

The following rule was promulgated by publication in *City Record* on April 15, 2010.

## NOTICE OF ADOPTION

Notice of Adoption of Rule Regarding the Sale of Etching Acids.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Consumer Affairs by Section 20-615 of Chapter 4, Title 20 of the Administrative Code of the City of New York and in accordance with the requirements of Section 1043 of the New York City Charter that the Department promulgates and adopts a rule regarding the sale of etching acids.

These amendments were proposed and published on January 6, 2010. The required public hearing was held on February 5, 2010.

All the material shown below is underlined since the entire rule is new.

### RULE

Section 1. Chapter 4 of Title 6 of the Rules of the City of New York is amended by adding a new Subchapter G to read as follows:

#### SUBCHAPTER G

#### ETCHING ACIDS

**§4-100 Valid photo identification.** The valid photo identification that a dealer of etching acid shall request from each purchaser of etching acid must: (a) be issued by a government entity, including a foreign government or a duly accredited educational institution, (b) be issued as a tamper-proof document, and (c) include the name, date of birth and photograph of the person it identifies.

**§4-101 Purchasing records to be maintained.** (a) A dealer of etching acid shall record the following information about each sale of etching acid:

1. the date of the sale;
2. the name and age of the purchaser as shown on the valid identification provided by the buyer;
3. a complete description of the valid identification document that was accepted, including the name of the issuing agency, the type of identification document, the expiration date of the document, and any identification number or code appearing on the document;
4. the amount of etching acid sold to the purchaser; and
5. the unit price of the etching acid and the total cost of the purchase.

(b) The above information shall be:

1. recorded in writing on a separate page for each transaction and kept in chronological order by the date of each sale, either in a bound volume or in a separate file, where only such documents are retained; or
2. retained in an electronic format and maintained in a data base from which the information can be retrieved by the date of the sale, the identity of the purchaser and the type of identification

that was used.

**§4-102 Posting of notice.** (a) The notice of the required information must be conspicuously posted at the point of sale, shall include a statement that reads substantially as follows and shall be printed as indicated in brackets: “NOTICE TO ETCHING ACID PURCHASERS: [To be printed in capital letters in 16-point bold-faced type] You are required by law to furnish us with a valid, government-issued photo identification card, and we are required to record and maintain personal information about you that identifies you. [To be printed in 14-point type]

(b) The sign shall be sufficiently large to contain the statement in the specified print size.

**Statement of Basis and Purpose:** Section 20-613 of the Administrative Code of the City of New York enacted by Local Law Number 30 for the Year 2009 provides that the Commissioner adopt a rule specifying the form and content of the sign that dealers in etching acids are required to post to inform purchasers that all purchasers are required to provide valid photo identification and personal information. Dealers are required to record this information prior to the purchase of any etching acid. As required by such local law, the Department promulgates as section 4-102 of new subchapter G of chapter 4 of Title 6 of the Rules of the City of New York the form, content and size of the sign required to be posted to inform prospective purchasers of etching acids about the identifying information they are required to furnish prior to purchase such acid.

Section 20-614 of such Local Law also authorizes the Commissioner to adopt such rules as may be necessary implement its provisions that require dealers in etching acid to accept valid photo identification from each prospective purchaser and to maintain records of purchases.

The Department, therefore, specifies in a new section 2-400 of such subchapter G the types of identification documents that a dealer could accept as valid identification for the purpose of complying with the obligation to obtain and record the identifying information required by Local law Number 30. This requirement is needed to identify the types of documents that dealers can rely on to satisfy their obligation under the law to identify purchasers of etching acids. At the urging of the Council that valid documentation be broad enough to enable students using identification issued by an accredited education institution to purchase etching acid, the Department has broadened the documents that qualify as valid identification to include documents issued by any accredited education institution.

The Department also specifies in new section 2-401 of such subchapter G the content and form of the records that Local Law Number 30 requires etching acid dealers to maintain and to inform them about the content and form in which data are to be maintained to satisfy the requirements of the law.