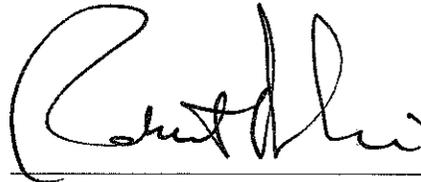


## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to section 102-01 of subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding violation reclassification.

This rule was first published on April 8, 2010 and a public hearing thereon was held on May 11, 2010.

Dated: 5-19-10  
New York, New York



Robert D. LiMandri  
Commissioner

Section 1. Subparagraph (i) of paragraph (2) of subdivision (f) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(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 an accident, or poses a substantial risk thereof; is accompanied by, or results in a fatality or serious injury, or poses a substantial risk thereof; or where the violating condition affects a significant number of people; or

§2. Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to Sections 5-02 and 101-07 of Title 1 of the Rules of the City of New York, Section 28-406.1 of the New York City Administrative Code, and New York City Building Code Sections 903.6, 905.11, 1704.4, and 1905.6.3.2, as follows:

<b>Section of Law</b>	<b>Classification</b>	<b>Violation Description</b>
<u>1 RCNY 5-02</u>	<u>Class 2</u>	<u>Failure to meet the requirements of licensing/identification/qualification as required by 1 RCNY 5-02.</u>
<u>1 RCNY 101-07</u>	<u>Class 2</u>	<u>Failure of approved agency to comply with requirements of 1 RCNY 101-07.</u>
<u>28-406.1</u>	<u>Class 1</u>	<u>Unlicensed concrete testing activity.</u>
<u>BC 1704.4</u>	<u>Class 2</u>	<u>Failure to perform special inspections and verifications for concrete construction as required by section and Table 1704.4.</u>
<u>BC 1905.6.3.2</u>	<u>Class 2</u>	<u>Failure to comply with ASTM C31 standards for concrete cylinder test samples.</u>

<b>Section of Law</b>	<b>Classification</b>	<b>Violation Description</b>
<u>BC 903.6</u>	<u>Class 2</u>	<u>Failure to paint dedicated sprinkler piping/valves in accordance with section.</u>
<u>BC 903.6</u>	<u>Class 2</u>	<u>Failure to provide/maintain painting certification of sprinkler and combination sprinkler/standpipe systems in accordance with section.</u>
<u>BC 905.11</u>	<u>Class 2</u>	<u>Failure to paint dedicated standpipe/valves in accordance with section.</u>
<u>BC 905.11</u>	<u>Class 2</u>	<u>Failure to provide/maintain painting certification of standpipe and combination sprinkler/standpipe systems in accordance with section.</u>

### **Statement of Basis and Purpose**

The foregoing rule amendments are promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter. The Department is amending the definition of an Aggravated II condition found in Subparagraph (i) of paragraph (2) of subdivision (f) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York. The intent of this amendment is to include in the Aggravated II definition conditions that pose significant potential risks of serious injuries or fatalities but may not have resulted in such serious injuries or fatalities.

The amendment to subdivision (j) of Section 102-01 of the Department's rules relating to concrete testing results from the Department's intent to better enforce the law and rules related to the monitoring of concrete operations within the City of New York. Recently, serious allegations of inappropriate conduct against concrete testing laboratories have resulted in criminal convictions. The Department is increasing its oversight of these companies and their operations throughout the City.

The amendments to subdivision (j) of Section 102-01 of the Department's rules regarding painting of standpipes and sprinklers result from the enactment of Local Law 58 of 2009 which became effective on March 2, 2010.

Local Law 58 amends the Building Code by adding new sections 903.6, which governs the painting of dedicated sprinkler piping and requires that such painting be certified as completed in accordance with the law, and 905.11, which governs the painting of dedicated standpipe and handles of valves, and requires that such painting be certified as completed in accordance with the law.