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 repeals Subchapter B of Chapter 13 of Title 1 of the Rules of the City of New York and adopts the addition of Subchapter E and Section 105-05 to Chapter 100 of Title 1 of such Rules, regarding adjudications.

This rule was first published on December 22, 2008 and a public hearing thereon was held on January 23, 2009.

Dated: 2/4, 2009
New York, New York

Robert D. LiMandri
Commissioner

Section 1. Subchapter B of Chapter 13 of Title 1 of the Rules of the City of New York, relating to Rules Governing Adjudication Procedures is REPEALED.

Section 2. Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new Subchapter E and Section 105-05, to read as follows:

Subchapter E
Miscellaneous Provisions

§ 105-05 Adjudications.

(a) Hearings concerning the following matters under the jurisdiction of the Department shall be held before the Office of Administrative Trials and Hearings and shall be governed by the rules of procedure utilized at that tribunal:

(1) Proceedings pursuant to Administrative Code §28-104.2.1 and §28-104.2.1.3.2 against a registered design professional seeking suspension, exclusion, or other limitation on such registered design professional's participation in the Professional Certification Program

(2) Proceedings pursuant to Administrative Code §§28-104.2.1, §28-114.1 and §28-115.2 seeking the suspension, revocation, disqualification or other limitation, with or without penalties, of the authority of any licensee or holder of a certificates of competence issued by the Department, approved agency, special inspector, registered design professional or any other person to conduct inspections of work or tests or to participate in any program authorizing either less than full examination of documents based on a registered design professional's professional certification or self-certification of the results of document preparation or review or an inspection

(3) Proceedings pursuant to Administrative Code §28-211.1.2 charging a person with having knowingly or negligently made a false statement or having 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 the code or of any rule of any agency

(4) Proceedings pursuant to Administrative Code Articles 212 and 214 seeking an order of closure

(5) Disciplinary proceedings pursuant to Administrative Code §28-401.19 seeking suspension or revocation, with or without penalties, against any licensee or holder of a certificates of competence issued by the Department

(6) Hearings pursuant to Administrative Code Article 419 for the return of seized property, separately or in conjunction with hearings to adjudicate the violation underlying the seizure

(7) Civil service employee disciplinary matters

(8) Any other administrative adjudicatory hearing not otherwise committed to the jurisdiction of another agency.

STATEMENT OF BASIS AND PURPOSE

This rule is promulgated as an update of the Department's current rule governing adjudications. 1 RCNY 13-11 et seq. It makes three changes. First, rather than separately list each license type whose disciplinary proceedings are returnable at the Office of Administrative Trials and Hearings ("OATH"), it provides that disciplinary proceedings for all license types shall be returnable there. Second, it updates the types of proceedings returnable at OATH to reflect recent legislation, including changes enacted as part of the New York City Construction Codes. Finally, it formally eliminates the roles of the Master Electricians License Board and the Plumbing and Fire Suppression Piping Contractor License Board in the disciplinary referral process. While the Department expects these Boards to continue to consider and make recommendations on certain referrals, this change is designed to enable the Department to proceed expeditiously to OATH as a routine matter.