

1 RCNY §101-07

CHAPTER 100

Subchapter A Administration

§101-07 Approved Agencies.

- (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 Building Code (“Building Code”). In addition, the following terms shall have the following meanings:
- (1) *Approved boiler inspection agency.* An agency employing qualified boiler inspectors.
 - (2) *Approved inspection agency.* An agency that is approved by the department as qualified to 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.
 - (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 Building Code.
 - (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 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.
 - (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.
 - (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.
 - (12) *Qualified exterior wall inspector.* A 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).

- (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.
- (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 Building Code. Such supervision and control shall be evidenced by the supervisor's signature and seal upon any required statements, applications and/or reports.
- (16) *Technician.* An employee of the inspection or testing agency assigned to perform the actual operations of inspection or testing. See ASTM E329-07, 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. Except as provided for in paragraph (8) of subdivision (c) of this section, 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 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.
- (6) Obligation to comply with an order of the commissioner. All approved agencies shall comply with an order of the commissioner.
- (7) Maintenance of insurance. Every approved agency shall maintain the following insurance coverage:

- (i) A general liability insurance policy 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 Workers' Compensation and Disability Benefits Laws; and
 - (iii) For progress inspection agencies, 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.
- (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) All approved agencies, including single person approved agencies, shall comply with the requirements of this section and Article 114 of Title 28 of the Administrative Code and shall meet the qualifications set forth herein.
- (2) Testing and inspection agencies for product certification.
 - (i) A testing agency shall be deemed an approved testing agency for testing materials to specified standards in accordance with the Construction Codes and their referenced standards where such agency has achieved accreditation for such testing from International Accreditation Service, Inc. or an equivalent accrediting agency accrediting to the standards set forth in 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.
 - (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) of this section.
 - (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.
 - (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.

- (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.
- (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 objection 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.
 - (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.
 - (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 an otherwise qualified individual pursuant to the following table:

Progress Inspection Category	2008 Code Section	Qualifications	
		Primary Inspector or Inspection Supervisor	Supplemental Inspector under direct supervision of Inspection Supervisor
Preliminary inspection	AC 28-116.2.1	<ul style="list-style-type: none"> • Registered design professional with relevant experience 	<ul style="list-style-type: none"> • A person with relevant experience
Compliance inspections	AC 28-116.2.2	<ul style="list-style-type: none"> • Registered design professional with relevant experience 	<ul style="list-style-type: none"> • A person with relevant experience
Footing and foundation	BC 109.3.1	<ul style="list-style-type: none"> • Registered design professional with relevant experience 	<ul style="list-style-type: none"> • A person with relevant experience
Lowest floor elevation	BC 109.3.2; BC G105.3, Item 1	<ul style="list-style-type: none"> • Engineer with relevant experience or licensed professional land surveyor with relevant experience 	<ul style="list-style-type: none"> • A person with relevant experience
Frame	BC 109.3.3	<ul style="list-style-type: none"> • Registered design professional with relevant experience 	<ul style="list-style-type: none"> • A person with relevant experience
Fire-resistance-	BC 109.3.4	<ul style="list-style-type: none"> • Registered design 	<ul style="list-style-type: none"> • A person with

rated construction		professional with relevant experience	relevant experience
Energy code compliance – “residential” ¹ buildings	BC 109.3.5	<ul style="list-style-type: none"> Registered design professional of record for the respective work; or Registered design professional with five years experience in the design, construction, construction observation and/or inspection of Energy Code-regulated systems for buildings 	<ul style="list-style-type: none"> 3 years experience in the inspection or construction observation of buildings for Energy Code-regulated systems
Energy code compliance – “commercial” ² buildings	BC 109.3.5	<ul style="list-style-type: none"> Registered design professional of record for the respective work; or 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 	<ul style="list-style-type: none"> 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
Other	BC 109.3.6	<ul style="list-style-type: none"> Registered design professional with relevant experience 	<ul style="list-style-type: none"> A person with relevant experience
Final	AC 28-116.2.4.2	<ul style="list-style-type: none"> Registered design professional with relevant experience 	<ul style="list-style-type: none"> A person with relevant experience
Place of assembly emergency lighting	AC 28-116.2.2	<ul style="list-style-type: none"> Registered design professional with relevant experience 	<ul style="list-style-type: none"> A person with relevant experience

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

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

- (v) 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 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.
- (4) Elevator inspection agencies.
 - (i) Notwithstanding anything to the contrary set forth herein, elevator inspection agencies, including their directors and 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(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 appendix K of the Building Code.
- (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 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 have 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 examination by July 1, 2010 may continue to witness the test based on satisfaction of the qualifications set forth in items 1 through 3 below, through December 31, 2011 or until the issuance or denial of a Certificate of Approval from the department, whichever is sooner.
 - 1. A valid QEI or QEIS Certificate;
 - 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 3 below, in the assembly, installation, repair, design, or inspection of elevators, or as an elevator mechanic;
 - 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 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, in the rules of the department; and
 - B. 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 (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.
 - (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.
- (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.
 - (ii) 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:
 1. An inspection report for each boiler identifying the inspector or inspection agency;
 2. The owner's annual statement completed in compliance with section 28-303.6 of the Administrative Code; and
 3. 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.
 - (B) A low pressure boiler annual inspection must be conducted between January 1st and December 31st of the calendar year for which an owner submits the report. Low pressure boiler annual inspections must be conducted at least six months apart. The inspector must verify that a valid 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, or reveals an unregistered 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 28-303.7 of the Administrative Code and this section.
- (6) Concrete testing laboratories.
 - (i) 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:
 - (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. Such director shall:
 - (A) Personally supervise inspections and tests to ensure compliance with prescribed nationally recognized standards. Such supervision shall include ensuring that inspections 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;
 - (C) Be a registered design professional with at least five years of experience in the testing and inspection of concrete materials; 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.
- (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 object 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.
- (7) Exterior wall inspections.
 - (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.
 - (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 paragraph (7) of subdivision (b) above.
 - (iv) Except as modified by the building code and this section, the provisions of 1 RCNY 103-04 shall apply.
- (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 and high temperature hot water 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 an AWS Certified Welding Inspector.
- (ii) A pipe welder qualifying agency shall be responsible for the following:
 - (A) Complying with the requirements of section 406.1.1.1 of the Fuel Gas Code and section 1210.2.2 of the Mechanical Code;
 - (B) Positively identifying each welder or welding operator being qualified;
 - (C) Observing the welder or welding operator during the qualification test.
- (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) 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.

(d) **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 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 this subdivision, 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.

(e) **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.