



Promulgation Details for 1 RCNY 101-07

This rule became effective on July, 1, 2008.

Since such date, one or more amendments have been made to this rule. Each rule amendment has its own effective date and Statement of Basis and Purpose.

Below you will find one or more rule amendments (the most recent appearing at the top), followed by the original rule.

The effective date of each amendment and the original rule can be found at the top of each "NOTICE OF ADOPTION OF RULE."

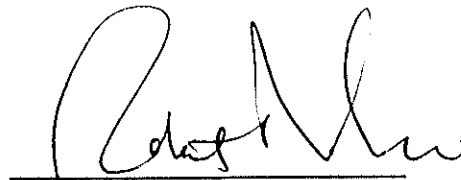
This amendment has an effective date of 10-30-11.

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: 9/23/11
New York, New York


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:

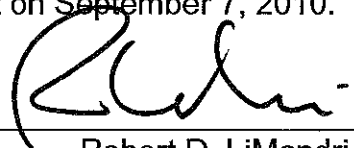
- (2) Invalidation of tests and inspections upon suspension or revocation of approved agency status. Upon any suspension or revocation of approved agency approval pursuant to this subdivision [(e)], the owner of a building at which such approved agency was required or scheduled to perform special, progress 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.

NOTICE OF ADOPTION OF RULE

Notice is hereby given pursuant to the authority vested in the Commissioner 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 amended Section 101-07 of Chapter 100 of Title 1 of the Rules of the City of New York, regarding approved progress inspection agencies, and new Chapter 5000 of Title 1 of the Rules of the City of New York, regarding construction documents approval requirements for compliance with the New York City Energy Code.

This rule was first published on April 16, 2010, and a public hearing thereon was held on May 18, 2010. This rule shall take effect on September 7, 2010.

Dated: 6/17/10
New York, New York



Robert D. LiMandri
Commissioner

Section 1. Paragraph 3 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:

(3) Progress inspection agencies.

(i) Responsibility of owner. It shall be the responsibility of the owner to retain an approved agency to perform all required progress inspections for a new building or alteration project.

(ii) Obligation to avoid conflict of interest. A progress inspector and/or a progress inspection agency 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.

(i)iii) Agency qualifications. Registered design professionals with relevant experience shall be deemed approved progress inspection agencies, without further requirement of registration or accreditation, for the purpose of conducting the progress inspections required by section BC 109.3 [of the building code]. [Such progress inspections shall include the following:

(A) Preliminary. See section 28-116.2.1 of the New York City Administrative Code and section 109.2 of the building code.

(B) Footing & foundation. See section 109.3.1 of the building code.

(C) Lowest floor elevation. See section 109.3.2 of the building code.

(D) Frame inspection. See section 109.3.3 of the building code.

(E) Energy Code Compliance Inspections. See section 109.3.5 of the building code.

(F) Fire-resistant rated construction. See section 109.3.1 of the building code.

(G) Final. See section 28-116.2.4.2 of the New York City Administrative Code and section 109.5 of the building code.

(H) Public assembly emergency lighting. See sections 1006 and 1024 of the building code and section 28-116.2.2 of the Administrative Code.]

(ii)iv) Inspector qualifications. A progress inspection agency shall conduct required progress inspections, provided such inspections are conducted by a registered design professional with relevant experience or [a person under such design professional's direct supervision.] an otherwise qualified individual pursuant to the following table:

<u>Progress Inspection Category</u>	<u>2008 Code Section</u>	<u>Qualifications</u>	
		<u>Primary Inspector or Inspection Supervisor</u>	<u>Supplemental Inspector</u> <u>under direct supervision of Inspection Supervisor</u>
<u>Preliminary inspection</u>	<u>AC 28-116.2.1</u>	• <u>Registered design professional with relevant experience</u>	• <u>A person with relevant experience</u>
<u>Compliance inspections</u>	<u>AC 28-116.2.2</u>	• <u>Registered design professional with relevant experience</u>	• <u>A person with relevant experience</u>
<u>Footing and foundation</u>	<u>BC 109.3.1</u>	• <u>Registered design professional with relevant experience</u>	• <u>A person with relevant experience</u>
<u>Lowest floor elevation</u>	<u>BC 109.3.2;</u> <u>BC G105.3, Item 1</u>	• <u>Engineer with relevant experience or licensed professional land surveyor with relevant experience</u>	• <u>A person with relevant experience</u>
<u>Frame</u>	<u>BC 109.3.3</u>	• <u>Registered design professional with relevant experience</u>	• <u>A person with relevant experience</u>
<u>Fire-resistance-rated construction</u>	<u>BC 109.3.4</u>	• <u>Registered design professional with relevant experience</u>	• <u>A person with relevant experience</u>
<u>Energy code compliance – “residential”¹ buildings</u>	<u>BC 109.3.5</u>	• <u>Registered design professional of record for the respective work;</u> <u>or</u> • <u>Registered design professional with five years experience in the design, construction, construction observation and/or inspection of Energy Code-</u>	• <u>3 years experience in the inspection or construction observation of buildings for Energy Code-regulated systems</u>

¹ As such term “residential” is defined in the New York City Energy Conservation Code.

		<u>regulated systems for buildings</u>	
<u>Energy code compliance – “commercial”² buildings</u>	<u>BC 109.3.5</u>	• <u>Registered design professional of record for the respective work;</u> or • <u>Registered design professional with five years experience in the design, construction, construction observation and/or inspection of Energy Code-regulated systems for commercial buildings, at least three years of which shall be for the system type(s) for which he/she performs progress inspections</u>	• <u>3 years experience in the inspection or construction observation of the system type(s) for Energy Code-regulated systems in commercial buildings for which he/she performs progress inspections</u>
<u>Other</u>	<u>BC 109.3.6</u>	• <u>Registered design professional with relevant experience</u>	• <u>A person with relevant experience</u>
<u>Final</u>	<u>AC 28-116.2.4.2</u>	• <u>Registered design professional with relevant experience</u>	• <u>A person with relevant experience</u>
<u>Place of assembly emergency lighting</u>	<u>AC 28-116.2.2</u>	• <u>Registered design professional with relevant experience</u>	• <u>A person with relevant experience</u>

(iii)y Verifications by progress inspector. In addition to all other items required to be inspected in accordance with applicable laws and rules, the progress inspector shall verify the following:

(A) Completion of related special inspections. A progress inspection agency’s performance of a progress inspection shall include verification that any special inspections that were required to have been conducted prior to the progress inspection have been documented as completed.

(B) Updated approved documents. Prior to performing a progress inspection, the progress inspection agency shall verify that the relevant approved construction documents, for the purpose of the progress inspection, represent the built conditions. If changes are required in the approved construction documents for the purpose of the progress inspection, the progress inspector shall

² As such term “commercial” is defined in the New York City Energy Conservation Code.

wait to perform the inspections until the updated construction documents have been approved, including the energy analysis, where applicable.

(C) Energy code verifications. Progress inspectors for Energy Code compliance shall perform inspections in accordance with the following:

1. Sampling. Unless noted otherwise in the Inspection/Test columns of Tables I and II of 1 RCNY §5000-01 (h), required inspections or tests shall be performed on not less than 15% of each relevant construction item in the scope of work as listed in the applicable table, and on not less than one of each type where applicable. Selection of such sample construction shall be at the sole discretion of the progress inspector. Nothing in this item shall prevent the progress inspector from determining that, in his or her professional judgment, more than 15% of a given type of construction item shall be inspected.

2. Phased inspection for temporary certificates of occupancy. Prior to issuance of a temporary certificate of occupancy for less than the total scope of work, inspection shall be required for all work serving the portion of the building for which the temporary certificate of occupancy is to be issued. Where a practical difficulty for some inspections is demonstrated to the commissioner, the commissioner may grant a waiver of those inspections for a specified time or until final inspection for the final certificate of occupancy.

3. Phased inspection of controls. Notwithstanding item 2 of this clause, where inspection of the HVAC and lighting controls for central head-end systems and communication networks depends upon completion of installation of all related end devices and components located in the building, such inspection of such controls for head-end systems and communication networks shall be completed prior to issuance of a final certificate of occupancy.

4. Lighting. Where the progress inspector verifies that, for any given space, the lighting power density is less than the lighting power density for such space on the approved construction documents, the progress inspector may approve such space without the need for revised construction documents to be submitted to and approved by the Department. For the purposes of this item, a space shall

mean an area within the building separated by floor-to-ceiling partitions from all other spaces within the building.

§2. Title 1 of the Rules of the City of New York is amended by adding a new Chapter 5000 to read as follows:

Chapter 5000 – New York City Energy Conservation Code

§5000-01 Construction document approval requirements for compliance with the New York City Energy Conservation Code

(a) Purpose. This section sets forth the requirements for filing and approval of construction documents and the universe of progress inspections during construction, in accordance with the New York City Energy Conservation Code.

(b) References: See New York City Energy Conservation Code (Administrative Code Sections 28-1001.1 et seq.); New York State Energy Conservation Construction Code (19 NYCRR part 1240); Administrative Code Section 28-104.7.9, Sections BC106.13 and BC109.3.5; 1 RCNY §101-07 (“Inspections and Approved Agencies”).

(c) Definitions. For the purposes of this chapter, the following terms shall have the following meanings:

(1) ADDITION. An addition as defined in the Energy Code.

(2) COMMERCIAL BUILDING. A commercial building as defined in the Energy Code.

(3) ENERGY CODE. The New York City Energy Conservation Code (“ECC”).

(4) PROJECT. A design and construction undertaking comprised of work related to one or more buildings and the site improvements. A project is represented by one or more plan/work applications, including construction documents compiled in accordance with Section BC 106 of the New York City Building Code, that relate either to the construction of a new building or buildings or to the demolition or alteration of an existing building or buildings. Applications for a project may have different registered design professionals and different job numbers, and may result in the issuance of one or more permits.

(5) RESIDENTIAL BUILDING. A residential building as defined in the Energy Code.

(d) Professional statement. Every application filed by a registered design professional for approval of construction documents, shall include a professional statement of compliance with the Energy Code as set forth in Section BC 106.13; however, if the project is exempt from the requirements of the Energy Code in accordance with Section ECC 101, the professional shall include a statement of exemption instead and provide the citation to the provision that allows the exemption.

(e) Owner statement. The owner of the property for which an application for construction document approval is being filed shall attest on the application form that he or she shall not knowingly authorize construction documents or construction work that fail to comply with the Energy Code.

(f) Energy analysis. The applicant shall include an energy analysis on a sheet in the construction drawing set in the initial application filing. The energy analysis shall demonstrate how the applicant intends to comply with the Energy Code.

Exception: An energy analysis is not required for a project that is exempt from the Energy Code.

(1) Accepted formats for energy analysis. One of the following formats may be used to present the energy analysis:

(i) Tabular analysis. For new buildings, additions and/or alterations to existing residential or commercial buildings for which either ECC Chapter 4 or 8 has been used, the applicant may create a table entitled "Energy Analysis" as described in figure 1. Such table shall compare the proposed values of each Energy Code-regulated item in the scope of work with the respective prescriptive values required by the Energy Code. The items shall be organized by discipline, including Envelope Systems, Mechanical and Service Water Heating Systems, and Lighting and Electrical Systems, as applicable. Commercial building alterations and additions involving lighting may utilize the Lighting Application Worksheet from COMcheck and the tenant-area or portion-of-building method for the lighting analysis in lieu of including it in the tabular analysis. See subparagraph iii of this paragraph.

Figure 1: Sample tabular energy analysis:

ENERGY ANALYSIS		
Code chapter and/or standard used for design		
Climate Zone XXX (climate zone shall be identified here)		
Item Description	Proposed Design Value	Code Prescriptive Value and Citation
(list all elements of the	(list the value used in the	(list the prescriptive value

<u>scope of work in detail that are addressed by the energy code)</u>	<u>design)</u>	<u>required by the Energy Code)</u>
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(ii) REScheck. The REScheck software program available from the United States Department of Energy website may be used for residential buildings as follows:

(A) New buildings. REScheck may be used for new residential buildings.

(B) Additions. REScheck may be used for additions only where a whole-building analysis, including the existing building and the addition, is performed.

(C) Alterations and repairs. REScheck may be used for alterations and repairs only where a whole-building analysis, including the existing-to-remain and altered envelope and mechanical systems, is performed.

(D) New York State form. Only the New York State REScheck form shall be permitted.

(iii) COMcheck. The COMcheck software program available from the United States Department of Energy website may be used for commercial buildings as follows:

(A) New buildings. COMcheck may be used for new commercial buildings.

(B) Additions. COMcheck may be used for additions only as follows:

1. Where a whole-building analysis, including the existing building and the addition, is performed; or
2. Where the COMcheck report states “addition” as the project type.

(C) Alterations and repairs. COMcheck may be used for alterations and repairs only as follows:

1. Where a whole-building analysis, including the existing-to-remain and altered parts of the building, is performed; or
2. Where the COMcheck report states “alteration” as the project type.

(D) COMcheck versions. Only the New York State COMcheck form shall be permitted, except that where ASHRAE 90.1 is used in accordance with ECC Chapter 8, the comparable ASHRAE 90.1 COMcheck form shall be used instead. All three parts of the COMcheck report – the envelope, the mechanical/service water heating and the lighting/power parts – shall be presented, except where the

project type is an addition or alteration as described above and some parts of the report are not relevant to the scope of work.

(iv) Energy cost budget worksheet. For new commercial buildings and additions or alterations to commercial buildings, where the Energy Cost Budget Method of ASHRAE 90.1 is used in accordance with ECC Chapter 8, an energy modeling program developed by the United States Department of Energy, including DOE2 or updates of DOE2, shall be used; such updates include DOE2.1E, VisualDOE, EnergyPlus and eQuest. Other energy modeling programs approved by the Secretary of State of New York State may also be used. The lead energy professional shall identify the software and report inputs and outputs on a Department form.

(v) Alternative formats. Formats other than those listed in subparagraphs i through iv of this paragraph, including, but not limited to, the simulated performance alternative set forth in Section ECC 404 or the total building performance method set forth in Section ECC 806, may be used only if they are approved in advance by the commissioner. Use of these performance methods, when approved by the commissioner, shall utilize software programs acceptable to the commissioner. The applicant shall provide the project-relevant utility company energy cost rate structure in effect on January 1 of the calendar year in which the initial submission of the project application(s) is filed, and shall utilize the electricity, gas and steam prices from the rate structure in the energy model. Fuel oil prices used in the model shall be supported by comparable local supplier information from the provider in effect on January 1 of such calendar year.

(2) Professional responsibility for energy analysis. The energy analysis shall be signed and sealed by registered design professional(s) as follows:

(i) Lead professional. Where a whole-building analysis is performed for the energy analysis or where the design uses tradeoffs such that one or more systems of the energy analysis – envelope, mechanical/ service water heating and lighting/power – could not meet the prescriptive requirements of the Energy Code on its own, a lead professional shall be identified who shall sign and seal the entire energy analysis for all systems involved. Such lead professional shall be a registered design professional and may or may not be an applicant of record.

(ii) Responsibility by discipline. Where each system of the energy analysis – envelope, mechanical/service water heating and lighting/power – meets the prescriptive requirements of the Energy Code individually, different registered design professionals may sign and seal their respective parts of the energy analysis report individually; however, all parts of the energy analysis report shall be presented together on a sheet in the drawing set of the initial filing.

(iii) Registered design professional other than an applicant of record. A registered design professional other than an applicant of record may prepare, sign and seal the energy analysis, either as lead professional or for individual discipline(s) in accordance with subparagraph ii of this paragraph. Such registered design professional shall file a PW1 form as a subsequent filing to the initial application document.

(g) Supporting documentation. The construction drawings submitted for approval shall provide all energy design elements and shall match or exceed the energy efficiency of each value in each part of the energy analysis – envelope, mechanical/service water heating and lighting/power. In addition, other mandatory Energy Code requirements shall be provided as described in paragraphs 1 through 4 and as referenced in paragraph 5 of this subdivision. Further, supporting documentation shall provide all information necessary for a progress inspector to verify during construction that the building has been constructed in accordance with the approved construction documents and subdivision h of this section to meet the requirements of the Energy Code.

(1) Envelope. Building wall sections and details shall be provided for each unique type of roof/ceiling, wall, and either the foundation, slab-on-grade, basement or cellar assembly. Such building wall sections shall show each layer of the assembly, including, but not limited to, insulation, moisture control and vapor retarders, and the insulation in each case shall be labeled and shall be equal to or greater than the R values in the energy analysis. Door, window and skylight schedules shall include columns for U and SHGC values for each assembly type, and such values shall be equal to or less than those in the energy analysis. Mandatory requirements to prevent air and moisture leakage shall be detailed.

(2) Mechanical/service water heating. Space heating and cooling equipment, energy recovery equipment, ventilation equipment, service water heating equipment, and mandatory requirements including control systems, duct sealing and duct and piping insulation shall be shown on the construction drawings and shall be equal to or greater than the energy efficiency requirements established in the energy analysis, the Energy Code and/or this section, as applicable. A narrative shall be provided for

each mandatory control system describing its function and operation and specifying proper setpoints of equipment and controls.

(i) Joints and sealing in residential buildings. In accordance with the New York State Residential Code as referenced in the Energy Code, joints of duct systems in residential buildings shall be made substantially airtight by means of tapes, mastics or gasketing. Closure systems used with rigid fibrous glass ducts shall comply with UL 181A and shall be marked "181A-P" for pressure-sensitive tape, "181A-M" for mastic or "181A-H" for heat-sensitive tape. Closure systems used with flexible air ducts and flexible air connectors shall comply with UL 181B and shall be marked "181B-FX" for pressure-sensitive tape or "181B-M" for mastic. Duct connections to flanges of air distribution system equipment or sheet metal fittings shall be mechanically fastened. Crimp joints for round ducts shall have a contact lap of at least 1.5 inches (38 mm) and shall be mechanically fastened by means of at least three sheet metal screws or rivets equally spaced around the joint.

(3) Lighting/power. The applicant shall provide reflected ceiling plans, floor plans and/or electrical drawings with lighting layouts for each floor or space in the project, and for exterior lighting as applicable. The lighting fixtures shall be described and keyed to the lighting plans, including type designation, brief description, lamp type, watts per lamp, quantity of lamps per fixture, ballast/transformer type, and system input watts per fixture, such that the drawings support the energy analysis. In addition, mandatory lighting and power controls shall be shown and described, and a narrative provided describing their function and operation. Control devices and zones shall be indicated on drawings. Lighting documentation shall not be required within dwelling units as such term is defined in the Energy Code and for buildings regulated by ECC Chapter 4.

(4) Electrical construction drawings required. Construction documents, including a single-line diagram of the building or tenant electrical distribution system and other relevant electrical construction drawings, shall be submitted as supporting documentation if required for any of the following: to support the energy analysis; to satisfy mandatory requirements of the Energy Code, such as controls, transformer, metering, voltage drop and electric motor requirements; or to support progress inspections required by this section. Such drawings shall be numbered with an "EN" discipline designator and shall be signed and sealed by a registered design professional. Such registered design professional, if not an applicant of record, shall file a PW1 form as a subsequent filing to the initial application document.

(5) Mandatory requirements. The construction documents shall comply with all mandatory requirements of the Energy Code. For residential buildings, references for such requirements are listed in Section ECC 404.2. For commercial buildings complying with ECC Chapter 8 provisions, references for such requirements are listed as the Exceptions to Section ECC 801.2; for commercial buildings complying with ASHRAE 90.1, such requirements are set forth in Sections 5.4, 6.4, 7.4, 8.4, 9.4 and 10.4.

(6) Permanent certificate in residential buildings. For residential buildings, the construction documents shall indicate the following with regard to the permanent certificate required in accordance with Section ECC 401.3:

(i) New buildings. For new buildings regulated under ECC Chapter 4, a permanent certificate shall be required to be installed indoors and in accordance with Section ECC 401.3, except that it may be posted near the electrical distribution panel at eye level and in plain sight.

(ii) Additions and alterations. For additions and alterations affecting information on an existing permanent certificate, such permanent certificate shall be updated, initialed where changed and reposted such that the values on the posted permanent certificate remain current.

(7) Deferred submittals. Drawings showing design intent and performance criteria matching those in the energy analysis may be submitted as supporting documentation for the initial construction document approval provided that, in accordance with Section 28-104.2.6 of the Administrative Code, the applicant elects to defer any additional drawings that may be required by Section 28-104.7.1.

(8) Required progress inspections. Supporting documentation shall also set forth all applicable required progress inspections in accordance with the Energy Code, 1 RCNY §101-07 and this section.

(i) Applicant's instructions regarding required progress inspections. Progress inspections required to be performed during construction for any new building, addition or alteration project shall be identified by the applicant according to the scope of work and listed and described in the approved construction drawings as required progress inspections. The description shall set forth the standard of construction and the inspection criteria in accordance with the cited section(s) as appropriate for the scope of

work in accordance with Table I or Table II of subdivision h of this section, as applicable; simple reference to the citations provided is not sufficient. The applicant shall include the instruction that, in accordance with Section BC 109.9, where an inspection or test fails, the construction shall be corrected.

(ii) Construction scheduling instructions. The drawings shall state that, in accordance with Article 116 of Title 28 and Section BC 109, construction shall be scheduled to allow required progress inspections to take place, and that roofs, ceilings, exterior walls, interior walls, floors, foundations, basements and any other construction shall not be covered or enclosed until required progress inspections are completed or the progress inspector indicates that such covering or enclosure may proceed, at each stage of construction, as applicable.

(iii) Commercial building reference standards and citations. Progress inspection reference standards and citations shall conform to the respective requirements of ECC Chapter 8 or ASHRAE 90.1 as used for design, in accordance with the following:

(A) When ECC Chapter 8 has been used for design, as reflected in the energy analysis, the applicant shall direct on the drawings that the respective references and citations for ECC shall be used for the progress inspection.

(B) When ASHRAE 90.1 has been used for design, as reflected in the energy analysis, the applicant shall direct on the drawings that the respective references and citations for ASHRAE 90.1 shall be used for the progress inspection.

(h) List of progress inspections required. The following progress inspections and/or testing set forth in Tables I and II shall be required when applicable to the scope of work and shall be identified/described in the supporting documentation. Energy Code sections cited in Tables I and II of this section shall be understood to include the section, all subsections and all tables related to the cited Energy Code section.

(1) Residential buildings. The progress inspections and tests described in Table I shall be performed for buildings regulated by ECC Chapter 4.

TABLE I – PROGRESS INSPECTIONS FOR ENERGY CODE COMPLIANCE – RESIDENTIAL BUILDINGS

	<u>Inspection/ Test</u>	<u>Frequency (minimum)</u>	<u>Reference Standard (See ECC Chapter 10) or Other Criteria</u>	<u>ECC or Other Citation</u>
<u>IA</u>	<u>Envelope Inspections</u>			
<u>IA1</u>	<u>Protection of exposed foundation insulation: Insulation shall be visually inspected to verify proper protection where applied to the exterior of basement or cellar walls, crawl-space walls and/or the perimeter of slab-on-grade floors.</u>	<u>Prior to backfill</u>	<u>Approved construction documents</u>	<u>102.2.1</u>
<u>IA2</u>	<u>Insulation placement and R-values: Installed insulation for each component of the conditioned space envelope and at junctions between components shall be visually inspected to ensure that the R-values are marked, that such R-values conform to the R-values identified in the construction documents and that the insulation is properly installed. Certifications for unmarked insulation shall be similarly visually inspected.</u>	<u>As required to verify continuous enclosure while walls, ceilings and floors are open</u>	<u>Approved construction documents</u>	<u>102.1 402.1, 402.2, 402.2.5</u>
<u>IA3</u>	<u>Fenestration values and product ratings for U-factors: U-factors of installed fenestration shall be verified by visual inspection for conformance with the U-factors identified in the construction drawings, either by verifying the manufacturer's NFRC labels or, where not labeled, using the ratings in ECC Tables 102.1.3(1) and (2).</u>	<u>As required during installation</u>	<u>Approved construction drawings; NFRC 100, Tables 102.1.3</u>	<u>102.1.3, 402.1, 402.3</u>
<u>IA4</u>	<u>Fenestration product ratings for air leakage: Windows, skylights and sliding glass doors, except site-built windows, skylights and doors, shall be visually inspected to verify that installed assemblies are listed and labeled to the referenced standard.</u>	<u>As required during installation</u>	<u>NFRC 400, AAMA/WDMA 101/I.S.2, or AAMA/WDMA 101/I.S.2/NAF S</u>	<u>402.4.2</u>

<u>IA5</u>	<u>Fenestration areas: Dimensions of windows, doors and skylights shall be verified by visual inspection.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>402.3, 402.5.1</u>
<u>IA6</u>	<u>Sealing: Openings and penetrations in the building envelope, including site-built fenestration and doors, shall be visually inspected to verify that they are properly sealed.</u>	<u>As required during envelope construction</u>	<u>Approved construction documents</u>	<u>402.4.1, 402.4.3</u>
<u>IA7</u>	<u>Whole building envelope infiltration testing: When the R values of ECC Table 402.1(2) are used for the design, and ECC 402.1, Exception 3.1 is utilized as a result, the results of the air change test shall be reviewed for compliance with ECC 402.4.4.</u>	<u>Prior to final inspection</u>	<u>ASHRAE/ASTM E779; Approved construction documents</u>	<u>402.4.4</u>
<u>IA8</u>	<u>Moisture control, vapor retarder: Construction, including, but not limited to, above-grade frame walls, floors and ceilings that are not ventilated to allow moisture to escape, shall be visually inspected for installation of vapor retarder.</u>	<u>As required during envelope construction and prior to covering vapor retarder</u>	<u>Approved construction documents</u>	<u>402.5</u>
<u>IB</u>	<u>Mechanical and Plumbing Inspections</u>			
<u>IB1</u>	<u>Fireplaces: Provision of combustion air and tight-fitting fireplace doors shall be verified by visual inspection.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents; ANSI Z21.60 (see also MC 904), ANSI Z21.50</u>	<u>102.5; BC 2111; MC Chapters 7, 9; FGC Chapter 6</u>
<u>IB2</u>	<u>Fresh air intake and exhaust dampers: Not less than 20% of installed dampers, and a minimum of one of each type, shall be visually inspected and physically tested for proper operation.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>403.5</u>

<u>IB3</u>	<u>Equipment efficiencies: When the R values of ECC Table 402.1(2) are used for the design, and ECC 402.1, Exception 3.3 is utilized as a result, the efficiencies of all installed mechanical equipment shall be verified by visual inspection.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents, including energy analysis</u>	<u>403.7</u>
<u>IB4</u>	<u>Controls: System controls shall be inspected to verify that each dwelling is provided with individual programmable thermostats and that such controls operate as specified in ECC 403.1. Not less than 20% or one of each control type, whichever is more, shall be inspected.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents, including control system narratives</u>	<u>403.1, 403.1.1</u>
<u>IB5</u>	<u>Duct and piping insulation and duct sealing: Installed duct and piping insulation shall be visually inspected to verify insulation placement and values. Ducts, air handlers, filter boxes and building cavities used as ducts shall be visually inspected for proper sealing.</u>	<u>Prior to closing ceilings and walls and prior to final inspection</u>	<u>Approved construction documents</u>	<u>403.2.1, 403.2.2, 403.3, 403.4; MC Section 603; 1RCNY §5000-01</u>
<u>IB6</u>	<u>Duct leakage testing: When the R values of ECC Table 402.1(2) are used for the design, and ECC 402.1, Exception 3.2 is utilized as a result, the results of the duct leakage tests shall be reviewed for compliance with ECC 403.2.4. Not less than 20% of such ductwork shall be tested.</u>	<u>Prior to closing ceilings and walls and prior to final inspection</u>	<u>Approved construction documents; ANSI/ASHRAE 152, ASTM E1554 Test Method A</u>	<u>403.2.4</u>
<u>IC</u>	<u>Other</u>			
<u>IC1</u>	<u>Electrical metering: The presence and operation of individual meters or other means of monitoring individual dwelling units shall be verified by visual inspection for all dwelling units.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>102.4</u>
<u>IC2</u>	<u>Transformers: Single-phase and three phase dry-type and liquid-filled distribution transformers installed as part of the scope of</u>	<u>Prior to final inspection</u>	<u>Approved construction documents; NEMA TP1</u>	<u>102.6, 805.7</u>

	<u>work (and not by the utility) shall be visually inspected to ensure that the installed transformers are listed and labeled to the referenced standard, or that associated product literature confirms that the transformers meet the referenced standard.</u>			
<u>IC3</u>	<u>Permanent certificate: The installed permanent certificate shall be visually inspected for location, completeness and accuracy.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>401.3; 1RCNY 5000-01</u>
<u>IC4</u>	<u>Maintenance information: Maintenance manuals for equipment and systems requiring preventive maintenance shall be reviewed for applicability to installed equipment and systems before such manuals are provided to the owner. Labels required for such equipment or systems shall be inspected for accuracy and completeness and for compliance with ECC 102.3.</u>	<u>Prior to sign-off or issuance of Certificate of Occupancy</u>	<u>Approved construction documents</u>	<u>102.3</u>

(2) Commercial buildings. The progress inspections and tests described in Table II shall be performed for buildings regulated by ECC Chapter 8, including ASHRAE 90.1 where applicable.

TABLE II – PROGRESS INSPECTIONS FOR ENERGY CODE COMPLIANCE – COMMERCIAL BUILDINGS

	<u>Inspection/ Test</u>	<u>Periodic (minimum)</u>	<u>Reference Standard (See ECC Chapter 10) or Other Criteria</u>	<u>ECC or Other Citation</u>
<u>IIA Envelope Inspections</u>				
<u>IIA1</u>	<u>Protection of exposed foundation insulation: Insulation shall be visually inspected to verify proper protection where applied to the exterior of basement or cellar walls, crawl-space</u>	<u>As required during foundation work and prior to</u>	<u>Approved construction documents</u>	<u>102.2.1</u>

	walls and/or the perimeter of slab-on-grade floors.	backfill		
IIA2	Insulation placement and R-values: Installed insulation for each component of the conditioned space envelope and at junctions between components shall be visually inspected to ensure that the R-values are marked, that such R-values conform to the R-values identified in the construction documents and that the insulation is properly installed. Certifications for unmarked insulation shall be similarly visually inspected.	As required to verify continuous enclosure while walls, ceilings and floors are open	Approved construction documents	102.1, 802.2, Tables 802.2; ASHRAE 90.1 – 5.4.1, 5.5, 5.6, 5.8.1
IIA3	Fenestration values and product ratings for U-factors and SHGC values: U-factors and SHGC values of installed fenestration shall be visually inspected for conformance with the U-factors and SHGC values identified in the construction drawings by verifying the manufacturer's NFRC labels or, where not labeled, using the ratings in ECC Tables 102.1.3(1), (2) and (3). Where ASHRAE 90.1 is used, visible light transmittance values shall also be verified.	As required during installation	Approved construction documents; NFRC 100, NFRC 200, Tables 102.1.3	102.1.3, Tables 802.2, ASHRAE 90.1 – 5.4.2, 5.5.4, Tables 5.5; 5.6, 5.8.2
IIA4	Fenestration and door assembly product ratings for air leakage: Windows, skylights and sliding or swinging door assemblies, except site-built windows, skylights and/or doors, shall be visually inspected to verify that installed assemblies are listed and labeled by the manufacturer to the referenced standard.	As required during installation	NFRC 400, AAMA/WDMA 101/I.S.2, AAMA/WDMA 101/I.S.2/NAF S-02; ASTM E283	802.3.1, 802.3.2; ASHRAE 90.1 – 5.4.3.1, 5.4.3.2, 5.5.4, 5.6, 5.8.2
IIA5	Fenestration areas: Dimensions of windows, doors and skylights shall be verified by visual inspection.	Prior to final inspection	Approved construction documents	802.2; ASHRAE 90.1 – 5.5.4.1

<u>IIA6</u>	<u>Sealing: Openings and penetrations in the building envelope, including site-built fenestration and doors, shall be visually inspected to verify that they are properly sealed.</u>	<u>As required during construction</u>	<u>Approved construction documents</u>	<u>802.3.3, 802.3.5, 802.3.6, 802.3.7; ASHRA E 90.1 – 5.4.3.1, 5.4.3.3 5.4.3.4</u>
<u>IIA7</u>	<u>Projection factors: Where the energy analysis utilized a projection factor > 0, the projection dimensions of overhangs, eaves or permanently attached shading devices shall be verified against approved plans by visual inspection.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents, including energy analysis</u>	<u>Tables 802.2; 802.2.3</u>
<u>IIA8</u>	<u>Moisture control, vapor retarder: Framed walls, floors and ceilings that are not ventilated to allow moisture to escape, shall be visually inspected for installation of a vapor retarder for moisture control.</u>	<u>As required during construction of envelope and prior to covering vapor barrier</u>	<u>Approved construction documents; ASTM E96 Procedure A</u>	<u>802.1.2</u>
<u>IIB Mechanical and Service Water Heating Inspections</u>				
<u>IIB1</u>	<u>Fireplaces: Provision of combustion air and tight-fitting fireplace doors shall be verified by visual inspection.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents; ANSI Z21.60 (see also MC 904), ANSI Z21.50</u>	<u>102.5; BC 2111; MC Chapters 7, 9; FGC Chapter 6</u>
<u>IIB2</u>	<u>Dampers integral to the building thermal envelope: Dampers shall be visually inspected to verify that such openings are equipped with motorized dampers that have been tested and listed or labeled. If such dampers are not listed or labeled, they shall be tested and shall meet</u>	<u>As required during installation</u>	<u>Approved construction documents; AMCA 500</u>	<u>802.3.4; ASHRA E 90.1 – 6.4.3.4.4</u>

	the requirements to the satisfaction of the progress inspector.			
<u>IIB3</u>	<u>HVAC and service water heating equipment performance: Equipment efficiencies and other performance factors of all major equipment units, as determined by the applicant of record, and no less than 15% of minor equipment units, shall be verified by visual inspection and, where necessary, review of manufacturer's data.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>803.2.2, Tables 803.2.2; 803.3.2, Tables 803.3.2; 804.2, Table 804.2; ASHRAE 90.1 – 6.1, 6.3, 6.4.1, 6.8, Tables 6.8.1; 7.4.2, Table 7.8</u>
<u>IIB4</u>	<u>HVAC system controls and economizers and service hot water system controls: No less than 20% of each type of required controls and economizers shall be verified by visual inspection and tested for functionality and proper operation. Such controls shall include, but are not limited to, Thermostatic; Set point overlap restriction; Off-hour; Shutoff damper; Economizers; Variable air volume fan; Hydronic systems; Heat rejection equipment fan speed; Complex mechanical systems serving multiple zones; Ventilation; Energy recovery systems; Service water heating; Hot water system; Exhaust hoods; Radiant heating systems; and Hot gas bypass systems.</u> <u>Controls with seasonally dependent functionality: Controls whose complete operation cannot be demonstrated due to prevailing</u>	<u>After installation and before final inspection, except that for controls with seasonally dependent functionality, such testing shall be performed before sign-off or issuance of a Final Certificate of Occupancy</u>	<u>Approved construction documents, including control system narratives; ASHRAE Guideline 1: The HVAC Commissioning Process where applicable</u>	<u>803.2.3, 803.2.4, 803.2.5, 803.2.6, 803.2.7, 803.3.3, 803.3.4, 803.3.5, 803.3.9, 804.3, 804.6; ASHRAE 90.1 – 6.3, 6.4.3, 6.5, 6.7.2.4, 7.4.4, Appendix E; 1RCNY 5000-01(g)(2)</u>

	<u>weather conditions typical of the season during which progress inspections will be performed shall be permitted to be signed off for the purpose of a Temporary Certificate of Occupancy with only a visual inspection, provided, however, that the progress inspector shall perform a supplemental inspection where the controls are visually inspected and tested for functionality and proper operation during the next immediate season thereafter. The owner shall provide full access to the progress inspector within two weeks of the progress inspector's request for such access to perform the progress inspection. For such supplemental inspections, the Department shall be notified by the progress inspection approved agency of any unresolved deficiencies in the installed work within 180 days of such supplemental inspection.</u>			
<u>IIB5</u>	<u>Duct, plenum and piping insulation and sealing: Installed duct and piping insulation shall be visually inspected to verify proper insulation placement and values. Joints, longitudinal and transverse seams and connections in ductwork shall be visually inspected for proper sealing.</u>	<u>After installation and prior to closing shafts, ceilings and walls</u>	<u>Approved construction documents; SMACNA Duct Construction Standards, Metal and Flexible; UL 181A or UL 181B</u>	<u>803.2.8, 803.2.9, 803.3.6, 803.3.7, 804.5; ASHRA E 90.1 – 6.3, 6.4.4.1, 6.4.4.2.1, Tables 6.8.2 and 6.8.3; 7.4.3</u>

<u>IIB6</u>	<u>Air leakage testing for duct systems designed to operate at static pressures in excess of 3 inches w.g. (746 Pa): Representative sections totaling at least 25% of the duct area, per ECC 803.3.6, shall be tested to verify that actual air leakage is below allowable amounts.</u>	<u>After installation and sealing and prior to closing shafts, ceilings and walls</u>	<u>Approved construction documents; SMACNA HVAC Air Duct Leakage Test Manual</u>	<u>803.2.8.1.1, 803.3.6; ASHRA E 90.1 – 6.4.4.2.2</u>
<u>IIC Electrical Power and Lighting Systems</u>				
<u>IIC1</u>	<u>Electrical metering: The presence and operation of individual meters or other means of monitoring individual apartments shall be verified by visual inspection for all apartments.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>102.4; 805.8</u>
<u>IIC2</u>	<u>Transformers: Single-phase and three phase dry-type and liquid-filled distribution transformers shall be visually inspected to ensure that the installed transformers are listed and labeled to the referenced standard, or that associated product literature confirms that the transformers meet the referenced standard.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents; NEMA TP1</u>	<u>102.6, 805.7</u>
<u>IIC3</u>	<u>Electric motors: Where required by the construction documents for energy code compliance, motor listing or labels shall be visually inspected to verify that they comply with the respective energy requirements in the construction documents.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>ASHRA E 90.1 – 10.4.1</u>
<u>IIC4</u>	<u>Lighting controls: Not less than 15% of each type of required lighting controls, including manual interior lighting controls, light-reduction controls, automatic lighting shut-off, guestroom controls, exterior building lighting controls and exterior grounds lighting controls, shall be verified by visual inspection and tested for functionality and proper operation.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents, including control system narratives</u>	<u>805.2; ASHRA E 90.1 – 9.1, 9.4.1; 1RCNY 5000-01(g)(3)</u>

<u>IIC5</u>	<u>Tandem wiring: Tandem wiring shall be tested for functionality.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>805.3; ASHRA E 90.1 – 9.4.2</u>
<u>IIC6</u>	<u>Exit signs: Installed exit signs shall be visually inspected to verify that the label indicates that they do not exceed maximum permitted wattage.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>805.4; ASHRA E 90.1 – 9.4.3</u>
<u>IIC7</u>	<u>Interior lighting power: Installed lighting shall be verified for compliance with the lighting power allowance by visual inspection of fixtures, lamps, ballasts and relevant transformers.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>805.5; ASHRA E 90.1 – 9.1.3, 9.1.4, 9.2.1, 9.5, 9.6; 1RCNY 5000-01(i)</u>
<u>IIC8</u>	<u>Exterior lighting power: Installed lighting shall be verified for compliance with source efficacy and/or the lighting power allowance by visual inspection of fixtures, lamps, ballasts and relevant transformers.</u>	<u>Prior to final inspection</u>	<u>Approved construction documents</u>	<u>805.6; ASHRA E 90.1 – 9.1.1, 9.4.4, 9.4.5</u>
<u>IID Other</u>				
<u>IID1</u>	<u>Maintenance information: Maintenance manuals for equipment and systems requiring preventive maintenance shall be reviewed for applicability to installed equipment and systems before such manuals are provided to the owner. Labels required for such equipment or systems shall be inspected for accuracy and completeness and for compliance with ECC 102.3.</u>	<u>Prior to sign-off or issuance of Final Certificate of Occupancy</u>	<u>Approved construction documents, including electrical drawings; ASHRAE Guideline 4: Preparation of Operating and Maintenance Documentation for Building Systems</u>	<u>102.3; 803.3.8.3; ASHRA E 90.1 – 6.7.2.2, 8.7.2</u>

(i) Energy Analysis of Constructed Conditions. In accordance with Section 28-104.3 of the Administrative Code, if constructed work differs from the

last-approved full energy analysis, an as-built energy analysis shall be submitted as a post-approval amendment, listing the actual values used in the building for all applicable Energy Code-regulated items and demonstrating that the building complies with the Energy Code. Such energy analysis shall be signed and sealed by a registered design professional, who shall certify that to the best of his or her knowledge and belief the building as built complies with the Energy Code; where no trade-offs have been used among disciplines, more than one registered design professional may sign and seal the energy analysis. The energy analysis shall be approved by the Department prior to sign-off or issuance of the certificate of occupancy.

§3. Effective date. (a) Section 1 of this rule shall take effect on January 1, 2011.

(b) Section 2 of this rule shall take effect on September 7, 2010, and shall apply to applications for approval of construction documents that are submitted to the Department on and after such date.

STATEMENT OF BASIS AND PURPOSE

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

Article 104 of Title 28 of the Administrative Code establishes the requirement for construction drawings, and the Department's approval of such drawings, as a condition of obtaining a permit for a building construction project. Such construction drawings must be created under the direct supervision of a registered design professional (architect or engineer licensed and registered in New York State), who must sign and seal each drawing as the applicant for the construction permit. Such registered design professional is obligated by the conditions of his or her license and by this article to certify that the construction drawings, to the best of his or her knowledge and belief, comply with the provisions of the New York City Construction Codes or the 1968 building code and of all other applicable laws and rules.

Article 116 of Title 28 allows required inspections during the construction period, other than special inspections, to be performed by approved agencies. Such approved agencies are established in Article 114 of Title 28 and elaborated in 1 RCNY §101-07, which also sets forth the powers, responsibilities and qualifications for progress inspectors. In part, the rule requires that progress inspectors have "relevant experience." The work of progress inspectors is established in Section BC 109.3 and involves the detailed inspection of the built work throughout the construction process to ensure that it complies with the approved construction documents, which, as stated above, must comply with all applicable laws and rules, including the New York City Construction Codes.

In December 2009, the City Council and the Mayor enacted Local Law No. 85 of 2009, which establishes the New York City Energy Conservation Code (the "Energy Code") as Chapter 10 of Title 28 of the Administrative Code. The establishment of the Energy Code is in accordance with Article 11 of the New York State Energy Law, which allows a local jurisdiction to establish its own energy code, provided that it is at least as stringent as the State's energy code. Under Local Law No. 85, the New York City Energy Conservation Code utilizes the technical provisions of the Energy Conservation Construction Code of New York State, but amends the administrative provisions to include all alterations within the applicability of the code; the State's energy code exempts alterations that do not affect at least 50% of any building system or subsystem from its provisions. The New York City Energy Conservation Code goes into effect on July 1, 2010 .

This rule amends 1 RCNY §101-07(c)(3) to clarify the role of the progress inspector in a design and construction project and to describe the relevant experience required for progress inspectors for compliance with the Energy Code.

Progress inspections to ensure compliance with the Energy Code are required by §BC 109.3.5, and progress inspections are described generally in §28-116.2.3 as “inspections required...to be made during the progress of the work” without further specifying what those inspections entail or who is authorized to perform them. The general requirements for such inspectors are set forth in the existing rule; however special expertise is required for compliance with the Energy Code beyond the fundamental requirement for professional licensure and therefore such “relevant experience” in this area, as provided in the existing rule, is detailed in this amendment. In addition, the paragraph of the rule relating to progress inspections, 1 RCNY §101-07(c)(3), is reorganized for greater clarity.

The rule adds 1 RCNY §5000-01 to define the requirements for construction document approval with regard to the Energy Code as set forth in §28-104.7.9 and §BC 106.13. It also establishes the universe of progress inspections required to satisfy BC §109.3.5 and the Energy Code. Depending on the scope of work of a particular project, whether a new building or an alteration, the applicant can select from this list the progress inspection(s) that is (are) applicable to the particular construction project.

Specifically, section 5000-01:

- Codifies current submission requirements for compliance with the Energy Code as they relate to Local Law No. 85 of 2009, which codified the New York City Energy Conservation Code.
- Adds the new submission requirement for progress inspections to be listed and described in the approved construction drawings.
- Describes what the applicant must include for the new submission requirement.
- Provides a new definition for “project”, which requires that a building or renovation construction project be addressed as a whole for purposes of compliance with the Energy Code, regardless of how it may be split up for filing purposes. (A project may be filed so that it has more than one job number – e.g., one for the general construction, one for mechanical work, one for plumbing work.)
- Requires electrical drawings to be submitted if required for compliance with the Energy Code. Currently electrical drawings are not submitted for construction drawing approval.
- Allows a professional who is not the applicant of record to prepare some documentation required for compliance with the Energy Code, and describe what such a professional must do to be entered into the Department’s records in association with the project.

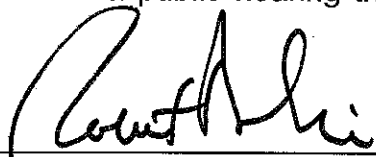
- Lists the types of progress inspections and define, for each inspection, what the progress inspector is expected to inspect and what the standard is for construction compliance.

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 [l] 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.



Robert D. LiMandri
Acting Commissioner

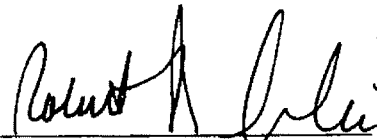
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Statement of Substantial Need for Earlier Implementation

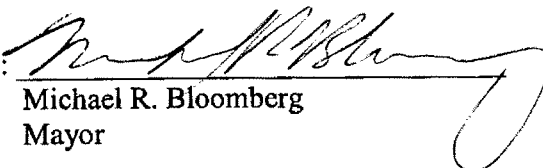
I hereby find, pursuant to §1043, subdivision e, paragraph 1(c) of the New York City Charter, and hereby represent to the Mayor, that there is substantial need for the implementation of new Section §101-07 of Title 1 of the Rules of the City of New York, regarding the qualification and approval of special inspection and other agencies, upon the publication in the City Record of its Notice of Adoption.

This is one of the rules needed to implement the City's new Construction Codes. Under current law, third parties performing tests or inspections of materials, equipment, construction-related activities, and periodic maintenance are required to be licensed or accepted by the Department, as recognition of their competence. This rule sets forth such competency requirements and designates such third parties as approved agencies when they meet the prescribed standards. Previously, the requirements were subject to different interpretations by practitioners. This inconsistency of interpretation has enabled inspections and tests to be performed by those who may not necessarily have the appropriate knowledge to evaluate the subject of the inspection and tests in light of technical standards.

The rule addresses that problem. It defines qualifications and competencies to ensure consistency and enhance the standards in practice. By setting consistent standards for testing and inspecting agencies, the rule will ultimately enhance the safety and integrity of buildings.



Robert D. LiMandri
Acting Commissioner
Department of Buildings

APPROVED: 
Michael R. Bloomberg
Mayor

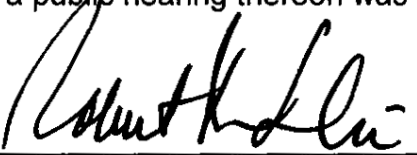
DATE: 6/30/2008

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 addition of Section 101-07 to Subchapter A of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding the qualification and approval of special inspection and other agencies.

This rule was first published on May 22, 2008 and a public hearing thereon was held on June 23, 2008.

Dated: 6/26/08, 2008
New York, New York


Robert D. LiMandri
Acting Commissioner

Section 1. Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 101-07 to read as follows:

§101-07 Inspections and approved agencies.

(a) Definitions. For the purposes of this section, all terms used herein shall have the same meanings as set forth in the 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) Approved boiler inspection agency. An agency employing qualified boiler inspectors, as defined below.

(3) 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.

(4) 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 building code.

(5) 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. 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) 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.

(7) 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, 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.

(8) 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.

(9) 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) 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. Such supervision shall include ensuring the inspector's training/education through whatever arrangements are necessary to the inspector's duties and shall also include plans for continued training to keep pace with developing technology. 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 building code. Such supervision and control shall be evidenced by the supervisor's signature and seal upon any required statements, applications and/or reports.

(11) 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.

(b) General requirements for approved agencies.

(1) Availability and compliance. An approved agency shall have responsibilities set forth in this rule and in the building code. Such agency shall employ experienced personnel qualified to conduct, supervise and evaluate the tests or inspections that it undertakes.

(2) Duties. The approved agency shall:

(i) Examine all relevant documents, including approved construction documents and/or manufacturers' instructions that define and describe requirements in connection with the test or inspection to be performed.

(ii) Confirm that the documents are sufficient to enable the proper performance of the test or inspection.

(iii) Confirm that any relevant approved construction documents are acceptable to the registered design professional of record or another design professional retained by the owner for the purpose of accepting shop drawings and that the manufacturers' instructions are current. Acceptance shall be demonstrated in writing on the drawing by the registered design professional.

(iv) Confirm through the test or inspection that the installation and materials are in compliance with all relevant documents, reference standards and the building code.

(3) Documentation. An approved agency shall maintain records of inspections and tests for at least 6 years or for such shorter period as the commissioner shall determine and shall make such records available to the department upon request. Such records shall include field logs, test results, laboratory reports, notes, photographs and such other information as may be necessary or appropriate to establish the sufficiency of the inspection. The principal of the approved agency shall furnish to the department upon request such records of any inspection or test, in the manner required by the department.

(4) Obligation to cooperate with inquiries. All approved agencies shall cooperate with any investigation by the department, or other city or law enforcement agency, into the activities at any job site or fabricating/manufacturing/testing facility for which such agencies have undertaken any inspections or tests and shall provide prompt, accurate and complete responses to reasonable inquiries by the department and other such city or law enforcement agencies about the conduct of such activities.

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

(6) Obligation to comply with an order of the commissioner. All approved agencies shall comply with an order of the commissioner.

(7) Insurance. Every approved agency shall maintain the following insurance coverage:

(i) A general liability insurance policy for the amount of one million dollars;

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

(iii) For progress inspection agencies and qualified exterior wall inspectors only, in addition to the requirements of (i) and (ii) above, a Professional Liability/Errors and Omissions insurance policy, occurrence based, for the term of the registration or accreditation.

(8) Agency structure. An approved agency's structure shall comply with all applicable New York State and Federal laws.

(9) Audits. The operations of approved agencies shall be subject to audit at any time. Audits may examine applications for registration or accreditation as well as the performance and documentation of inspections and tests. Audits may also be conducted upon receipt of complaints or evidence of falsification, negligence or incompetence.

(c) Qualifications of approved agencies.

(1) Except as otherwise provided in subdivision (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.

(i) A testing and/or inspection agency shall be deemed an approved testing and/or approved inspection agency for testing and/or inspecting materials and listing and labeling materials to specified standards in accordance with the building code and its

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 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 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) 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) 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) 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.

(3) Progress inspection agencies.

(i) Registered design professionals with relevant experience shall be deemed approved progress inspection agencies, without further requirement of registration or accreditation, for the purpose of conducting the progress inspections required by section BC 109

of the building code. Such progress inspections shall include the following:

(A) Preliminary. See section 28-116.2.1 of the New York City Administrative Code and section 109.2 of the building code.

(B) Footing & foundation. See section 109.3.1 of the building code.

(C) Lowest floor elevation. See section 109.3.2 of the building code.

(D) Frame inspection. See section 109.3.3 of the building code.

(E) Energy Code Compliance Inspections. See section 109.3.5 of the building code.

(F) Fire-resistant rated construction. See section 109.3.1 of the building code.

(G) Final. See section 28-116.2.4.2 of the New York City Administrative Code and section 109.5 of the building code.

(H) Public assembly emergency lighting. See section 1006 and 1024 of the building code and section 28-116.2.2 of the Administrative Code.

(ii) A progress inspection agency shall conduct required progress inspections, provided such inspections are conducted by a registered design professional with relevant experience or a person under such design professional's direct supervision.

(iii) A progress inspection agency's performance of a progress inspection shall include verification that any special inspections that were required to have been conducted prior to the progress inspection have been documented as completed.

(4) Elevator inspection agencies.

(i) Notwithstanding anything to the contrary set forth herein, elevator inspection companies, 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 building code.

(iii) Tests and inspections performed 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 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.

(iv) Effective January 1, 2009, periodic elevator inspections and tests 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 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.

(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.

(D) The witnessing inspector shall affix the 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) Boiler inspection agencies.

(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.

(ii) Effective January 1, 2009, periodic boiler inspections required by section 28-303.2 of the Administrative Code shall be performed in compliance with the following requirements:

(A) Low pressure boiler annual inspection reports shall be submitted for each calendar year on such forms and in such manner as required by the department. The report shall include:

((a)) An inspection report for each boiler identifying the inspector or inspection agency;

((b)) The owner's annual statement completed in compliance with section 28-303.6 of the Administrative Code; and

((c)) A certification by the owner that identified defects have been corrected. The report must be filed within 45 days 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 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.

(B) A low pressure boiler annual inspection must be conducted between November 16th of the preceding calendar year through November 15th of the calendar year for which the report is being submitted at a date that follows the preceding annual inspection by 6 months or more. The inspector must verify that a department-issued boiler number is affixed to the boiler and such number must be used in all correspondence between the inspector and the department. If an inspection reveals any dangerous condition in a boiler that threatens life or safety and that requires an immediate shut down of the boiler, the inspector must immediately notify the boiler division at the department of the condition via fax or email at the number or address provided on the department's website, <http://www.nyc.gov/buildings>.

(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 of the Administrative Code and this section.

(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 building 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.

(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.

(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

(7) Exterior wall inspections.

(i) Examination of a building's exterior walls and appurtenances thereof pursuant to section 28-302 of the Administrative Code shall be performed by or under the direct supervision of a qualified exterior wall inspector.

(ii) A qualified exterior wall inspector shall maintain records of inspections and tests for at least 6 years and shall make such records available to the department upon request.

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

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

(d) Interim status and application deadlines. An approved agency that is required to achieve accreditation shall be entitled, until July 1, 2010, to perform those inspections and tests for which it is seeking accreditation, provided that the following are true:

(1) The agency is diligently pursuing accreditation by the required accreditation services or an equivalent accreditation agency approved by the department.

(2) The agency is in good standing with the department and is licensed and/or accepted by the department pursuant to the laws in effect prior to July 1, 2008 to perform specific tests and inspections. Such agencies shall be limited to the performance of those tests for which they are under such prior law specifically licensed or accepted to perform.

(3) On or before July 1, 2010, an agency with interim status as an approved agency shall achieve accreditation as set forth in this rule. In the event the approved agency has failed by July 1, 2010 to achieve such accreditation, the agency may apply to the commissioner who may, upon a showing of good cause, grant an extension of time to achieve accreditation and allow the continuance of the interim status.

(e) Suspension or revocation 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 building 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 building 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.

(f) Obligations of others. Nothing in this section is intended to alter or diminish any obligation otherwise imposed by law on others, including but not limited to, the owner, construction manager, general contractor, contractor, materialman, architect, engineer, site safety manager, land surveyor, superintendent of construction or other party involved in a construction project, to engage in sound engineering, design, and construction practices, and to act in a reasonable and responsible manner to maintain a safe construction site.

§ 2. Subdivision a of section 13-11 of chapter 13 of Title 1 of the Rules of the City of New York is amended by adding a new paragraph 17 to read as follows:

(17) A petition by which the department seeks an order of suspension or revocation of the approval of an approved agency.

STATEMENT OF BASIS AND PURPOSE

The foregoing rule is promulgated pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) of the New York City Charter. The rule implements section 28-114.1 of the New York City Administrative Code by specifying the qualifications of approved agencies and qualified inspectors and the processes through which the Department will regulate their activities.

Under current law, third parties performing tests or inspections of materials, equipment, construction-related activities, and periodic maintenance are required to be licensed or accepted by the Department, as recognition of their competence. This rule sets forth such competency requirements and designates such third parties as approved agencies when they meet the prescribed standards. Previously, the requirements were subject to different interpretations by practitioners. This inconsistency of interpretation has enabled inspections and tests to be performed by those who may not necessarily have the appropriate knowledge to evaluate the subject of the inspection and tests in light of technical standards.

The rule addresses that problem. It defines qualifications and competencies to ensure consistency and enhance the standards in practice. By setting consistent standards for testing and inspecting agencies, the rule will ultimately enhance the safety and integrity of buildings.