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 amendment of section 101-07 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding elevator inspection agencies.

This rule was first published on August 4, 2011, and a public hearing thereon was held on September 9, 2011.

Dated: 09/23/11
New York, New York

/s/
Robert D. LiMandri
Commissioner

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.

Under the current rule, inspectors who have passed a department examination by July 1, 2010 can only witness elevator tests until July 1, 2011.

The amendments:

- Extend the time during which an elevator inspection agency may continue to witness required periodic elevator tests pending the issuance or denial of a certificate of approval from the department. This amendment allows elevator inspectors or agency directors who have applied for and passed a department examination by July 1, 2010 to continue to witness the tests until December 31, 2011 while the department conducts background investigations. Without this extension there would be an insufficient number of inspectors who would be able to witness the mandatory periodic elevator tests required by the Administrative Code. This extension will enhance the safety and reliability of elevators and escalators by ensuring that appropriate inspections are conducted and that elevators are maintained in a safe condition.

- Eliminate some outdated provisions and make a few minor corrections to numbering and cross references.

Section 1. Paragraph 1 of subdivision c of section 101-07 of chapter 100 of title 1 of the rules of the city of New York is 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] All approved agencies, including single person approved agencies, shall comply with the requirements of this section and [Title 28-] Article 114 of Title 28 of the Administrative Code and shall meet the qualifications set forth herein.

§2. Subparagraph iii of paragraph 2 of subdivision c of section 101-07 is amended to read as follows:

(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 paragraph (6) of subdivision (c) [(6)] of this section.

§3. Subparagraphs ii and iii of paragraph 4 of subdivision c of section 101-07 are amended to read as follows:

(ii) Written or oral tests required by 1 RCNY 11-01(a)(2)(ii) shall require familiarity with the standards set forth in section 3001.2 and appendix K of the Building Code, including chapter K3, pertaining to existing elevators, as set forth in the rules of the department.

(iii) Tests and 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 section 3012.1 of the Building Code and the 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, QEI or QEIS authorized pursuant to clause (C) of subparagraph (iv)].

§4. Clause C of subparagraph iv of paragraph 4 of subdivision c of section 101-07 is amended and a new clause D is added to read as follows:

(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 to witness such test. [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 applied for and passed [such] a department-sponsored/administered examination for a Private Elevator Inspection Agency Director or Private Elevator Inspection Agency Inspector Certificate of Approval examination by July 1, 2010 may continue to witness the test based on satisfaction of the qualifications set forth in items [((a))] 1 through [((c))] 3, below, through [July 1]December 31, 2011 or until the issuance or denial of a Certificate of Approval from the department, whichever is sooner.

[((a))] 1. A valid QEI or QEIS Certificate;

[((b))] 2. 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))] 3, below, in the assembly, installation, repair, design, or inspection of elevators, or as an elevator mechanic;

[((c))] 3. An affirmation from the director of the agency, on such form as the commissioner shall require, attesting that the QEI or QEIS

A. [is] 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

B. [a determination by the director that the QEI or QEIS is] 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]d) of this section.

(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.

§5. Subparagraph v of paragraph 4 of subdivision c of section 101-07 is amended to read as follows:

(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.]

§6. Subparagraph i of paragraph 5 of subdivision c of section 101-07 is amended to read as follows:

(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.]

§7. Items ((a)), ((b)) and ((c)) of clause A of subparagraph ii of paragraph 5 of subdivision c of section 101-07 relating to low pressure boiler annual inspection reports are renumbered 1., 2. and 3., respectively.

§8. Clause C of subparagraph ii of paragraph 5 of subdivision c of section 101-07 is amended to read as follows:

(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 28-303.7 of the Administrative Code and this section.

§9. Subparagraph i of paragraph 6 of subdivision c of section 101-07 is amended to read as follows:

(i) [Except as provided in subdivision (d) of this rule, a] A concrete testing laboratory shall be deemed an approved agency for purposes of testing and inspecting concrete-related construction activities in accordance with the Building Code and its referenced standards where such laboratory has:

§10. Clauses B and C of subparagraph ii of paragraph 6 of subdivision c of section 101-07 are amended to read as follows:

(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

§11. Subparagraph vii of paragraph 6 of subdivision c of section 101-07 is amended to read as follows:

(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.]

§12. Subparagraphs i, iii and iv of paragraph 7 of subdivision c of section 101-07 are amended to read as follows:

(i) Examination of a building's exterior walls and appurtenances thereof pursuant to section 28-302.2 of the Administrative Code shall be performed by or under the direct supervision of a qualified exterior wall inspector.

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

(iv) Except as modified by the building code and this section, the provisions of 1 RCNY [32-02] 103-04 shall apply.

§13. Subparagraph i of paragraph 8 of subdivision c of section 101-07 is amended to read as follows:

(i) The testing administrator for the pipe welder qualifying agency shall be an employee of such agency and either an 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.

§14. Subparagraph vi of paragraph 8 of subdivision c of section 101-07 regarding re-approval of qualifying agencies is repealed and subparagraph vii is renumbered vi and amended to read as follows:

([vii]vi]) 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.]

§15. Subdivision d of section 101-07 relating to interim status and application deadlines is repealed.

§16. Subdivision e of section 101-07 relating to suspension or revocation and reinstatement of approved agency status and subdivision f of section 101-07 relating to obligations of others are re-lettered d and e, respectively, and paragraph 2 of re-lettered subdivision d is further amended to read as follows:

(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 this 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.