

1 RCNY §103-01

CHAPTER 100

Subchapter C Maintenance of Buildings

§103-01 Low pressure boiler inspection and filing requirements, penalties and waivers.

- (a) **Scope.** This rule implements Article 303 of Title 28 of the New York City Administrative Code (“Administrative Code”) by specifying the low pressure boiler annual inspection requirements, the processes through which the department shall regulate the filings of low pressure boiler annual inspection reports and shall issue penalties and waivers for failure to file and/or late filing, and the penalties for failure to file and/or untimely filing of a written notice of removal or disconnection of a low pressure boiler.
- (b) **References.** See Sections 28-201.2.2, 28-202.1 and Article 303 of Title 28 of the Administrative Code and Section 101-07 of this chapter.
- (c) **Definitions.** For the purposes of this section, the following terms shall have the following meanings:
- (1) **Filing deadline.** For the low pressure boiler annual inspection report or any part of that report, fourteen (14) days from the inspection date.
 - (2) **First test.** An inspection of a newly installed or replaced boiler required for the department to approve its use and operation.
 - (3) **Inspection cycle.** January 1st through December 31st of the calendar year for which the report is being submitted. Annual inspections must be at least six (6) months apart.
 - (4) **Late filing.** An inspection report or any part of that report filed after the fourteen (14) day filing deadline but in no event later than January 14th of the calendar year immediately following the inspection cycle.
 - (5) **Owner.** Any person, agent, firm, partnership, corporation or other legal entity having a legal or equitable interest in, or control of, the premises and/or boiler.
 - (6) **Qualified boiler inspector.** A qualified boiler inspector as defined in Section 101-07 of these rules.
 - (7) **Removal or disconnection.** Removal or discontinuance, pursuant to Section 28-303.9 of the Administrative Code.
 - (8) **Small business.** A business that employs fewer than one hundred persons.
 - (9) **Waiver.** Removal of the obligation to pay a penalty associated with a violation. A waiver does not result in dismissal of the violation.
- (d) **Inspection and report filing.** The owner shall be responsible for hiring a qualified boiler inspector to conduct inspections and file low pressure boiler annual inspection reports pursuant to Article 303 of Title 28 of the Administrative Code and in accordance with the following provisions:
- (1) Low pressure boiler annual inspection reports must be submitted for each inspection cycle on such forms and in such manner as required by the department. The report must include:
 - (i) An inspection report for each boiler identifying the qualified boiler inspector or inspection agency;
 - (ii) An affirmation of correction that identified defects that have been corrected, if applicable; and
 - (iii) The filing fee as provided in subdivision (h).
 - (2) 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 department’s boiler division of the condition via email at the address provided on the department’s website, www.nyc.gov/buildings. Notification of an unregistered boiler must be made by filing a report electronically in a form and manner required by the department.
 - (3) The filing is deemed accepted upon payment of the fee(s) and any civil penalties due. If the payment is not honored, the filing will be deemed invalid and the owner may receive a violation for failure to file and be subject to all applicable penalties as set forth in subdivision (f).

(e) **Acceptance of filings.** Inspection reports filed after the fourteen (14) day filing deadline but on or before January 14th of the calendar year immediately following the inspection cycle will be considered late filings and will be subject to the appropriate civil penalties as set forth in subdivision (f) of this section. Reports filed after such late filing period will be considered expired. In such cases, owners will be subject to the appropriate civil penalties for failure to file an inspection report, as set forth in subdivision (f) of this section, and the department will require a new inspection to be performed for the current inspection cycle and a new report filed in accordance with this section.

(f) **Civil penalties, low pressure boiler annual inspection report and affirmation of correction.**

- (1) Failure to file. An owner who fails to file the low pressure boiler annual inspection report or any part thereof for each boiler, pursuant to Article 303 of Title 28 of the Administrative Code and this section, shall be liable for a civil penalty of not less than one thousand dollars (\$1000.00) per boiler. A low pressure boiler annual inspection report not filed within the late filing period shall be deemed expired and shall not be accepted by the department.
- (2) Late filing. An owner who submits a late filing, but who provides proof that the inspection took place within the inspection cycle for which the report was due, shall be liable for a civil penalty of not less than fifty dollars (\$50.00) per month, per boiler, commencing on the day following the filing deadline and ending on the date of submission of a complete report, including a late filing of the affirmation of correction. The total penalty shall not exceed six hundred dollars (\$600.00) per boiler. For the purposes of this paragraph, “proof” shall mean a copy of the filed inspection report from the qualified boiler inspector who conducted the inspection indicating that the inspection was completed within the inspection cycle for which the report was due.
- (3) Failure to file the affirmation of correction. An owner who fails to correct the defects within the applicable time after the inspection and to file the affirmation of correction by the date the affirmation was due, stating that all defects found during the inspection have been corrected pursuant to Section 28-303.5 of the Administrative Code shall be liable for a civil penalty of one thousand dollars (\$1000.00) per boiler.
- (4) Challenge of civil penalty. An owner may challenge the imposition of any civil penalty authorized to be imposed pursuant to this subdivision by providing written proof of a timely and complete inspection and filing to the department. Challenges shall be made in writing within thirty (30) days from the date of service of the violation by the department and sent to the office/unit of the department that issued the violation. The decision to dismiss or uphold the penalty shall be at the sole discretion of the department. Examples of such proof shall include, but are not limited to, the following:
 - (i) A copy of the boiler inspection report for the inspection performed during the applicable inspection cycle and a copy of the front and back of the canceled check or money order to the department for the boiler inspection report fee or proof of electronic payment of such fee; or
 - (ii) The department-assigned transmittal number for the electronic disk filing report or DOB NOW tracking number.
- (5) Extension of the filing deadline. An owner may request an extension of the filing deadline in order to correct low pressure boiler defects and file an affirmation of correction stating that identified defects have been corrected in accordance with Article 303 of Title 28 of the Administrative Code, by submitting proof that the request is based on extraordinary circumstances and/or that the delay in correction is beyond the owner’s control, not including financial or administrative hardship. The request shall be made prior to the expiration of the filing deadline, submitted with the filing fee and shall be made on such forms and in such manner as required by the commissioner.
- (6) Waiver of penalties. An owner may request a waiver of penalties assessed for violation of Article 303 of Title 28 of the Administrative Code and/or related rules enforced by the department. Requests shall be made in writing and submitted with the filing fee.
 - (i) Owner status.
 - (A) New owner. A new owner may be granted a waiver of penalties contingent upon the department’s acceptance of the owner’s proof that transfer of ownership to the new owner occurred after penalties were incurred. Proof includes a recorded deed evidencing transfer of ownership to the current owner after penalties were incurred, as well as any other documentation requested by the Department.
 - (B) Government ownership. An owner may be granted a waiver of penalties upon submission of official documentation from a government entity affirming that the premises was owned in its entirety by the entity during the period for which a waiver is requested.

- (C) Bankruptcy. An owner may be granted a waiver of penalties upon submission of a copy of a bankruptcy petition and a decision from the bankruptcy court.
 - (D) Small business. An owner of a small business may be granted a first-time waiver of penalties where the owner has demonstrated, in a form and manner determined by the Department, that they are the owner of the business.
- (ii) Device status. An owner may be granted a waiver of penalties contingent upon the department's acceptance of proof of the following:
- (A) Removed or disconnected. That the low pressure boiler was removed from the building or disconnected prior to the inspection cycle for which the report was due. In the event that proof of removal or disconnection has not yet been entered into the department's database at the time of the request for a waiver, the owner shall submit to the department a copy of the submission for removal or disconnection of the boiler.
 - (B) New or replaced. That the first test was performed during the inspection cycle for which the report was due.
 - (C) Work in progress. That there is work in progress for the replacement or installation of a new boiler or burner or a major renovation requiring that the boiler or burner be deactivated during the work. For the purposes of this subparagraph, "proof" means the filing of a boiler application including a projected date of completion of work. Upon completion of such work, a new inspection and test report must be filed in accordance with this section.
- (iii) Building status. An owner may be granted a waiver of penalties contingent upon the department's confirmation of the following:
- (A) Demolished. That the full demolition of the building occurred prior to the inspection cycle for which the report was due and that such demolition was signed off by the department or that a new building permit has been issued for the property.
 - (B) Sealed or vacated. That the building was ordered to be sealed or vacated by a government agency (e.g. Department of Buildings, Department of Housing Preservation and Development, Fire Department of New York or Office of Emergency Management) or by court order prior to the expiration of the inspection cycle for which the report was due.
- (g) **Civil penalties, written notice of removal or disconnection of a low pressure boiler.** Failure to file a written notice of removal or disconnection with the filing fee in accordance with Section 28-303.9 of the Administrative Code, or filing such notice more than thirty (30) days after the date of the removal or disconnection of a low pressure boiler shall be deemed a lesser violation and shall subject the owner to penalties as set forth in this subdivision.
- (1) Failure to file. An owner who fails to file such notice by thirty (30) days after the end of the inspection cycle shall be liable for a civil penalty of not less than one thousand dollars (\$1,000) per boiler.
 - (2) Untimely filing. An owner who files such notice more than thirty (30) days after the date of removal or disconnection, but by thirty (30) days after the end of the inspection cycle may submit an untimely filing and shall be liable for a civil penalty of not less than fifty dollars (\$50.00) per month, per boiler, commencing on the day following the date the notice was due and ending on the date of submission of the notice. The total penalty shall not exceed five hundred dollars (\$500.00) per boiler.
 - (3) Challenge of civil penalty. An owner may challenge the imposition of any civil penalty authorized to be imposed pursuant to this subdivision by providing proof of a timely filing to the department. Challenges shall be made in writing within thirty (30) days from the date of service of the violation by the department and sent to the office/unit of the department that issued the violation. The decision to dismiss or uphold the penalty shall be at the sole discretion of the department. An example of such proof shall include, but is not limited to, the following: a stamped and dated copy of the submission for removal or disconnection of the boiler filed with the department, which may be supported by a copy of the front and back of a canceled check(s) to the department for the filing fee or proof of electronic payment of such fee.
- (h) Fees. Fees for filings related to boilers shall be as set forth in Section 101-03 of these rules.