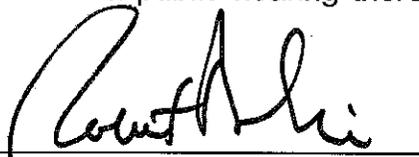


NOTICE OF ADOPTION OF RULE

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 and Section 28-114.1 of the New York City Administrative Code, that the Department of Buildings hereby amends Section 101-07 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, relating to Approved agencies.

This rule was first published on October 7, 2009 and a public hearing thereon was held on November 10, 2009.

Dated: FEB 22, 2010
New York, New York



Robert D. LiMandri
Commissioner

Section 1. The title of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

§101-07 [Inspections and] [a] Approved [a] Agencies.

§ 2. Subdivision (a) of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(a) Definitions. For the purposes of this section, all terms used herein shall have the same meanings as set forth in the New York City [b] Building [c] Code ("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)1] Approved boiler inspection agency. An agency employing qualified boiler inspectors [, as defined below].

[(3)2] 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] perform one or more of the inspections required by the New York City Construction Codes ("Construction Codes").

(3) Approved pipe welder qualifying agency. An agency that is approved by the department to qualify welders of gas piping installations in accordance with section 406.1.1.1 of the New York City Fuel Gas Code ("Fuel Gas Code") and high pressure steam piping systems in accordance with section 1210 of the New York City Mechanical Code ("Mechanical Code").

(4) Approved product certification agency. An inspection 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.

([4]5) 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 [b] Building [c] Code.

([5]6) 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] Construction Codes. 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]7) 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.

(8) Construction documents. Plans and specifications and other written, graphic and pictorial documents, prepared or assembled for describing the design, location and physical characteristics of the elements of the project necessary for obtaining a building permit.

([7]9) 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 ("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.

(10) Qualified elevator inspector. An individual who has obtained a Qualified Elevator Inspector ("QEI") Certificate from an ASME-accredited agency to witness elevator inspections and tests.

(11) Qualified elevator inspector supervisor. An individual who has obtained a Qualified Elevator Inspector Supervisor ("QEIS") Certificate from an ASME-accredited agency to supervise a QEI's witnessing and/or to witness directly elevator inspections and tests.

([8]12) 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] registered design professional with at least 1 year of relevant experience.

(13) Registered design professional. A New York State licensed and registered architect (RA) or a New York State licensed and registered professional engineer (PE).

([9]14) 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]15) 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. 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 [b] Building [c] Code. Such supervision and control shall be evidenced by the supervisor's signature and seal upon any required statements, applications and/or reports.

([11]16) 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.

§ 3. Paragraph (2) of Subdivision (b) of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(2) Duties. Except as provided for in paragraph (8) of subdivision (c) of this section, [T] the approved agency shall:

§ 4. Paragraph (5) of Subdivision (b) of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(5) Limitation of duties. An approved agency shall not engage in any activity for which it has not been approved, 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.

§ 5. Paragraph (7) of Subdivision (b) of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(7) [Insurance] Maintenance of insurance. Every approved agency shall maintain the following insurance coverage:

(i) A general liability policy [for] in the amount of one million dollars. Where a registered design professional of record for an application for construction document approval also serves personally, without relying on persons under his or her supervision, as the progress inspector for such application in accordance with paragraph (3) of subdivision (c) of this section, a general liability policy shall not be required.

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

(iii) For progress inspection agencies [and], qualified exterior wall inspectors and licensed concrete testing laboratories only, in addition to the requirements of (i) and (ii) above, a Professional Liability/Errors and Omissions insurance policy in the amount of at least three hundred thousand dollars[, occurrence based, for the term of the registration or accreditation].

§ 6. Paragraphs (1) and (2) of Subdivision (c) of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York are amended to read as follows:

(1) Except as otherwise provided in subdivisions (c)(8)(vi) and (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 for product certification.

(i) A testing [and/or inspection] agency shall be deemed an approved testing [and/or approved inspection] agency for [such] testing [and/or inspecting] materials [and listing and labeling materials] to specified standards in accordance with [the building code] the Construction Codes and [its] their 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] International Standards Organization (“ISO”) 17025, 2005 edition (General Requirements for the Competence of Testing and Calibration Laboratories) 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 inspection and/or product certification agency shall be deemed an approved inspection and/or approved product certification agency for listing and labeling materials to specified standards in accordance with the Construction Codes and their referenced standards where such agency has achieved accreditation for such listing and labeling from International Accreditation Service, Inc. or an equivalent accrediting agency accrediting to the standards set forth in ISO 17020, 1998 edition (General Criteria for the Operation of Various Types of Bodies Performing Inspection), ISO Guide 65, 1996 edition (General Requirements for Bodies Operating Product Certification Systems) 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] iii) 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] iv) 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] v) 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] vi) 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.

§ 7. Paragraph (4) of Subdivision (c) of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(4) Elevator inspection agencies.

(i) Notwithstanding anything to the contrary set forth herein, elevator inspection [companies] agencies, 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 [b] Building [c] Code, including chapter K3, pertaining to existing elevators, as set forth in the rules of the department.

(iii) Tests and [I] inspections performed by an approved elevator inspection agency on behalf of the owner 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 [b] Building [c] 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, QEI or QEIS authorized pursuant to clause (C) of subparagraph (iv).

(iv) Effective January 1, 2009, periodic elevator inspections and tests performed by an approved elevator inspection agency on behalf of the owner as 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 or a QEI or QEIS authorized pursuant to clause (C) of this subparagraph that is 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. Such personnel may perform the test through December 31, 2011. Thereafter, the test shall be performed by an inspector or director who holds a Certificate of Approval from the department.

(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. Individuals who do not hold a Certificate of Approval, but who possess the qualifications set forth in items ((a)) through ((c)) below, may witness such test through July 1, 2010. No such individual shall witness the test beyond such date unless he or she has by July 1, 2010 applied for and passed a department-sponsored/administered examination for a Private Elevator Inspection Agency Director or Private Elevator Inspection Agency Inspector Certificate of Approval. Individuals who have passed such examination by July 1, 2010 may continue to witness the test based on satisfaction of the qualifications set forth in items ((a)) through ((c)) below through July 1, 2011 or until the issuance or denial of a Certificate of Approval from the department, whichever is sooner.

((a)) A valid QEI or QEIS Certificate;

((b)) A minimum of five (5) years of satisfactory experience, within the last seven (7) years immediately preceding the date of affirmation from the director of the agency as prescribed in item ((c)) below in the assembly, installation, repair, design, or inspection of elevators, or as an elevator mechanic;

((c)) An affirmation from the director of the agency, on such form as the commissioner shall require, attesting that the QEI or QEIS is familiar with the construction and maintenance of elevators, escalators and related equipment and the standards set forth in Chapter 30 and appendix K of the Building Code, including appendix K3, pertaining to existing elevators, as set forth in the rules of the department and a determination by the director that the QEI or QEIS is of good moral character so as not to adversely impact upon

his or her fitness to witness elevator inspections. The commissioner may refuse to accept such certification for any of the reasons specified as grounds for revocation or suspension set forth in subdivision (e) of this section.

(v) Agency employee restriction. An employee of an elevator inspection agency may work only for such agency and for one agency director at a time.

(D) The witnessing inspector shall affix the test/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.

§ 8. Item ((c)) of Clause (A) of Subparagraph (ii) of Paragraph (5) of Subdivision (c) of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

((c)) A certification by the owner that identified defects have been corrected. The report must be filed within 45 days from the date 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 from the date 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 and the rules of the department.

§ 9. Paragraph (6) of Subdivision (c) of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of is amended New York to read as follows:

(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 [b] Building [c] Code and its referenced standards where such laboratory has: [achieved accreditation 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.]

(A) Obtained a license as a concrete testing laboratory pursuant to Article 406 of Title 28 of the Administrative Code; and

(B) Achieved accreditation from AASHTO Accreditation Program, the National Voluntary Laboratory 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.] Such director shall:

(A) Personally supervise inspections and tests to ensure compliance with prescribed nationally recognized standards. Such supervision shall include ensuring that inspectors and technicians are properly trained and educated as necessary in order to perform their duties and shall include planning for continued training related to developing technology;

(B) Be a full-time employee of the laboratory and shall not serve as the director of more than one licensed laboratory at a time. Laboratories in good standing with the department that are licensed prior to July 1, 2008, shall be required to comply with this requirement by July 1, 2010;

(C) Be a registered design professional with at least five years of experience in the testing and inspection of concrete materials. Laboratories in good standing with the department that are licensed prior to July 1, 2008, shall be required to comply with this requirement by July 1, 2010; and

(D) Submit proof of qualification to the department with any application for the initial licensing of a laboratory and when there is a change in director for an existing licensed laboratory.

(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.

(vii) A concrete testing laboratory shall maintain a New York City address or agent for the acceptance of service. A Post Office Box shall not be acceptable for such purposes. A laboratory approved by the department prior to the effective date of this subparagraph shall comply with such requirement by July 1, 2010.

(viii) A concrete testing laboratory's facilities and equipment shall be used exclusively for its own concrete testing and quality control and shall not be shared with other entities.

(ix) A concrete testing laboratory 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.

(x) A concrete testing laboratory testing for the acceptance of concrete as part of a special inspection, shall be employed by the owner in accordance with section 1704.1 of the Building Code.

§ 10. Subdivision (c) of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a paragraph (8) to read as follows:

(8) Pipe welder qualifying agencies. An agency shall be deemed an approved agency for qualifying welders of gas piping installations in accordance with section 406.1.1.1 of the Fuel Gas Code and high pressure steam piping systems in accordance with section 1210 of the Mechanical Code, where such agency complies with the following:

(i) The testing administrator for the pipe welder qualifying agency shall be an employee of such agency and either a AWS Certified Welding Inspector or Senior Certified Welding Inspector or a quality control manager of a manufacturer or contractor holding an ASME Certificate of Authorization.

(ii) A pipe welder qualifying agency shall be responsible for the following:

(A) Verifying that welder performance qualifications are in accordance with ASME Boiler and Pressure Vessel Code Section IX;

(B) Positively identifying each welder or welding operator being qualified;

(C) Observing the welder or welding operator during the qualification test;

(D) Verifying that all welder qualification records (e.g., QW-484 forms or equivalent) accurately record the data required by ASME Boiler and Pressure Vessel Code Section IX and are certified by the manufacturer or contractor; and

(E) Signing the welder qualification record and submitting a copy to the department when required.

(iii) No pipe welder qualifying agency shall engage in any activities that may conflict with its objective judgment and integrity, including but not limited to having a financial or other interest in the qualification of the welder. A quality control manager or his or her designee shall be considered sufficiently independent to satisfy this requirement when a manufacturer or contractor has an ASME Certificate of Authorization.

(iv) A letter requesting pipe welder qualifying agency approval and attesting to compliance with this section, signed by the owner of the agency, accompanied by any related fees set forth in the rules of the department, shall be mailed to the Department of Buildings, 280 Broadway, 7th Floor, New York, NY, 10007, Attn: The Office of Technical Certification and Research ("OTCR").

(v) A pipe welder qualifying agency's approval shall be renewed every three years.

(vi) An agency previously approved to qualify welders in accordance with the 1968 New York City Building Code shall be required to request re-approval in accordance with subparagraph (iv) above by July 1, 2010 in order maintain its ability to qualify pipe welders beyond that date.

(vii) A pipe welder qualifying agency shall maintain a New York City address for the acceptance of service. A Post Office Box shall not be acceptable for such purposes. An agency approved by the department prior to the effective date of this subparagraph shall comply with such requirement by July 1, 2010.

§ 11. Subdivision (e) of Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(e) Suspension or revocation and reinstatement 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 [b] Building [c] 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 [b] Building [c] 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.

(3) Reinstatement of approval. Upon expiration of a suspension or no sooner than one (1) year from the date of revocation, an agency shall be eligible for reinstatement of approval. Such agency shall submit to OTCR the following for review:

(i) Documentation that addresses corrections to the conduct or practices that formed the basis for the suspension or revocation.

(ii) Documentation that establishes procedures to prevent the conduct or practices that formed the basis for the suspension or revocation.

(iii) A reinstatement application.

STATEMENT OF BASIS AND PURPOSE

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

The amendments to Section 101-07 of the Department's rules are derived from a number of sources: (1) Department determinations of modifications required in light of the first several months of enforcement of the new codes; and (2) correction of inadvertent errors. Specific explanations follow:

Section 1. This section amends the title of this rule section to minimize confusion with the "Special inspectors and special inspection agencies" rule (1 RCNY 101-06) by removing the term "Inspection".

Section 2. This section adds new definitions "Approved pipe welder qualifying agency", "Approved product certification agency", "Construction documents", "Qualified elevator inspector", "Qualified elevator inspector supervisor" and "Registered design professional". These are new entities being added to this rule by this amendment. In addition, some definitions have been modified for clarity and consistency.

Section 3. This section exempts pipe welder qualifying agencies from the approved agency general duties set forth in paragraph (2) of subdivision (b) of this rule. Pipe welder qualifying agencies do not perform inspection activities.

Section 4. This section corrects the inadvertent error of having omitted the term "approved" from the original rule.

Section 5. This section corrects an inadvertent error in the original rule by adding licensed concrete testing laboratories to the list of approved agencies that are required to carry a Professional Liability/Errors and Omissions insurance policy and sets the minimum amount of insurance required. This section also exempts certain individuals from the requirement to maintain a general liability policy. This exemption is important in order to allow small firms to continue to offer basic services to clients during construction in accordance with practice standards. It is estimated that single practitioners constitute approximately 40% of all architecture and engineering firms in New York City. The elimination of this insurance requirement for registered design professionals who want to conduct progress inspections on work they have prepared and submitted for approval and permit will allow the single practitioner to continue to offer clients construction contract administration services without additional cost.

Section 6. This section exempts existing pipe welder qualifying agencies from the effective date requirements set forth in paragraph (1) of subdivision (c) of this rule. Such agencies previously approved to qualify welders in accordance with

the 1968 New York City Building Code shall not be required to comply with certain provisions of this rule and shall be re-approved in accordance with this rule prior to July 1, 2010. This section also corrects, clarifies and separates the standards to be used for the accreditation of approved testing, inspection and product certification agencies. These new standards are those used by nationally recognized accrediting bodies.

Section 7. This section adds the requirement that written and oral tests required by 1 RCNY 11-01 (2)(ii) shall require familiarity with chapter K3 (Safety Code for Existing Elevators and Escalators) as set forth in the rules of the department. Familiarity with chapter K3 is required as it contains all existing elevator and escalator minimum requirements. This section also clarifies that it is the owner's and not the department's periodic elevator inspections and tests being addressed by paragraph (4) of subdivision (c) of this rule. This section additionally limits the length of time for which skilled elevator trade personnel may perform tests to December 31, 2011. Beyond such date, tests must be performed by an inspector or director who holds a Certificate of Approval. Such proposal will ensure that individuals performing tests have been fully examined by the department. This section further allows qualified elevator inspectors ("QEI") and qualified elevator inspector supervisors ("QEIS") (individuals who do not hold a Certificate of Approval) to witness tests performed by approved elevator inspection agencies through July 1, 2010 and allows such individuals to witness tests for up to one year longer as QEI's or QEIS's only if they have passed a department-sponsored/administered examination by July 1, 2010. The purpose of this amendment is to encourage QEI's and QEIS's to obtain Private Elevator Inspection Agency Director or Private Elevator Inspection Agency Inspector Certificates of Approval. This section also adds the restriction that an employee of an elevator inspection agency may work for only one agency or one agency director at a time. Elevator licenses issued by the department allow elevator inspectors to work for only one agency/entity at a time unless they work for a city agency.

Section 8. This section clarifies the filing requirements for low pressure boiler annual inspection reports.

Section 9. This section lists the National Voluntary Laboratory Program ("NVLAP") as an additionally named accreditation agency, sets forth the qualifications for concrete testing laboratory directors and supervisors, and adds various new requirements for concrete testing laboratories. These new provisions require that concrete testing laboratories maintain a New York City address or agent for the acceptance of service, that a concrete testing laboratory's facilities and equipment shall be used exclusively for its own concrete testing, that such laboratories shall not engage in any activities that may conflict with their objective judgment and integrity, and that such laboratories testing for the acceptance of concrete as part of a special inspection, shall be employed by the owner. Such

requirements will close certain loopholes that the department discovered during the investigation of concrete testing laboratories.

Section 10. This section adds pipe welder qualifying agencies to this rule and establishes qualifications, duties, application requirements and address requirements for pipe welder qualifying agencies. These agencies were inadvertently omitted from the original rule.

Section 11. This section establishes reinstatement provisions for all approved agencies listed in the rule. This is a necessary mechanism for approved agencies that was inadvertently omitted from the original rule.