

# 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 commissioning agent.* An individual with at least 3 years of relevant experience.
  - (11) *Qualified elevator director.* An individual licensed in accordance with Article 421 of Title 28 of the Administrative Code.
  - (12) *Qualified elevator inspector.* An individual licensed in accordance with Article 422 of Title 28 of the Administrative Code.
  - (13) *Qualified exterior wall inspector.* A registered design professional with at least seven years of relevant experience with facades over six stories.
  - (14) *Qualified parking structure inspector.* An engineer as defined in section 28-101.5 of the administrative code with three years of relevant experience with parking structures.

- (15) *Qualified retaining wall inspector.* An engineer as defined in section 28-101.5 of the administrative code with three years of relevant experience with retaining walls over 10 feet.
- (16) *Registered design professional.* A New York State licensed and registered architect (RA) or a New York State licensed and registered professional engineer (PE).
- (17) *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.
- (18) *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.
- (19) *Technician.* An employee of the inspection or testing agency assigned to perform the actual operations of inspection or testing. See ASTM E329-14a, paragraph 3.1.9.

**(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 and responsibilities 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, 2012 edition (General Criteria for the Operation of Various Types of Bodies Performing Inspection), ISO 17065, 2012 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 E329-14a. 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 E329-14a.

- (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	2014 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"> <li>Registered design professional with relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>A person with relevant experience</li> </ul>
Compliance inspections	AC 28-116.2.2	<ul style="list-style-type: none"> <li>Registered design professional with relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>A person with relevant experience</li> </ul>
Footing and foundation	BC 110.3.1	<ul style="list-style-type: none"> <li>Registered design professional with relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>A person with relevant experience</li> </ul>
Lowest floor elevation	BC 110.3.2; BC G105.3, Item 1	<ul style="list-style-type: none"> <li>Engineer with relevant experience or licensed professional land surveyor with relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>A person with relevant experience</li> </ul>
Structural Wood Frame	BC 110.3.3	<ul style="list-style-type: none"> <li>Registered design professional with relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>A person with relevant experience</li> </ul>
Fire-resistance-rated construction	BC 110.3.4	<ul style="list-style-type: none"> <li>Registered design professional with relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>A person with relevant experience</li> </ul>
Energy code compliance – “residential” <sup>1</sup> buildings	BC 110.3.5	<ul style="list-style-type: none"> <li>Registered design professional of record for the respective work;</li> <li>or</li> <li>Registered design professional with five years' experience in the design, construction, construction observation and/or inspection of Energy Code-regulated systems for buildings</li> </ul>	<ul style="list-style-type: none"> <li>3 years' experience in the inspection or construction observation of buildings for Energy Code-regulated systems</li> </ul>
Energy code compliance – “commercial” <sup>2</sup> buildings	BC 110.3.5	<ul style="list-style-type: none"> <li>Registered design professional of record for the respective work;</li> <li>or</li> <li>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</li> </ul>	<ul style="list-style-type: none"> <li>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</li> </ul>
Other	BC 110.3.6	<ul style="list-style-type: none"> <li>Registered design professional with relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>A person with relevant experience</li> </ul>
Final	AC 28-116.2.4.2	<ul style="list-style-type: none"> <li>Registered design professional with relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>A person with relevant experience</li> </ul>
Place of assembly emergency lighting	AC 28-116.2.2	<ul style="list-style-type: none"> <li>Registered design professional with relevant experience</li> </ul>	<ul style="list-style-type: none"> <li>A person with relevant experience</li> </ul>

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

<sup>2</sup> 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. *Reports.* The progress inspector is required to compile all documentation, as required in paragraph (3) of subdivision (b) of this section, into a report. The report must also include, but shall not be limited to:
      - i. Identification of the Energy Code Progress Inspections performed;
      - ii. A list of the approved construction documents referenced for each inspection performed;
      - iii. Identification of any inspections performed where the built conditions observed were not in compliance with the energy code as documented in the approved construction documentation;
      - iv. Identification of any inspections performed where non-compliant built conditions, documented in accordance with Item iii above, were corrected and made in compliance with the energy code as documented in the approved construction documentation;
      - v. Photographic documentation. Each report must include a dated photo sufficient to identify the building, a dated photo of the progress inspector and/or his or her employees performing physical inspections, and a dated photo for each inspection performed. All photographs must be date-stamped, clearly legible, labeled indicating the related inspection, and include enough visible evidence to support the determinations contained in the report, including but not limited to scale reference demonstrating insulation depths, insulation installer certificate.

- vi. Signed and sealed by the Progress Inspection Agency with a statement of approval such as “To the best of my knowledge, belief, and professional judgement, all work performed substantially conforms to the latest relevant approved construction documents and has been performed in accordance with applicable provisions of the New York City Energy Conservation Code and other designed rules and regulations.”
2. *Sampling.* Unless noted otherwise in the Inspection/Test columns of Tables I and II of 1 RCNY §5000-01 (h), required inspections or tests must 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 must be inspected.
  3. *Phased inspection for temporary certificates of occupancy.* Prior to issuance of a temporary certificate of occupancy for less than the total scope of work, all work serving the portion of the building for which the temporary certificate of occupancy is to be issued must be inspected. 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.
  4. *Phased inspection of controls.* Notwithstanding item 3 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 must be completed prior to issuance of a final certificate of occupancy.
  5. *Installed value more efficient than approved energy analysis.* Where the progress inspector verifies that, for any given space or system, the installed performance value is more efficient than the performance value 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.
- (4) Elevator agencies.
- (i) Notwithstanding anything to the contrary set forth herein, elevator agencies, including their directors and inspectors who currently hold or hereafter secure a license from the department issued pursuant to Article 421 or 422 of Title 28 of the Administrative Code shall be deemed approved elevator 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) Tests and inspections performed by an approved elevator agency on behalf of the owner shall be performed in compliance with Article 304 of Title 28 of the Administrative Code and section 103-02 of this chapter.
  - (iii) Periodic elevator inspections and tests performed by an approved elevator agency on behalf of the owner as required by section 28-304.6.1 of the Administrative Code shall be performed in compliance with section 103-02 of this chapter.
  - (iv) Agency employee restriction. An employee of an elevator agency may work only for such agency and for one agency director at a time.
  - (v) Reporting of incidents. The elevator agency director, on behalf of the elevator agency, must immediately report to the department any fatality or injury of any individual that occurs in connection with the elevator agency’s operations. Such reporting shall be in a form and manner prescribed by the department.

- (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 sections 103-01 and 103-05 of this chapter.
- (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 E329-14a 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 E329-14a.
  - (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 pursuant to section 28-302.2 of the Administrative Code must be performed by or under the direct supervision of a qualified exterior wall inspector.
  - (ii) The qualified exterior wall inspector applicant must provide a detailed résumé indicating relevant work experience obtained in any US city or jurisdiction. When relevant experience is obtained while employed by another registered design professional who was signing and sealing such relevant work, a letter must be provided indicating length of the qualified exterior wall inspector applicant's employment and his or her responsibilities.
  - (iii) A qualified exterior wall inspector applicant must demonstrate to the commissioner's satisfaction, including performance on any written or oral tests the commissioner may require, that he or she is sufficiently familiar with the Construction Codes, laws and rules pertaining to facades and concepts specific to facade science.
- (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.
- (9) Commissioning approved agencies. An agency shall be deemed an approved agency for performing commissioning in accordance with the Energy Conservation Code, where such agency complies with the following:
- (i) Responsibility of owner. It shall be the responsibility of the owner to retain an approved agency to perform commissioning for a new building or alteration.
  - (ii) Obligation to avoid conflict of interest. A commissioning approved agency must 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. Commissioning and related testing pursuant to section C408 of the Energy Conservation Code shall be performed by or under the direct supervision of a qualified commissioning agent.



- (iv) A qualified commissioning agency must maintain records of inspections and tests for at least 6 years and must make such records available to the department upon request.
  - (v) A qualified commissioning agency must maintain insurance coverage as set forth in paragraph (7) of subdivision (b) above.
  - (vi) All commissioning and test reports must be presented in a form acceptable to the department and must bear the name of the commissioning agency and the name of the qualified commissioning agent who supervised each inspection or test.
- (10) Retaining wall inspections.
- (i) Inspection of a retaining wall and appurtenances pursuant to section 28-305.4 of the Administrative Code must be performed by or under the direct supervision of a qualified retaining wall inspector.
  - (ii) The qualified retaining wall inspector applicant must provide a detailed résumé indicating relevant work experience obtained in any US city or jurisdiction. When relevant experience is obtained while employed by another registered design professional who was signing and sealing such relevant work, a letter must be provided indicating length of the qualified retaining wall inspector applicant's employment and his or her responsibilities.
  - (iii) A qualified retaining wall inspector applicant must demonstrate to the commissioner's satisfaction, including performance on any written or oral tests the commissioner may require, that he or she is sufficiently familiar with the Construction Codes, laws and rules pertaining to retaining walls and engineering concepts related to retaining walls.
- (11) Parking structure inspections.
- (i) Inspection of a parking structure and appurtenances pursuant to section 28-323 of the Administrative Code must be performed by or under the direct supervision of a qualified parking structure inspector.
  - (ii) The qualified parking structure inspector applicant must provide a detailed résumé indicating relevant work experience obtained in any US city or jurisdiction. When relevant experience is obtained while employed by another registered design professional who was signing and sealing such relevant work, a letter must be provided indicating length of the qualified parking structure inspector applicant's employment and his or her responsibilities.
  - (iii) A qualified parking structure inspector applicant must demonstrate to the commissioner's satisfaction, including performance on any written or oral tests the commissioner may require, that he or she is sufficiently familiar with the Construction Codes, laws and rules pertaining to parking structures and engineering concepts related to parking structures.
- (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.