charter. The rule implements section 28-114.1 of the New York City Administrative Code by specifying the qualifications of approved agencies and qualified inspectors and the processes through which the Department will regulate their activities.

Under current law, third parties performing tests or inspections of materials, equipment, construction-related activities, and periodic maintenance are required to be licensed or accepted by the Department, as recognition of their competence. This rule sets forth such competency requirements and designates such third parties as approved agencies when they meet the prescribed standards. Previously, the requirements were subject to different interpretations by practitioners. This inconsistency of interpretation has enabled inspections and tests to be performed by those who may not necessarily have the appropriate knowledge to evaluate the subject of the inspection and tests in light of technical standards.

The rule addresses that problem. It defines qualifications and competencies to ensure consis-

tency and enhance the standards in practice. By setting consistent standards for testing and inspecting agencies, the rule will ultimately enhance the safety and integrity of buildings.

**Statement of Substantial Need for Earlier Implementation**

I hereby find, pursuant to §1043, subdivision e, paragraph 1(c) of the New York City Charter, and hereby represent to the Mayor, that there is substantial need for the implementation of new §101-07 of Title 1 of the Rules of the City of New York, regarding the qualification and approval of special inspection and other agencies, upon the publication in the City Record of its Notice of Adoption.

This is one of the rules needed to implement the City's new Construction Codes. Under current law, third parties performing tests or inspections of materials, equipment, construction-related activities, and periodic maintenance are required to be licensed or accepted by the Department, as recognition of their competence. This rule sets forth such competency requirements and designates such third parties as approved agencies when they meet the prescribed standards. Previously, the requirements were subject to different interpretations by practitioners. This inconsistency of interpretation has enabled inspections and tests to be performed by those who may not necessarily have the appropriate knowledge to evaluate the subject of the inspection and tests in light of technical standards.

The rule addresses that problem. It defines qualifications and competencies to ensure consistency and enhance the standards in practice. By setting consistent standards for testing and inspecting agencies, the rule will ultimately enhance the safety and integrity of buildings.

**§101-10 Final Inspection and Sign-Off prior to letter of completion.**

(a) *Final Inspection.* Where permitted work does not require the issuance of a certificate of occupancy and where the final inspection is performed by an approved agency, the final inspection shall be performed after all work authorized by the permit is completed, but in no event later than one (1) year from the date of the expiration of the last valid permit.

(b) *Inspection Report.* A final inspection report complying with the requirements of section 28-116.2.4.2 of the Administrative Code shall be filed within thirty (30) days of the date of the final inspection that enables the inspector to attest that the work is substantially compliant with the approved construction documents, the building code, and other applicable laws and rules.

(c) *Applicability.* The requirements in this section shall apply to all final inspections performed after July 1, 2008, regardless of when the underlying permit was issued.

**HISTORICAL NOTE**

Section added City Record July 1, 2008 §1, eff. July 1, 2008 per City Record notice. [See Note 1]

**NOTE**

1. Statement of Basis and Purpose in City Record July 1, 2008:

This rule is adopted pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) of the New York City Charter and Title 28, Article 116 of the New York City Administrative Code.

The rule is based on Sections 26-217 and 27-207 of the Administrative Code, which authorize the Commissioner to accept inspection reports from registered design professionals. It is also based on §28-116.2.4.2 of the Administrative Code, which provides that a final inspection must be performed on completed work within one (1) year of the expiration of the last valid permit. The rule further provides a thirty (30) day period following the date of the final inspection within which the final inspection report must be filed.

This rule will enable the Department to better monitor the quality and standard of work performed on projects that do not require a certificate of occupancy and that are thus capable of being inspected by approved agencies. Currently, a final inspection may be performed long before such a job is signed off, creating an opportunity for improper changes to the work for which it is difficult to hold the inspecting professional accountable. By requiring submission of the inspection report to the Department within close proximity to the inspection date, the rule minimizes the opportunity that illegal work will be performed for which the inspector can disclaim responsibility.

**Statement of Substantial Need for Earlier Implementation**

I hereby find, pursuant to §1043, subdivision e, paragraph 1(c) of the New York City Charter, and hereby represent to the Mayor, that there is substantial need for the implementation of new §101-10 of Title 1 of the Rules of the City of New York, regarding final inspection and sign-off prior to letter of completion, upon the publication in the City Record of its Notice of Adoption.

This is one of the rules needed to implement the City's new Construction Codes. The rule is based on §§26-217 and 27-207 of the Administrative Code, which authorize the Commissioner to accept inspection reports from registered design professionals. It is also based on §28-116.2.4.2 of the Administrative Code, which provides that a final inspection must be performed on completed work within one (1) year of the expiration of the last valid permit. The rule further provides a thirty (30) day period following the date of the final inspection within which the final inspection report must be filed. By requiring submission of the inspection report to the Department within close proximity to the inspection date, the rule minimizes the opportunity that illegal work will be performed for which the inspector can disclaim responsibility.

**§101-13 Requirements for Filing Technical Reports of Inspections for Applications for Permits in Process on July 1, 2008.**

(a) *Applicability.* This rule shall apply to applications for construction document approval submitted, and not thereafter abandoned, that have been approved but not permitted prior to July 1, 2008 and to applications for construction document approval submitted, and not thereafter abandoned, that have been approved and partially permitted prior to July 1, 2008. For purposes of this rule, such applications shall be denominated "covered jobs."

(b) *Technical reports of inspections.* Covered jobs may continue to perform and file reports of technical inspections pursuant to the provisions of law in effect prior to July 1, 2008, provided that all remaining permits for the job are secured prior to December 31, 2008 and that work pursuant to such permits is commenced within twelve (12) months after the date of issuance of the permit therefore and is diligently carried on to completion. If all remaining permits for the job are not secured prior to December 31, 2008, the covered job must comply fully with all provisions of Title 28 of the administrative code.

**HISTORICAL NOTE**

Section added City Record Sept. 24, 2008 §1, eff. Oct. 24, 2008. [See Note 1]

**NOTE**

1. Statement of Basis and Purpose in City Record Sept. 24, 2008:

This rule is promulgated pursuant to the authority of the Commissioner of Buildings under §§643 and 1043(a) of the New York City Charter and §28-101.4.2(1) of the New York City Administrative Code.

The rule implements §28-101.4.2(1) of the Administrative Code, which enables the commissioner of buildings to make exceptions to the July 1, 2008 effective date of the codes' administrative provisions. The rule allows, with certain conditions, certain applications that are in process and that have secured approval or partial permit to use reports of technical inspections pursuant to the provisions of law in effect prior to July 1, 2008. Its purpose is to enable jobs whose review and processing are well advanced to continue to use provisions of the 1968 Building Code in order to complete their inspections and reports of inspections during the progress of the approved and/or permitted work. The rule establishes conditions to ensure that this exception is not extended indefinitely.

**SUBCHAPTER B  
ENFORCEMENT\***

**§102-01 Violation Reclassification and Certification of Correction.**

**§102-02 Compensation of Registered Design Professionals in Accordance With §28-216.6 of the Administrative Code.**

**§102-01 Violation Reclassification and Certification of Correction.**

(a) Pursuant to §28-204.1 of the Administrative Code, any person who shall violate or fail to comply with any provision or provisions of law enforced by the Department or with any order issued pursuant thereto shall be liable for a civil penalty that may be re-

\* Subchapter B added City Record May 23, 2008 §2, eff. July 1, 2008 per City Record notice. [See T1 §102-01 Note 1]

covered in a proceeding before the Environmental Control Board ("ECB"). Such proceeding shall be commenced by service of a notice of violation ("NOV") returnable before the board. Such notice of violation may be issued by employees of the Department or of other city agencies designated by the Commissioner and may be served by such employees or by a licensed process server.

(b) *Classification of violations.* For purposes of classifying violations pursuant to §28-201.2 of the Administrative Code, the following terms shall have the following meanings:

(1) **IMMEDIATELY HAZARDOUS VIOLATION.** Immediately hazardous violations are those specified as such by the New York City Construction Codes, or those where the violating condition poses a threat that severely affects life, health, safety, property, the public interest, or a significant number of persons so as to warrant immediate corrective action, or, with respect to outdoor advertising, those where the violation and penalty are necessary as an economic disincentive to the continuation or the repetition of the violating condition. Immediately hazardous violations shall be denominated as Class 1 violations.

(2) **MAJOR VIOLATION.** Major violations are those specified as such by the New York City Construction Codes or those where the violating condition affects life, health, safety, property, or the public interest but does not require immediate corrective action, or, with respect to outdoor advertising, those where the violation and penalty are appropriate as an economic disincentive to the continuation or the repetition of the violating condition. Major violations shall be denominated as Class 2 violations.

(3) **LESSER VIOLATION.** Lesser violations are those where the violating condition has a lesser effect than an immediately hazardous (Class 1) or major violation (Class 2) on life, health, safety, property, or the public interest. Lesser violations shall be denominated as Class 3 violations.

(c) *Correction and certification of correction.*

(1) Each NOV issued by the Commissioner shall contain an order of the Commissioner directing the respondent to correct the condition constituting the violation and to file a certification with the Department that the condition has been corrected.

(2) The following violation cannot be certified as corrected prior to a hearing before ECB. The respondent must appear at the hearing prior to the submission of the certification to the Department:

(i) A violation for filing a false certification;

(3) The required certification shall be completed on the form issued with the NOV or obtained from the Department in accordance with the instructions contained therein.

(4) The respondent must appear at the ECB hearing for all violating conditions unless those charges are cured or a pre-hearing stipulation is offered, timely accepted by the respondent, and approved in writing by ECB. Where more than one violation of law is listed on the same NOV, the respondent may submit a single certification covering one or all of the violating conditions.

(5) The certification shall be signed by one with personal knowledge of the correction of the violating condition and notarized by a notary public or commissioner of deeds.

(6) The certification shall be accompanied by true and legible copies of any and all documentary proof of compliance.

(7) The completed certification must be returned to the Department at the address provided on the City's website, NYC.gov.

(8) For violations classified as Class 3 or for those Class 2 violations eligible for a cure, respondents may avoid a hearing by submitting a certification of correction acceptable to and received by the Department no later than forty days from the date of the Com-

missioner's order to correct set forth in the NOV. For violations classified as Class 1, a certification acceptable to the Department must be received by the Department forthwith.

(9) Failure to submit an acceptable certification for all violating conditions indicated on the NOV on a Department of Buildings form within the time period prescribed in paragraph (8) of this subdivision shall require the respondent to appear at a hearing at ECB on the date indicated on the NOV. If no certificate of correction is received within the time period prescribed in paragraph (8) of this subdivision, the respondent is also subject to issuance of a violation for failure to certify correction and the imposition of civil penalties as defined in Title 28-202.1.

(d) *Mitigated and zero penalties.* Mitigated or zero penalties are available in the following circumstances under the following conditions.

(1) *Cure.\** An eligible violation may be cured by correction before the first scheduled hearing date at ECB. All violations that are designated as Class 3 violations are eligible for cure. Some, but not all, types of violations that are designated as Class 2 violations are eligible for cure. Those types of Class 2 violations that are eligible for cure will be indicated within the ECB Buildings Penalty Schedule found in Chapter 31 of Title 15 of the Rules of the City of New York ("ECB Buildings Penalty Schedule"). In order to cure, a certificate of correction acceptable to the Department must be filed at the Department within forty days from the date of the Commissioner's order to correct set forth in the NOV. A cure constitutes an admission of the violation; dispenses with the need for a hearing at ECB; constitutes a predicate violation for subsequent violations; and, consistent with the provisions of §28-204.2, and with the provisions of the ECB Buildings Penalty Schedule, results in a zero penalty. A violation that has been charged as an Aggravated II violation is never eligible for a cure, even if there is a "Yes" in the "Cure" column in the ECB Buildings Penalty Schedule for that violation description.

(2) *Stipulation.* An eligible violation may be subject to stipulation where the Commissioner offers to the respondent a stipulation prior to or at a hearing to extend the time for compliance upon such terms and conditions as the Commissioner prescribes. Violations that are eligible for stipulation are indicated as such on the ECB Buildings Penalty Schedule. The respondent must admit the violation subject to stipulation and agree to correct it and file an acceptable certification of correction with the Department. The stipulation may be signed and submitted to ECB either before the first scheduled hearing date at ECB or else on the first scheduled hearing date but prior to any actual hearing on that date., in which case it is considered a pre-hearing stipulation, or may be entered into at the first ECB hearing in which case it is considered a hearing stipulation. A reduced penalty will be imposed in connection with a pre-hearing stipulation in an amount indicated for the charge in question in the ECB Buildings Penalty Schedule. Specifically, the penalty imposed for that violation will be half of the penalty amount (rounded to the nearest dollar) of the penalty amount that would otherwise have been imposed at a hearing for that particular violation. In connection with a stipulation entered into at a hearing, a hearing penalty will be imposed in an amount indicated for the charge in question in the ECB Buildings Penalty Schedule. A stipulation, whether a pre-hearing stipulation or a hearing stipulation, gives the respondent seventy-five days from the first scheduled hearing date within which to correct the violation and file a certificate of correction, failing which any reduced penalty that may have been imposed in connec-

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\* Section 28-204.2 of the Administrative Code provides for a zero penalty for Lesser violations that are corrected within the prescribed, or cure, period. For purposes of this rule, certain Major violations will also be treated as eligible for cure to the extent that §28-202.1 of the Administrative Code specifies no minimum penalty for such violations.

tion with a pre-hearing stipulation will be adjusted to the standard hearing penalty set forth in the ECB Buildings Penalty Schedule. A stipulation is effective only if it is approved by ECB. A pre-hearing stipulation dispenses with the need for a hearing at ECB. No stipulation shall take effect unless, in the case of a pre-hearing stipulation, it is offered by the Department prior to the first scheduled hearing date, signed by respondent prior to the first scheduled hearing date and approved by ECB in writing, or unless, in the case of a hearing stipulation, it is offered by the Department at the hearing, accepted by the respondent at that hearing, and is approved in writing by ECB. A violation that has been charged as an Aggravated II violation is never eligible for a stipulation, even if there is a "Yes" in the "Stipulation" column in the ECB Buildings Penalty Schedule for that violation description.

(3) *Mitigation.* An eligible violation may be subject to mitigation where the respondent proves at the hearing that the condition was corrected prior to the first scheduled hearing date at ECB. Violations that are eligible for mitigation are indicated as such on the ECB Buildings Penalty Schedule. A penalty is imposed on mitigations in accordance with the ECB Buildings Penalty Schedule. If a mitigated penalty is imposed, that penalty will be half of the penalty amount of the penalty amount that would otherwise have been imposed at a hearing for that particular violation. An acceptable certificate of correction must thereafter be filed at the Department. A violation that has been charged as an Aggravated II violation is never eligible for mitigation, even if there is a "Yes" in the "Mitigation" column in the ECB Buildings Penalty Schedule for that violation description.

(e) *Certificate of correction review procedures.*

(1) The Department shall review all certificates and accompanying documentation to determine their acceptability.

(2) The Department shall notify the respondent if the certification is accepted or rejected and, if rejected, the reasons for the rejection and the documents necessary to correct the problem.

(3) Corrected certifications must be received by the Department no later than the close of business forty days from the date of the Commissioner's order to correct set forth in the NOV.

(f) *Aggravated penalties.* Aggravated penalties shall be imposed in accordance with the ECB Buildings Penalty Schedule and with the following provisions. Notice of aggravated penalties shall either be set forth in the NOV or otherwise provided to the respondent prior to the date of the first scheduled hearing at ECB.

(1) *Aggravated penalties of the first order.* Aggravated penalties of the first order ("Agg. I") shall be imposed when evidence establishes the same condition or the same charge under the New York City Construction Codes or the predecessor charge under the laws in effect prior to July 1, 2008 in a prior enforcement action against the same owner or responsible party during the previous three years.

(2) *Aggravated penalties of the second order.* Aggravated penalties of the second order ("Agg. II") shall be imposed in the following instances:

(i) When the respondent or defendant is found in violation of any law or rule enforced by the Department where the violation of law is accompanied by or results in a fatality or serious injury or where the violating condition affects a significant number of people; or

(ii) Where the respondent or defendant refuses to give the Department requested information necessary to determine the condition of a building or site; or

(iii) Where the respondent or defendant has a history of non-compliance with laws or rules enforced by the Department at one or more locations, including but not limited to

a pattern of unreasonable delays in correcting violations, a pattern of failing to obey Stop Work Orders, filing false documents, or multiple defaults.

(iv) For purposes of this section, "in violation" shall mean to be adjudged in violation of any law or rule enforced by the Department following a hearing, to admit the charge, or to sign a stipulation agreement either at or before a hearing before any administrative or judicial tribunal. Failure to appear at a hearing leading to entry of a default order or judgment shall also be deemed a finding "in violation."

(g) *Additional Daily and Monthly Penalties.* Additional daily penalties may be imposed in connection with certain continuing and uncorrected Class 1 violations. Additional monthly penalties may be imposed in connection with certain continuing and uncorrected Class 2 violations. If the Department seeks such penalties in connection with a particular Class 1 or Class 2 charge, that will be indicated on the NOV. Such daily or monthly penalties, if applicable, are in addition to the set, flat-amount penalty that also is indicated in the ECB Buildings Penalty Schedule as applicable to the type of violation in question taking into account the classification level and Aggravated level of the particular violation. Imposition of such additional daily and monthly penalties is authorized pursuant to §28-202.1 of the New York City Administrative Code.

(1) *Accrual of Daily Penalties.* Daily penalties, if applicable, will accrue at the rate of \$1,000 per day for a total of forty-five days running from the date of the Commissioner's order to correct set forth in the NOV, unless the violating condition is proved by the respondent at the hearing to have been corrected prior to the end of that forty-five day period, in which case the daily penalties will accrue for every day up to the date of that proved correction.

(2) *Accrual of Monthly Penalties.* Monthly penalties, if applicable, accrue at the rate of \$250 per month for a total of one month running from the date of the Commissioner's order to correct set forth in the NOV, unless the violating condition is proved by the respondent at the hearing to have been corrected prior to the end of a month period.

(h) *Applicability.* On and after July 1, 2008 any work performed without a required permit will be presumed subject to enforcement under the New York City Construction Codes. Thus, the option afforded by 28-101.4 to use either the 1968 Building Code or the New York City Construction Codes applies only to work for which an application is filed with the Department. If and when the work is the subject of an application to legalize, the option will be available once again.

(i) *Legal References.* The legal references referred to in the table below that reflects the classification of violations include the following:

(1) Title 28 of the New York City (NYC) Administrative Code. References to Title 28 of the NYC Administrative Code begin with "28-" (for example, "28-201.1"). The citation "28-Misc." refers to provisions of Title 28 that are not specifically designated elsewhere in the table.

(2) Title 27 of the NYC Administrative Code (also known as the "1968 Building Code"). References to title 27 of the NYC Administrative Code begin with "27-" (for example, "27-371"). The citation "27-Misc." refers to provisions of Title 27 that are not specifically designated elsewhere in the table.

(3) The "New York City Construction Codes," which consist of:

- The New York City plumbing code (PC)
- The New York City building code (BC)
- The New York City mechanical code (MC)
- The New York City fuel gas code (FGC).

References to these New York City Construction Codes are designated by the various abbreviations set out above (for example, "BC3010.1"). The citations "BC-Misc.", "PC-

Misc.", "MC-Misc." and "FGC-Misc." refer to provisions of the New York City building, plumbing, mechanical or fuel gas codes that are not specifically designated elsewhere in the table.

(4) Appendices to the New York City Construction Codes. The New York City Construction Codes include all enacted appendices. Administrative Code §28-102.6. References to Appendices are cited by using the abbreviation for the particular Construction Code followed by the applicable Appendix letter (for example, "H") followed by the applicable section number (for example, "BC H103.1").

(5) The NYC Zoning Resolution (ZR) and the Rules of the City of New York (RCNY). References to the Zoning Resolution and to the Rules of the City of New York are designated by the abbreviations "ZR" and "RCNY" (for example, "ZR25-41"; "1 RCNY9-01"). The citations "1 RCNY-Misc." and "ZR-Misc." refer to provisions of 1 RCNY or the Zoning Resolution that are not specifically designated elsewhere in the table.

(6) Reference Standards that pertain to Title 27 of the NYC Administrative Code (RS). References to the Reference Standards are designated by the abbreviation set out above (for example, "RS-16"). The citation "RS-Misc." refers to Reference Standards that are not specifically designated elsewhere in the table.

(7) Citations to the New York City Construction Codes. Whenever a section or subdivision of the New York City Construction Codes is cited or referred to, subordinate consecutively numbered subdivisions or paragraphs of the cited provision are deemed to be included in such reference unless the context or subject matter requires otherwise.

(j) *Classification of particular violations.* Particular violations shall be classified as indicated in the following table:

Section of Law	Classification	Violation Description
1 RCNY-Misc, RS-Misc	Class 1	Miscellaneous violations.
1 RCNY-Misc, RS-Misc	Class 2	Miscellaneous violations.
1 RCNY-Misc, RS-Misc	Class 3	Miscellaneous violations.
1 RCNY 27-03	Class 1	Prohibited sign on sidewalk shed or construction fence.
1 RCNY 9-01	Class 1	Licensed Rigger designated an unqualified foreman.
1 RCNY 9-01	Class 2	Licensed Rigger designated an unqualified foreman.
1 RCNY 9-03	Class 1	Licensed Rigger failed to ensure scaffold worker met minimum req.
1 RCNY 9-03	Class 2	Licensed Rigger failed to ensure scaffold worker met minimum req.
27-185 & BC 3007.1	Class 2	Operation of an elevator without equipment use permit or service equipment Certificate of Compliance.
27-228.5	Class 2	Failure to file an Architect/Engineer report certifying exit/directional signs are connected to emergency power source/storage battery equipment.
27-369 & BC 1020.2	Class 1	Failure to provide unobstructed exit passageway.

Section of Law	Classification	Violation Description
27-371 & BC 715.3.7	Class 2	Exit door not self-closing.
27-382 & BC 1006.3	Class 2	Failure to provide power for emergency exit lighting.
27-383(b) & BC 403.16	Class 1	Failure to install photoluminescent exit path marking in a high-rise building.
27-391 & BC 3002.3	Class 2	Emergency signs at elevator call stations missing, defective or non-compliant with section requirements.
27-393 & BC 1019.1.7	Class 2	Stair identification signs missing and/or defective.
27-509 & BC 3111.1	Class 3	Fence exceeds permitted height.
27-528 & BC 1024.1.3	Class 2	Approved Place of Assembly plans not available for inspection.
27-901(z)(1) & PC 301.6	Class 2	Piping installed in elevator/counterweight hoistway.
27-904 & FGC 406.6.2	Class 1	Gas being supplied to building without inspection and certification by DOB.
27-904 & FGC 406.6.2	Class 2	Gas being supplied to building without inspection and certification by DOB.
27-921(a) & PC 107.3	Class 1	Failure to have new or altered plumbing system tested.
27-921(a) & PC 107.3	Class 2	Failure to have new or altered plumbing system tested.
27-972(h) & BC 907.2.12.3	Class 2	Failure to install an acceptable two-way voice communication system with central station connection.
27-Misc, 28-Misc, BC -Misc	Class 1	Miscellaneous violations.
27-Misc, 28-Misc, BC -Misc	Class 2	Miscellaneous violations.
27-Misc, 28-Misc, BC -Misc	Class 3	Miscellaneous violations.
28-104.2.2	Class 2	Failure to provide approved/accepted plans at job site at time of inspection.
28-105.1	Class 2	Failed to obtain a temporary construction permit prior to installation/use of sidewalk shed.
28-105.1	Class 1	Work without a permit.
28-105.1	Class 2	Work without a permit.
28-105.1	Class 3	Work without a permit.
28-105.1	Class 2	Work without a permit: Expired permit.
28-105.1	Class 1	Construction or alteration work w/o a permit in manufacturing district for residential use.
28-105.1	Class 2	Construction or alteration work w/o a permit in manufacturing district for residential use.

Section of Law	Classification	Violation Description
28-105.1	Class 1	Demolition work without required demolition permit.
28-105.1	Class 1	Plumbing work without a permit in manufacturing district for residential use.
28-105.1	Class 2	Plumbing work without a permit in manufacturing district for residential use.
28-105.1	Class 2	Outdoor sign on display structure without a permit.
28-105.1	Class 1	Outdoor Ad Co sign on display structure without a permit.
28-105.12.2	Class 2	Work does not conform to approved construction documents and/or approved amendments.
28-105.12.2	Class 3	Work does not conform to approved construction documents and/or approved amendments.
28-105.12.2	Class 1	Work does not conform to approved construction documents and/or approved amendments in a manufacturing district for residential use.
28-105.12.2	Class 2	Work does not conform to approved construction documents and/or approved amendments in a manufacturing district for residential use.
28-105.12.2	Class 1	Place of Assembly contrary to approved construction documents.
28-105.12.2	Class 2	Place of Assembly contrary to approved construction documents.
28-105.12.2	Class 1	Outdoor Ad Co sign is contrary compliance with construction documents.
28-117.1	Class 1	Operation of a Place of Assembly without a current Certificate of Operation.
28-117.1	Class 2	Operation of a Place of Assembly without a current Certificate of Operation.
28-118.2	Class 1	New building or open lot occupied without a valid certificate of occupancy.
28-118.3	Class 1	Altered/changed building occupied without a valid Certificate of Occupancy as per §28-118.3.1—§28-118.3.2.
28-118.3	Class 2	Altered/changed building occupied without a valid Certificate of Occupancy as per §28-118.3.1—§28-118.3.2.
28-118.3	Class 1	Change in occupancy/use of C of O as per §28-118.3.1—§28-118.3.2 by operating a Place of Assembly as per when current C of O does not allow such occupancy.

Section of Law	Classification	Violation Description
28-118.3	Class 2	Change in occupancy/use of C of O as per §28-118.3.1—§28-118.3.2 by operating a Place of Assembly as per when current C of O does not allow such occupancy.
28-118.3.2	Class 1	Occupancy contrary to that allowed by the Certificate of Occupancy or Building Department records.
28-118.3.2	Class 2	Occupancy contrary to that allowed by the Certificate of Occupancy or Building Department records.
28-118.3.2	Class 3	Occupancy contrary to that allowed by the Certificate of Occupancy or Building Department records.
28-202.1	Class 1	Additional daily penalty for Class 1 violation of 28-210.1—1 or 2 family converted to greater than 4 family.
28-202.1	Class 2	Additional monthly penalty for continued violation of 28-210.1.
28-202.1	Class 1	Additional daily civil penalties for continued violations.
28-202.1	Class 2	Additional monthly civil penalties for continued violations.
28-202.1	Class 2	Additional monthly penalty for continued violation of 28-210.2.
28-204.4	Class 2	Failure to comply with the commissioner's order to file a certificate of correction with the Department of Buildings.
28-207.2.2	Class 1	Unlawfully continued work while on notice of a stop work order.
28-210.1	Class 1	Residence altered for occupancy as a dwelling from 1 or 2 families to greater than 4 families.
28-210.1	Class 2	Residence altered for occupancy as a dwelling for more than the legally approved number of families.
28-210.2	Class 2	Maintain or permit conversion of industrial/manufacturing bldg to residential use w/out C of O/code compliance.
28-210.2	Class 2	Plumbing work contrary to approved app'n/plans that assists/maintains convers'n of indust/manuf occupancy for resid use.
28-211.1	Class 1	Filed a certificate, form, application etc., containing a material false statement(s).
28-301.1	Class 1	Failure to maintain building in code-compliant manner.
28-301.1	Class 2	Failure to maintain building in code-compliant manner.

Section of Law	Classification	Violation Description
28-301.1	Class 3	Failure to maintain building in code-compliant manner.
28-301.1	Class 1	Failure to maintain building in code-compliant manner: Use of prohibited door and/or hardware per BC 1008.1.8; 27-371(j).
28-301.1	Class 2	Failure to maintain building in code-compliant manner: Use of prohibited door and/or hardware per BC 1008.1.8; 27-371(j).
28-301.1	Class 1	Failure to maintain building in code-compliant manner: illumination for exits, exit discharges and public corridors per BC 1006.1; 27-381.
28-301.1	Class 2	Failure to maintain building in code-compliant manner: illumination for exits, exit discharges and public corridors per BC 1006.1; 27-381.
28-301.1	Class 1	Failure to maintain building in code-compliant manner: floor numbering signs missing and/or defective per BC 1019.1.7; 27-392.
28-301.1	Class 2	Failure to maintain building in code-compliant manner: floor numbering signs missing and/or defective per BC 1019.1.7; 27-392.
28-301.1	Class 1	Failure to maintain building in code-compliant manner: high-rise to provide exit sign requirement(s) within exits per BC 1011.1.1; 27-383.1.
28-301.1	Class 2	Failure to maintain building in code-compliant manner: high-rise to provide exit sign requirement(s) within exits per BC 1011.1.1; 27-383.1.
28-301.1	Class 1	Failure to maintain building in code-compliant manner: lack of emergency power or storage battery connection to exit signs per BC 1011.5.3; 27-384(c).
28-301.1	Class 1	Failure to maintain building in code-compliant manner: lack of emergency lighting for exits, exit discharges and public corridors per BC 1006.1; 27-542.
28-301.1	Class 2	Failure to maintain building in code-compliant manner: lack of emergency lighting for exits, exit discharges and public corridors per BC 1006.1; 27-542.

Section of Law	Classification	Violation Description
28-301.1	Class 2	Failure to maintain building in code-compliant manner: failure to provide non-combustible proscenium curtain per BC410.3.5; 27-546.
28-301.1	Class 1	Failure to maintain building in code-compliant manner: no fire stopping per BC 712.3; 27-345.
28-301.1	Class 2	Failure to maintain building in code-compliant manner: no fire stopping per BC 712.3; 27-345.
28-301.1	Class 1	Failure to maintain building in code-compliant manner: Improper exit/exit access doorway arrangement per BC 1014.2; 27-361.
28-301.1	Class 1	Failure to maintain building in code-compliant manner: service equipment—elevator per BC 3001.2; 27-987.
28-301.1	Class 2	Failure to maintain building in code-compliant manner: service equipment—elevator per BC 3001.2; 27-987.
28-301.1	Class 3	Failure to maintain building in code-compliant manner: service equipment—elevator per BC 3001.2; 27-987.
28-301.1	Class 1	Failure to maintain building in code-compliant manner: service equipment—boiler.
28-301.1	Class 2	Failure to maintain building in code-compliant manner: service equipment—boiler.
28-301.1	Class 3	Failure to maintain building in code-compliant manner: service equipment—boiler.
28-301.1	Class 1	Failure to maintain building in code-compliant manner: lack of a system of automatic sprinklers where required per BC 903.2; 27-954.
28-301.1	Class 2	Failure to maintain building in code-compliant manner: lack of a system of automatic sprinklers where required per BC 903.2; 27-954.
28-301.1	Class 2	Failure to maintain building in code-compliant manner re: installation/maintenance of plumbing materials/equipment per PC102.3; 27-902.

Section of Law	Classification	Violation Description
28-301.1	Class 2	Failure to maintain building in code-compliant manner: Gas vent reduced or undersized as per FGC 504.2; 27-887.
28-301.1	Class 2	Failure to maintain building in code-compliant manner: failure to comply with law for water supply system per PC 602.3; 27-908(c).
28-301.1	Class 2	Failure to maintain building in code-compliant manner: failure to comply with law for drainage system per PC 702.1; 27-911.
28-301.1	Class 2	Failure to maintain building in code-compliant manner: Plumbing fixture(s) not trapped and/or vented per PC 916.1 & PC 1002.1; 27-901(o).
28-301.1	Class 1	Failure to maintain building in code-compliant manner: Misc sign violation by Outdoor Ad Co as per 27-498 through 27-508 & BC H103.1.
28-301.1	Class 2	Failure to maintain sign in accordance with Tit. 27; Tit. 28; ZR; RCNY.
28-302.1	Class 1	Failure to maintain building wall(s) or appurtenances.
28-302.1	Class 2	Failure to maintain building wall(s) or appurtenances.
28-302.1	Class 3	Failure to maintain building wall(s) or appurtenances.
28-302.4	Class 2	Failure to submit a required report of critical examination documenting condition of exterior wall and appurtenances.
28-302.5	Class 2	Failure to file an amended report acceptable to this Department indicating correction of unsafe conditions.
28-303.7	Class 2	Failure to file complete boiler inspection report.
28-401.16	Class 2	Held self out as licensed, certified, registered etc., to perform work requiring a DOB license w/o obtaining such license.
28-401.9	Class 1	Failure to file evidence of liability &/or property damage insurance.
28-401.9	Class 1	Failure to file evidence of compliance with Workers Comp, law and/or disability benefits law.

Section of Law	Classification	Violation Description
28-404.1	Class 1	Supervision or use of rigging equipment without a Rigger's license.
28-404.4.1	Class 2	Licensed Master/Special Rigger failed to place appropriate "Danger" sign while using rigging equipment.
28-405.1	Class 1	Supervision or use of power-operated hoisting machine without a Hoisting Machine Operator's license.
28-405.1	Class 2	Supervision or use of power-operated hoisting machine without a Hoisting Machine Operator's license.
28-408.1	Class 2	Performing unlicensed plumbing work without a master plumber license.
28-502.6	Class 1	Misc sign viol'n by outdoor ad co of Tit. 27; Tit. 28; ZR; or BC.
BC 1016.2	Class 2	Failure to maintain building in code-compliant manner: provide required corridor width per BC 1016.2; 27-369.
BC 3010.1 & 27-1006	Class 1	Failure to promptly report an elevator accident involving personal injury requiring the services of a physician or damage to property.
BC 3301.2 & 27-1009(a)	Class 1	Failure to safeguard all persons and property affected by construction operations.
BC 3301.2 & 27-1009(a)	Class 2	Failure to safeguard all persons and property affected by construction operations.
BC 3301.2 & 27-1009(a)	Class 1	Failure to institute/maintain safety equipment measures or temporary construction—No guard rails.
BC 3301.2 & 27-1009(a)	Class 1	Failure to institute/maintain safety equipment measures or temporary construction—No toe boards.
BC 3301.2 & 27-1009(a)	Class 1	Failure to institute/maintain safety equipment measures or temporary construction—No handrails.
BC 3301.9 & 27-1009 (c)	Class 2	Failure to provide/post sign(s) at job site pursuant to subsection.
BC 3303.3 & 27-1020	Class 2	Failure to post D.O.T. permit for street/sidewalk closing.
BC 3303.4 & 27-1018	Class 2	Failure to maintain adequate housekeeping per section requirements.
BC 3304.3 & 1 RCNY 52-01(a)	Class 1	Failure to notify the Department prior to the commencement of earthwork.

Section of Law	Classification	Violation Description
BC 3304.3 & 1 RCNY 52-01(b)	Class 2	Failure to notify the Department prior to the cancellation of earthwork .
BC 3304.4 & 27-1032	Class 1	Failure to provide protection at sides of excavation.
BC 3306 & 27-1039	Class 1	Failure to carry out demolition operations as required by section.
BC 3306.2.1	Class 1	Failure to provide safety zone for demolition operations.
BC 3306.3 & 27-195	Class 1	Failure to provide required notification prior to the commencement of demolition.
BC 3306.5	Class 1	Mechanical demolition without plans on site.
BC 3307.3.1 & 27-1021(a)	Class 1	Failure to provide sidewalk shed where required.
BC 3307.6 & 27-1021	Class 2	Sidewalk shed does not meet code specifications.
BC 3307.7 & 27-1021(c)	Class 2	Job site fence not constructed pursuant to subsection.
BC 3309.4 & 27-1031	Class 1	Failure to protect adjoining structures during excavation operations.
BC 3310.5 & 27-1009(d)	Class 1	Failure to have Site Safety Manager or Coordinator present as required.
BC 3314.2 & 27-1042	Class 1	Erected or installed supported scaffold 40 feet or higher without a permit.
BC 3314.1.1 & 27-1050.1	Class 2	Failed to notify Department prior to use/inst. off C-hooks/outrigger beams in connection with Suspended Scaffold.
BC 3314.4.3.1 & 27-1045	Class 1	Failure to perform safe/proper inspection of suspended scaffold.
BC 3314.4.3.1 & 27-1045(b)	Class 1	No record of daily inspection of Suspended Scaffold performed by authorized person at site.
BC 3314.4.5 & 26-204.1 (a)	Class 1	Erected, dismantled repaired, maintained, modified or removed supported scaffold without a scaffold certificate of completion.
BC 3314.4.5 & 26-204.1 (a)	Class 2	Erected, dismantled repaired, maintained, modified or removed supported scaffold without a scaffold certificate of completion.
BC 3314.4.6 & 26-204.1 (c)	Class 1	Use of supported scaffold without a scaffold user certificate.
BC 3314.4.6 & 26-204.1 (c)	Class 2	Use of supported scaffold without a scaffold user certificate.

Section of Law	Classification	Violation Description
BC 3314.6.3 & 27-1009	Class 1	Failure to provide/use lifeline while working on scaffold.
BC 3314.6.3 & 27-1009	Class 2	Failure to provide/use lifeline while working on scaffold.
BC 3316.2 & BC 3319.1 & 27-1054	Class 1	Inadequate safety measures: Oper'n of crane/ derrick/hoisting equip in unsafe manner.
BC 3319.3	Class 1	Operation of a crane/derrick without a Certificate of Operation.
BC 3319.3 & 27-1057(b)	Class 2	Operation of crane/derrick without Certificate of Approval/Certificate of Operation.
BC 3319.3 & 27-1057(d)	Class 2	Operation of a crane/derrick without a Certificate of Onsite Inspection.
PC-Misc, FGC-Misc, MC-Misc	Class 1	Miscellaneous violations.
PC-Misc, FGC-Misc, MC-Misc	Class 2	Miscellaneous violations.
PC-Misc, FGC-Misc, MC-Misc	Class 3	Miscellaneous violations.
RS 6-1	Class 1	Failure to file affidavits and/or comply with other requirements set forth for photoluminescent exit path marking.
ZR 42-543	Class 1	Outdoor Ad Co sign in M Dist exceeds height limit.
ZR 22-00	Class 2	Illegal use in residential district.
ZR 22-32	Class 1	Outdoor Ad Co has impermissible advertising sign in an R Dist.
ZR 22-342	Class 1	Outdoor Ad Co sign in R Dist exceeds height limits.
ZR 25-41	Class 2	Violation of parking regulations in a residential district.
ZR 25-41	Class 3	Violation of parking regulations in a residential district.
ZR 32-00	Class 2	Illegal use in a commercial district.
ZR 32-63	Class 1	Outdoor Ad Co advertising sign not permitted in specified C Dist.
ZR 32-64	Class 2	Sign(s) in specified C Dist exceed(s) surface area restrictions.
ZR 32-64	Class 1	Outdoor Ad Co sign(s) in specified C Dist exceed surface area limits.
ZR 32-652	Class 2	Sign in specified C Dist extends beyond street line limitation.
ZR 32-653	Class 2	Prohibited sign on awning, canopy, or marquee in C Dist.

Section of Law	Classification	Violation Description
ZR 32-655	Class 1	Outdoor Ad Co sign exceeds permitted height for specified C Dist.
ZR 42-00	Class 2	Illegal use in a manufacturing district.
ZR 42-52	Class 1	Outdoor Ad Sign not permitted in M Dist.
ZR 42-53	Class 1	Outdoor Ad sign in M Dist exceeds surface area limits.
ZR-Misc	Class 2	Miscellaneous violations of the Zoning Resolution.
ZR-Misc	Class 3	Miscellaneous violations of the Zoning Resolution.
ZR-Misc.	Class 1	Misc sign violation under the Zoning Resolution by an Outdoor Ad Co.
ZR-Misc.	Class 2	Misc sign violation under the Zoning Resolution.

**HISTORICAL NOTE**

Section added City Record May 23, 2008 §2, eff. July 1, 2008 per City Record notice. [See Note 1]

**NOTE**

1. Statement of Basis and Purpose in City Record May 23, 2008:

The Department adopts this rule to reflect the enactment of the new Construction Codes, and the simultaneous repeal of substantial portions of the current Building Code. The new enforcement scheme will apply to all NOV's issued by the Department with a date of occurrence on or after July 1, 2008. The existing Penalty Schedule (designated in the coordinate proposed rule-making of the Environmental Control Board ("ECB") as "Buildings Penalty Schedule I") will be retained and will apply to all NOV's issued by the Department with a date of occurrence on or before June 30, 2008.

The new Construction Codes were enacted pursuant to the provisions of Local Law 33 of 2007 and Local Law 99 of 2005. Local Law 33 of 2007 sets forth administrative, enforcement and technical provisions for the city's new Construction Codes. It revises and thus complements Local Law 99 of 2005, which enacted administrative provisions of a new Title 28 of the NYC Administrative Code, as well as a new plumbing code. Local Law 33 repeals all of Chapter 1 of Title 26 of the NYC Administrative Code, and many of the provisions of Title 27 of the NYC Administrative Code, effective July 1, 2008. In view of the enactment of new Construction Codes, the Department adopts a new classification scheme for violations of code requirements, new daily penalties, and new processes for certifying the correction of violations. This rule is intended to complement ECB's rulemaking on this subject.

On July 1, 2008, the new Construction Codes will become effective in New York City. They consist of the New York City Plumbing Code (PC), the New York City Building Code (BC), the New York City Mechanical Code (MC) and the New York City Fuel Gas Code (FGC). In Title 28 of the NYC Administrative Code are found the administration and enforcement provisions that are applicable to both the new Construction Codes, and to the continuing provisions of the current Building Code. Those provisions of Title 27 that remain in effect (primarily for existing buildings) have now been retitled the "1968 Building Code."

The new Construction Codes will apply prospectively to all new constructions, with some exceptions. For a period of one year after the effective date, owners may elect to use the technical requirements of the 1968 Building Code, rather than of the new Construction Codes, for new buildings and for applications for alteration of existing buildings. In addition, after that one-year period, alterations of existing buildings will in some circumstances, at the option of the owner, be permitted to comply with the 1968 Building Code.

Even if an existing building (or in some cases, a new or altered building) continues to be governed by the provisions of the 1968 Building Code, rather than by the provisions of the new Construction Codes, the enforcement provisions of Title 28 of the NYC Administrative Code will nonetheless apply in connection with those buildings. Title 28 includes, among other provisions, the various penalty structure requirements for violations of these codes. Accordingly, even in

connection with the continuing provisions of the 1968 Building Code, a new set of classifications, penalties, and processes is required as of July 1, 2008.

Section 28-201.2 of the new codes requires the Department to indicate by rule whether a charge has a classification level of "immediately hazardous", "major" or "lesser". These classifications are based on "the effect of the violation on life, health, safety or the public interest or the necessity for economic disincentive." The classification level assigned to a particular charge determines the applicable statutory penalty range, as well as compliance requirements. The rule reflects that these classifications shall be denominated as Class 1, Class 2, and Class 3, respectively and further reflects the classifications of the various charges.

The classifications, penalties, and processes set forth above include charges from Title 28; the new Construction Codes; the Rules of the Department of Buildings; the Zoning Resolution; and charges that reflect the various continuing provisions of the 1968 Building Code. The penalties set forth in the rule are based on the penalty provisions of Title 28 of the NYC Administrative Code.

The Environmental Control Board, pursuant to Chapter 2 of Title 28 of the NYC Administrative Code, will also promulgate a rule in order to implement the provisions of Title 28 and the new Construction Codes. The ECB rule will include the same charge descriptions and classification levels as are set forth in the Department's rule, although it will also include the precise penalty amounts for each infraction, including each infraction with multiple classifications. The reason for this replication in ECB's rule of portions of the proposed classifications is that ECB is mandated by Title 28 to impose penalties for every charge.

The rule defines for purposes of both Department processes and ECB's establishment of mitigated penalties resolution by "cure," "stipulation," and "mitigation." It also implements the authority provided by §28-204.2 of the Administrative Code by providing additional time for correction of a violation in connection with cures, such that cures are permitted within forty, rather than thirty days, in order to allow for practical processing-time considerations. In addition, it allows for such cures in connection with certain violations that are classified as Class 2, as well as in connection with violations that are classified as Class 3 to the extent that the codes provide no minimum penalty for Class 2 violation. Accordingly, for eligible Class 2 violations, if the violation is certified as corrected in the prescribed manner, it will have the same consequences as in connection with cures for Class 3 violations.

Regarding charges that pertain to certificates of occupancy issued by the Department, §28-201.2.1 of the Administrative Code provides that violations for "occupancy without a required certificate of occupancy" shall be classified as immediately hazardous. The Department interprets that section to mean that a violation for occupancy without a required certificate of occupancy is a Class 1 violation only in cases involving a new building that has never had a certificate of occupancy. In all other cases, a violation for occupancy contrary to the certificate of occupancy may be written as an Class 1 violation or as a Class 2 violation or as a Class 3 violation.

### **§102-02 Compensation of registered design professionals in accordance with §28-216.6 of the administrative code.**

In accordance with the provisions of Administrative Code §28-216.6, registered design professionals appointed by a recognized professional organization to act on any survey or appointed to resolve disagreement between surveyors shall each be paid the sum of one hundred dollars.

#### **HISTORICAL NOTE**

Section added City Record May 14, 2008 §1, eff. July 1, 2008 per City Record notice. [See Note 1]

#### **NOTE**

1. Statement of Basis and Purpose in City Record May 14, 2008:

This rule is proposed pursuant to the authority of the Commissioner of Buildings under §643 and §1043 of the New York City Charter and §28-216.6.3 of the New York City Administrative Code.

The proposed rule will enable the Department to acquire, for purposes of conducting surveys of unsafe buildings, the services of the most qualified registered design professionals by providing them with compensation for their work that is comparable to the compensation generally received for such work in the field.

## SUBCHAPTER D

LICENSING AND REGISTRATION OF BUSINESSES, TRADES AND  
OCCUPATIONS ENGAGED IN BUILDING WORK\*

§104-08 Qualifications for Site Safety Manager and Site Safety Coordination Certificates.

§104-09 Hoisting Machine Operators Class C.

**§104-08 Qualifications for Site Safety Manager and Site Safety Coordination Certificates.**

(a) *Site safety managers.* The Department of Buildings shall issue a site safety manager certificate to an individual who shall have satisfied the requirements of section 28-402.2 of the Administrative Code.

(1) For purposes of satisfying the requirements of section 28-402.2 of the Administrative Code, equivalent education and construction experience shall consist of successful completion within two years of application for certification of an OSHA 30-hour safety course and one of the following:

(i) Eight years of experience within 10 years prior to the date of the application as a building code enforcement official charged with enforcement of the provisions of the New York City Building Code. The enforcement must have included inspections of major buildings under construction and thus this basis for qualification excludes officials whose primary role is to perform inspections of occupied or vacant buildings; or

(ii) Eight years of field experience working on buildings within 10 years prior to the date of the application as a safety official for a governmental entity or construction firm or as a safety manager or safety engineer for a safety consulting firm specializing in construction. The experience must have included 4 years relevant work on major buildings under construction; or

(iii) Successful completion of a New York State Apprenticeship Program for Site Safety Manager approved by the Department; or

(iv) Ten years of experience within 12 years prior to the date of the application working in a relevant construction trade with plans in furtherance of building construction, five years of which must have been on major buildings under construction and three of those five years must have been in an on-site supervisory position.

(A) For purposes of this subdivision, each year of formal training or education in a program with emphasis on construction at a college, technical or trade school may be substituted for one year of construction work up to a maximum of three years.

(v) Experience acquired pursuant to this subdivision must have been full-time experience acquired in the United States.

(2) A holder of a site safety manager certificate may not simultaneously hold either an active site safety coordinator certificate or an active registration as a superintendent of construction.

(3) An acceptable 18 month on-the-job training program shall include the following:

(i) The buildings worked on must have been major buildings;

(ii) The work must have been performed under the direct and continuing supervision of a certified site safety manager. For purposes of this subdivision, direct and continuing supervision shall include daily training at the location specified in the monthly summaries in the presence of the supervising certified site safety manager;

(iii) The training program must have been full-time and paid;

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\* Subchapter D added City Record Oct. 22, 2008 §1.

(iv) Dated and notarized summaries must have been completed by the certified supervising site safety manager at the end of every month specifying the location and nature of the construction activity at the location for the month covered;

(v) The program must cover all phases of construction and must specify precisely the activity in which the trainee was engaged for the month covered by each monthly summary, including but not limited to excavation, foundation work, plumbing, electrical, and mechanical;

(vi) The supervising certified site safety manager may supervise a maximum of two trainees simultaneously;

(vii) Completion within two years of application for certification of an OSHA 30-hour safety course.

(b) *Site Safety Coordinators.* The Department of Buildings shall issue a site safety coordinator certificate to an individual who shall have satisfied the requirements of section 28-403.2 of the Administrative Code.

(1) For purposes of satisfying the requirements of section 28-403.2 of the Administrative Code, equivalent education and construction experience shall consist of successful completion within two years of application for certification of an OSHA 30-hour safety course and one of the following:

(i) Five years of experience within 10 years prior to the date of the application as a building code enforcement official charged with enforcement of the provisions of the New York City Building Code. The enforcement must have included inspections of major buildings under construction and thus this basis for qualification excludes officials whose primary role is to perform inspections of occupied or vacant buildings; or

(ii) Five years of field experience working on buildings within 10 years prior to the date of the application as a safety official for a governmental entity or construction firm or as a safety manager or safety engineer for a safety consulting firm specializing in construction. The experience must have included 2.5 years relevant work on major buildings under construction; or

(iii) Five years of experience within 10 years prior to the date of the application working in a relevant construction trade with plans in furtherance of building construction, three years of which must have been on major buildings under construction and two of those three years must have been in an on-site supervisory position.

(A) For purposes of this subdivision, each year of formal training or education in a program with emphasis on construction at a college, technical or trade school may be substituted for one year of construction work up to a maximum of two years.

(iv) Experience acquired pursuant to this rule must have been full-time experience acquired in the United States.

(2) A holder of a site safety coordinator certificate may not simultaneously hold either an active site safety manager certificate or an active registration as a superintendent of construction.

(3) Applicants for a site safety coordinator certificate shall not be required to take an examination in order to qualify for the certificate.

(c) The term "major building" as used in this rule shall have the meaning given to it in Chapter 33 of the New York City Building Code.

#### HISTORICAL NOTE

Section added City Record July 1, 2008 §1, eff. July 1, 2008 per City Record notice. [See Note 1]

**NOTE**

1. Statement of Basis and Purpose in City Record July 1, 2008:

The foregoing rule is adopted pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) of the New York City Charter and pursuant to sections 28-401.7, 28-402.2, and 28-403.2 of the NYC Administrative Code.

The rule implements provisions of the Administrative Code that authorize the Department to prescribe "equivalent education and construction experience" for site safety manager and site safety coordinator applicants to qualify for required certificates. In addition, pursuant to Administrative Code §28-401.7, it dispenses with the requirement of an examination for site safety coordinator certificates, as the Department has determined that these individuals can properly qualify on the basis of experience alone.

**Statement of Substantial Need for Earlier Implementation**

I hereby find, pursuant to §1043, subdivision e, paragraph 1(c) of the New York City Charter, and hereby represent to the Mayor, that there is substantial need for the implementation of new §104-08 of Title 1 of the Rules of the City of New York, governing the qualifications for site safety manager and site safety coordinator certificates, upon the publication in the City Record of its Notice of Adoption.

This is one of the rules needed to implement the City's new Construction Codes. The proposed rule implements provisions of the Administrative Code that authorize the Department to prescribe "equivalent education and construction experience" for site safety manager and site safety coordinator applicants to qualify for required certificates. In addition, pursuant to Administrative Code §28-401.7, it dispenses with the requirement of an examination for site safety coordinator certificates, as the Department has determined that these individuals can properly qualify on the basis of experience alone. The new codes require that these certificate holders be on-site at certain construction jobs to oversee site safety requirements. By making the rule effective upon publication, the City will more quickly enlarge the pool of potential certificate holders and thus advance public safety on construction sites.

**§104-09 Hoisting Machine Operators Class C.**

(a) Applicants for a Class C Hoisting Machine Operator license shall satisfy the qualification and examination requirements of the Administrative Code by complying with the following requirements:

(1) Applicants shall furnish to the Department a certification issued by the National Commission for the Certification of Crane Operators or an equivalent certification entity approved by the Department. The certification shall authorize operation of the type of equipment for which the applicant seeks a license. The applicant shall provide to the Department a copy of the certification, a copy of future re-certifications and documentation of new specialties acquired. The applicable certification shall be maintained continuously for the duration of the license term.

(2) Applicants shall provide proof of experience demonstrating two years work, within the three years prior to application, under the direct and continuing supervision of a Hoisting Machine Operator licensed by the Department or by another jurisdiction that regulates crane operators. At least one year of the qualifying work must have been undertaken in the city of New York or in an urban area of comparable density, as determined by the commissioner.

(b) Fitness requirements for renewal and reinstatement. As a condition of license renewal or reinstatement, a licensed or previously licensed Class C Hoisting Machine Operator shall provide evidence of fitness to perform the work authorized to be performed by a holder of the license type held or once held by the applicant. Such evidence shall consist of a valid certification(s) issued by the National Commission for the Certification of Crane Operators or an equivalent certification entity approved by the Department. The certification shall authorize the operation of the type of equipment for which the licensee is licensed and the licensee shall provide to the Department a copy of the certification, a copy of future re-certifications and documentation of new specialties acquired. Class C Hoisting Machine Operator's licenses that have been or will be renewed or reinstated at any time between July 1, 2008 and September 30, 2009 shall be conditioned on the licensee's satisfaction of the requirements of this rule by September 30, 2009, and

shall lapse, effective October 1, 2009, upon failure to satisfy such condition, provided, however, that the commissioner may for cause, following notice and an opportunity to be heard, accelerate the date by which holders of such licenses must satisfy the requirements of this rule and in such case, upon failure to satisfy such condition, the license shall lapse. Renewal applicants shall satisfy the requirements of this rule at every subsequent renewal. The licensee shall pay the full license renewal or reinstatement fee at the time of renewal or reinstatement.

(c) Licensees shall provide to the Department no later than September 30, 2009 or at an earlier date determined by the commissioner pursuant to subdivision (b) or upon application, renewal, or re-instatement, as applicable:

(1) Evidence of having passed a physical exam that complies with the standards of ASME B 30, effective for the term of the license sought or held by the licensee; and

(2) Evidence of having certified compliance with the substance abuse testing provisions and standards of ASME B 30, effective for the term of the license sought or held by the licensee. Such evidence shall include the name, address and telephone number of the laboratory that performed the tests and consent to the release by such laboratory of the test results to the Department upon request of the Department.

(3) Evidence of a valid certification(s) issued by the National Commission for the Certification of Crane Operators or an equivalent certification entity approved by the Department.

(d) A Class C Hoisting Machine Operator license issued following compliance with this rule shall authorize the operation of only that type of equipment for which Department records indicate the licensee is certified.

(e) The provisions of this rule shall be in addition to the qualification, renewal and reinstatement requirements prescribed by articles 401 and 405 of title 28 of the Administrative Code.

(f) In addition to any other documents required to be maintained on-site by a licensed Class C Hoisting Machine Operator, such Operator shall have on-site at all times the following documents:

(1) The certification(s) issued to him or her by the National Commission for the Certification of Crane Operators or equivalent certification entity approved by the Department; and

(2) The hoisting machine operator license issued to him or her by the Department; and

(3) Evidence of having passed a physical exam that complies with the standards of ASME B 30, effective for the term of the license held by the licensee; and

(4) Evidence of having certified compliance with the substance abuse testing provisions and standards of ASME B 30, effective for the term of the license held by the licensee.

#### HISTORICAL NOTE

Section added City Record Oct. 22, 2008 §1, eff. Oct. 22, 2008 per City Record notice. [See Note 1]

#### NOTE

1. Statement of Basis and Purpose in City Record Oct. 22, 2008:

This rule is adopted pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) and (h) of the New York City Charter and sections 28-401.7 and 28-405.4 of the New York City Administrative Code.

The proposed rule is based on Sections 28-401.6, 28-401.7, 28-405.3.3 and 28-405.4 of the Administrative Code. The first two sections require license applicants to satisfy qualification requirements in addition to those prescribed by statute and to take examinations as provided in Department rule. Section 28-405.3.3 governs experience requirements for Class C Hoisting Ma-

chine Operators, and 28-405.4 authorizes the commissioner to require Hoisting Machine Operators to provide proof of fitness to perform authorized work as a condition to license renewal.

Recent crane accidents have prompted the City to re-assess its oversight of crane operations. The review covers testing, experience and ongoing training requirements for all persons involved in the operation of cranes, including Class C Hoisting Machine Operators. The examination for the Class C Hoisting Machine Operator license is alleged by law enforcement authorities to have been the subject of improprieties, making it necessary for the Department to take immediate steps to restore integrity to the examination and license renewal and reinstatement processes for this license type. This rulemaking accomplishes that purpose by substituting for the Department-administered examination previously given to Class C Hoisting Machine Operators an examination given by a national certification entity as part of its certification process for operators of the type of equipment operated by Class C Hoisting Machine Operators. The Department finds it necessary to apply the new requirement to all holders of Class C licenses, including those who have renewed their license since the July 1, 2008 effective date of the New York City Construction Codes, by giving these licensees until September 30, 2009 to comply. The Department further finds it necessary to authorize the commissioner to accelerate the date by which compliance with this rule will be required to account for circumstances, such as the recent indictment for examination-related improprieties, of a crane company employing licensees. Under such circumstances, the Department is empowered for good cause to require that licensees associated with the company either confirm their qualifications or fulfill the new examination requirement on an accelerated schedule. In addition, the Department finds it necessary to require that new applicants for a Class C Hoisting Machine Operator license demonstrate experience in operating cranes in dense urban conditions, and thus requires in this rulemaking that such applicants have acquired at least a portion of their qualifying experience in New York City or in an urban area of comparable density as determined by the Department.

#### **Finding of Immediate Threat**

IT IS HEREBY CERTIFIED that the immediate effectiveness of the emergency rule relating to the qualifications of Class C Hoisting Machine Operators is necessary to prevent an immediate threat to health, safety and property, by addressing recently demonstrated gaps in the integrity of the license examination and renewal process for this type of crane license. I hereby make the following finding of immediate threat to health, safety and property necessary to establish that an emergency rulemaking is required in relation to the protection of health, safety and property.

On Friday, June 6, an Assistant Chief in the Department of Buildings' Cranes and Derricks unit was arrested on corruption charges for allegedly having received bribes from a crane company, having falsified crane inspection reports and having tampered with licensing exams. The Department responded in several ways, one of which was to review the Hoisting Machine Operator Class C license exams whose integrity was implicated in the alleged wrongdoing. The emergency rule reflected in this action is the product of that review. By moving to a national testing standard for this type of license and requiring it at the earliest possible time, the Department hopes to immediately enhance the qualifications and training of Class C Operators and to address the sort of compromise of integrity alleged to have occurred in the administration of the Class C exam to date.

IT IS THEREFORE HEREBY CERTIFIED that the immediate effectiveness of a rule relating to the qualifications of Class C Hoisting Machine Operators is necessary to address an immediate threat to health, safety and property.