

NEW YORK CITY FIRE DEPARTMENT
Notice of Opportunity to Comment on the

Proposed Repeal of Existing Fire Department Rules and

Promulgation of New Fire Department Rules

(Chapters 1, 2, 8, 10, 14, 17, 26 and 38 of

Title 3 of the Rules of the City of New York)

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Fire Commissioner of the City of New York by Section 489 of the New York City Charter and Chapter 1 of the New York City Fire Code, effective July 1, 2008, and in accordance with the requirements of Section 1043 of the New York City Charter, that the New York City Fire Department intends to repeal the rules listed below.

NOTICE IS FURTHER GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Fire Commissioner of the City of New York by Section 489 of the New York City Charter and Chapter 1 of the New York City Fire Code, effective July 1, 2008, and in accordance with the requirements of Section 1043 of the New York City Charter, that the New York City Fire Department intends to promulgate the rules listed below. All the rules are underlined to indicate that they are new, with the exception of 3 RCNY §109-02, which was previously promulgated and is included for completeness.

A public hearing will be held on Friday, October 17, 2008, at 10:30 a.m., in the Auditorium at Fire Department Headquarters at 9 MetroTech Center, Brooklyn, New York. Persons seeking to testify are requested to notify the Counsel to the Department at New York City Fire Department, Bureau of Legal Affairs, 9 Metro Tech Center, 4th Floor, Brooklyn, New York 11201-3857. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are requested to notify the Counsel of the Department at the foregoing address by October 2, 2008.

Written comments regarding this rule may be sent to the Counsel to the Department on or before October 17, 2008 at the above address. All written comments and summary of oral comments received at the hearing will be available for public inspection within a reasonable time after receipt, between the hours of 9:00 a.m. and 5:00 p.m., at the Office of the Counsel.

The Notice of Opportunity to Comment, Proposed Rule and Statement of Basis and Purpose will be available on the Fire Department Internet Home Page at:

www.nyc.gov/fdny

INTRODUCTION

This is the first installment of a series of rulemaking proceedings to repeal and repromulgate all Fire Department rules in effect on June 30, 2008 (“existing rules”). The Fire Department is undertaking to repeal and repromulgate all of its existing rules in connection with the enactment of the new New York City Fire Code, which took effect on July 1, 2008.

The proposed new rules have been renumbered to parallel the new Fire Code sections. For example, §113-01, relating to certificates of fitness, corresponds to Fire Code §113 (FC113), which governs such licenses. The proposed rules have also been revised to conform to the terminology of the new Fire Code, and, as necessary, revised to amend or clarify various requirements. Except as otherwise indicated in the statement of basis and purpose for each chapter of the rules, the provisions of these rules are substantially equivalent to the existing rules.

In addition, certain rules are substantively new. Such new rules are addressed in the statement of basis and purpose for each chapter.

As set forth in proposed section 3 RCNY §202-01, “FC” refers to the Fire Code and “R” to the rules. *Italicized* words refer to terms defined in the Fire Code or the rules. Where no rules are being promulgated, pursuant to a section of the Fire Code, the corresponding section of the rules is marked “reserved.”

Chapter 1 of Title 3 of the Rules of City of New York

§101	Reserved
§102-01	Pre-Existing Facilities and Conditions
§103	Reserved
§104-01	Appeals
§104-02	Professional Certification
§104-03	Disposal of Contraband Materials
§104-04	Modification of Rules
§105-108	Reserved
§109-01	Notice of Violation, Certification of Correction and Stipulation Procedures
§109-02	Consolidation of Provisions of the Administrative Code for Enforcement Purposes
§110	Reserved
§111	Reserved
§112-01	Certificates of Approval
§113-01	Certificates of Fitness and Certificates of Qualification
§113-02	Fire Safety Director Certificates of Fitness
§113-03	Fire Safety/EAP Director Certificates of Fitness
§113-04	Accreditation of Training Courses
§113-05	Fire Safety Director Training Courses
§113-06	Fire Safety/EAP Director Training Courses
§113-07	Refrigerating System Operating Engineer Training Courses
§114-01	Certificates of License
§115-01	Company Certificates
§116-01	Expeditor Registration
§117	Reserved

Chapter 2 of Title 3 of the Rules of City of New York

§201 Reserved
§202-01 Definitions

Chapter 8 of Title 3 of the Rules of City of New York

§801-804 Reserved
§805-01 Flame-Resistant Decorations
§806 Reserved

Chapter 10 of Title 3 of the Rules of City of New York

§1001-1024 Reserved
§1025-01 Fire Escape Gates and Similar Security Devices For Secondary Means of Egress
and Emergency Escape and Rescue Openings
§1026 Reserved
§1027 Reserved

Chapter 14 of Title 3 of the Rules of City of New York

§1401-01 Enforcement of Fire Safety at Construction Sites
§1402 Reserved
§1403-01 Portable Space Heaters Fueled By Piped Natural Gas at
Construction Sites
§1404 Reserved
§1405-01 Crane Aerial Fueling Operations
§1406 Reserved
§1407 Reserved
§1408-01 Construction Site Fire Safety Manager
§1409-1418 Reserved

Chapter 17 of Title 3 of the Rules of City of New York

§1701 Reserved
§1702 Reserved
§1703-01 Fumigation and Thermal Insecticidal Fogging

Chapter 26 of Title 3 of the Rules of City of New York

§2601-2603 Reserved
§2604-01 Hot Work in Repair Garages
§2605-01 Use of Oxygen and a Flammable Gas in Citywide Hot Work Operations
§2606-2608 Reserved
§2609-01 Piped Natural Gas and Oxygen Consuming Devices and Installations

Chapter 38 of Title 3 of the Rules of City of New York

§3801-3808 Reserved
§3809-01 Liquefied Petroleum Gases

Section 1. It is hereby proposed to REPEAL the following provisions of Title 3 of the Rules of the City of New York:

- Chapter headings, 3 RCNY Chapters 1 through 43.
- Paragraphs (i)(2), (i)(3) and (j)(3) of 3 RCNY §6-01, entitled “Fire Drill and Evacuation in Office Buildings Classified as Occupancy Group E (Business)”
- Paragraphs (n)(2) and (n)(3) of 3 RCNY §6-02, entitled “Office Building Emergency Action Plans”
- 3 RCNY §9-01, entitled “Fire Department Certificates”
- 3 RCNY §9-03, entitled “Certificate of Approval Application Procedures and Appliances Previously Approved by the Board of Standards and Appeals”
- 3 RCNY §9-05, entitled “General Requirements for Accreditation of Training Courses by the Fire Department”
- 3 RCNY §9-06, entitled “Mechanical Refrigeration and Related Technology Training Courses”
- 3 RCNY §9-07, entitled “Fire Safety Director Training Course”
- 3 RCNY §9-08, entitled “Training Courses for Fire Safety/Emergency Action Plan Directors”
- 3 RCNY §11-01, entitled “Buildings In the Course of Construction, and Buildings Undergoing Demolition”
- 3 RCNY §11-02, entitled “Use of Liquid Oxygen Cylinders on Construction, Alteration and Demolition Sites”
- 3 RCNY §11-03, entitled “Storage and Use of Oxygen Trailers in the Course of Construction and Demolition Work”
- 3 RCNY §11-04, entitled “Storage and Use of Ammunition for Powder Actuated Tools in the Construction and Alteration of Buildings”
- 3 RCNY §11-05, entitled “Use of Natural Gas Fired Heaters at Construction Sites”
- Subdivision (d) of 3 RCNY §15-02, entitled “Portable Fire Extinguishers”
- 3 RCNY §16-01, entitled “Implementation of Fee Schedule Amendments, Effective July 11, 1988”
- 3 RCNY §16-02, entitled “Environmental Control Board Adjudications”
- Subdivision (f) of 3 RCNY §17-06, entitled “Unnecessary and Unwarranted Alarm Prevention, Required Fire Alarm Recordkeeping, and Required Smoke Detector Maintenance, Testing and Recordkeeping”
- 3 RCNY §19-01, entitled “Flameproofing of Decorations, Drapes, Curtains and Scenery”
- 3 RCNY §20-09, entitled “Thermal Insecticidal Fogging Operations”
- 3 RCNY §25-01, entitled “Storage and Use of Liquefied Petroleum Gases”
- 3 RCNY §26-01, entitled “Motor Vehicle and Motorcycle Repair Shops”
- 3 RCNY §38-01, entitled “Issuance of City-Wide Permits for the Storage, Use/or Transport of Oxygen and Combustible Gases During Temporary or Emergency Torch Operations”
- 3 RCNY §38-01.1, entitled “Issuance of Permits for the Storage and Use of Oxygen and Combustible Gases for any Torch Operations during Construction, Alteration or Demolition Work”
- 3 RCNY §38-02, entitled “Operators of Heating Torches Used in the Manufacture of Jewelry”
- 3 RCNY §38-03, entitled “Fire Guards During Torch Operations”
- 3 RCNY §42-01, entitled “Disposal of Contraband”

Section 2. It is hereby proposed to amend Title 3 of the Rules of the City of New York by adding a new Chapter 1, to read as follows:

CHAPTER 1
ADMINISTRATION

<u>§101</u>	<u>Reserved</u>
<u>§102-01</u>	<u>Pre-Existing Facilities and Conditions</u>
<u>§103</u>	<u>Reserved</u>
<u>§104-01</u>	<u>Appeals</u>
<u>§104-02</u>	<u>Professional Certification</u>
<u>§104-03</u>	<u>Disposal of Contraband Materials</u>
<u>§104-04</u>	<u>Modification of Rules</u>
<u>§105-108</u>	<u>Reserved</u>
<u>§109-01</u>	<u>Notice of Violation, Certification of Correction and</u> <u>Stipulation Procedures</u>
<u>§109-02</u>	<u>Consolidation of Provisions of the Administrative Code</u> <u>for Enforcement Purposes</u>
<u>§110</u>	<u>Reserved</u>
<u>§111</u>	<u>Reserved</u>
<u>§112-01</u>	<u>Certificates of Approval</u>
<u>§113-01</u>	<u>Certificates of Fitness and Certificates of Qualification</u>
<u>§113-02</u>	<u>Fire Safety Director Certificate of Fitness</u>
<u>§113-03</u>	<u>Fire Safety/EAP Director Certificate of Fitness</u>
<u>§113-04</u>	<u>Accreditation of Training Courses</u>
<u>§113-05</u>	<u>Fire Safety Director Training Courses</u>
<u>§113-06</u>	<u>Fire Safety/EAP Director Training Courses</u>
<u>§113-07</u>	<u>Refrigerating System Operating Engineer Training Courses</u>
<u>§114-01</u>	<u>Certificates of License</u>
<u>§115-01</u>	<u>Company Certificates</u>
<u>§116-01</u>	<u>Expeditor Registration</u>

§ 102-01 Pre-Existing Facilities and Conditions

- (a) Scope. This section consolidates requirements for *facilities*, or parts thereof, and *conditions* that were lawfully existing on July 1, 2008, the effective date of the Fire Code, and that, pursuant to FC102.3, may be continued in compliance with laws, rules, regulations and *permit* conditions pre-dating the Fire Code.
- (b) Definitions. The following term shall, for the purposes of this section and as used elsewhere in the *rules*, have the meaning shown herein:

Pre-existing (facility or condition). Solely for purposes of implementing the provisions of FC102.3, a *facility*, or part thereof, or *condition* that was lawfully existing on July 1, 2008, and that, pursuant to FC102.3, may be continued in compliance with the requirements of the New York City Fire Prevention Code and other laws, rules, and

regulations or permit conditions applicable at the time such *facility* or *condition* was lawfully allowed or *approved*, as such provisions may be amended from time to time.

(c) Provisions of law applicable to pre-existing conditions and design and installation of pre-existing facilities. Pursuant to FC102.3, *conditions* and *facilities* lawfully existing on July 1, 2008 that would not be allowed or approved under the Fire Code may be continued in compliance with the New York City Fire Prevention Code and other laws, rules and regulations or *permit* conditions applicable at such time as such condition or facility was lawfully allowed or approved. In accordance with FC102.3:

(1) *Conditions* or *facilities* lawfully existing on July 1, 2008, or any part thereof, that are allowed and would be approved under the applicable provisions of the Fire Code and the *rules*, shall comply with such provisions. For example, an existing underground *liquid motor fuel* storage tank designed and installed after April 2000 pursuant to provisions of Subchapters 8, 9 and 11 of the New York City Fire Prevention Code and 3 RCNY §21-20 that are substantively identical to the provisions of the Fire Code and the *rules* is not a *pre-existing facility* within the meaning of this section and shall comply with the requirements of the Fire Code and the *rules*.

(2) Unless one of the exceptions set forth in FC102.3 is applicable, and except as otherwise provided in R102-01(c)(3) and (c)(4), *pre-existing conditions* or *facilities*, or any part thereof, that would not be allowed and could not be approved under the applicable provisions of the Fire Code and the *rules* shall comply with the provisions of the New York City Fire Prevention Code and the *rules* in effect on June 30, 2008, including applicable provisions consolidated in Chapter 48 of the *rules*, and any other applicable laws, rules and regulations. For example, an existing below-grade storage facility for flammable liquids lawfully designed and installed in a mercantile establishment prior to July 1, 2008, and that on June 30, 2008 was in compliance with the design and installation requirements for such facilities set forth in Administrative Code §27-4066 of Subchapter 9 of the New York City Fire Prevention Code, is a *pre-existing facility* which may be continued in compliance with the provisions of the New York City Fire Prevention Code and the *rules* in effect on June 30, 2008, notwithstanding the fact that such below-grade *facility* would not be allowed or approved in a *control area* under the Fire Code.

(3) Unless one of the exceptions set forth in FC102.3 is applicable, a *pre-existing condition* or *facility*, or part thereof, that was lawfully allowed or approved under the provisions of the Fire Prevention Code or *rules* or other laws, rules or regulation no longer in effect on June 30, 2008, and that had been lawfully continued under such earlier provisions through June 30, 2008, shall comply with such earlier design and installation provisions, to the extent applicable, and any other applicable laws, rules and regulations. Two examples are:

- (A) an existing *refrigerating system* that was lawfully designed and installed on a *premises* pursuant to Subchapter 18 of the New York City Fire Prevention Code prior to the enactment of the 1968 *Building Code*, and that had not been required by reason of *alteration* or otherwise to be replaced to comply with the superseding 1968 Building Code or 2008 *Construction Codes* requirements for such systems, may be continued in compliance with the earlier provisions of the New York City Fire Prevention Code, notwithstanding the fact that such *refrigerating system* would not be allowed or approved under the Fire Code.
- (B) an existing *LPG* storage facility that was lawfully designed and installed on a *premises* pursuant to Fire Prevention Directive 2-88, and that had not been required by reason of *alteration* or otherwise to be replaced or discontinued, may be continued in compliance with said directive, notwithstanding the fact that the quantity of *LPG* storage authorized by said directive exceeds the quantity that would be allowed or approved under the Fire Code.
- (4) *Conditions* or *facilities*, or any part thereof, existing on July 1, 2008 that had not been approved, prohibited or otherwise regulated under the New York City Fire Prevention Code or New York City Building Code prior to such date, and that would not be allowed and could not be approved under the applicable provisions of the Fire Code and the *rules*, shall constitute a *pre-existing condition or facility* within the meaning of this section, if:
 - (A) on June 30, 2008, the condition or *facility* was in compliance with the requirements of any applicable Federal, New York State or other laws, rules or regulations; and
 - (B) at the time the *condition* or *facility* was established, it was substantially in compliance with national or industry standards or practices; and
 - (C) the *condition* or *facility* is not determined by the *Department* to be subject to any of the exceptions set forth in FC102.3.
- (d) Consolidation of Provisions of Law Applicable to Pre-Existing Facilities and Conditions. Provisions of the New York City Fire Prevention Code and the *rules* in effect on June 30, 2008, including requirements governing the design and installation of *pre-existing facilities*, and the manufacturing, storage, *handling* and use of materials in *pre-existing facilities* under conditions that would not be allowed or *approved* under the Fire Code, are consolidated in Chapter 48 of the *rules*, as follows:
 - (1) The third and fourth characters of the number of each section of Chapter 48 of the *rules* correlate to the Fire Code chapter with that number. For example, R4809-01 refers to *pre-existing* fire protection systems, which are governed by FC Chapter 9. The provisions of law consolidated in each such section are those

applicable to *pre-existing* facilities and *conditions* relating to a material or facility governed by that Fire Code chapter.

(2) The provisions of law consolidated in each such section have been abridged to delete administrative, operational and/or maintenance requirements, or design and installation requirements that are allowed or approved under the Fire Code, as to which compliance with the Fire Code is required. Deletions are indicated by asterisks (***).

(3) Any amendments to the provisions of law consolidated in each such section are indicated by underlining, and, if terms defined in the Fire Code or *rules* are used, by *italics*.

(e) Other Provisions of Law Applicable to Pre-Existing Facilities and Conditions. *Pre-existing facilities and conditions* shall comply with all applicable laws, rules and regulations, including provisions of law not consolidated in Chapter 48 of the *rules*.

§ 104-01 Appeals

(a) Scope. This section sets forth procedures by which any person aggrieved by the issuance of any notice, order, violation or other determination issued by the *Department* may appeal therefrom and obtain a final agency determination as to the validity thereof insofar as it relates to the interpretation or modification of the Fire Code, the *rules*, or other law, rule or regulation enforced by the *Department*.

(b) General Provisions

(1) Appeals. Any person to whom the *Department* has issued a notice, order, violation or other determination pursuant to the provisions of the Fire Code, the *rules*, or other law, rule or regulation enforced by the *Department*, and who is aggrieved thereby, may obtain review of such notice, order, violation or other determination and a final agency determination relative to the interpretation or modification of such laws, rules or regulations, in accordance with the procedures set forth in this section. No appeal may be had from an appeal determination or other determination denominated as a final agency determination.

(2) Relationship with adjudications. Nothing contained in this section shall be construed to affect the adjudication of any notice of violation returnable before *ECB*, or a summons returnable before the New York City Criminal Court, except a summons issued for failure to comply with a violation order or other *Commissioner's* order. Nothing contained in this section shall be construed to affect the adjudication of any other notice, order, violation or other determination issued by the *Department*, except insofar as a final agency determination as to the interpretation or modification of the code may be required for such adjudication.

(c) Appeal Procedures

- (1) Time for appeal. Appeals shall be filed with the *Department* no later than thirty (30) calendar days from the date of issuance of such notice, order, violation or other determination. The *Department* may extend such time upon a satisfactory showing that the party aggrieved by the determination appealed from did not receive timely notice of the determination, or other good cause shown.
- (2) Submission. The appeal shall be directed to the *Department's* Chief of Fire Prevention, with a copy to the *Department's* Bureau of Legal Affairs, except that if the notice, order, violation or determination appealed from was issued by the Chief of Fire Prevention, the appeal shall be directed to the Fire Commissioner, with a copy to the *Department's* Bureau of Legal Affairs.
- (3) Form and content. The appeal shall be made in writing in such form as may be prescribed by the *Department*; state with particularity the objections taken; and support such objections by relevant citation to the Fire Code or other law, rule, regulation or legal authority, and submission of relevant documentation or other evidence. Any additional information or other supplemental submission requested by the *Department* shall be submitted to the *Department* within twenty (20) days of the date of the request, or within such other time as may be prescribed by the *Department*.
- (4) Appeal determination. The *Department* shall render a written determination on the appeal, granting or denying the appeal, in whole or in part, and stating its reasons therefor.

(d) Stay of Enforcement

- (1) No automatic stay. The filing of an appeal shall not stay the enforcement of the notice, order, violation or other determination appealed from, nor shall it relieve any person affected by such determination of the obligation of complying with its requirements or appearing for any adjudication or other legal proceeding.
- (2) Request for stay. The person submitting an appeal may at any time request a stay of enforcement of such notice, order, violation or other determination. Such request shall be made in writing and shall be submitted in the manner set forth in R104-01(c).
- (3) Stay determination. The *Department* shall expeditiously render a written determination of such request, giving due consideration to the interests of public safety, the costs of compliance, and the apparent merits of the appeal. If the request for a stay is denied, the *Department* shall render its determination on the appeal no later than thirty (30) days from the date of such denial.

§ 104-02 Professional Certification

Reserved

§ 104-03 Disposal of Contraband Materials

(a) Scope

- (1) This section sets forth standards, requirements and procedures for the destruction or other disposition of any article, device, or equipment, the manufacture, storage, handling, use transportation, possession or sale of which is prohibited by the Fire Code or the rules, or which is manufactured, stored, handled, used, transported, possessed or sold in violation thereof.**
- (2) Nothing in this section shall be construed to define or limit the Department's discretion to seize contraband materials, or to define or limit the Department's discretion to arrange for the removal of contraband materials, by their owner or other person lawfully entitled to their possession, from the premises or location where such contraband materials are found.**

(b) Definitions. The following terms shall, for purposes of this section and as used elsewhere in the rules, have the meanings shown herein:

Notice of disposal. A written notice advising *owners* of contraband material or other interested parties of the final opportunity to reclaim such material.

Notice of seizure. A written notice advising the *owner* of contraband material of its seizure and of the procedures for reclaiming it.

(c) Opportunity to Reclaim Contraband Material. Except as otherwise provided in R104-03(c)(1) and (2), the Department will afford any owner of contraband material, or other person lawfully entitled to its possession, an opportunity to reclaim such material, provided that it is reclaimed in accordance with the procedures set forth in this section.

- (1) Non-reclaimable contraband. The following contraband material may not be reclaimed, and shall not be subject to the procedures set forth in R104-03(d):**
 - (A) Contraband materials whose condition presents an imminent hazard to life, health or property. This includes a material that has a serious defect, damage or deformity, that has leaked or is leaking its contents, or that cannot be safely stored.**

- (B) Contraband materials whose immediate disposal is necessary to prevent or abate an emergency situation, such as a *fire*,
 - (C) Contraband materials that may not be lawfully possessed by the *owner* or other person seeking to reclaim the material.
- (2) Contraband materials held as evidence. Notwithstanding any other provision of this section, the *Department* will not release contraband material held as evidence until such time as the use of such material is no longer required in accordance with applicable law.
- (d) Procedures for disposal of contraband material. Contraband material shall be disposed of in accordance with the procedures set forth in this subdivision.
 - (1) Notice of opportunity to reclaim. The *Department* shall give notice of the seizure and anticipated disposal of the contraband material and of the opportunity to reclaim to the *owner* and other interested parties at the time of the seizure, as follows:
 - (A) A *notice of seizure* shall be given to the person in possession of the contraband material at the time of its seizure, or to the person in control of the *premises* from which the contraband material is seized.
 - (B) If the identity of an *owner* of the contraband material is clearly marked on or is clearly ascertainable from the contraband material, and it is different from that of the recipient of any notice given pursuant to R104-03(d)(1)(A), a copy of the *notice of seizure* shall be mailed to such *owner*.
 - (2) Notice of disposal. If the contraband material is not reclaimed within two weeks of the date of seizure, the *Department* shall publish a *notice of disposal* in the City Record. The *notice of disposal* shall identify the material by size, contents, serial number or other identifying mark, and date and place of seizure, and shall set forth a deadline for reclaiming the contraband material not less than ten calendar days from the date the notice is published. A copy of such *notice of disposal* shall be mailed to any person or organization who arranges with the *Department* to receive such notice.
 - (3) Failure to timely reclaim. *Owners* and other persons lawfully entitled to possession of a contraband material who fail to timely reclaim the contraband material shall be deemed to have abandoned any right, title or interest they may have in the contraband material, and to have no objection to the *Department's* disposal of the contraband material in such manner as the *Department* deems appropriate.

- (4) Location for reclaiming. Owners reclaiming contraband material shall retrieve such material from the Department's storage facility or other place designated by the Department for such retrieval.
- (5) Qualifications of persons handling and transporting. Contraband materials reclaimed by their owners shall be handled and transported only by persons possessing the requisite qualifications (such as a certificate of fitness) where such qualifications are required by law or rule, and shall be transported only in vehicles that comply with federal, state and city rules and regulations.
- (6) Indemnification. An owner reclaiming contraband material shall provide a sworn affidavit representing that he or she owns or is lawfully entitled to possession of the material and will indemnify The City of New York, its agencies, officials, employees and agents, from any and all claims, suits, damages and expenses arising from claims of ownership to the reclaimed materials.
- (7) Fees. The fee for removal and storage of contraband material shall be as set forth in FC A04.1(6). No removal or storage fee shall be charged where it is determined by the Department or a court of competent jurisdiction that the contraband material had not been unlawfully manufactured, stored, handled, used, transported, possessed or sold.
- (e) Department Disposal of Contraband Materials. The Department may dispose of contraband materials which are not reclaimed in accordance with the procedures set forth in R104-02(d) in such manner as the Department deems appropriate, including but not limited to removal by a contract vendor retained by the Department for this purpose.

§ 104-04 Modification of Rules

- (a) Scope. This section sets forth standards, requirements and procedures for application for the modification of any provision of the rules.
- (b) General Provisions
 - (1) Standard. The Department may modify the provisions of any rule promulgated by the Department. Modifications shall be considered, and granted or denied, in whole or in part, in accordance with the standard set forth in FC104.8.
- (c) Applications. Application for the modification of a rule shall be submitted to the Department in accordance with the application procedures set forth in FC104.8.1, including submission of the applicable fee set forth in FCA04.1(5).
- (d) Appeals. An applicant for a modification of a rule aggrieved by the Department's determination may appeal such determination in accordance with R104-01.

§ 109-01 Notice of Violation, Certification of Correction and Stipulation Procedures

(a) Scope. This section sets forth procedures for the certification of correction and adjudication of violations issued by the *Department* and returnable before the New York City Environmental Control Board.

(b) Definitions. The following terms shall, for the purposes of this section and as used elsewhere in the *rules*, have the meanings shown herein:

ECB. The New York City Environmental Control Board.

Notice of violation. A form used for purposes of enforcing the Fire Code, the *rules*, or other law, rule or regulation enforced by the *Department*, that serves to notify the respondent named therein of a violation of such laws, rules or regulations, orders correction of same, commences an *ECB* proceeding, and sets forth information relating to such violation and *ECB* proceeding.

(c) Certification of Correction of Violations

(1) All notices of violation, except those that charge failure to certify correction, false certification and violation of a commissioner's order (other than the order to certify correction), shall include an order requiring the respondent to correct the conditions constituting the violations, and to file a certification with the Department that the conditions have been corrected.

(2) The required certification shall be made on the certificate of correction form accompanying the notice of violation issued by the Department representative. The certificate of correction shall be completed and signed by the respondent in accordance with the instructions set forth thereon, and shall be notarized by a notary public or commissioner of deeds. The respondent shall submit with the certificate of correction all documentation necessary and appropriate to demonstrate correction of the violations.

(3) The signed and notarized certificate of correction shall be directed to:

Enforcement Unit
Bureau of Fire Prevention
New York City Fire Department
9 MetroTech Center
Brooklyn, NY 11201-3857

(4) The certificate of correction must be received by the Enforcement Unit of the Bureau of Fire Prevention no later than the close of business on the 35th calendar

day from the date of offense set forth on the notice of violation. Both the date of offense and the date for certification of correction are indicated on the face of the notice of violation.

- (5) The filing of a certificate of correction in accordance with this section constitutes an admission to the offense charged and results in a finding of liability, but respondents cited for one or more first offenses who, for each such condition, timely correct and file a certificate of correction that is accepted by the *Department*, are not required to appear for an *ECB* hearing and avoid the imposition of a penalty on such violation.
- (6) When more than one violation of a law, rule or regulation is cited on the same notice of violation, the respondent may certify correction as to one or more of such violations. However, respondent must appear for an *ECB* hearing, as set forth on the notice of violation, if certification of correction is not filed and accepted by the *Department* for all of the violations cited on the notice of violation.
- (7) The *Department* will review all certificates of correction and determine whether to accept them as satisfactory certification of correction. The *Department* will notify each respondent as to whether the certificate has been accepted, and, if it has not been accepted, advise the respondent of the deficiencies in the certification and the actions and/or proof required to correct the violations.

(d) Acceptance of Compliance Stipulations in *ECB* Adjudications

- (1) If the respondent admits to the violation but requires additional time to comply beyond the date indicated on the notice of violation, the respondent may request a stipulation for compliance purposes.
- (2) The *Department* may agree to offer a stipulation to extend the time for correction, upon such terms and conditions as the *Department* determines to be reasonable.
- (3) The stipulation shall not be valid unless and until approved by the *ECB* hearing officer or other authorized *ECB* representative.

§ 109-02 Consolidation of Administrative Code Provisions For Enforcement Purposes

- (a) Scope. This section establishes violation categories for the purpose of enforcing the provisions of the New York City Fire Code (FC) (Title 29 of the Administrative Code); Title 15 of the Administrative Code (Fire Prevention and Control); the New York City Construction Codes (Title 28 of the Administrative Code); the *rules* promulgated by the Department and codified in Title 3 of the Rules of the City of New York (3 RCNY); and/or other laws, *rule* and regulations enforced by the *Department*. These violation categories will be cited by *Department* personnel in connection with the issuance of

notices of violations returnable before the New York City Environmental Control Board, in lieu of citation to a particular code or *rule* section.

- (b) Violation Categories. The following violation categories are established for the aforementioned enforcement purposes:

Violation Category 1: Portable Fire Extinguishers and Fire Hoses

Failure to provide and/or maintain required portable fire extinguishers, fire hoses or other portable fire extinguishing devices, in violation of FC 303.5; 304.4; 307.4; 307.5; 308.6; 309.4; 309.7; 315.3; 316.5; 901.4; 904.11; 906.1; 906.2; 1105.2, 1105.3, 1105.4, 1105.5, 1105.6, 1107.7; 1110.6; 1208.4; 1407.3; 1415.1; 1417.3; 1418.1; 1504.6; 1505.5; 1507.10; 1908.8; 1909.5; 2003.5; 2106.3; 2205.5; 2208.7; 2210.6; 2211.6; 2306.10; 2404.12; 2404.13; 2508.2; 2604.2; 2707.9; 2903.6; 2906.6; 3309.9; 3403.2; 3404.3; 3405.4; 3406.2; 3406.4; 3406.8; 3506.5; and 3808.2; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 2: Combustible Waste Containers

Failure to provide a required container for *combustible waste* and/or store *combustible waste* in a required container, in violation of FC 304.3; 310.6; 1404.2; 1503.4; 1511.8; 2210.5; 2211.2; 2903.1; and 4204.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 3: Permits

Failure to obtain, renew or otherwise possess a *Department permit* required for any material, operation or *facility* regulated by the Fire Code, in violation of FC105.6; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 4: Unlawful Quantity or Location of Regulated Material

Manufacturing, storing, *handling*, using, transporting, selling or possessing *hazardous materials*, combustible materials, or other materials regulated by the Fire Code in an amount in excess of the quantity authorized by *Department permit* and/or the quantity or location restrictions for such materials set forth in the Fire Code or the *rules*, in violation of FC 303.7; 309.1; 1206.2; 1206.3; 2210.2; 2306; 2307; 2308; 2904; 2905; 2703.1; 2703.11; 2706.6; 2806.3; 3404.3; 3404.4; 3405.3; 3504.1; 3504.2; 3507.3; 3805.3; 3809.12; and 4204.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 5: Posting of Permits and Recordkeeping

Failure to post a *permit* and/or maintain and/or produce records, in violation of FC 105.3; 107.2; 107.7; 316.5; 405.5; 604.3; 606.1; 606.14; 901.6; 901.7; 904.11; 907.20; 909.1;

1201.4; 1205.4; 1408.1; 2201.9; 2206.2; 2208.2; 2208.7; 2210.3; 2603.5; 2707.5; 3008.8; 3303.2; and 3307.16; and/or such other Fire Code or *rule* sections as provide therefor.

Violation Category 6: Signs, Postings, Notices and Instructions

Failure to provide and/or maintain required signs, postings, notices, and/or instructions, in violation of FC 310.3; 310.5; 408.8; 408.9; 408.11; 408.14; 501.4; 503.3; 503.7; 504.4; 505.2; 507.2; 510.1; 605.3; 606.7; 606.9; 607.2; 608.6; 609.8; 703.2; 904.3; 904.8; 904.10; 904.11; 906.6; 907.19; 912.4; 1103.2; 1105.7; 1106.3; 1204.2; 1205.1; 1404.1; 1405.4; 1406.2; 1409.1; 1418.1; 1503.2; 1506.9; 1510.6; 1607.1; 1703.3; 2107.1; 2204.2; 2204.3; 2206.12; 2208.1; 2208.8; 2210.5; 2210.6; 2305.3; 2404.6; 2603.6; 2609.3; 2609.5; 2703.5; 2703.6; 2703.7; 2703.11; 2704.3; 2906.5; 2906.6; 3003.2; 3008.8; 3304.6; 3307.3; 3307.13; 3403.5; 3404.2; 3404.3; 3405.4; 3406.2; 3406.4; 3406.8; 3503.1; 3705.3; 3807.2; 3903.3; 4003.3; and 4303.3; Administrative Code sections 28-103.1 and 15-127(c)(3); and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 7: Labels and Markings

Failure to provide and/or maintain a required and/or approved label, or other marking, in violation of FC 112.3; 309.1; 313.5; 603.6; 605.7; 606.9; 803.5; 1403.1; 1406.2; 1606.1; 2107.2; 2206.7; 2208.2; 2211.5; 2211.8; 2404.2; 2703.5; 2703.7; 2803.2; 3003.2; 3203.4; 3203.4; 3403.5; 3404.2; 3404.3; 3405.4; 3406.4; 3704.2; and 4106.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 8: Accumulation and Removal of Combustible Waste

Failure to timely remove *combustible waste* from the *premises*, and/or allowing the accumulation of *combustible waste* and/or vegetation upon a *premises*, in violation of FC 304.1; 304.2; 307.5; 311.3; 316.5; 408.11; 606.10; 1027.4; 1103.3; 1106.4; 1205.1; 1404.2; 1405.3; 1605.1; 2210.5; 2404.5; 2503.3; 2604.1; 2604.1; 2604.3; 2609.4; 2703.12; 2704.11; 2705.3; 2903.1; 3003.5; 3203.6; 3304.7; 3404.4; 3406.2; 3504.2; 3604.3; 3807.3; 4203.2; and 4204.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 9: Means of Egress

Failure to provide required *means of egress* from any *premises* or part thereof, free from obstructions or impediments, including *overcrowding* by reason of the presence of persons in locations that obstruct or impede egress, and/or failure to maintain *means of egress*, in violation of FC 315.2; 801.6; 1001.2; 1027; 1207.2; 1411.2; 1504.1; 2404.4; 2404.18; 2804.3; 3003.3; 3404.3; 3406.4; 3506.3; 3809.4; and 4203.3; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 10: Overcrowding

Failure to limit the number of persons in a *premises* or any part thereof, in violation of FC 107.6; 403.2; and 1027.3; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 11: General Maintenance

Failure to maintain devices, equipment, systems, *facilities* or *premises*, or part thereof, in good working order (except as otherwise provided in Violation Categories 6, 7, 12, 13, 14, 15, 16 and 20), in clean condition, or in compliance with other general maintenance or housekeeping requirements, in violation of FC 304.1; 904.11; 1303.2; 1405.3; 2205.7; 2211.2; and 3304.8; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 12: Fire Protection Systems

Failure to provide and/or maintain *fire protection systems*, including *sprinkler systems* and other *fire extinguishing systems*, *standpipe systems*, fire pumps, *fire alarm systems*, and/or other devices, and equipment associated with *fire protection systems*, in violation of FC 901.6; 901.7; 903.5; 903.6; 904.5; 904.6; 904.7; 904.8; 904.9; 904.10; 904.12; 905.12; 907.20; 908.10; 909.1; 909.2; 910.5; 912.6; 913.5; 914.2; and 3406.4; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 13: Flame-Resistant Materials

Failure to provide and/or maintain *flame-resistant materials*, in violation of FC 306.3; 805; 2404.2; and 2706.11; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 14: Fire-Rated Doors and Windows

Failure to provide, protect and/or maintain a required door or window, including fire-rated doors, self-closing doors, access doors, or fire-rated glass, in violation of FC 703.2; 703.4; 2604.1; and 2804.6; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 15: Fire-Rated Construction

Failure to provide and/or maintain required fire-rated construction, including walls and other partitions, in violation of FC 304.4; 311.2; 315.2; 703.1; 1803.14; 2306.3; 2604.1; 2706.6; 2904; and 3006.2; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 16: Ventilation

Failure to provide and/or maintain required and/or approved natural or mechanical ventilation, including required devices, equipment or systems, in violation of FC 309.1; 309.3; 608.5; 609; 904.11; 1204.2; 1205.2; 1205.3; 1405.2; 1504.1; 1504.2; 1505.2; 1506.10; 1507.4; 1510.3; 1511.5; 1803.14; 2005.5; 2211.4; 2211.7; 3006.2; 3007.2; 3008.5; 3404; 3405; 3406; 3506.3; and 3803.2; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 17: Certificates of Fitness and Certificates of Qualification

Failure to obtain and/or produce a *certificate of fitness* and/or *certificate of qualification* for the supervision and/or operation of materials, operations and/or *facilities*, in violation of FC 303.4; 306.2; 313.5; 316.3; 401.6; 401.7; 603.1; 606.1; 801.7; 901.6; 901.7; 905.1; 914.3; 1110.6; 1201.4; 1403.6; 1404.5; 1406.2; 1418.1; 1501.4; 1701.4; 2201.7; 2603.4; 2604.2; 2706.4; 2707.7; 2906.4; 2906.8; 3001.4; 3101.4; 3201.4; 3301.5; 3401.6; 3406.2; 3406.4; 3501.4; 3701.5; 3801.5; 3901.5; 4001.4; 4101.5; 4201.5; 4301.5; and 4401.5; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 18: Certificates of Approval, Certificates of License and Company Certificates

Failure to obtain and/or produce a *certificate of approval*, *certificate of license* or company certificate, in violation of FC 801.8; 901.4; 901.6; 1025.5; 1504.1; 1701.4; 2201.8; 3301.5; and 3401.8; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 19: Affidavits, Design and Installation Documents and Other Documentation

Failure to prepare, produce, file with the *Department* and/or submit for Department approval affidavits, applications, certifications, *design and installation documents* and/or other required documentation, in violation of FC 105.2; 105.3; 105.4; 404.2; 606.1; 2206.2; and 3406.4; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 20: Inspection and Testing

Failure to conduct a required initial or periodic inspection or test of any device, equipment, system, *facility* or *premises*, in violation of FC 401.8; 508.4; 508.5; 604.4; 606.6; 903.5; 903.6; 904.1; 904.11; 905.12; 912.6; 913.5; 1106.19; 1107.6; 2206.9; 3403.6; 3404.2; and 3406.4; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 21: Portable Containers

Failure to provide or use a required *container*, in violation of FC 2204.4; 3003.1; 3203.1; 3404.3; and 3406.2; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 22: Stationary Tanks

Failure to provide a required *stationary tank* storage system, including aboveground or underground flammable or combustible liquid storage tank systems, and devices and equipment associated with such systems, in violation of FC 1207.3; 2009.2; 2206.2; and 3404; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 23: Storage Facilities

Failure to provide a required storage facility, including storage cabinets, enclosures, rooms or vaults, in violation of FC 904.11; 2703.8; 2706.8; 2904; 3003.5; 3104; 3404.3; 3504; 3604; 3703; 3809; 3904; 4004; 4104; 4204; 4304; and 4404; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 24: Racks and Shelf Storage

Failure to provide required racks and shelf storage, and/or failure to store *hazardous materials, commodities* or other goods thereupon in an approved manner, in violation of FC 2307; 2308; and 3404.3; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 25: Electrical Hazards

Failure to provide and/or maintain required electrical devices and/or equipment (except as otherwise provided in Violation Category 27 for electrical lighting hazards), and/or allow electrical hazards to exist, in any *facility* or *premises*, in violation of FC 603.1; 604.1; 605; 606.15; 804.3; 804.4; 904.3; 1106.3; 1106.5; 1204.2; 1404.7; 1503.2; 1504.1; 1504.7; 1505.10; 1506.2; 1507.3; 1510.5; 1604.2; 1703.2; 2004; 2005.6; 2201.5; 2204.7; 2208.1; 2208.8; 2211.3; 2211.8; 2606; 2703.8; 2704.7; 2705.1; 3003.6; 3008.5; 3203.7; 3403.1; 3405.3; 3406.5; 3406.8; 3504.2; 3704.2; 3809.15; 3904.1; and 3904.2; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 26: Heating and Refrigerating Equipment and Systems

Failure to provide and/or maintain required heating and/or *refrigerating systems* and/or devices and equipment associated with such equipment or systems, in violation of FC 315.2.3; 603.5; 606.5; 606.8; 606.9; 606.11; 606.12; 908.6; 1204.2.2; 1303.1; 1403.5; 1503.2; 1504.7; 2005.6; 2201.6; 2210.2; 2404.15; 3304.6; 3405.3; 3406.4; and 4204.4; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 27: Electrical Lighting Hazards

Failure to provide and/or maintain required lighting devices or equipment and/or protection therefor, in violation of FC 605.2; 605.9; 1504.5; 1604.4; 2404.9; 2705.1; 3203.11; and 4203.4; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 28: Open Fires, Open Flames and Sparks

Causing or allowing an *open fire*, *open flame* or sparking device or equipment to be built, kindled, lit, maintained, operated or used, and/or failure to provide protection therefor, in violation of FC 307.1; 308; 309.1; 309.5; 309.6; 316.2; 804.3; 904.11; 1104.6; 1106.10; 1303.1; 1404.3; 1503.2; 1606.2; 1703.2; 2003.6; 2005.6; 2204.7; 2208.7; 2210.5; 2504.1; 2604; 2605.5; 2703.7; 2904.6; 3304.7; and 3309.11; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 29: Designated Handling and Use Rooms or Areas

Failure to provide a required room or area for *handling* and/or use of materials, operations or other activity regulated by the Fire Code, in violation of FC 310.2; 1504.1; 1504.1; 2601.3; 2705; 3105.1; 3405.3; 3405.3; 3505.1; 3605.1; 3703; 3905.1; 4005.1; 4105.1; 4204.1; 4305.1; and 4405.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

Violation Category 30: Fire Safety in Office Buildings, Hotels and Motels

Failure to comply with the fire safety requirements for *office buildings*, hotels and/or motels, in violation of FC 401.8 and 404; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

§ 112-01 Certificates of Approval

- (a) Scope. This section sets forth standards, requirements and procedures for the issuance of certificates of approval for articles, equipment and devices required by the Fire Code to be of a type for which such certificate has been issued.
- (b) General Provisions
 - (1) Certificate of approval required. The following articles, equipment and devices are required to be of a type for which a certificate of approval has been issued:
 - (A) Flame-retardant chemicals and treatments, as set forth in FC801.8.

- (B) Bars, grills, grates or similar devices placed over emergency escape and rescue openings, and openings onto fire escapes, as set forth in FC1025.5.
 - (C) Pre-engineered non-water *fire extinguishing systems*, including foam *fire extinguishing systems*, as set forth in FC901.4.5(1).
 - (D) Prefabricated hoods and grease filters installed in connection with *commercial cooking systems*, as set forth in FC901.4.5(2).
 - (E) Fire Department siamese connections, *standpipe system* hose outlets and pressure reducing valves, as set forth in FC901.4.5(3).
 - (F) *Fire alarm system* control panels, as set forth in FC901.4.5(4).
 - (G) Pre-manufactured spray rooms and pre-manufactured spray booths, as set forth in FC 1504.1.1.2 and 1504.1.2.6, respectively.
 - (H) Ventilated metal lockers used for the storage of *liquefied petroleum gases*, as set forth in this section.
- (2) Revocation of New York City Board of Standards and Appeal Approvals. Articles, equipment and devices regulated by the Fire Code as to which there was a New York City Board of Standards and Appeals approval in effect on July 1, 2008, may continue to be installed and used, provided that such article, equipment or device is installed and used in compliance with the Fire Code and the *rules*, except as follows:
- (A) Flameproofing chemicals. Approvals for all flameproofing chemicals given by the New York City Board of Standards and Appeals were revoked on January 1, 2001.
 - (B) Fire escape window gates. Approvals of all bars, grilles, grates or similar devices designed to be placed over openings onto fire escapes that were given by the New York City Board of Standards and Appeals are revoked as of the effective date of this section, except that *pre-existing (facilities or conditions)* may continue to be used in compliance with the requirements of R102-01 and the operational and maintenance requirements of this section.
- (c) General Application Requirements. Applicants for a *certificate of approval* shall submit all information and documentation necessary or appropriate to establish their eligibility for issuance of such certificate in accordance with FC112 and this section.
- (1) Application forms and information. Information relating to *certificates of approval* and *application* procedures, including *application* forms, may be obtained from the *Department's* web site, www.nyc.gov/fdny, and from the

Technology Management Unit of the *Bureau of Fire Prevention*, Fire Department Headquarters, 9 MetroTech Center, 1st Floor, Brooklyn, NY 11201-3857.

- (2) Submission. *Applications for certificates of approval* shall be made by a principal or officer of the manufacturer of the article, equipment or device for which such certificate is sought, or other person or company authorized to represent the manufacturer. Original and renewal *applications* may be filed with the *Department* in person or by mail, together with the non-refundable *application* fee.
- (3) Abandoned applications. An *application* for a *certificate of approval* shall be deemed to have been abandoned six (6) months after the date of filing, unless such application has been diligently prosecuted or a *certificate of approval* has been issued. The *Department* may, in its discretion, grant one or more extensions of time for additional periods not exceeding 90 days each, if there is good cause.
- (4) Original applications. *Applications for certificates of approval* shall include the following information and documentation, and such other information and documentation as the *Department* may require:
- (A) the corporate and trade names of the manufacturer of the article, equipment and device, its principal address and any New York City address, and contact information;
- (B) the name and contact information of the manufacturer's authorized representative, if any;
- (C) a detailed description of the design and the intended installation and/or use of the article, equipment or device; and
- (D) the report of a nationally recognized testing laboratory or other *approved* organization approving the *listing* of the article, equipment or device, if such *listing* is required.
- (5) Examination, demonstration and testing. The *Department* will notify the applicant if examination, demonstration or further testing of the article, equipment or device will be required.
- (6) Renewal applications. An *application* for renewal of a *certificate of approval* shall disclose any changes in the design or intended installation and/or use of the article, equipment or device, and the following information and documentation:
- (A) Evidence demonstrating that the article, equipment or device complies with the requirements of any Fire Code and *rule* provisions enacted or adopted after the date of approval of the original *application* or prior renewal.

- (B) Where required as a condition of approval, evidence that the article, equipment or device has a current *listing*.
- (7) Conditions of approval. An original or renewal *application* will not be granted and a *certificate of approval* will not be issued unless the applicant acknowledges and accepts the conditions of approval. Such acknowledgement and acceptance shall be in the form of an affidavit or other form prescribed by the *Department*.
- (8) Appeals. Any applicant aggrieved by a determination rendered upon an *application* for a *certificate of approval* may appeal such determination in accordance with the provisions of R104-01.
- (d) Special Application Requirements. In addition to the general *application* requirements set forth in R112-01(c), *applications* for the following *certificates of approval* shall include the following information and documentation:

 - (1) Flame-retardant chemicals and treatments. *Applications* for a *certificate of approval* for flame-retardant chemicals and treatments shall include the following information and documentation:

 - (A) a copy of the Material Safety Data Sheet for the flame-retardant chemical;
 - (B) a report approving the *listing* of the flame-resistance chemicals and treatments that certifies that such chemicals and treatments have passed either Test 1 or Test 2 of NFPA 701. Such report shall indicate the flame-retardant chemicals tested, the manner in which they were applied, the materials to which they were applied, and such other information or documentation as the *Department* may require to demonstrate the flame-resistance imparted by such chemicals and treatments; and
 - (C) an affidavit, executed by a principal or officer of the applicant, setting forth the following information:

 - (1) the chemical's trade name;
 - (2) the types of material that may be satisfactorily treated with the chemical;
 - (3) the required or recommended manner in which such chemical shall be applied;
 - (4) the period of time that the flame-resistant chemical will impart flame resistance to the material; and

- (5) a certification as to the effect, if any, that normal handling of the decoration (including washing, dry cleaning, ironing and sewing), will have on the effectiveness of the flame-resistant material.
- (2) Fire escapes and emergency escape and rescue openings window gates. Applications for a certificate of approval for a window gate for a fire escape or emergency escape and rescue opening, or similar device, shall demonstrate to the satisfaction of the Department that such device complies the requirements of R1025-01.
- (e) Revocation. A certificate of approval shall be automatically revoked upon the happening of any of the following events:
 - (1) the article, equipment or device cannot be installed or used in compliance with the Fire Code or the rules;
 - (2) change of ownership or corporate name;
 - (3) change in manufacturing process;
 - (4) change of product name;
 - (5) change of product model number;
 - (6) change in design;
 - (7) change in testing laboratory listing (including amendment or approval conditions, or revocation); or
 - (8) noncompliance with any of the original conditions of acceptance as specified in the certificate of approval.

§ 113-01 Certificates of Fitness and Certificates of Qualification

- (a) Scope. This section sets forth general standards, requirements and procedures for issuance of certificates of fitness and certificates of qualification.
- (b) General Provisions
 - (1) Minimum qualifications and general requirements. Applicants for certificates of fitness and certificates of qualification shall meet the minimum qualifications and comply with the general requirements set forth in FC113 and this section. Holders of certificates of fitness and certificates of qualification shall maintain all qualifications and comply with all requirements throughout the term of the certificate.

- (A) Applicants for *certificates of fitness* for fire safety director shall additionally comply with the requirements set forth in R113-02.
- (B) Applicants for *certificates of fitness* for fire safety/EAP director shall additionally comply with the requirements set forth in R113-03.
- (2) Change of address or work location. All applicants and certificate holders are required to promptly notify the *Department* of any change in the applicant's or certificate holder's residence address, any change in work location when such location is required for and/or indicated on such certificate, and such other information as the *Department* may require.
- (c) General Application Requirements. Applicants for a *certificate of fitness* or *certificate of qualification* shall submit all information and documentation necessary or appropriate to establish their eligibility for issuance of such a certificate in accordance with FC113, the *rules* and the applicable notice of examination.
- (1) Application forms and information. Information relating to certificate requirements and *application* and examination procedures, including *application* forms, notices of examination, examination study materials, and a list of accredited training courses for certificates for which completion of a *Department*-accredited training course is a qualification, may be obtained from the *Department*'s web site, www.nyc.gov/fdny, and from the Licensing Unit of the *Bureau of Fire Prevention*, Fire Department Headquarters, 9 MetroTech Center, 1st Floor, Brooklyn, NY 11201-3857.
- (2) Submission. Original *applications* for certificates shall be filed in person with the Licensing Unit of the *Bureau of Fire Prevention*. Renewal certificate *applications* may be filed in person or by mail, except as may be otherwise specified by the *Department*.
- (3) Incomplete applications. The *Department* reserves the right not to accept for filing any *application* that is incomplete or otherwise deficient, including any *application* that is submitted without the required supporting documentation or *application* fee. The *Department* will provide the applicant notice of any *application* that is not accepted, and, except for *applications* determined to be fraudulent, shall afford the applicant a reasonable time to correct or supplement such *application*. Original *applications* not corrected or supplemented within 30 days of the applicant's being notified will be deemed abandoned.
- (4) Examinations. Except as otherwise provided in this section, applicants for an original certificate must obtain a passing score on the applicable examination administered by the *Department*.

- (5) Identification. Applicants for an original certificate shall provide two (2) pieces of picture identification satisfactory to the Department, such as a driver's license, passport or employee identification card. The Department reserves the right to require additional identification.
- (6) Photographs. All applicants for an original certificate will be photographed by the Department for identification purposes. The Department may require a certificate holder filing for renewal of his or her certificate to report to the Department to be photographed. Failure to comply with such a notice constitutes grounds for non-renewal of the certificate. In lieu of, or in addition to, such photographs, the Department may require submission of two passport-size photographs in connection with an original or renewal certificate application.
- (7) Fees. Application fees relating to certificates of fitness and certificates of qualification, including any written examination and practical examination, shall be as set forth in FC Appendix A or the rules. Except as otherwise authorized by the Department, fees shall be paid in cash, check or money order payable to the "New York City Fire Department."
- (A) Written examination fees shall be paid at the time of submission of the application. Such fees are non-refundable.
- (B) Applicants for a practical examination will be notified of the date by which the applicable examination fee must be paid. Such examination fees are non-refundable, except when applicants give proper and timely notice of cancellation in accordance with the procedures set forth in the Department's notice of examination or other applicable notice.
- (8) Applicants delinquent on child support payments. In accordance with the United States Social Security Act, 42 USC §666(a)(13), and New York State General Obligations Law §3-503, applications for original or renewal certificates will be reviewed for compliance with child support obligations and will be denied when required by such laws when the applicant has been identified by the Office of Child Support Enforcement of the New York City Human Resources Administration (or any successor agency) as delinquent on child support payments. Applicants for certificates will be required to disclose their social security numbers on their applications for purposes of such review.

(d) Examinations

- (1) All written examinations, and the practical (computer simulator) examination for certificates of qualification, will be administered by the Licensing Unit of the Bureau of Fire Prevention at Fire Department Headquarters, except as may be otherwise specified by the Department in the notice of examination or other appropriate notice. Practical (on-site) examinations for fire safety director and fire safety/EAP director will be administered by such personnel and at such

locations as may be specified by the *Department* in the notice of examination or other appropriate notice.

- (2) All examinations will be conducted in the English language.
- (3) The subject matter of an examination, and, for any numerically-graded certificate examination, the passing grade, shall be as set forth on the *Department's* notice of examination. The passing grade shall be set at 70% unless otherwise specified in such notice of examination.
- (4) An applicant will be provided written notice of his or her examination grade.
- (5) An applicant who fails to obtain a passing grade on a written, practical, or practical (on-site) examination may re-take the examination, subject to the availability of *Department* resources and appointments. The required fee must be paid by the applicant each time he or she is administered an examination.
- (6) In lieu of a written examination for a *certificate of fitness*, the *Department*, in its discretion, may accept educational credentials or professional licenses or certifications that demonstrate the applicant's knowledge of, or proficiency in, the subject matter for which the certificate is required.
- (7) In addition to any required written examination, applicants for certificates of fitness relating to the storage, *handling* or use of explosives in connection with blasting operations may be required to pass an oral examination administered by the Explosives Unit of the *Bureau of Fire Prevention* as set forth in the applicable notice of examination.

(e) Certificates of Fitness Application Requirements

- (1) Original Applications. In addition to general *application* requirements set forth in R113-01(c), applicants for a *certificate of fitness* shall submit the following proof of qualifications and fitness and such other information and documentation as the *Department* may require:
 - (A) A driver's license, passport, birth certificate or other proof satisfactory to the *Department* that the applicant meets the minimum age requirements set forth in FC113.4.
 - (B) Except as otherwise provided in this section, a letter of recommendation satisfactory to the *Department*, from the applicant's employer, previous employer, prospective employer, trade school or trade union. Such letter shall be on the letterhead of such employer, trade school or trade union; be signed by the employer, or an officer of the trade school or trade union (and indicate such officer's title); and contain the following information:

- (1) the full name of the applicant and any other name under which the applicant may be known;
- (2) the length of time the applicant has been known to the employer, trade school or trade union, the nature of the applicant's employment or training, and the length of time such employment or training was pursued and whether it was satisfactorily completed;
- (3) the address of the building wherein the applicant will be employed, if applicable;
- (4) information attesting to the good character, habits and relevant or required work experience or training of the applicant; and
- (5) information indicating that the applicant's physical condition will permit the applicant to perform the duties associated with the certificate for which *application* is being made.

(C) Applicants for certificates of fitness who are self-employed shall submit, in lieu of letter of recommendation from a previous or prospective employer, a notarized written statement containing the information required by R113-01(e)(1)(B).

(2) Special application requirements

- (A) Applicants for *certificates of fitness* for blasting operations and special effects shall submit proof of not less than two years' satisfactory experience in handling the type of explosives or *special effects* for which a *certificate of fitness* is sought. Such proof shall include notarized letters from two (2) holders of a *certificate of fitness* for blasting operations, or from two (2) holders of a *certificate of fitness* for special effects, respectively, attesting to the applicant's character, habits and relevant work experience.
- (B) Applicants for a *certificate of fitness* for fireworks display shall have attended a class conducted by a company holding a *fireworks contractor certificate* and shall submit notarized letters from two (2) holders of a *certificate of fitness* for fireworks displays attesting to the applicant's character, habits and relevant work experience.
- (C) Applicants for a *certificate of fitness* for supervision of a *standpipe system* and/or *sprinkler system* shall obtain from their employer and submit as part of their *application* a sketch or plan of the *standpipe* and/or *sprinkler systems* that the applicant would be responsible for supervising.

(f) Certificate of Qualification Application Requirements

- (1) Original Applications. In addition to general *application* requirements set forth in R113-01(c), applicants for an original *certificate of qualification* shall submit the following proof of qualifications and fitness and such other information and documentation as the *Department* may require:
- (A) A driver's license, passport, birth certificate or other proof satisfactory to the *Department* that the applicant satisfies the minimum age requirements set forth in FC113.4;
- (B) A high school diploma, or its educational equivalent, approved by a state's Department of Education, or an approved accrediting organization;
- (C) A Universal Technician Certification issued by the United States Environmental Protection Agency pursuant to Subpart F of Part 82 of Title 40 of the Code of Federal Regulations; and
- (D) Proof of the following experience and/or qualifications in refrigerating systems or related technology:
- (1) at least one (1) year of practical experience in the preceding three (3) years working in a building or plant with refrigerating or air conditioning equipment that, at a minimum, has an individual system containing over 50 pounds of refrigerant, or a prime mover or compressor of more than 50 horsepower, or an aggregate of individual systems of more than 15 horsepower each with a total of more than 100 horsepower; or
- (2) at least one (1) year of practical experience in the preceding three (3) years engaged in the servicing and repair of refrigerating or air conditioning equipment rated at five (5) horsepower or more, or containing 20 pounds or more of refrigerant; or
- (3) a combination of practical experience as set forth in R113-01(f)(1)(D)(1) and (2) that is satisfactory to the *Department*; or
- (4) a current high pressure boiler operating engineer license issued by the *Department of Buildings*; or
- (5) a current marine engineer certificate issued by the United States Coast Guard; or
- (6) a current Professional Engineer's license issued in the United States; or

(7) have satisfactorily completed a training course accredited by the Department in refrigerating systems and related technology, of at least 200 hours duration, at least 25 hours of which shall have involved practical skills exercises/hands-on demonstrations.

(2) Registration of work locations

(A) Certificate of qualification applicants or holders must register each work location at which they will be performing the duties of a refrigerating system operating engineer.

(B) A certificate of qualification does not authorize the holder to perform such duties at any location other than work locations registered with the Department. A certificate of qualification holder shall not perform any duties requiring such certificate until such time a work location has been registered in accordance with this section. A certificate of qualification that does not have a work location registered with the Department shall be deemed "Not in Use" (inactive) and not valid to perform the duties of a refrigerating system operating engineer.

(C) To register a work location, a certificate of qualification applicant or holder shall submit a letter from the employer for whom he or she will be performing the duties of a certificate of qualification holder. Such letter shall be on business letterhead, and signed by an appropriate officer of the employer, and provide the following information and documentation:

(1) full name of the applicant;

(2) premises address, building designation and location of system to be supervised by the certificate holder (for example: 500 East 150th Street, B building, basement, east wing, Room B101);

(3) name of the manufacturer of the refrigerating system;

(4) type and number of pounds of refrigerant in the system;

(5) horsepower rating of the refrigerating system;

(6) date of installation of the refrigerating system; and

(7) a copy of the Department permit for such refrigerating system.

(D) Certificate of qualification applicants or holders seeking to register more than one work location shall present a letter from the employer for each work location. In addition to the information and documentation set forth

above, such letter shall indicate the days and specific hours worked, and specify whether or not the certificate holder would be providing *personal* or *general supervision* of the equipment in accordance with the requirements of FC606.1.1. A *certificate of qualification* shall not be registered for more than one work location for the same day and time if *personal supervision* is required at more than one such location.

(E) *Certificate of qualification* holders seeking to change a registered work location shall register such work location in accordance with the procedures set forth in this section.

(g) **Misconduct.** In addition to any other penalties provided by law, misconduct on the part of an applicant or holder of a *certificate of fitness* or *certificate of qualification* shall be grounds for denial, non-renewal, suspension or revocation of a certificate, and denial of an *application* for a certificate or the opportunity to take a certificate examination. Such misconduct includes, but is not limited to:

(1) the failure of a certificate holder to properly discharge his or her duties;

(2) any false and fraudulent conduct in connection with an *application* for a certificate or the duties of a certificate holder, including:

(A) any false or fraudulent statement or submission;

(B) any unauthorized alteration or use of a certificate or possession of any fraudulent certificate;

(C) cheating on an examination; and

(D) impersonating another or allowing oneself to be impersonated;

(3) the failure to promptly notify the *Department* of any change in the applicant's or certificate holder's residence address, work location, or any other notifications required pursuant to R113-01(b)(2).

(4) any other unlawful or unsafe conduct that bears on the integrity or reliability of an applicant or certificate holder; and

(5) compromising the integrity or confidentiality of a *Department* examination.

§ 113-02 Fire Safety Director Certificates of Fitness

(a) **Scope.** This section sets forth standards, requirements and procedures for issuance of *certificate of fitness* to perform the duties of a fire safety director.

- (b) General Provisions. Applicants for fire safety director *certificates of fitness* shall meet the minimum qualifications and comply with the general requirements for a *certificate of fitness* set forth in FC113 and R113-01.
- (c) Qualifications. In addition to the qualifications set forth in FC113, applicants for fire safety director *certificates of fitness* shall possess and demonstrate to the satisfaction of the *Department* the following qualifications:
- (1) At least three (3) years' experience in fire protection and fire prevention activity or in a responsible position pertaining to operation of building service equipment, as defined in the *Building Code*, or a satisfactory combination thereof, or equivalent experience acceptable to the *Department*;
 - (2) Successful completion of a fire safety director training course conducted by an educator or educational institution or program accredited by the *Department* pursuant to R 113-04 and 113-05.
 - (3) Receipt of a passing grade on the *Department's* written examination for a fire safety director *certificate of fitness*, which tests the applicant's knowledge of matters having a bearing on the duties of a fire safety director. The *Department* will issue a certificate of completion to each applicant who meets the requirements set forth in R113-01(c)(1) and (c)(2) and receives a passing grade on the written examination. Such certificate of completion shall be included in the practical (on-site) examination *application*.
 - (4) Receipt of a passing grade on the practical (on-site) examination administered by the *Department*, which tests the applicant's knowledge of the characteristics and occupancy of the building in which the applicant is to serve as fire safety director, including the following information:
 - (A) *Fire safety and evacuation plan* provisions.
 - (B) Certificate of occupancy provisions.
 - (C) Height, area, construction and occupancy classification.
 - (D) Number, type and location of exits.
 - (E) Number, type and location of areas of refuge, if any.
 - (F) Number, type, location and operation of elevators and escalators.
 - (G) Interior fire alarms and other *fire alarm systems* or communication systems.

- (H) Standpipe system components and operation.
 - (I) Sprinkler system components and operation, including fire pumps.
 - (J) Fire extinguishing system components and operation.
 - (K) Number of persons normally employed in building.
 - (L) Number of persons normally visiting the building.
 - (M) Plan for fire drills.
 - (N) Table of organization for fire drill plan and for fire safety brigade.
 - (O) Operation of building service equipment, including electrical, lighting, heating, ventilating, air-conditioning, firefighting, trash compactors and elevators.
 - (P) Alterations and repair operations and the protective and preventive measures necessary to safeguard such operations, with particular attention to hot work operations and the storage, handling and use of flammable liquids, combustible liquids and flammable gases.
 - (Q) Other occupancies in the building and the proper protection and maintenance thereof including but not limited to day care facilities and places of assembly.
 - (R) Procedures for assisting persons with special needs.
- (5) Physical ability to perform the duties of the position.
- (d) Application Procedures. Application for a fire safety director certificate of fitness shall be made in accordance with the following procedures:
- (1) secure the requisite experience.
 - (2) attend and successfully complete a fire safety director training course from an accredited educator or educational institution or program.
 - (3) make application and receive a passing grade on the written examination administered by the Department; and obtain a certificate of completion. Employment as a fire safety director in a particular building is not required to sit for the examination or obtain a certificate of completion.
 - (4) make application and receive a passing grade on the practical (on-site) examination administered by the Department at the building in which the

applicant is to serve as a fire safety director. An applicant who has received a certificate of completion may serve as a fire safety director on an interim basis pending administration of the practical examination, for a period not to exceed six (6) months from the date of the certificate of completion.

(e) Modification of Written Examination Requirement

- (1) An applicant with limited English literacy skills may request modification of the application requirements for the fire safety director certificate of fitness authorizing an oral examination in lieu of a written examination. The Department will consider and may grant such an application under the following circumstances:
 - (A) the applicant has been offered employment as a fire safety director in a building that requires a bilingual fire safety director capable of communicating both in English and in a second language that is spoken or understood by a substantial number of building occupants; and
 - (B) the applicant establishes that the employer can find no suitable fire safety director who possesses the bilingual skills required to communicate with building occupants;
 - (C) the applicant demonstrates his or her ability to write, speak and communicate in English and in the second language;
 - (D) the applicant satisfies all of the other qualifications for the certificate;
 - (E) the applicant has taken the written examination at least twice, and appears to have failed it on each occasion for reasons of limited English literacy skills, and not for lack of knowledge of the subject matter; and
 - (F) the Department determines that a satisfactory showing has been made that there is a need for a bilingual fire safety director, and that the applicant is otherwise qualified and possesses sufficient English verbal proficiency to assure public safety. Nothing contained in this section shall be deemed to require the Department to grant a modification when the Department determines that the granting of such a modification would not serve the interests of public safety in the building in which the applicant would be employed as a fire safety director.
- (2) If such a modification is granted, the Department shall issue a certificate of completion to the applicant upon the applicant's receiving a passing grade on an oral examination, which shall be submitted as part of the applicant's certificate of fitness application.

(f) Change in Work Location. The fire safety director *certificate of fitness* is issued for a specific work location. A change in work location must be immediately reported to the Licensing Unit of the Bureau of Fire Prevention, and application made for an original practical (on-site) examination at the new work location prior to commencing work at such location.

§ 113-03 Fire Safety/EAP Director Certificates of Fitness

(a) Scope. This section sets forth standards, requirements and procedures for issuance of *certificate of fitness* to perform the duties of a fire safety/EAP director.

(b) General Provisions. Applicants for fire safety/EAP director *certificates of fitness* shall meet the minimum qualifications and comply with the general requirements for a *certificate of fitness* set forth in FC113 and R113-01.

(c) Qualifications. In addition to the qualifications set forth in FC113, applicants for fire safety/EAP director *certificates of fitness* shall possess and demonstrate to the satisfaction of the *Department* the following qualifications:

(1) hold a fire safety director *certificate of fitness* issued by the *Department* pursuant to R 113-01 and 113-02, or meet the requirements for issuance of same, as set forth therein; and

(2) have successfully completed at least a seven-hour training course approved by the *Department* and conducted by an educator or educational institution or program accredited by the *Department* in the areas of knowledge relevant to the duties of a fire safety/EAP director, including threat analysis and response and other homeland security issues; building evacuation, in-building relocation and shelter in place planning; elevator operation and building ventilation; special needs of the infirm and disabled, and incident command structure and emergency response operations; as set forth in the *Department's* notice of examination and R 113-04 and 113-06.

(d) Application Procedures. Application for a fire safety/EAP director *certificate of fitness* shall be made in accordance with the following procedures:

(1) secure the requisite experience.

(2) attend and successfully complete a fire safety/EAP director training course from an accredited educator or educational institution or program.

(3) make *application* and receive a passing grade on the written examination administered by the *Department*.

- (4) make application and receive a passing grade on the practical (on-site) examination administered by the Department at the building in which the applicant is to serve as a fire safety/EAP director.
- (e) Examinations. Applicants for a fire safety/EAP director certificate of fitness shall be required to pass the required written and practical (on-site) examinations. The practical (on-site) examination shall be conducted at the building in which the applicant will serve as fire safety/EAP director.
- (f) Change in Work Location. The fire safety/EAP director certificate of fitness is issued for a specific work location. A change in work location must be immediately reported to the Licensing Unit of the Bureau of Fire Prevention, and application made for an original practical (on-site) examination at the new work location prior to commencing work at such location.

§ 113-04 Accreditation of Training Courses

(a) Scope

- (1) This section sets forth general procedures, standards and requirements for the accreditation of training courses by the Department.
- (2) Training courses for the fire safety director certificate of fitness shall additionally comply with the provisions of R113-05.
- (3) Training courses for the fire safety/EAP director certificate of fitness shall additionally comply with the provisions of R113-06.
- (4) Training courses for the refrigerating system operating engineer certificate of qualification shall additionally comply with the provisions of R113-07.

(b) General Provisions

- (1) Prohibited claims and representations. It shall be unlawful for any educator, educational institution or program or other person or entity to offer a course purporting to train or otherwise qualify an individual for a certificate of fitness for fire safety director or fire safety/EAP director or certificate of qualification to direct, control or supervise the operation of a refrigerating system or related technology, or to make a similar claim, or purport to be approved by the Department, or otherwise make reference to the Department in connection with such certificates, prior to receiving Department accreditation of such course.
- (2) Term of accreditation. Original and renewal accreditations will be issued for a term of one (1) year, unless a shorter term is specified by the Department.

(c) Accreditation Standards. The *Department* will grant accreditation to a training course only if the applicant establishes that the training course will meet the minimum standards set forth below:

- (1) The training course provides the hours and topics of instruction required by the *Department* for that type of training course.
- (2) A written examination of a type acceptable to the *Department* is administered and a passing grade acceptable to the *Department* is required for successful completion of the course.
- (3) The training course has been developed and will be taught and evaluated by individuals possessing the requisite knowledge, skills, experience or other appropriate qualifications. The *Department* may require applicants who are instructors at *Department*-accredited training schools to hold the applicable certificate of fitness or to establish their eligibility for issuance of such *certificate*.
- (4) Records satisfactorily demonstrating compliance with accreditation standards and requirements, including records of course administration and student performance, are maintained.
- (5) *Department* representatives are allowed to attend training courses and audit records to monitor compliance with accreditation standards and requirements.
- (6) Each student is required to complete a *Department*-approved course evaluation form upon completion of the training course, and the completed forms are returned to the *Department* no later than five (5) days after course completion.

(d) Application Requirements

- (1) Application information. Information relating to training course accreditation *application* requirements and procedures, including *application* forms, may be obtained from the *Department's* web site, www.nyc.gov/fdny, and from the Licensing Unit of the *Bureau of Fire Prevention*, Fire Department Headquarters, 9 MetroTech Center, 1st Floor, Brooklyn, NY 11201-3857.
- (2) Submission. All *applications* for training course accreditation shall be submitted to the Licensing Unit of the *Bureau of Fire Prevention*, and shall include the fee set forth in FC A02.1.
- (3) Original applications. All original *applications* shall include the following information and documentation, and such other information and documentation as the *Department* may require:

- (A) The name and address of the educator or educational institution or program proposing to offer the training course;
- (B) The name and contact information, including a telephone number, of a designated representative;
- (C) The course location and course schedule (dates and time), including the location of any practical skills exercise/hands-on demonstrations;
- (D) The type of course for which approval is being requested;
- (E) A detailed outline of the course curriculum;
- (F) A description of the teaching methods to be used to present each topic, (e.g., lectures, discussions, practical skills exercises and audio-visual materials);
- (G) Copies of all written materials to be distributed, including sample examinations;
- (H) Tuition fees, study material fees and any other fees to be charged students;
- (I) A list of instructors, documentation of their qualifications (including a resume), and a list of the subjects each instructor will teach;
- (J) The instructor-to-student ratio for classroom, practical skills exercises/hands-on demonstrations;
- (K) Procedure for documenting student attendance of each student at each training session;
- (L) Any affiliations with other educational institutions or trade, union or professional organizations;
- (M) A summary of the applicant's prior history and experience in conducting similar training courses, including the location and approximate date of each such course;
- (N) A list of all other licensing authorities for which the training courses have been approved or disapproved; and
- (O) Evidence of compliance with New York State Department of Education regulations, or a statement from the applicant that the applicant and/or the training course are not subject to such regulations.

(4) Renewal applications

- (A) An *application* for renewal of accreditation shall include updated course information, including any course schedule, curriculum or personnel changes.
- (B) The *Department* will evaluate the effectiveness of any training course, including consideration of the success of its students in achieving passing grades on *certificate of fitness* or *certificate of qualification* examinations, in determining whether to grant an *application* for renewal of accreditation.

(e) Training Course Changes

- (1) Notice required. *Application* shall be made to the *Department* for approval of the following training course changes prior to implementing such changes:
 - (A) personnel;
 - (B) course schedule (dates, times and location);
 - (C) course curriculum; or
 - (D) teaching methods.
- (2) Conditional approval. Conditional approval may be granted pending a complete evaluation of the changes.

(f) Misconduct. In addition to any other penalties provided by law, misconduct on the part of an applicant for accreditation, or any educator or educational institution or program granted accreditation, shall be grounds for denial, non-renewal, suspension or revocation of accreditation. Such misconduct includes, but is not limited to, the following acts or omissions:

- (1) any false or fraudulent conduct in connection with an *application* for accreditation or other *Department* approval;
- (2) the failure to conduct the course in accordance with standards and requirements for accreditation;
- (3) the failure to timely notify the *Department* of training course changes or to obtain approval therefor;
- (4) the failure to maintain proper recordkeeping;

- (5) the failure to allow *Department* representatives to attend a training course and/or audit records in order to monitor compliance with accreditation standards and requirements;
- (6) the failure to disclose to the *Department* training course information, including relating to the preparation, security and administration of examinations and students' grades; or
- (7) any other conduct that bears on the integrity of the applicant or accredited educator or educational institution or program, or the effectiveness of the training course.

§ 113-05 Fire Safety Director Training Courses

(a) Scope. This section sets forth the minimum hours of classroom instruction and topics required for *Department* accreditation of training courses for *certificate of fitness* for fire safety director.

(b) General Provisions

(1) General accreditation requirements. Fire safety director training courses shall comply with the general training school accreditation procedures, standards and requirements set forth in R113-04.

(c) Required Hours and Topics of Instruction

(1) Training courses shall, at a minimum, provide not less than 20 hours of instructional training, of which not less than two (2) hours shall consist of practical skills exercise/hands-on demonstrations.

(2) Training courses shall provide instruction in the following topics:

(A) Fire safety director qualifications

(1) Qualifications for *certificate of fitness*

(2) *Department* application forms

(3) *Certificate of fitness* written and practical (on-site) examinations

(B) Building construction and systems

(1) Alarm systems

- (2) Sprinkler systems
- (3) Standpipe systems
- (4) Smoke detectors
- (5) Portable fire extinguishers
- (6) Types of alarm systems: office building, hotel/motel
- (7) Fire command station
- (8) Elevators
- (9) Signs
- (10) Stair pressurization
- (11) Smoke shaft
- (12) Compartmentation
- (13) Construction
- (14) HVAC systems
- (15) History of high-rise building and hotel fires

(C) Fire safety director duties and responsibilities

- (1) Fire safety director/deputy fire safety director
- (2) Fire safety and evacuation plan format
- (3) Fire drills and evacuation
- (4) Training of fire brigade
- (5) Human behavior and personal safety of building occupants
- (6) Communication with Department at fire incidents
- (7) Inspection and prevention of fires

(D) Legal requirements

(1) Local Law Nos. 5 of 1973, 16 of 1984, 41 of 1978, 58 of 1987 and 26 of 2004 and their impact on the operation of refrigerating systems, including any amendments thereto

(2) Owner's legal responsibilities

(3) Americans with Disabilities Act of 1990, including any amendments thereto

(E) Firematics

(1) Chemistry of fire

(2) Properties of fire

(3) Behavior of fire

(4) Flame-resistant chemicals and treatments

(5) Ignition sources

(6) Heat transfer

(F) Practical skills exercise/hands-on demonstration

(1) Elevator recall

(2) Group B office building fire alarm systems, including fire command panel, announcements, and warden phones

(d) Course Administration and Completion

(1) The ratio of students to instructors in practical skills exercise, including practical skills exercise/hands-on demonstrations, shall not exceed 25-to-1.

(2) Students must attend all training classes to be eligible to take the training course's final examination.

(3) Students shall be allowed two (2) opportunities to pass the final examination. Students who fail the final examination on the second attempt shall be required to reattend the course in its entirety.

§ 113-06 Fire Safety/Emergency Action Plan Director Training Courses

- (a) Scope. This section sets forth the minimum hours of classroom instruction and topics required for *Department* accreditation of training course for *certificate of fitness* for fire safety/EAP director.
- (b) General Provisions
- (1) General accreditation requirements. Fire safety/EAP director training courses shall comply with the general training school accreditation procedures, standards and requirements set forth in R113-04.
- (2) Instructor qualifications. Instruction in fire safety/EAP training courses shall be conducted by persons with law enforcement, fire prevention/suppression, engineering, environmental safety, fire safety director, meteorological, technological or other appropriate experience or expertise that qualifies them to teach the respective instructional topics of the training course.
- (c) Required Hours and Topics of Instruction. Training courses shall, at a minimum, provide not less than seven (7) hours of instructional training, of which not less than six (6) hours shall consist of Category 1 topics and not less than one (1) hour shall consist of Category 2 topics.
- (1) Category 1 shall include the following instructional topics, and such other topics as the *Department* may from time to time designate by written notice to accredited training course providers:
- (A) Local Law No 26 of 2004, R404-02, and any amendments or other rules promulgated pursuant thereto;
- (B) Shelter in place, in-building relocation, partial building evacuation and full building evacuation concepts;
- (C) Building communications and announcements;
- (D) Building ventilation options;
- (E) Use of elevators;
- (F) Human services, including building occupants with special needs and related mobility and communications issues;
- (G) Weapons of mass destruction, including dirty bombs and other radiological weapons;
- (H) *Hazardous material* incidents involving biological agents, including contamination issues;

- (I) Hazardous material incidents involving chemical agents;
- (J) Bombs, bomb threats and suspicious packages;
- (K) Weather-related emergencies;
- (L) Failure of building utilities, mechanical systems and/or telecommunications systems; and
- (M) Training methodology, including application protocols and post drill critiques.

(2) Category 2 shall include the following instructional topics, and such other topics as the Department may from time to time designate by written notice to accredited training course providers:

- (A) Civil disturbances and blackouts;
- (B) Familiarization with incident command structure and emergency response operations;
- (C) Situational awareness in the context of non-fire emergencies;
- (D) Applicable lessons from major incidents including the World Trade Center; and
- (E) Practical (on-site) test information as provided by the Department.

(d) Course Administration and Completion

- (1) Students must attend all training classes to be eligible to take the training course's final examination.
- (2) Students shall be allowed two (2) opportunities to pass the final examination. Students who fail the final examination on the second attempt shall be required to reattend the course in its entirety.

§ 113-07 Refrigerating System Operating Engineer Training Courses

(a) Scope. This section sets forth the minimum hours of classroom instruction and topics required for Department accreditation of training courses for certificate of qualification for refrigerating system operating engineer.

(b) General Provisions

- (1) General accreditation requirements. Refrigerating system operating engineer training courses shall comply with the general training school accreditation procedures, standards and requirements set forth in R113-04.

(c) Required Hours and Topics of Instruction

- (1) Training courses shall, at a minimum, provide not less than 200 hours of instructional training, of which not less than 25 hours shall consist of practical skill exercise/hands-on demonstration in which each student must personally perform the functions set forth in R113-07(c)(2)(U).

- (2) Training courses shall provide instruction in the following topics:

(A) Definitions and terminology

(1) British thermal unit

(2) Specific heat

(3) Latent heat

(4) Sensible heat

(5) Refrigeration effect

(6) Humidity

(7) Absolute zero

(B) Calculations with refrigeration formulas

(1) Refrigeration effect

(2) Compressor displacement/capacity

(3) Compression ratio

(4) Horsepower requirements

(5) Refrigerant circulation requirements

(C) Thermodynamics principles of refrigeration

(1) Temperature scales

- (2) Nature of heat and heat flow
 - (a) Conductors and insulators
- (3) Effects of heat energy
- (4) Molecular theory of heat
- (5) Temperature and heat
- (6) Pressure-temperature relationships
- (7) Physical changes of state
- (8) Calculations for heat conduction
- (D) Basic refrigeration cycles
- (E) Absorption systems
 - (1) Ammonia systems
 - (2) Lithium bromide systems
 - (3) Purgers
 - (4) Two stage steam absorption
- (F) Steam jet and thermocouple systems
- (G) Compression systems
- (H) Multiple systems
 - (1) Cascade
 - (2) Multi-temperature
- (I) Refrigerants
 - (1) Primary and secondary
 - (2) Qualities and properties
 - (3) Tables and data

- (4) CFC and environmental issues
- (J) Evaporators
- (K) Metering devices and automatic controls
 - (1) High and low-side floats
 - (2) Automatic expansion valves
 - (3) Thermostatic expansion valves
 - (4) Manual expansion valves
- (L) Condensers
 - (1) Construction and operation of air-cooled condensers
 - (2) Theory, operation and maintenance of water-cooled condensers
- (M) Receivers and accessories
 - (1) Filters and driers
 - (2) Vibration isolators
 - (3) Distribution headers
- (N) Cooling towers, and spray ponds
- (O) Compressors
 - (1) Reciprocating
 - (a) Open type
 - (b) Serviceable and non-serviceable hermetic units
 - (c) Vertical and horizontal ammonia compressors
 - (d) High Speed freon compressors
 - (2) Rotary
 - (3) Centrifugal

- (a) Hermetic and non-hermetic types
 - (b) Capacity control
- (P) Prime movers
 - (1) Steam turbines
 - (2) Electric motors
 - (3) Absorber generators
 - (a) Steam powered
 - (b) Direct fired—combustion principles
- (Q) Operation of valves and gauges
- (R) Refrigerating systems oils and lubrication
 - (1) Qualities and characteristics
 - (2) Methods of compressor lubrication
 - (3) Lubricating system components
 - (a) Filters
 - (b) Pumps
- (S) Secondary refrigerating systems
 - (1) Holdover tanks
 - (2) Congealing tanks
 - (3) Circulating pumps
 - (4) Operation and maintenance of brine system
 - (5) Significance of pH
- (T) Regulatory and safety requirements
 - (1) Department permit and operator requirements, including FC606

- (2) Building Code and Mechanical Code requirements, including ASHRAE Standard 15
 - (3) Clean Air Act Amendments and United States Environmental Protection Agency regulations
 - (4) OSHA regulations
 - (5) Impact of Local Law Nos. 5 of 1973, 16 of 1984, 41 of 1978, 58 of 1987, 26 of 2004 and 26 of 2008 on the operation of refrigerating systems
 - (6) Amendments to any of the foregoing
- (U) Refrigerating system servicing (practical skills exercise/hands-on demonstrations)
- (1) Selection and use of tools for diagnosis and servicing
 - (a) Gauges
 - (b) Thermometers
 - (c) Charging cylinders
 - (d) Vacuum pumps—system evacuation
 - (2) Charging and testing
 - (a) Critical charges
 - (b) Correct low and high-side operating pressure
 - (c) Use of gauge manifolds
 - (3) Moisture
 - (a) Its effects
 - (b) Removal of blotting and/or evacuation
 - (c) Use of desiccants and driers
 - (4) System troubleshooting and diagnosis procedures
 - (5) Leak repair and component replacement

- (a) Copper tubing—cut, bend, sweat and flare
 - (b) Copper tubing and pipe, solder and braze
- (6) Open type compressors
 - (a) Replace compressor valves and gaskets
- (7) Hermetic compressor-motor units
 - (a) Testing hermetic-motor units for grounds, shorts, open windings
 - (b) Testing power pack components—overload protectors, relays
 - (c) Testing wiring harnesses
- (d) Course Administration and Completion
 - (1) The ratio of students to instructors in the practical skills exercise/hand-on demonstrations shall not exceed 8-to-1.
 - (2) Students must attend at least 25 hours of practical skills exercise/hands-on demonstrations, and not less than 95% of other required instructional training, to be eligible to take the training course final written examination.

§ 114-01 Certificates of License

- (a) Scope. This section sets forth standards, requirements and procedures for issuance of *certificates of license* for the installation, alteration, testing and repair of automotive and marine liquid motor fuel storage and dispensing systems and *flammable liquid* and *combustible liquid* storage systems.
- (b) General Provisions
 - (1) Minimum qualifications and general requirements. Applicants for *certificates of license* shall meet the minimum qualifications and comply with the general requirements set forth in FC114 and this section. Holders of a *certificate of license* shall maintain all qualifications and comply with all requirements throughout the term of the certificate.
 - (2) Inspection of facilities

- (A) All facilities maintained by *certificate of license* applicants and holders are subject to *Department* inspection. Such inspection may be conducted for any purpose related to the enforcement of the requirements of this section, including but not limited to verifying that the *certificate of license* applicant possesses such facilities and specialized equipment as may be required to perform the duties of business or activity requiring the *certificate of license*.
- (B) Facility inspections conducted in connection with original or renewal *applications* for a *certificate of license* shall be conducted at the expense of the applicant, based on the fees set forth in FC Appendix A, plus reasonable travel expenses for facilities located outside of New York City.
- (3) Agent for receipt of process. All applicants and certificate of license holders shall designate an agent located in New York City who is authorized to receive process on behalf of the company. The agent's designation shall provide that the service of process upon him or her shall confer personal jurisdiction over the certificate of license holder in any judicial or administrative proceeding or action. This provision shall not be construed to limit the parties upon whom, or manner by which, service may be effected in accordance with applicable law.
- (4) Change of contact information. All applicants and certificate holders are required to promptly notify the *Department* of any change in the applicant's or certificate holder's address, telephone number and other contact information, and such other information as the *Department* may require.
- (c) General Qualifications. The *Department* will grant an original or renewal *application* for a *certificate of license* where the applicant possesses and satisfactorily demonstrates to the *Department* that the applicant or certificate holder possesses the following qualifications:
- (1) A driver's license, passport, birth certificate or other proof satisfactory to the *Department* that the applicant satisfies the minimum age requirement set forth in FC114.4;
- (2) sufficient knowledge and experience in the business or activity requiring the *certificate of license* to competently and safely engage in such business or activity;
- (3) the integrity and fitness to be responsible for performing duties affecting public safety;
- (4) qualified staff and sufficient equipment and facilities to competently and safely perform the business or activity requiring the *certificate of license*;

- (5) maintenance of the liability insurance policy required by the Fire Code or rules; and
- (6) for original applications filed on or after February 15, 2000, a high school diploma, or its educational equivalent, approved by a state's Department of Education, or an approved accrediting organization.
- (d) Special Qualifications. In addition to general qualifications set forth in R114-01(c), applicants for certificates of license shall possess and satisfactorily demonstrate to the Department that the applicant possesses the following qualifications:

 - (1) Automotive and marine liquid motor fuel storage and dispensing systems.

 - (A) A minimum of three (3) years work experience in the installation, alteration, testing or repair of automotive or marine liquid motor fuel storage and dispensing systems in the five (5) year period prior to the date of filing of such application. Such experience shall have been obtained working under the general supervision of a holder of a certificate of license holder for automotive or marine liquid motor fuel storage and dispensing systems.
 - (2) Flammable liquid and combustible liquid storage systems.

 - (A) A certificate of license for automotive and marine liquid motor fuel storage and dispensing systems;
 - (B) A minimum of three (3) years work experience in the installation, alteration, testing or repair of automotive or marine liquid motor fuel storage and dispensing systems in the five (5) year period prior to the date of filing of such application. Such experience shall have been obtained working under the general supervision of a holder of a certificate of license holder for automotive or marine liquid motor fuel storage and dispensing systems; or
 - (C) A minimum of three (3) years work experience in the installation, alteration, testing or repair of flammable liquid and combustible liquid storage systems in the five (5) year period prior to the date of filing of such application.
- (e) General Application Requirements. Applicants for a certificate of license shall submit all information and documentation necessary or appropriate to establish their eligibility for issuance of such certificate in accordance with FC115 and this section.

 - (1) Application forms and information. Information relating to certificate of license requirements and application procedures, including application forms, may be obtained from the Department's web site, www.nyc.gov/fdny, and from the

Licensing Unit of the *Bureau of Fire Prevention*, Fire Department Headquarters, 9 MetroTech Center, 1st Floor, Brooklyn, NY 11201-3857.

- (2) Submission. Original *applications for certificates of license* shall be filed in person with the Licensing Unit of the *Bureau of Fire Prevention*. Renewal certificate *applications* may be filed in person or by mail, except as may be otherwise specified by the *Department*.
- (3) Incomplete applications. The *Department* reserves the right not to accept for filing any *application* that is incomplete or otherwise deficient, including any *application* that is submitted without the required supporting documentation or *application* fee. The *Department* will provide the applicant notice of any *application* that is not accepted, and, except for *applications* determined to be fraudulent, shall afford the applicant a reasonable time to correct or supplement such *application*. Original *applications* not corrected or supplemented within 30 days of being notified will be deemed abandoned.
- (4) Examination. Applicants for an original *certificate of license* must obtain a passing score on the applicable examination administered by the *Department*.
- (5) Identification. Applicants for an original *certificate of license* shall provide two (2) pieces of picture identification satisfactory to the *Department*, such as a driver's license, passport or employee identification card. The *Department* reserves the right to require additional identification.
- (6) Photographs. All applicants for an original *certificate of license* will be photographed by the *Department* for identification purposes. The *Department* may require a *certificate of license* holder filing for renewal of their certificate to report to the *Department* to be photographed. Failure to comply with such a notice constitutes grounds for non-renewal of the certificate. In lieu of, or in addition to, such photographs, the *Department* may require submission of two passport-size photographs in connection with an original or renewal *certificate of license application*.
- (7) Fees. *Application* fees relating to *certificates of license* shall be as set forth in FC Appendix A or the *rules*. Except as otherwise authorized by the *Department*, fees shall be paid in cash, check or money order payable to the "New York City Fire Department."
- (8) Applicants delinquent on child support payments. In accordance with the United States Social Security Act, 42 USC §666(a)(13), and New York State General Obligations Law §3-503, *applications* for original or renewal *certificates of license* will be reviewed for compliance of its principals and officers with child support obligations and will be denied when required by such laws when one or more of such principals or officers has been identified by the Office of Child Support Enforcement of the New York City Human Resources Administration (or

any successor agency) as delinquent on child support payments. The principals and officers of applicants for *certificates of license* will be required to disclose their social security numbers for purposes of such review.

(9) Original applications. Applications for a *certificate of license* shall include the following information and documentation, and such other information and documentation as the *Department* may require:

(A) The applicant's prior experience in the business or activity requiring the *certificate of license*, including the names and addresses of all companies with which such applicant has been employed or otherwise affiliated in the five-year period prior to the date of filing;

(B) A list of all federal, state, or local licenses or certificates issued to the applicant in the five-year period prior to the date of filing that authorize the applicant to engage in the business or activity requiring the *certificate of license*, or similar business or activity. A copy of each such license and certificate shall be included with the *application*;

(C) A list of its offices, *facilities* and any specialized equipment required to engage in the business or activity requiring the *certificate of license*;

(D) A copy of any and all violations, judgments, convictions and penalties issued to or entered against the applicant, in the five-year period prior the date of filing, relating to the business or activity requiring the *certificate of license*, or similar business or activity; or relating to the offering or receiving of a bribe or unlawful gratuity. A copy of the charges, pleadings, adjudications and certificates of disposition from any such civil or criminal proceeding shall be included with the *application*; and

(E) A list of any *permits* issued to the applicant, including the *Department* account numbers.

(F) The name, address and contact information for the agent for receipt of process required by R114-01(b)(3).

(10) Renewal applications. Renewal *applications* shall disclose any changes in the *certificates of license* holders, offices and *facilities*, and *permits*; disclose any violations, judgments, criminal convictions and penalties since the last date of filing; and include a copy of all current licenses and certificates.

(f) Examinations

(1) All written examinations will be administered by the Licensing Unit of the *Bureau of Fire Prevention* at Fire Department Headquarters, except as may be

otherwise specified by the *Department* in the notice of examination or other appropriate notice.

- (2) All examinations will be conducted in the English language.
- (3) The subject matter of an examination, and, for any numerically-graded certificate examination, the passing grade, shall be as set forth on the *Department's* notice of examination. The passing grade shall be set at 70% unless otherwise specified in such notice of examination.
- (4) An applicant will be provided written notice of his or her examination grade.
- (5) An applicant who fails to obtain a passing grade on a written examination may re-take the examination, subject to the availability of *Department* resources and appointments. The required fee must be paid by the applicant each time he or she is administered an examination.

(g) General Insurance Requirements

- (1) Except as may be otherwise required by the Fire Code or the *rules*, applicants for, and holders of, a *certificate of license* shall maintain a liability insurance policy in an amount not less than five hundred thousand dollars (\$500,000), issued by an *approved* insurance company that is licensed to do business in New York State and has a A.M. Best rating of A- or better. Employees of city agencies that require such certificate in connection with their official city duties and responsibilities shall be exempt from maintaining such liability insurance policy.
- (2) Such liability policy shall provide insurance coverage in the event of any death, injury, damage or other loss to persons or property by reason of the business or activity requiring the *certificate of license*. Such coverage shall be at least as broad as that set forth in the most recent edition of ISO Form CG 0001, and shall include completed operations.
- (3) The *Department* may relieve the holder of a *certificate of license* of the obligation to maintain the liability insurance policy required by this section if the certificate holder makes a written request to the *Department* to place its *certificate of license* in "Not in Use" (inactive) status, and the *Department* grants such request. The holder of the *certificate of license* shall not engage in any business or activity requiring the *certificate of license* while its certificate is in such "Not in Use" status, and shall not resume any such business or activity unless and until a written request has been made to the *Department* to restore such *certificate of license* to active status, together with proof of compliance with the liability insurance policy required by the Fire Code, the *rules* or this section, and the certificate is restored by the *Department* to active status.

- (h) Misconduct. In addition to any other penalties provided by law, misconduct on the part of an applicant or holder of a *certificate of license* shall be grounds for denial, non-renewal, suspension or revocation of a *certificate of license*. Such misconduct includes, but is not limited to:
- (1) the failure of a holder of a *certificate of license* to properly discharge the duties of such certificate, including failing to properly supervise the work being conducted such certificate;
 - (2) any false and fraudulent conduct in connection with an *application* for a *certificate of license* or the duties of a *certificate of license* holder, including:
 - (A) any false or fraudulent statement or submission; and
 - (B) any unauthorized alteration or use of a *certificate of license* or possession of any fraudulent *certificate of license*; and
 - (C) cheating on an examination; and
 - (D) impersonating another or allowing oneself to be impersonated;
 - (3) any other unlawful or unsafe conduct that bears on the integrity or reliability of an applicant or *certificate of license* holder;
 - (4) the failure to maintain the liability insurance policy required by the Fire Code, this section or the *rules*;
 - (5) the failure to promptly notify the *Department* of any change in the designated agent for receipt of process, pursuant to R114-01(b)(3), or applicant's or certificate holder's contact information, or any other notification required pursuant to R114-01(b)(4); or
 - (6) compromising the integrity or confidentiality of a *Department* examination.

§ 115-01 Company Certificates

- (a) Scope. This section sets forth standards, requirements and procedures for issuance of company certificates, including *blasting contractor, central station, commercial cooking exhaust system servicing, fireworks contractor, fumigation and thermal insecticidal fogging operation, portable fire extinguisher sales, portable fire extinguisher servicing, pyrotechnic supplier and smoke detector maintenance company certificates.*
- (b) General Provisions

- (1) Minimum qualifications and general requirements. Applicants for *company certificates* shall meet the minimum qualifications and comply with the general requirements set forth in FC115 and this section. Companies to which a company certificate has been issued, their principals and officers, shall maintain all qualifications and comply with all requirements throughout the term of the certificate.
- (2) Inspection of facilities
 - (A) All facilities maintained by company certificate applicants and holders are subject to *Department* inspection. Such inspection may be conducted for any purpose related to the enforcement of the requirements of this section, including but not limited to verifying that the company possesses such facilities and specialized equipment as may be required to perform the duties of business or activity requiring the company certificate.
 - (B) Facility inspections conducted in connection with original or renewal *applications* for a company certificate shall be conducted at the expense of the applicant, based on the fees set forth in FC Appendix A, plus reasonable travel expenses for facilities located outside of New York City.
- (3) Agent for receipt of process. All applicants and certificate holders shall designate an agent located in New York City who is authorized to receive process on behalf of the company. The agent's designation shall provide that the service of process upon him or her shall confer personal jurisdiction over the company in any judicial or administrative proceeding or action. This provision shall not be construed to limit the parties upon whom, or manner by which, service may be effected in accordance with applicable law.
- (4) Change of contact information. All applicants and certificate holders are required to promptly notify the *Department* of any change in the applicant's or certificate holder's address, telephone number and other contact information, and such other information as the *Department* may require.
- (c) General Qualifications. The *Department* will grant an original or renewal *application* for a company certificate where the applicant possesses and satisfactorily demonstrates to the *Department* that the company, its principals and officers, possess the following qualifications:
 - (1) sufficient knowledge and experience in the business or activity requiring the company certificate to competently and safely engage in such business or activity, including one or more principals or officers holding a *certificate of fitness* for such business or activity, where such *certificate of fitness* is required by the Fire Code or *rules*;

- (2) the integrity and fitness to be responsible for performing duties affecting public safety;
 - (3) qualified staff and sufficient equipment and facilities to competently and safely perform the business or activity requiring the company certificate, including, where the company certificate is for the servicing of equipment, the manufacturer's servicing manuals; and
 - (4) maintenance of the liability insurance policy required by the Fire Code or *rules*.
- (d) Special Qualifications. In addition to general qualifications set forth in R115-01(c), applicants for the following company certificates shall possess and satisfactorily demonstrate to the *Department* that the company, its principals and officers, possess the following qualifications:
- (1) Blasting contractor certificates
 - (A) The company shall possess all licenses and other approvals required by the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States Department of Justice.
 - (B) One or more principals or officers of the company shall hold a *certificate of fitness* for blasting operations, or a *certificate of fitness* for blasting assistant, except, where the company only conducts blasting operations involving five (5) pounds or less of explosives, one or more principals or officers may, in lieu of holding such certificate, have a minimum of two (2) years' experience in construction activities involving blasting operations.
 - (2) Central station certificate of operation.
 - (A) The central station company shall have been listed or otherwise shall have been approved by a nationally-recognized testing laboratory as a *central station*, or equivalent.
 - (3) Fireworks contractor certificates
 - (A) One or more principals or officers of the company shall hold a *certificate of fitness* for fireworks displays.
 - (B) One or more principals or officers of the company shall have a minimum of two (2) years' experience in conducting legal fireworks displays.
 - (4) Fumigation and thermal insecticidal fogging operations company certificates

- (A) One or more principals or officers of the company shall have a minimum of two (2) years' experience in fumigation and thermal insecticidal fogging operations.
- (5) Portable fire extinguisher sales company certificates
- (A) One or more principals or officers of the company shall hold a *certificate of fitness* for portable fire extinguisher sales.
- (6) Portable fire extinguisher servicing company certificates
- (A) One or more principals or officers of the company shall have a minimum of two (2) years' experience in portable fire extinguisher servicing and hold a *certificate of fitness* for portable fire extinguisher servicing.
- (B) The company shall possess the tools, materials, equipment, facilities and servicing manuals specified in Chapter 7 of NFPA 10 to service portable fire extinguishers.
- (7) Smoke detector maintenance company certificates
- (A) The company is listed as a fire alarm service organization by a national testing laboratory, or is an authorized smoke detector service company for a smoke detector manufacturer.
- (B) One or more principals or officers of the company holds a license to engage in the business of installing, servicing and maintaining fire alarm systems, issued by the New York Secretary of State pursuant to Article 6-D of the New York State General Business Law, or is a master electrician licensed by the *Department of Buildings* and registered with the New York Secretary of State in accordance with such Article 6-D.
- (C) One or more principals or officers of the company has received Level II certification in fire alarm systems from the National Institute for Certification in Engineering Technologies (NICET).
- (e) General Application Requirements. Applicants for a company certificate shall submit all information and documentation necessary or appropriate to establish their eligibility for issuance of such certificate in accordance with FC115, this section and the *rules*.
- (1) Application forms and information. Information relating to company certificate requirements and *application* procedures, including *application* forms, may be obtained from the *Department's* web site, www.nyc.gov/fdny, and from the Licensing Unit of the *Bureau of Fire Prevention*, Fire Department Headquarters, 9 MetroTech Center, 1st Floor, Brooklyn, NY 11201-3857.

- (2) Submission of applications. Original *applications* for company certificates shall be filed in person with the Licensing Unit of the *Bureau of Fire Prevention*. Renewal certificate *applications* may be filed in person or by mail, except as may be otherwise specified by the *Department*.
- (3) Incomplete applications. The *Department* reserves the right not to accept for filing any *application* that is incomplete or otherwise deficient, including any *application* that is submitted without the required supporting documentation or *application* fee. The *Department* will provide the applicant notice of any *application* that is not accepted, and, except for *applications* determined to be fraudulent, shall afford the applicant a reasonable time to correct or supplement such *application*. Original *applications* not corrected or supplemented within 30 days of being notified will be deemed abandoned.
- (4) Identification. Applicants for an original company certificate shall provide two (2) pieces of picture identification satisfactory to the *Department*, such as a driver's license, passport or employee identification card. The *Department* reserves the right to require additional identification.
- (5) Photographs. All applicants for an original company certificate will be photographed by the *Department* for identification purposes. The *Department* may require a company certificate holder filing for renewal of their certificate to report to the *Department* to be photographed. Failure to comply with such a notice constitutes grounds for non-renewal of the certificate. In lieu of, or in addition to, such photographs, the *Department* may require submission of two passport-size photographs in connection with an original or renewal company certificate *application*.
- (6) Fees. *Application* fees relating to company certificates shall be as set forth in FC Appendix A or the *rules*. Except as otherwise authorized by the *Department*, fees shall be paid in cash, check or money order payable to the "New York City Fire Department."
- (7) Applicants delinquent on child support payments. In accordance with the United States Social Security Act, 42 USC §666(a)(13), and New York State General Obligations Law §3-503, *applications* for original or renewal company certificates will be reviewed for compliance of its principals and officers with child support obligations and will be denied when required by such laws when one or more of such principals or officers has been identified by the Office of Child Support Enforcement of the New York City Human Resources Administration (or any successor agency) as delinquent on child support payments. The principals and officers of applicants for company certificates will be required to disclose their social security numbers for purposes of such review.

- (8) Original applications. Applications for a company certificate shall include the following information and documentation, and such other information and documentation as the Department may require:
- (A) A list of all principals and officers of the company, and their prior experience in the business or activity requiring the company certificate, including the names and addresses of all companies with which such principals and officers have been employed or otherwise affiliated in the five-year period prior to the date of filing;
 - (B) A list of all federal, state, or local licenses or certificates issued to such company, its principals or officers, in the five-year period prior to the date of filing, that authorize such company or its principals or officers to engage in the business or activity requiring the company certificate, or similar business or activity. A copy of each such license and certificate shall be included with the application;
 - (C) A list of its offices, facilities and any specialized equipment required to engage in the business or activity requiring the company certificate;
 - (D) A roster of the certificate of fitness holders who will be working under the company certificate, including their names and certificate of fitness numbers;
 - (E) A copy of any and all violations, judgments, convictions and penalties issued to or entered against the company, its principals and officers, in the five-year period prior the date of filing relating to the business or activity requiring the company certificate, or similar business or activity, or relating to the offering or receiving of a bribe or unlawful gratuity. A copy of the charges, pleadings, adjudications and certificates of disposition from any such civil or criminal proceeding shall be included with the application;
 - (F) A list of any permits issued to the company, its principals or officers, including the Department account numbers; and
 - (G) The name, address and contact information for the agent for receipt of process required by R115-01(b)(3).
- (9) Renewal applications. Renewal applications shall disclose any changes in the company's principals and officers, offices and facilities, roster of certificate of fitness holders, and permits; disclose any violations, judgments, criminal convictions and penalties since the last date of filing; and include a copy of all current licenses and certificates.

(f) Special Application Requirements. In addition to the general *application* requirements set forth in R115-01(e), *applications* for the following company certificates shall include the following information and documentation:

(1) Central station certificates of operation. Applicants for such a company certificate shall include a copy of the listing or approval required by R115-01(d)(2)

(2) Fireworks contractor certificates. *Application* for such a company certificate shall include a list of the *fireworks displays* conducted by the company, its principals or officers, in the three-year period prior to the date of filing, setting forth the date and location of such *fireworks displays*, and the number and types of fireworks discharged, including proof satisfactory to the *Department* that the company, its principals or officers, have safely conducted *fireworks displays* in urban or other confined settings comparable to those found in New York City;

(3) Portable fire extinguisher servicing company certificates. *Application* for such a company certificate shall include a list of any other *portable fire extinguisher servicing company certificate* holders that will be performing services on behalf of the applicant in connection with the servicing of portable fire extinguishers, including a copy of the written agreement between such companies.

(g) General Insurance Requirements

(A) Except as may be otherwise required by the Fire Code or the *rules*, applicants for, and holders of, a company certificate shall maintain a liability insurance policy in an amount not less than five hundred thousand dollars (\$500,000), issued by an *approved* insurance company that is licensed to do business in New York State and has an A.M. Best rating of A- or better.

(B) Such liability policy shall provide insurance coverage in the event of any death, injury, damage or other loss to persons or property arising from the conduct of the business or activity requiring the company certificate. Such coverage shall be at least as broad as that set forth in the most recent edition of ISO Form CG 0001, and shall include completed operations.

(C) The *Department* may relieve the holder of a company certificate of the obligation to maintain the liability insurance policy required by this section if the certificate holder makes a written request to the *Department* to place its company certificate in "Not in Use" (inactive) status, and the *Department* grants such request. The holder of the company certificate shall not engage in any business or activity requiring the company certificate while its certificate is in such "Not in Use" status, and shall not resume any such business or activity unless and until a written request has been made to the *Department* to restore such company certificate to active status, together with proof of compliance with the liability

insurance policy required by the Fire Code, the rules or this section, and the certificate is restored by the Department to active status.

(h) Special Insurance Requirements. In addition to the general insurance requirements set forth in R115-01(g), applicants for, and holders of, the following company certificates shall comply with the following insurance requirements:

(1) Blasting contractor certificates. Applicants for, and holders of, blasting contractor certificates shall maintain a liability insurance policy in an amount not less than five million dollars (\$5,000,000). Such insurance policy shall name the City of New York and the New York City Fire Department as additional insured parties, provide that the limit of coverage applicable to the named insured is equally applicable to the additional insured parties, and shall provide for notice to the Department at least thirty (30) days prior to any cancellation or termination of such policy. Such insurance policy shall provide coverage at least as broad as set forth in the most recent edition of ISO Forms CG 2012 or CG 2026.

(2) Fireworks contractor certificates. Applicants for, and holders of, fireworks contractor certificates shall maintain a liability insurance policy in an amount not less than two million dollars (\$2,000,000). Such insurance policy shall name the City of New York and the New York City Fire Department as additional insured parties, provide that the limit of coverage applicable to the named insured is equally applicable to the additional insured parties, and shall provide for notice to the Department at least thirty (30) days prior to any cancellation or termination of such policy. Such insurance policy shall provide coverage at least as broad as set forth in the most recent edition of ISO Forms CG 2012 or CG 2026.

(i) Misconduct. In addition to any other penalties provided by law, misconduct on the part of a company that is applying for, or holds, a company certificate, and/or its principals or officers, shall be grounds for denial, non-renewal, suspension or revocation of a company certificate, and/or any other Department certificates held by the principals or officers of the company. Such misconduct includes, but is not limited to:

(1) the failure of a holder of a company certificate, its principals or officers, to properly discharge the duties of such certificate, including failing to properly supervise the work being conducted such certificate;

(2) any false and fraudulent conduct in connection with an application for a company certificate or the duties of a company certificate holder, including:

(A) any false or fraudulent statement or submission; and

(B) any unauthorized alteration or use of a company certificate or possession of any fraudulent company certificate;

- (3) any other unlawful or unsafe conduct that bears on the integrity or reliability of an applicant or company certificate holder, its principals or officers;
- (4) the failure to maintain the liability insurance policy required by the Fire Code or the rules;
- (5) the failure to obtain or maintain any license or other approval required by a federal, state or City agency to engage in the business or activity requiring the company certificate;
- (6) the failure to promptly notify the *Department* of any change in the designated agent for receipt of process, pursuant to R115-01(b)(3), or applicant's or certificate holder's contact information, or any other notification required pursuant to R115-01(b)(4);
- (7) misrepresenting the company, its principals, officers or employees, to be *Department* officials, employees or agents, including representing that the company, its principals, officers or employees, possess the authority to enforce the Fire Code or the rules, or wearing the uniform or insignia of the *Department* or similar attire or insignia that may mislead the public; or
- (8) with respect to portable fire extinguisher sales company certificates required for persons engaged in the business of selling portable fire extinguishers door-to-door, to sell, offer for sale or otherwise provide to the *owner* of buildings or businesses, for use on their *premises*, any portable fire extinguisher for a particular occupancy or use, when such portable fire extinguisher is no longer approved for such occupancy or use and/or would not be in compliance with the portable fire extinguisher requirements for such occupancy or use set forth in the Fire Code or the rules.

§ 116-01 Expeditor Registration

- (a) Scope. This section sets forth standards, requirements and procedures for the registration of expeditors pursuant to FC116.
- (b) General Provisions
 - (1) General requirements. Expeditors shall register in compliance with the requirements of FC116 and this section.
 - (2) Time for registration. Expeditors shall register at least two (2) weeks prior to engaging in expediting activities regulated by FC116, except that expeditors engaging in such activities at an time during the period for July 1, 2008 through September 16, 2008, shall register with the *Department* no later than October 1, 2008.

- (3) Change of contact information. All registrants are required to promptly notify the *Department* of any change in the registrant's address, telephone number and other contact information, and such other information as the *Department* may require.
- (c) Registration Standards. The *Department* will register an expeditor for the purposes of FC116 where the expeditor possesses and satisfactorily demonstrates to the *Department* that he or she possesses the integrity and fitness to engage in the submission, filing, requesting, negotiating or otherwise seeking approval of *applications* for issuance of *permits*, design and installation documents and other *Department* approvals, given that such approvals affect public safety.
- (d) Registration Requirements
- (1) Registration forms and information. Information relating to expeditor registration requirements and procedures, including registration forms, may be obtained from the *Department's* web site, www.nyc.gov/fdny, and from the Licensing Unit of the *Bureau of Fire Prevention*, Fire Department Headquarters, 9 MetroTech Center, 1st Floor, Brooklyn, NY 11201-3857.
- (2) Submission. Expeditor registrations shall be filed in person with the Licensing Unit of the *Bureau of Fire Prevention*. Renewal registrations may be filed in person or by mail, except as may be otherwise specified by the *Department*.
- (3) Incomplete registration forms. The *Department* reserves the right not to accept for filing any registration form that is incomplete or otherwise deficient, including any registration form that is submitted without the required supporting documentation or registration fee. The *Department* will provide an expeditor notice of any registration that is not accepted, and, except for registrations determined to be fraudulent, shall afford the expeditor a reasonable time to correct or supplement such registration. Original registration forms not corrected or supplemented within 30 days of being notified will be deemed abandoned.
- (4) Identification. Expeditors seeking to file an original registration form shall provide two (2) pieces of picture identification satisfactory to the *Department*, such as a driver's license, passport or employee identification card. The *Department* reserves the right to require additional identification.
- (5) Photographs. All expeditors filing an original registration form will be photographed by the *Department* for identification purposes. The *Department* may require an expeditor filing for renewal of their registration to report to the *Department* to be photographed. Failure to comply with such a notice constitutes grounds for non-renewal of the registration. In lieu of, or in addition to, such photographs, the *Department* may require submission of two passport-size photographs in connection with an original or renewal registration form.

- (6) Fees. Expeditor registration fees shall be as set forth in FC Appendix A or the rules. Except as otherwise authorized by the Department, fees shall be paid in cash, check or money order payable to the “New York City Fire Department.”
- (7) Expeditor registrants delinquent on child support payments. In accordance with the United States Social Security Act, 42 USC §666(a)(13), and New York State General Obligations Law §3-503, expeditor registrations will be reviewed for compliance with child support obligations and will be denied when required by such laws when the registrant has been identified by the Office of Child Support Enforcement of the New York City Human Resources Administration (or any successor agency) as delinquent on child support payments. Expeditors will be required to disclose their social security numbers on their registration forms for purposes of such review.
- (8) Original registrations. Expeditors seeking to register with the Department shall submit the following information and documentation, and such other information and documentation as the Department may require:
- (A) A resume or other documentation indicating prior experience as an expeditor in connection with matters before the Department or other federal, state or local governments, including the names and addresses of any employers;
- (B) A list of all federal, state, or local licenses or certificates issued to such company, its principals or officers, in the five-year period prior to the date of filing, that authorize the expeditor to engage in a profession, business or other regulated activity. A copy of each such license and certificate shall be included with the registration; and
- (C) A copy of any and all violations, judgments, convictions and penalties issued to or entered against the registrant in the five-year period prior the date of filing, in connection with his or her expediting business and activity, any business or activity regulated by the Department, or the offering or receiving of a bribe or unlawful gratuity. A copy of the charges, pleadings, adjudications and certificates of disposition from any such civil or criminal proceeding shall be included with the application.
- (9) Renewal registrations. Renewal applications shall disclose any changes in the company’s principals and managers; disclose any violations, judgments, criminal convictions and penalties since the last date of registration; and include a copy of all current licenses and certificates.
- (e) Misconduct. In addition to any other penalties provided by law, misconduct on the part of an expeditor shall be grounds for non-acceptance, non-renewal, suspension or revocation of registration. Such misconduct includes, but is not limited to:

- (1) any false or fraudulent conduct in connection with registration as an expeditor, including:
 - (A) any false or fraudulent statement or submission; and
 - (B) any unauthorized alteration or use of a certificate or possession of any fraudulent certificate;
- (2) any false or fraudulent conduct in connection with an *application* for a *permit*, approval of a design or installation document, or other *Department* approval, including but not limited to:
 - (A) any false statement or submission;
 - (B) knowingly or negligently misleading or failing to disclose facts material to the determination of any such *application*;
 - (C) impersonating another or allowing oneself to be impersonated.
- (3) the destruction or removal from *Department premises* of official *Department* records or other *Department* property;
- (4) the offer or receipt of a bribe or unlawful gratuity, or any other unlawful conduct that bears on the integrity of the expeditor;
- (5) the failure to report any conviction of a criminal offense relating to false or fraudulent submissions to any governmental agency, the offering or receiving of a bribe or unlawful gratuity, or in connection with the registrant's expediting business or activity;
- (6) the provision of assistance or other participation in the misconduct of any other individual, including individuals exempt from expeditor registration requirements pursuant to FC116.1, in relation to any *application* to, or other dealings with, the *Department*; and
- (7) the failure to promptly notify the *Department* of any change in the registrant's contact information, or an other notification required pursuant to R116-01(b)(2).

STATEMENT OF BASIS AND PURPOSE FOR CHAPTER 1 (ADMINISTRATION):

Chapter 1 of the rules sets forth standards, requirements and procedures for the implementation of the administrative provisions of FC Chapter 1.

The chapter includes a new section (R102-01) implementing the provisions of FC102.3 with respect to facilities and conditions which were lawfully existing on July 1, 2008, the effective

date of the Fire Code, and which, pursuant to FC102.3, in part may be continued in compliance with laws, rules, regulations and permit conditions pre-dating the Fire Code. The section sets forth how such “pre-existing” facilities and conditions are to comply with the Fire Code and prior provisions of law, and sets forth the manner in which the provisions of the New York City Fire Prevention Code and existing Fire Department rules in effect on June 30, 2008, are consolidated in Chapter 48 of the rules.

The chapter includes a new section (R104-01) that, pursuant to the authority granted by FC104.1 and 104.4, sets forth a mechanism by which persons aggrieved by any Fire Department notice, order, violation or other determination may appeal such determination and obtain a final agency determination as to the validity thereof, insofar as it relates to the interpretation or modification of the Fire Code, the rules, or other law, rule or regulation enforced by the Fire Department.

The Fire Department has reserved a section for promulgation of a rule implementing the professional certification provisions of FC104.2.1. The content of such rule will be promulgated in a future rulemaking.

The chapters includes sections relating to the disposal of contraband (R104-03) and procedures for applying for a modification (R104-04) that clarify or set forth more fully existing standards, requirements and procedures with respect to such matters, consistent with the provisions of FC104.5.1 and FC104.8. The contraband section differs from the existing rule (3 RCNY §42-01), which relates to the disposal of compressed gas cylinders, by extending the disposal procedures to other types of contraband. The modification section differs from the existing rules by consolidating the modification provisions previously set forth in various sections of the rules.

The chapter includes a section (R109-01) setting forth provisions relating to the certification of correction and stipulation procedures for Fire Department violations returnable before the New York City Environmental Control Board, and a rule (R109-02) consolidating Fire Code and other Administrative Code provisions for enforcement purposes. Section 109-02, formerly 3 RCNY §16-03, was separately promulgated and adopted, and is being included in this promulgation for informational purposes only. The provisions of R109-01 are found in existing rule 3 RCNY §16-02.

The chapter includes a section (R112-01) governing the issuance of certificates of approval, which identifies the types of articles, equipments and devices that are required to obtain such a certificate, including those newly regulated by the Fire Code. Such section differs from existing rule (3 RCNY §9-03) in revoking the approval of fire escape window gates previously approved by the New York City Board of Standards and Appeals.

The chapter includes sections governing the issuance of the various types of Fire Department licenses (including certificates of fitness, certificates of qualification, certificates of license and company certificates), and the accreditation of training schools that prepare applicants for such certificates. The rules clarify or set forth more fully existing standards, requirements and procedures for issuance of such licenses and approvals, consistent with the provisions of FC113, 114 and 115. The sections differ from existing rules (3 RCNY §§6-01, 6-02, 9-01, 9-05, 9-06, 9-07 and 9-08), in setting forth for all categories of certificates and accreditations acts and

omissions constituting misconduct on the part of the certificate applicant or holder. These provisions are found in existing rule 3 RCNY §9-01.

The chapter includes a new section (R116-01) setting forth standards, requirements and procedures for the registration of expeditors, consistent with the provisions of FC116.

Section 3. It is hereby proposed to amend Title 3 of the Rules of the City of New York by adding a new Chapter 2, to read as follows:

CHAPTER 2
DEFINITIONS

§201 Reserved
§202-01 Definitions

§ 202-01 Definitions

(a) Scope. This section sets forth or references definitions for terms used in the *rules*.

(b) General Provisions

(1) Terms defined in the Fire Code. Unless otherwise expressly stated, terms used in the *rules* that are defined in the Fire Code shall have the meanings ascribed to them in the Fire Code definitions.

(2) Terms defined in the rules. Unless otherwise expressly stated, terms used in the *rules* shall have the meanings ascribed to them in the definitions set forth in this section or in the other sections of the *rules* referenced in this section.

(3) Other words and terms. Words and terms other than defined terms shall be interpreted in accordance with the provisions of FC201.

(4) Identification of defined terms. Terms defined in the Fire Code or the *rules* appear in the rules in *italics*.

(5) Identification of rule sections. A capital letter “R” preceding any number in the *rules*, e.g., R201-01(b), shall indicate that reference is being made to a section of the rules or subdivision thereof.

(c) Definitions

Bureau of Fire Prevention. Bureau of Fire Prevention of the New York City Fire Department.

Department of Buildings. New York City Department of Buildings.

Department of Consumer Affairs. New York City Department of Consumer Affairs.

ECB. See R109-01(b).

Natural gas. A mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form.

Notice of disposal. See R104-03(b).

Notice of seizure. See R104-03(b).

Notice of violation. See R109-01(b).

OSHA. Occupational Safety and Health Administration of the United States Department of Labor.

Piped natural gas. *Natural gas* supplied by means of piping connected to a public utility distribution system.

Plumber. A licensed master plumber, as that term is defined by the *Building Code*, or a person working under the direct and continuing supervision of a licensed master plumber, as authorized by said code.

Pre-existing (facility or condition). See R102-01(b).

Window/egress gate. See R1025-01(b).

STATEMENT OF BASIS AND PURPOSE FOR CHAPTER 2 (DEFINITIONS):

The chapter includes a new section (R202-01) that organizes terms defined in the rules in a manner similar to Chapter 2 of the Fire Code. The list of defined terms in R202-01(c) will be amended as new rules with defined terms are promulgated.

Section 4. It is hereby proposed to amend Title 3 of the Rules of the City of New York by adding a new Chapter 8, to read as follows:

CHAPTER 8

INTERIOR FURNISHINGS, DECORATIONS AND SCENERY

<u>§801-804</u>	<u>Reserved</u>
<u>§805-01</u>	<u>Flame-Resistant Decorations</u>
<u>§806</u>	<u>Reserved</u>

§ 805-01 Flame-Resistant Decorations

- (a) Scope. This section sets forth the standards, requirements and procedures for the testing and certification of flame-resistant *decorations*.
- (b) General Provisions
- (1) Applicability. The requirements of this section apply to *decorations* in any *Group A, E, I, M occupancy*, any common area in a *Group R-1, R-2 and B occupancy*, and any building or indoor space used as a public gathering place, other than guest rooms in hotels and motels, private offices in commercial buildings, and houses of worship.
 - (2) Prohibition. It shall be unlawful to install or maintain in any *premises* subject to this section any *decoration* that is not of a *flame-resistant material*.
 - (3) Supervision. The treating of a *decoration* with a chemical compound to impart flame resistance shall be conducted by or under the *personal supervision* of a *certificate of fitness* holder.
 - (4) Affidavit of flame resistance. It shall be unlawful to install or maintain any *decoration* in any *premises* subject to this section unless an affidavit of flame resistance for such *decoration* has been filed with the *Department* in compliance with the requirements of this section.
- (c) Testing of Flame-Resistant Materials. *Decorations* that are treated with a flame-retardant chemical to render them flame-resistant may be subject to a field flame test by *Department* representative at any time as set forth in this section.
- (1) The material should be tested using a sample that is dry and, unless impracticable, approximately 1½ inches wide by 4 inches long.
 - (2) The flame test shall be performed in a draft-free, safe location, outdoors where practicable, and within ten (10) feet of a portable fire extinguisher with at least a 2-A rating.
 - (3) The sample shall be suspended (preferably with tongs) with the long axis vertical. The flame from a common wood match shall be applied to the center of the bottom edge of the sample for twelve seconds.

(4) The sample shall be deemed to be satisfactorily flame-resistant only when:

(A) the flaming does not spread rapidly over the sample;

(B) the sample does not continue to burn for more than two (2) seconds after the match has been withdrawn; and

(C) the flaming material does not break or drip from the sample and continue to burn.

(d) Affidavit of Flame-Retardant Treatment

(1) The owner of any premises in which there is any decoration that is required to be subjected to a flame-retardant treatment shall, in accordance with the requirements of this section, file with the Department an affidavit of flame-retardant treatment for each such decoration.

(2) A decoration that is not inherently flame-resistant shall be subjected to a flame-retardant treatment:

(A) before being installed in the premises;

(B) after each washing, dry cleaning, ironing or sewing of the decoration, or other processing of the decoration that might impair the effectiveness of its flame resistance, unless otherwise provided in the certificate of approval for such flame-retardant treatment;

(C) at the end of the time period following each flame-retardant treatment that the manufacturer of the flame-retardant chemical warrants that the flame-retardant treatment will be effective, but in no case more than three (3) years from the date of the last affidavit of flame-retardant treatment filed with the Department; and

(D) any time the flame-resistant material fails to pass a field flame test conducted in accordance with the requirements of R805-01(c).

(3) The owner of the premises shall obtain from the person who performed the flame-retardant treatment an affidavit of such flame-retardant treatment that meets the requirements of R805-01(d)(4). Such owner shall file such affidavit with the Department in accordance with the requirements of R805-01(d)(5), and shall maintain on the premises for inspection by any Department representative a copy of such affidavit and a record of each washing or dry cleaning of the decoration, or other processing of the decoration that might impair the effectiveness of its flame resistance.

- (4) An affidavit executed by the person who performed or personally supervised the *flame-retardant treatment* and the testing of the *flame-resistant material* shall contain the following information:
- (A) the name of the affiant, and the number and expiration date of his or her *certificate of fitness for flame-retardant treatment*;
 - (B) the date of the treatment and/or testing;
 - (C) the name of the manufacturer of the flame-retardant chemical, its trade name and its Certificate of Approval number;
 - (D) a detailed description of the materials treated and a statement indicating that the *flame-retardant treatment* used has been approved under the *certificate of approval* for the materials treated;
 - (E) the period of time that the manufacturer of the flame-retardant chemical warrants that the material's flame resistance will be effective; and
 - (F) the affiant's certification that the material, and the *flame-retardant treatment* comply with R805-01(b), and that the affiant personally subjected a sample of the treated material to a flame test in accordance with the requirements of R805-01(c), or personally supervised such test, and the material passed such test.
- (5) An affidavit of *flame-retardant treatment* shall be filed with the *Bureau of Fire Prevention* not later than ten (10) days after the installation or reinstallation of the *decoration* in the *premises* following the *flame-retardant treatment* and/or testing of the *decoration* in accordance with R805-01(d)(2).
- (6) The *Department* may reject any affidavit of *flame-retardant treatment* that the *Department* determines is not in compliance with the requirements of this section, and shall give written notice of such determination to the *owner* of the public space containing the *decoration* and to the *certificate of fitness* holder who executed such affidavit. The *decoration* shall be removed from the affected occupancy and shall not be reinstalled until it has been subjected to a *flame-retardant treatment* in compliance with the requirements of this section and a satisfactory affidavit of *flame-retardant treatment* filed with the *Department*.

(e) Affidavit of Inherently Flame-Resistant Material

- (1) The *owner* of any *premises* in which there is any *decoration* made of inherently *flame-resistant material* shall file an affidavit from a *certificate of fitness* holder for each such *decoration* attesting to such properties. The *owner* of such *premises* shall file with the *Department* in compliance with the requirements of this section,

and shall maintain a copy of such affidavit on the *premises* for inspection by any *Department* representative.

- (2) The affidavit of inherently *flame-resistant material* shall contain the following information:
- (A) the name of the person who personally inspected and/or tested the *decoration*, and the number and expiration date of his or her *certificate of fitness for flame-retardant treatment*;
 - (B) the name of the manufacturer of the material; and
 - (C) an exact description of the material, and a description of the properties of the material that render it inherently flame-resistant.
- (3) An affidavit of inherently *flame-resistant material* shall be filed with the *Bureau of Fire Prevention* not later than ten (10) days after the installation or reinstallation of the *decoration* in the *premises*.
- (4) The *Department* may reject any affidavit of inherently *flame-resistant material* that the *Department* determines is not in compliance with the requirements of this section, and shall give written notice of such determination to the *owner* of the *premises* containing the *decoration* and to the *certificate of fitness* holder who executed such affidavit. The *decoration* shall be removed and shall not be reinstalled until a satisfactory affidavit of inherently *flame-resistant material* has been filed with the *Department*, or the *decoration* has been subjected to a *flame-retardant treatment* in accordance with the requirements of this section and a satisfactory affidavit of *flame-retardant treatment* has been filed with the *Department*.
- (f) Temporary Decorations. Notwithstanding any other provision of this section to the contrary, when a *decoration* is installed or maintained in a *premises* on a temporary basis not to exceed 30 days, such as at a trade show or similar public gathering, the *Department*, in its discretion and upon a showing by the *application* that it would be an undue hardship to comply with the requirements of this section, may accept, in lieu of an affidavit of *flame-retardant treatment* or inherently *flame-resistant material*, a testing report from a nationally recognized laboratory or certification from other qualified *flame-retardant treatment* professionals acceptable to the *Department* indicating that the material has passed Test 1 or Test 2, as set forth in NFPA 701. Nothing contained in this subdivision shall be construed to necessitate that representative samples or other merchandise displayed at trade shows or similar public gatherings comply with the requirements of this section.
- (g) Enforcement. In addition to such other penalties that may be applicable for failure to comply with the requirements of FC Chapter 8 or this section, the *Department* may:

- (1) order an *owner* of any *premises* containing a *decoration* for which no affidavit has been filed with the *Department* or that fails a flame test to remove such *decoration* forthwith, and not to reinstall or maintain the *decoration* in any affected occupancy unless and until the *decoration* has been subjected to a *flame-retardant treatment* and tested and an affidavit has been filed in accordance with this section.
- (2) take appropriate action against the *certificate of fitness* holder for misconduct for improperly completing an affidavit of *flame-retardant treatment* or inherently *flame-resistant material*.

STATEMENT OF BASIS AND PURPOSE FOR CHAPTER 8 (INTERIOR FURNISHINGS, DECORATIONS AND SCENERY):

This chapter consists of a single section (R805-01) that sets forth requirements relating to the testing and certification of flame-resistant *decorations*. These requirements are currently set forth in existing rule 3 RCNY §19-01.

Section 5. It is hereby proposed to amend Title 3 of the Rules of the City of New York by adding a new Chapter 10, to read as follows:

CHAPTER 10
MEANS OF EGRESS

<u>§1001-1024</u>	<u>Reserved</u>
<u>§1025-01</u>	<u>Fire Escape Window Gates and Similar Security Devices For Secondary Means of Egress and Emergency Escape and Rescue Openings</u>
<u>§1026</u>	<u>Reserved</u>
<u>§1027</u>	<u>Reserved</u>

§ 1025-01 Fire Escape Window Gates and Similar Security Devices For Secondary Means of Egress and Emergency Escape and Rescue Openings

- (a) Scope. This section sets forth standards, requirements and procedures for the design, installation, operation and maintenance of gates, bars, grilles, grates or similar devices placed over:
 - (1) windows and other openings onto fire escapes, as set forth in FC1025 and New York State Multiple Dwelling Law §53(1)(c);

(2) other required secondary means of egress in multiple dwellings, as set forth in New York State Multiple Dwelling Law §53(1)(c); and

(3) emergency escape and rescue openings, as set forth in FC1025.

(b) Definitions. The following term shall, for purposes of this section and as used elsewhere in the rules, have the meaning shown herein:

Window/egress gate. Any gate, bar, grille, grate or similar device placed over any window or other opening onto a fire escape, any required secondary means of egress in a multiple dwelling, or any emergency escape and rescue opening.

(c) General Provisions

(1) Compliance with provisions of law. All window/egress gates shall be designed, installed and maintained in compliance with the requirements of FC Chapter 10, the Building Code and the New York State Multiple Dwelling Law.

(2) Certificate of approval required. All window/egress gates shall be of a type for which a certificate of approval has been issued.

(d) Design and Installation Requirements. Window/egress gates shall be designed installed in a manner that:

(1) does not reduce the required dimensions of the window or other opening;

(2) does not prevent or impede the proper operation or free movement of the window or other opening;

(3) is without projections that can snag the clothing of those escaping through the opening;

(4) does not swing up to open;

(5) is readily openable from the inside of the building or structure with no more than one releasing operation, and without the use of a tool, key or special knowledge or effort;

(6) will readily open manually even if springs or other automatic actuating devices used to assist in the release operation do not operate properly or at all;

(7) unlatches upon the application of the following force:

(A) For finger-actuated or hand-actuated system, a force of not more than five (5) pounds.

This chapter consists of a single new section (R1025-01) implementing the provisions of FC1025 relating to the design, installation, operation and maintenance of window fire escape window gates, and similar security devices for securing means of egress.

Section 6. It is hereby proposed to amend Title 3 of the Rules of the City of New York by adding a new Chapter 14, to read as follows:

CHAPTER 14
FIRE SAFETY DURING CONSTRUCTION, ALTERATION AND DEMOLITION

<u>§1401-01</u>	<u>Enforcement of Fire Safety at Construction Sites</u>
<u>§1402</u>	<u>Reserved</u>
<u>§1403-01</u>	<u>Portable Space Heaters Fueled By Piped Natural Gas at Construction Sites</u>
<u>§1404</u>	<u>Reserved</u>
<u>§1405-01</u>	<u>Crane Aerial Fueling Operations</u>
<u>§1406</u>	<u>Reserved</u>
<u>§1407</u>	<u>Reserved</u>
<u>§1408-01</u>	<u>Construction Site Fire Safety Manager</u>
<u>§1409-1418</u>	<u>Reserved</u>

§ 1401-01 Enforcement of Fire Safety at Construction Sites

(a) Scope. This section sets forth requirements relating to the operation of *construction sites*.

(b) Cooperation with Department Inspections

(1) *Construction sites* are subject to regular inspection by the *Department*. Such inspections may include enforcement of *Construction Code* requirements pursuant to the authority granted to the *Department* by *Administrative Code* §28-103.1. Inspection frequency will be determined by the *Department* based on an assessment of the risks associated with the construction, alteration and/or demolition work being conducted. *Construction sites* at which a building more than 35 feet in height or with a footprint of more than 7,500 square feet is being constructed or demolished will be inspected by the *Department* at least once every 30 days when construction or demolition operations are in progress, unless the *Department's* risk assessment of the specific *construction site* indicates a heightened or diminished risk warranting a different inspection frequency.

(2) The owner of every premises upon which construction, alteration or demolition operations are being conducted, the construction manager, project manager, general contractor and any other person in charge of such construction site, shall cooperate with the Department in its inspections of the construction site, including providing or arranging for access to and around the construction site, inspection of records, and communication with the owner or his or her design professionals, managers or contractors, as necessary or appropriate. The fire safety manager, where required pursuant to FC1408, shall provide such assistance; or, where no fire safety manager is required, such assistance shall be provided by the liaison required by FC2703.9.1.1 in connection with the storage, handling or use of hazardous materials or other appropriate representative of the owner, construction manager, project manager or general contractor.

(c) General Requirements. The owner shall ensure fire safety on the construction site by monitoring and enforcing compliance with all applicable code and rule provisions, including but not limited to the following requirements:

- (1) obtaining and maintaining on the site all required permits, certificates and recordkeeping, including the Building Department work permit and Fire Department permits, in accordance with Administrative Code §§ 28-105.1 and 28-105.11, FC Chapter 1 and other applicable provisions of the code and rules;
- (2) provision and maintenance of elevators in readiness, in accordance with FC1411.3 and BC3303.12;
- (3) provision and maintenance of standpipe systems, in accordance with FC1413 and BC3303.8;
- (4) provision and maintenance of sprinkler systems, in accordance with FC1414 and BC3306.9.6;
- (5) provision and maintenance of stairways and other required means of egress, in accordance with FC1027 and BC3303.11;
- (6) provision and maintenance of an approved water supply for fire protection purposes prior to delivery of hazardous materials or combustible materials at the construction site, in accordance with FC1412;
- (7) storage, handling and use of compressed gases, including LPG and CNG, in accordance with FC 1406, 3504.2, 3804.10 and 3809.12;
- (8) storage, handling and use of flammable liquids and combustible liquids, including gasoline, diesel fuel, paint, varnishes and lacquers, and cargo tank vehicle fueling, in accordance with FC 1405 and 3406.2;

- (9) storage, *handling* and use of small arms ammunition for powder-actuated tools, including nail and rivet guns, in accordance with FC1418;
- (10) storage, *handling* and use of heating, drying and curing devices, including portable fueled space heaters, in accordance with FC1403, and the enforcement of the prohibition against open fires, in accordance with FC1404;
- (11) conduct of *hot work* operations, including the provision of a *fire watch*, in accordance with FC 1404 and 2604;
- (12) provision, maintenance and ready availability of portable fire extinguishers, in accordance with FC906;
- (13) provision and maintenance of fire apparatus access, in accordance with FC1410;
- (14) provision and maintenance of an emergency telephone, in accordance with FC1409;
- (15) storage and removal of *combustible waste* from the *construction site*, in accordance with FC1404.2;
- (16) enforcement of the prohibition against smoking on the *construction site*, in accordance with FC1404; and
- (17) provision of a watchperson familiar with the location and use of firefighting equipment and location of emergency telephone and fire alarm boxes, when construction or demolition operations are not in progress, in accordance with BC3307.5.1 and FC1409.

§ 1403-01 Portable Space Heaters Fueled By Piped Natural Gas at Construction Sites

(a) Scope. This section sets forth design, installation, operation and maintenance requirements for the storage, *handling* and use, at *construction sites*, of *portable space heaters* fueled by *piped natural gas*.

(b) General Provisions

(1) Prohibited operations. It shall be unlawful to store or use a *portable space heater* fueled by *piped natural gas* at a *construction site*:

(A) for human comfort or any purpose other than construction-related curing and drying;

(B) for construction-related curing and drying, without a *Department permit*;

- (C) in any part of the building under construction that is occupied;
- (D) in any part of the building under construction that is located within ten (10) feet of any opening in a wall of an occupied adjacent structure or building, or within 50 feet of any building occupied for educational, health care or religious purposes, place of public assembly or other place of public gathering;
- (E) at any *construction site* at which there is no shut-off valve for the *piped natural gas* service installed outside of the building under construction in accordance with the requirements of the *Construction Codes*; or
- (F) where pressure of supply to *piped natural gas* to the building under construction is greater than one-half (½) pound per square inch gauge.

(2) Smoking

- (A) Pursuant to FC1404.1, it shall be unlawful to smoke at any *construction site*.
- (B) It shall be unlawful under any circumstance to smoke within ten (10) feet of any *portable space heater* fueled by *piped natural gas*.

(c) Permits

- (1) Permit required. A *permit* shall be obtained from the *Department* pursuant to FC105.6 prior to any storage or use of *portable space heaters* fueled by *piped natural gas* at a *construction site*.
- (2) Permit applications. *Permit applications* shall be filed by the *owner*, or by a *registered design professional* or contractor on the *owner's* behalf, with the District Office of the *Bureau of Fire Prevention*. The *permit application* shall include such information and documentation as the *Department* may require, including a completed *application* form and a copy of the work permit issued by the *Department of Buildings* (or other form of approval acceptable to the *Department*) authorizing the installation of temporary *natural gas* piping.

(d) Supervision.

- (1) Use. *Portable space heaters* fueled by *piped natural gas* at a *construction site* shall be under the *personal supervision* of a *certificate of fitness* holder, whenever such heaters are in use.

- (2) General. At all times other than when they are in use, portable space heaters fueled by piped natural gas at a construction site shall be under the general supervision of a certificate of fitness holder.
- (3) Plumbers. Supervision of portable space heaters fueled by piped natural gas may be provided by a plumber, who shall perform all the duties required of the certificate of fitness holder by this section.

(e) Inspection

- (1) Frequency. The certificate of fitness holder shall periodically inspect all portable space heaters fueled by piped natural gas at a construction site. Such inspections shall be conducted as frequently as needed to ensure the safe operation of the heaters, considering the nature and location of the curing or drying operation and surrounding activities at the construction site, but in no event less than once every four (4) hours. All portable space heaters fueled by piped natural gas that are connected for use but not in use, and all natural gas piping and equipment installed at the construction site, including the outdoor gas service line shut-off valve, shall be inspected at least once every work day.
- (2) Purpose. The certificate of fitness holder or plumber shall ensure that all such appliances, piping and equipment are in a safe condition and proper working order and are otherwise installed, maintained and operated in compliance with the requirements of this section. Any appliance, piping or equipment that is not in a safe condition or proper working order shall be immediately disconnected, promptly removed from the premises, and not returned to service unless restored to a safe condition or good working order.
- (3) Recordkeeping. A record of all inspections required by this subdivision, including any corrective action taken, shall be entered in a bound log book kept at the construction site and made available for inspection by any Department representative.

(f) Design and Installation Requirements

- (1) Natural gas piping and control valves. In connection with the use of portable space heaters fueled by piped natural gas at construction sites:
 - (A) Temporary natural gas piping shall comply with all requirements of the Construction Codes.
 - (B) Temporary natural gas piping shall be installed in such a manner and at such locations as will minimize the risk of damage from the construction activity occurring at the construction site.

- (C) Temporary *natural gas* piping shall be clearly marked "Natural Gas" at least once every 30 feet, and at least once in each room or other separate area.
 - (D) A shut-off valve shall be installed at each *natural gas* pipe outlet that is to be used for a *portable space heaters* fueled by *piped natural gas* with a flexible hose connection. A maximum of four (4) heaters may be connected to each such shut-off valve.
 - (E) All shut-off valves required by this section shall be hand operable and of the quarter-turn type.
 - (F) All valves required by this section shall be installed in unobstructed locations where they are clearly visible and readily accessible. Access shall be provided to any valve located more than seven (7) feet above floor level by means of a fixed or otherwise stable stair, ladder or platform.
 - (G) The outdoor gas service line shut-off valve shall be clearly marked with metal tags or in another permanent manner.
 - (H) Defective gas piping, tubing and fittings (including valves, strainers, filters) shall be replaced and not repaired. An adequate supply of spare parts and material shall be available on the *premises* for replacement.
- (2) Portable space heaters fueled by piped natural gas. In connection with the use of *portable space heaters* fueled by *piped natural gas* at *construction sites*:
- (A) *Portable space heaters* fueled by *piped natural gas* shall be listed and labeled as set forth in FC313.5.1.
 - (B) All electrical wiring and equipment associated with the use of *portable space heaters* shall be installed in conformance with the New York City Electrical Code.
 - (C) Flexible hoses used for connecting *portable space heaters* fueled by *piped natural gas* to *natural gas* pipe outlets:
 - (1) shall be suitable for *natural gas* service and of a type designed for a working pressure of not less than 350 pounds per square inch;
 - (2) shall not exceed 20 feet in length;
 - (3) shall be installed with a shut-off valve between the end of the hose and the heater;

(4) shall not pass through any walls, partitions, ceilings or floors, or any other concealed location;

(5) shall not extend from one room to another, except through an opening where the door has been removed or secured from movement, and shall not be installed in such other manner or at such other locations as would expose the hose to crimping, wear or damage or constitute a falling or tripping hazard;

(6) shall not be used for any other purpose; and

(7) shall be maintained in a safe condition.

(g) Operational Requirements. In connection with the use of *portable space heaters* fueled by *piped natural gas* at *construction sites*:

(1) *Portable space heaters* fueled by *piped natural gas* shall be:

(A) used only in well-ventilated areas;

(B) placed on a noncombustible foundation; and

(C) placed at a safe distance from combustible materials, including combustible building construction, in accordance with the approved use of the *portable space heaters* set forth in the acceptance of the *Department of Buildings* or the approval of the New York City Board of Standards and Appeals, the listing, and in accordance with the manufacturer's operating instructions; and

(D) placed at least 20 feet from *flammable liquids, combustible liquids* and compressed gas cylinders.

(2) When the curing or drying is to take place within a temporary enclosure, only non-combustible panels, flame-resistant tarpaulins or similar fire-retardant materials shall be used for such enclosure. The enclosure shall be secured from movement by wind or other causes. *Portable space heaters* fueled by *piped natural gas* shall not be placed closer than ten (10) feet from any surface of the enclosure.

(3) Temporary lighting used in connection with curing or drying operations shall be equipped with heavy duty electrical cords and guards to prevent accidental contact with the bulb. Such lighting shall be removed from the area as soon as they are no longer needed.

(4) A portable combustible gas leak detector shall be readily available on the *premises*.

- (5) At least one copy of the manufacturer's operating and maintenance instructions for the *portable space heaters* fueled by *pipled natural gas* shall be readily available at the *construction site*.
- (h) Portable Fire Extinguishers. A portable fire extinguisher with at least a 20-B:C rating shall be provided on each floor of the *construction site* at a location not more than 30 feet from where a heater is in use or connected for use. A travel distance of up to 50 feet is allowed if a portable fire extinguisher with at least a 40-B:C rating is provided.

§ 1405-01 Crane Aerial Fueling Operations

- (a) Scope. This section sets forth requirements for the aerial fueling of cranes with diesel fuel or other *combustible liquids* at *construction sites* and other locations.
- (b) General Provisions
- (1) Permit. Pursuant to FC105.6, a *permit* is required for the storage, *handling* and use of *combustible liquids*, including the storage and *handling* of such liquids in connection with aerial fueling of cranes.
- (c) Prohibitions. It shall be unlawful to:
- (1) fuel a crane aerially with a *flammable liquid*.
- (2) perform aerial fueling of a crane at a *construction site* while construction operations are being conducted.
- (3) perform aerial fueling of a crane at a *construction site* when weather conditions such as wind speed or lightning make such operation unsafe.
- (d) Supervision
- (1) Aerial fueling operations. Aerial fueling of cranes at a *construction site* shall be under the *personal supervision* of a *certificate of fitness* holder.
- (2) Portable tanks. *Portable tanks* used for aerial fueling shall be under the *general supervision* of a *certificate of fitness* holder prior to each use for aerial fueling, to ensure that the *portable tank* is in a safe condition and ready for such use.
- (e) Portable Tanks. The *portable tank* and tank assembly shall be designed and installed in compliance with the following requirements:
- (1) Capacity. The capacity of the *portable tank* for fueling shall not exceed 550 gallons.

- (2) Construction. The tank shall be of *approved*, steel construction, and be designed with sufficient structural strength to allow it to be repeatedly lifted for aerial fueling operations.
 - (3) Lifting. The *portable tank* assembly shall be provided with a sufficient number of lifting lugs capable of safely supporting the weight of the tank and stored fuel when full, and allow the tank to be maintained in a level position during lifting and fueling operations.
 - (4) Hose. The connecting hose of the *portable tank* shall be of a braided flexible steel type, and provided with a breakaway coupling capable of retaining fuel on both sides of the shear section. The length of the hose shall not exceed 30 feet.
 - (5) Shut-off valves. The connecting hose of the *portable tank* shall be provided with shut-off valves at the tank and at the nozzle. The shut-off valve at the nozzle side of the hose, used for the final control of the flow, shall be of a self-closing type and shall be manually held open during dispensing operation.
 - (6) Nozzles. The end of the nozzle shall be threaded and provided with a liquid-tight cap while hoisting.
- (f) Operational Requirements
- (1) Inspection of fueling equipment. Prior to aerial fueling operations, the *portable tank*, hose, valves and all other devices and equipment used to conduct the operation shall be inspected at the *construction site* to ensure that they are in good working order.
 - (2) Method of discharge. The aerial fueling operation shall be conducted under gravity discharge by hoisting a *portable tank* to an elevation above the crane's fuel tank.
 - (3) Weather conditions. Reliable means for monitoring weather conditions, including wind speed and approaching storms, shall be readily available.
 - (4) Communication. Radio and/or other two-way wireless communication shall be maintained between the crane operator and all other personnel involved in the aerial fueling operation.
 - (5) Fueling of crane. After the *portable tank* is lifted to the elevation required, and prior to commencing the crane aerial fueling:
 - (A) The engine of the crane being fueled shall be shut off.
 - (B) The *portable tank* shall be grounded to the crane structure.

- (C) The portable tank shall be secured to the crane structure with a chain shorter than the hose length that is capable of restraining the portable tank during the aerial fueling operation.

§ 1408-01 Construction Site Fire Safety Manager

Reserved

STATEMENT OF BASIS AND PURPOSE FOR CHAPTER 14 (FIRE SAFETY DURING CONSTRUCTION, ALTERATION AND DEMOLITION):

Three rules, R1401-01, R1403-01 and R1405-01, are proposed to be promulgated for inclusion in this chapter. A fourth rule, R1408-01, will be promulgated at a later date.

R1401-01 parallels the existing rule relating to the enforcement of fire safety at construction sites (3 RCNY §11-01). The new section has been revised to reflect the obligations of the owner of premises upon which construction, alteration and demolition operations are being conducted under the Construction Codes and FC Chapter 14. It has also been revised to clarify the obligations of the owner with respect to Fire Department inspections. In that regard, the section gives the public notice of the manner in which the Fire Department anticipates inspecting construction sites for code compliance.

The chapter includes a section (R1403-01) setting forth requirements relating to the use of portable space heaters fueled by piped natural gas at construction sites. These requirements are currently set forth in existing rule 3 RCNY §11-05.

A new section, R1405-01, has been added to establish minimum fire safety requirements for aerial fueling of cranes, a practice which is common on construction sites. The provisions of this section are consistent with existing Fire Department practice.

The Fire Department has reserved a section (R1408-01) for promulgation of a rule implementing the construction site fire safety manager provisions of FC1408. The content of such rule will be promulgated in a future rulemaking.

Existing rules 3 RCNY §11-02 and 3 RCNY §11-03, are proposed to be repealed as the provisions of those rules have been incorporated in FC1406. Existing rule 3 RCNY §11-04 is proposed to be repealed as the provisions of that rule have been incorporated into FC1418.

Section 7. It is hereby proposed to amend Title 3 of the Rules of the City of New York by adding a new Chapter 17, to read as follows:

CHAPTER 17
FUMIGATION AND THERMAL INSECTICIDAL FOGGING

<u>§1701</u>	<u>Reserved</u>
<u>§1702</u>	<u>Reserved</u>
<u>§1703-01</u>	<u>Fumigation and Thermal Insecticidal Fogging</u>

§ 1703-01 Fumigation and Thermal Insecticidal Fogging

- (a) Scope. This section sets forth standards, requirements and procedures for *fumigation* and *thermal insecticidal fogging* operations.
- (b) General Provisions. *Fumigation* and *thermal insecticidal fogging* operations shall be conducted in compliance with the general requirements of FC 1701 and 1703.
- (c) Operational Requirements for Fumigation and Thermal Insecticidal Operations
 - (1) Fog generators, except approved portable types, shall be operated outdoors.
 - (2) Building occupants in the space to be fumigated or fogged, except the personnel conducting the *fumigation* and *thermal insecticidal fogging* operations, shall be evacuated prior to *fumigation* or fogging.
 - (3) All openings to the space to be fumigated or fogged shall be kept securely closed.
 - (4) The temperature gauge of fog generator shall be read at frequent intervals. If the temperature rises above normal operating temperature, the generator shall be shut down immediately and the necessary adjustment made. When liquids having a *flash point* are used, the liquid in the fog generator shall have a *flash point* at least 40°F higher than the surrounding temperature of the area to be fogged.
 - (5) The dryness of the fog shall be checked before beginning the *thermal insecticidal fogging* operations. Wet fog shall not be used unless the fogging liquid has no *flash point*.
 - (6) When liquids having a *flash point* are used, no more than one gallon of fogging liquid shall be used for each 50,000 cubic feet of space to be fogged. The fog shall not be allowed to expel directly against any combustible material.
- (c) Portable Fire Extinguishers. A portable fire extinguisher with at least a 20-B rating shall be provided and kept readily accessible during *fumigation* or *thermal insecticidal fogging* operations.

STATEMENT OF BASIS AND PURPOSE FOR CHAPTER 17 (FUMIGATION AND THERMAL INSECTIDAL FOGGING):

This chapter consists of one section (R1703-01), which sets forth requirements for fumigation and thermal insecticidal fogging operations. Such section differs from the existing rule (3 RCNY §20-09) in expanding the scope of the existing rule to include regulation of fumigation operations, consistent with the scope of FC Chapter 17.

Section 8. It is hereby proposed to amend Title 3 of the Rules of the City of New York by adding a new Chapter 26, to read as follows:

CHAPTER 26
WELDING AND OTHER HOT WORK

<u>§2601-2603</u>	<u>Reserved</u>
<u>§2604-01</u>	<u>Hot Work in Repair Garages</u>
<u>§2605-01</u>	<u>Use of Oxygen and a Flammable Gas in Citywide Hot Work Operations</u>
<u>§2606-2608</u>	<u>Reserved</u>
<u>§2609-01</u>	<u>Piped Natural Gas and Oxygen Consuming Devices and Installations</u>

§ 2604-01 Hot Work in Repair Garages

- (a) Scope. This section sets forth requirements for conducting *hot work* operations in *repair garages* with a capacity for more than one *motor vehicle*, or in connection with such businesses.
- (b) General Provisions
 - (1) Required hot work enclosure or partition. In *repair garages* with a capacity of more than one *motor vehicle*, *hot work* shall be performed in a fire-rated enclosure or behind a noncombustible partition satisfying the requirements of R2604-01(c).
 - (2) Outdoor hot work area. The *Department* may approve use of an outdoor area satisfying the requirements of R2604-01(d) in lieu of, or in addition to, compliance with the enclosure or partition requirements of R2604-01(c).
- (c) Hot Work Design and Installation Requirements. In a *repair garage* with a capacity for more than one *motor vehicle*, *hot work* shall be conducted in an area protected in one of the following manners:

- (1) Enclosure. *Hot work* may be conducted within a fire-rated enclosure, as set forth in FC2604.1.5.1.
- (2) Partition. *Hot work* may be conducted behind a noncombustible screen that is positioned and of sufficient size to prevent the passage of sparks, slag and heat from the *hot work area*. Such protection may be provided by a noncombustible draw curtain affixed by rollers to an overhead monorail. Such curtain shall be in close contact with the floor at all points, and sufficiently long so as to completely enclose the *motor vehicle* being worked upon. The curtain shall form the third and fourth sides of the enclosure, with the exterior wall of the building forming the first and second sides.
- (d) Outdoor Hot Work Areas. In lieu of, or in addition to, complying with the requirements of R2604-02(c), the *owner* of a *repair garage* may apply for *Department* approval of the use of an outdoor area for *hot work* operations. When such outdoor area is used in lieu of satisfying the requirements of R2604-01(c), the *owner* shall submit an affidavit or other *approved* form or documentation attesting that all *hot work* operations will be conducted in a designated outdoor area on the *premises*, or, with the written permission of the *property owner*, on an adjoining or nearby *premises*. Such outdoor area shall not be a sidewalk, *public street* or *private road*, and shall be otherwise acceptable for such purposes pursuant to FC2601.3.

§2605-01 Use of Oxygen and a Flammable Gas in Citywide Hot Work Operations

- (a) Scope. This section sets forth standards, requirements and procedures for the use of oxygen and a *flammable gas* in citywide *hot work* operations.
- (b) Permits for Citywide Hot Work Operations
 - (1) Inspection of vehicles. Each vehicle used to transport torches and *containers* of oxygen and *flammable gas* for use in citywide *hot work* operations shall be inspected by a *Department* representative at the *Bureau of Fire Prevention's* Hazardous Cargo Vehicle Inspection Facility prior to the issuance of a *permit* for citywide *hot work* operations.
 - (2) Permit limitation. Pursuant to FC105.1.2, a citywide *permit* authorizes hot work at any particular *construction site* for a maximum duration of thirty (30) days. A site-specific *permit* shall be obtained for any *construction site* at which *hot work* operations are conducted for more than 30 days.
 - (3) Reserve storage of oxygen and flammable gases. A citywide *permit* for *hot work* operations does not authorize reserve storage of oxygen or *flammable gas* at a work site. A separate *application* shall be made for a *permit* authorizing such reserve storage, as set forth in FC105.6.

(4) Availability of permit for inspection. A copy of the citywide permit shall be kept in each vehicle which transports oxygen and flammable gas for use during hot work operations. The permit shall be valid only for the specific vehicle identified on the permit. A copy of the citywide permit shall also be available at each job site location and made available for inspection by any Department representative.

(c) Transport Vehicle Requirements

(1) Securing of containers. Containers shall be safely secured with metal brackets or chains.

(2) Vehicle signage. To indicate that flammable gas is being transported, each transport vehicle shall be marked, on each side and the rear of the vehicle, with durable signs complying with the requirements of United States DOT_n regulations.

(3) Portable fire extinguishers. A portable fire extinguisher with at least a 2-A:20-B:C rating shall be provided on the vehicle and kept readily accessible.

(d) Notification of Hot Work. The owner of the premises on which the hot work operations are to be conducted shall be notified in writing by the citywide permit holder at least forty-eight hours in advance of the intent to conduct hot work operations. Such notice shall additionally inform the owner of the owner's responsibility to designate a responsible person to ensure that the work is performed in accordance with the requirements of FC Chapter 26 and this section. The citywide permit holder is hereby deemed to be designated as the responsible person for hot work operations at Group R-3 occupancies, unless the owner affirmatively designates a responsible person other than the citywide permit holder by executing an affidavit or other document approved by the Department. The citywide permit holder shall provide to the owner a copy of the applicable provisions of FC Chapter 26 and this section with such notification.

§ 2609-01 Piped Natural Gas and Oxygen Consuming Devices and Installations

(a) Scope. This section sets forth standards, requirements and procedures for the design, installation, operation and maintenance of devices and installations utilizing piped natural gas and oxygen, including torches used in the manufacture of jewelry. This section shall apply to both new and existing devices and installations.

(b) Definition. The following term shall, for purposes of this section and used elsewhere in the rules, have the meanings shown herein:

Natural gas/oxygen consuming device. A device, equipment or system that utilizes piped natural gas and oxygen together for heating, melting or welding.

(c) Permits

(1) Required permits. The owner or operator of a natural gas/oxygen consuming device shall obtain required permits prior to storage, handling and use of natural gas or oxygen:

(A) for the use of such device, in accordance with FC105.6.

(B) for storage and handling of oxygen, if oxygen containers are stored, in accordance with FC105.6.

(C) To compress a gas, if natural gas or oxygen is compressed, in accordance with FC105.6.

(2) Permit applications. Original and renewal permit applications shall include design and installation documents of the natural gas/oxygen consuming device installation, including a schematic diagram of the natural gas piping demonstrating compliance with the requirements of FC2609.8 and this section, and such other information and documentation as the Commissioner may prescribe.

(d) Supervision. Natural gas/oxygen consuming device operations shall be supervised by a certificate of fitness holder, in accordance with FC2603.4.1.

(e) Design and Installation Requirements

(1) Piping. Natural gas and oxygen piping shall be designed and installed in accordance with the Building Code and the applicable provisions of NFPA 51.

(2) Hot work devices. Torches and tips for natural gas/oxygen consuming devices shall be suitable for the gases used, and shall be of a type acceptable to the Commissioner.

(3) Pressure booster. When the natural gas supply pressure is less than 5 psig, a pressure booster shall be provided to increase the pressure to at least 5 psig, but not more than 15 psig.

(4) Flashback arrester and check valve. A UL listed combination flashback arrester and backflow check valve shall be installed:

(A) On the oxygen supply line, between the final oxygen supply pressure regulator and each fuel consuming device.

(B) On the natural gas supply line, between the final natural gas supply pressure regulator and the fuel consuming devices.

(f) Operational Requirements

- (1) Natural gas supply pressure. *Natural gas* pressure supplied to a device shall not exceed 15 psig, and the oxygen supply pressure to a device shall not exceed the *natural gas* supply pressure.

STATEMENT OF BASIS AND PURPOSE FOR CHAPTER 26 (WELDING AND OTHER HOT WORK):

The chapter consists of three sections. All three sections are based on existing rules.

Section 2604-01 sets forth requirements relating to hot work operations in repair garages. Such section differs from the existing rule (3 RCNY §26-01) in expanding the scope of the rule to regulate all hot work operations, consistent with the scope of FC2604. The existing rule only regulates torch operations.

Section 2605-01 sets forth requirements relating to the use of oxygen and a flammable gas in citywide hot work operations. These requirements are found in existing rule 3 RCNY §38-01.

Section 2609-01 sets forth requirements relating to piped natural gas and oxygen consuming devices and installations. This section differs from the existing rule (3 RCNY §38-02) in incorporating by reference the design, installation, operation and maintenance requirements of the applicable industry standard, NFPA 51. In addition, the Fire Department specifies the installation requirements for the combination flashback arresters and backflow check valves required by FC 2609.8, the absence of which may cause an explosion to occur in the natural gas meter. These new Fire Code and rule provisions are prompted by recent explosions in jewelry manufacturing facilities involving the operation of torches using piped natural gas and oxygen, which have highlighted the need for additional requirements to help ensure the safety of such operations.

Section 9. It is hereby proposed to amend Title 3 of the Rules of the City of New York by adding a new Chapter 38, to read as follows:

CHAPTER 38
LIQUEFIED PETROLEUM GASES

- §3801-3808 Reserved
§3809-01 Liquefied Petroleum Gases

§ 3809-01 Liquefied Petroleum Gases

(a) Scope. This section sets forth standards, requirements and procedures applicable to the storage, handling and use of LPG. This section shall not apply to the following operations:

(1) The outdoor storage, handling and use of LPG for private, non-commercial barbecues within the lot line of a one-family or two-family dwelling, the requirements for which are subject to the provisions of FC307.5.

(2) The storage, handling and use of LPG in connection with special effects, the requirements for which are set forth in FC3309 and the rules.

(3) The transportation of LPG, the requirements for which are set forth in FC2707.

(b) General Provisions

(1) General LPG requirements. The provisions of this section shall be applicable to all LPG materials, operations and/or facilities as follows:

(A) All LPG storage, handling and use governed by this section shall comply with the design and installation document, permit, supervision, and general storage, handling and use, requirements set forth in R3809-01(c), (d), (e) and (f).

(B) Outdoor and indoor LPG storage shall be in facilities that comply with the requirements for such facilities set forth in R3809-01(g) and (h).

(C) Stationary LPG installations shall comply with the requirements for such installations set forth in R3809-01(i).

(D) LPG storage, handling and use for the special applications set forth in R3809-01(j) (on construction sites, for emergency indoor repairs, for manhole operations, on motor vehicles, for mobile cooking uses, in commercial establishments, on moored vessels, at street fairs, bazaars, carnivals, concerts, festivals and similar outdoor public gatherings, for hot air balloon operations, and in Group A occupancies and similar public gathering places) shall additionally comply with the applicable requirements of R3809-01(j).

(2) Special LPG authorizations. This section authorizes the following storage, handling and/or use of LPG that is prohibited by FC3805.3 except as authorized by the Commissioner:

(A) storage, handling and use of LPG below grade for emergency indoor repairs, as set forth in R3809-01(j);

- (B) storage, *handling* and use in, and bringing or allowing into, residential occupancies or on lots containing a building used for a residential occupancy, of *LPG containers* with a capacity greater than sixteen and four tenths ounces (16.4 oz.), as set forth in R3809-01(j) and (k);
- (C) storage, *handling* and use in, and bringing or allowing into, any non-residential building, of *LPG containers* with a capacity greater than sixteen and four tenths ounces (16.4 oz.), as set forth in R3809-01(h), (j), and (k);
- (D) *handling* and use on the roof of any building of *LPG containers* with a capacity greater than sixteen and four tenths ounces (16.4 oz.), as set forth in R3809-01(j) and (k);
- (E) storage, *handling* or use of *LPG* for stationary *LPG* installations in any area where access to *piped natural gas* from a public utility is available, as set forth in R3809-01(k);
- (F) storage, *handling* and use of *LPG* for space heating or water heating, as set forth in R3809-01(j) and (k);
- (G) withdrawing of *LPG* in liquid form from an *LPG container* for hot air balloon operations, as set forth in R3809-01(j); and
- (H) use of non-metallic pipe, tubing and components for devices, equipment and systems utilizing *LPG*, as set forth in R3809-01(j).

(c) Design and Installation Documents

- (1) When required. All indoor and outdoor *LPG* storage shall be in storage facilities approved by the *Department*. All *LPG* storage, *handling* and use for stationary *LPG* installations shall be for installations *approved by the Department*. *Design and installation documents* for such storage facilities and stationary installations shall be submitted to the *Department* for review and *Department* approval obtained prior to any *LPG* storage or use.
- (2) Applications. *Applications* for *design and installation document* approval shall be made by or on behalf of the person who will be storing, *handling* or using the *LPG*, and submitted to the *Bureau of Fire Prevention* at Fire Department Headquarters prior to any *LPG* storage, *handling* or use. *Applications* for *LPG* installations other than on *construction sites* shall include a copy of the altered building *application* or other documentation filed with and approved by the *Department of Buildings* or other agency having jurisdiction over the installation.

(3) Upon completion of any stationary *LPG* installation, an affidavit executed by the installer or *plumber* responsible for the installation shall be submitted to the *Bureau of Fire Prevention* at Fire Department Headquarters certifying that the installation conforms to the requirements of this section and FC Chapter 38.

(d) Permits

(1) Number of containers requiring a permit. Pursuant to FC 105.6, an *LPG permit* shall be obtained for the storage, *handling* or use of more than 400 *SCF* of *LPG*. Table 1 (R3809-01) sets forth the number of *LPG containers*, by container capacity, requiring a permit pursuant to such section.

Table 1 (R3809-01)

<u><i>LPG Container Capacity</i></u>	<u><i>Number of Containers Requiring Permit</i></u>
<u>14.1 oz.</u>	<u>54</u>
<u>16.4 oz</u>	<u>48</u>
<u>20 lbs.</u>	<u>3</u>
<u>33½ lbs</u>	<u>2</u>
<u>40 lbs.</u>	<u>2</u>
<u>100 lbs.</u>	<u>1</u>

(2) Applications. *Applications* for issuance of an *LPG permit* shall be made by or on behalf of the person who will be storing, *handling* or using the *LPG*, except as otherwise provided in R3809-01(d)(3). *Applications* shall be submitted to the *Bureau of Fire Prevention* at Fire Department Headquarters prior to any *LPG* storage, *handling* or use.

(3) Street fairs. An *LPG permit* shall be obtained from the *Department* for the storage, *handling* or use of *LPG* in conjunction with any street fair, bazaar, carnival, concert, festival or similar outdoor public gathering, as set forth in FC105.6 and R403-01. *Application* for such *LPG permit* shall be made by the sponsor or promoter of the event.

(4) Availability of piped natural gas. An *LPG permit* will not be issued by the *Department* for a stationary *LPG* installation located in an area where access to *piped natural gas* is available, except as provided in R3809-01(k). Any *LPG* storage and use pursuant to a *permit* issued after March 1, 2000 for a stationary *LPG* installation located in an area where access to *piped natural gas* is not available shall be discontinued and all *LPG containers* removed from the *premises* within five years of the date such access becomes available, and no such *permit* shall be renewed beyond such five-year period.

(e) Supervision

(1) The storage, *handling* and use of *LPG* shall be supervised as set forth in FC3801.5 and this section.

(2) The connecting and disconnecting of *LPG containers* with a capacity equal to or greater than sixteen and four tenths ounces (16.4 oz.) shall be performed by a *certificate of fitness* holder. When such connecting and disconnecting is performed by a *LPG* supplier or distributor a card or tag shall be conspicuously posted at the *premises* identifying the name and address of the supplier or distributor, the name of the *certificate of fitness* holder, and the number and expiration date of the *certificate of fitness*.

(f) General Storage, Handling and Use Requirements

(1) Except as otherwise provided in this section, *LPG* shall be stored, handled and used in compliance with the requirements of NFPA 58.

(2) All appliances, equipment and components used for the storage or use of *LPG* shall be *approved* or *listed* by a nationally recognized testing laboratory.

(3) All equipment and appliances used for the storage or use of *LPG* shall be maintained and operated in accordance with the manufacturer's specifications.

(4) Only metallic pipe, tubing and components shall be used for *LPG* installations, appliances and equipment, except as provided in R3809-01(j)(2)(E), (j)(3)(B), (j)(4)(D), (j)(9)(D) and (j)(10)(K). Where use of non-metallic hoses is allowed by this section, such hoses shall be protected from twisting, abrasion and damage by proper installation and maintenance.

(5) For installations approved on or after March 1, 2000 under the 1968 Building Code, storage and use of *LPG* in quantities exceeding 2,500 standard cubic feet of gas (approximately 300 pounds) constitutes a high hazard occupancy as set forth in Article 3 of Subchapter 3 of the 1968 Building Code. Any such quantities of *LPG* shall be stored and used in compliance with the 1968 Building Code requirements applicable to high hazard occupancies.

(6) *LPG containers* shall be stored in an upright position and secured to prevent movement.

(7) *LPG containers* shall not be stacked or stored on shelves.

(8) All connection and disconnection of *LPG containers* for use shall be performed outdoors, except as otherwise authorized by this section. Where *LPG* use is allowed indoors, all connection and disconnection of *LPG containers* shall be performed in a well-ventilated area.

(9) *LPG containers* connected for use shall be adequately supported and braced in an upright position, except when used to power forklifts or other material handling

equipment, when they shall be installed in accordance with the manufacturer's specifications.

- (10) LPG containers connected for use shall be placed on a firm and non-combustible foundation.
- (11) LPG appliances, equipment and components shall be maintained at all times in a gas-tight condition. Any appliance, equipment or component which is not in a gas-tight condition shall be removed from use and promptly repaired or lawfully disposed of.
- (12) Each time a connection is made to a LPG container, or a leak is suspected, the connection shall be tested by the application of a soap solution or its equivalent to joints, valves and fittings. Open flames shall not be used to test connections or leaks.
- (13) LPG containers shall be protected at all times from the effects of weather and physical damage.
- (14) LPG shall be stored and used only if all safety devices on the appliances and equipment are in good working order. Such devices shall not be disconnected or defeated. Any appliance or equipment with a safety device that is not in good working order shall be removed from use and promptly repaired, or disposed of in a lawful manner.
- (15) Any empty LPG container that at any time previously has been filled with LPG shall be treated as though it contains LPG, and shall be stored and used in the same manner as a full LPG container, including storage in a storage facility in accordance with this section. Damaged or otherwise unusable LPG containers shall be promptly removed from the premises and disposed of in a lawful manner.
- (16) Warning signs complying with OSHA requirements, as set forth in §1910.145(D) of Part 1910 of Title 29 of the Code of Federal Regulations, shall be conspicuously posted at each LPG installation, storage location or use site. Such signs shall be at least ten (10) inches by fourteen (14) inches in size and shall bear the wording "DANGER-FLAMMABLE GAS-KEEP FIRE OR FLAME AWAY-NO SMOKING" in lettering at least two (2) inches high. The word "Danger" shall be in white on a red oval bordered in white which shall be on a black background at the upper part of the sign. The other required wording shall be in black on a white background in the lower part of the sign.
- (17) LPG containers shall not be moved unless the container's valves are closed, except when the container is mounted on a motor vehicle to store LPG for use as a fuel for motive power.

(18) LPG containers shall not be rolled or dragged on their side or rims. LPG containers shall only be moved by lifting and lowering, by hand or with equipment designed for such purposes.

(19) LPG containers shall not be dropped or thrown from any height.

(20) LPG containers with a capacity of 20 pounds shall be provided with transportation plugs that secure gas-tight the container's outlet valve connection.

(g) Outdoor Storage Facilities

(1) Except as otherwise provided herein, all LPG containers shall be stored outdoors in a storage facility that conforms to the requirements of R3809-01(g). In addition to compliance with the requirements of FC 2703.12 and 3809.12, and FC Table 3809.12, all outdoor LPG storage facilities shall be:

(A) not more than 54 square feet in area;

(B) protected from vehicle impact;

(C) protected from theft, tampering or unauthorized use by a metal open fence enclosure at least six (6) feet in height, secured by a locked gate opening outward, or by a lockable ventilated metal locker of a type for which a certificate of approval has been issued. Such fence enclosure or locker shall be mounted on and secured to a substantial concrete pad at grade level, which pad shall be constructed to prevent accumulation of rain and snow;

(D) located in a well ventilated area. There shall be a minimum clearance of ten (10) feet from any surrounding walls more than eight (8) feet high on at least three sides of the outdoor storage facility;

(E) directly accessible from the street. LPG containers being delivered to or taken from an outdoor storage location shall not be brought into or through any building or other structure; and

(F) provided with a portable fire extinguisher with at least a 10-B:C rating. Such portable fire extinguisher shall be located in a protective enclosure affixed to the outside of the storage facility or placed at another readily accessible location not more than 30 feet from the storage facility.

(2) No more than 2,500 SCF of LPG (approximately 300 pounds) shall be stored in a pre-existing outdoor LPG storage facility unless such facility complies with the current Fire Code and rule requirements.

(3) No outdoor storage facility shall be located on a lot containing any building used for residential purposes.

(4) No outdoor storage facility shall be located within:

(A) ten (10) feet of the nearest lot line, sidewalk or building on an adjoining lot, except as follows:

(1) 50 feet of any building occupied as a multiple dwelling; and

(2) 100 feet of the lot line of any property occupied for educational, health care or religious purposes;

(B) ten (10) feet of any authorized parking for *motor vehicles*;

(C) ten (10) feet of any combustible material;

(D) 15 feet of any vent or fill line of any *flammable liquid* or *combustible liquid* storage tank; and

(E) 20 feet of any aboveground *flammable liquid* or *combustible liquid* storage tank.

(h) Indoor LPG Storage

(1) Except as provided in R3809-01(k), indoor storage of any *LPG container* with a capacity greater than sixteen and four tenths ounces (16.4 oz.) is prohibited in any residential occupancy and in any building where an outdoor location for such *LPG container* is available.

(2) All indoor storage of *LPG containers* with an individual capacity greater than sixteen and four tenths ounces (16.4 oz.) authorized by this section shall be stored in a separate room that conforms to the requirements of R3809-01(h). Any such room shall be:

(A) constructed in compliance with the *Construction Codes*, including the *Building Code*;

(B) constructed of walls, floors and ceilings having at least a two (2) hour fire resistance rating;

(C) constructed with an access door that opens directly to the outdoors;

(D) used for no other purpose; and

- (E) provided with a portable fire extinguisher with at least a 10-B:C rating. Such portable fire extinguisher shall be affixed to the outside of the storage room or placed at another readily accessible location not more than 30 feet from the room entrance.
- (3) No such room shall:
 - (A) be located at the property line adjoining a multiple dwelling, building occupied for educational, health care or religious purposes, place of public assembly, or other place of public gathering; and
 - (B) have ventilation openings located within five (5) feet of any building opening, including any doors, openable windows and intake and exhaust vents.
- (4) All delivery and pick-up of *containers* to or from an indoor *LPG* storage facility shall be through the outdoors access door only, not through the building.
- (i) Stationary *LPG* Installations. In addition to complying with the requirements of FC 2703.12 and 3809.12, and FC Table 3809.12, stationary *LPG* installations shall comply with the following requirements:
 - (1) All *LPG containers* connected for use in a stationary installation shall be stored outdoors.
 - (2) A single, accessible, safely-located, and conspicuously-marked shutoff valve shall be provided wherever *LPG* piping enters a building or structure.
 - (3) A single, accessible, safely-located and conspicuously-marked shutoff valve shall be provided for each appliance connected to a *LPG container*.
 - (4) All new and repaired *LPG* piping shall be tested at one and one half (1½) times normal working pressure but not less than three (3) pounds per square inch gauge, using air or inert gas. There shall be no drop in the shut-in pressure for a period of 30 minutes.
 - (5) When *LPG* is piped indoors, a sign at least ten (10) inches high and fourteen (14) inches wide shall be conspicuously posted at the entrance to the building and shall bear the wording "Danger-LPG Piping".
 - (6) Metal pipe straps, hangers, or band shall be suitable for the size of pipe and of such strength and quality that the piping cannot be accidentally dislodged. Spacing of hangers shall not exceed six (6) feet for one half (1/2) inch pipe, eight (8) feet for three quarter (3/4) and one (1) inch pipe, and ten (10) feet for one and one quarter (1¼) inch or larger pipe.

(7) No LPG container connected for use shall be located within:

(A) 50 feet of any building occupied as a multiple dwelling;

(B) 100 feet of the lot line of any property occupied for educational, health care or religious purposes;

(C) ten (10) feet of any combustible material; or

(D) 20 feet of any aboveground flammable liquid or combustible liquid storage tank.

(8) A portable fire extinguisher with at least a 10-B:C rating shall be provided whenever LPG is connected for use. The maximum travel distance to the portable fire extinguisher shall be 30 feet from the work location.

(j) Special Storage and Use Requirements

(1) All storage or use of LPG for the applications set forth in R3809-01(j) shall be in compliance with the respective requirements of R3809-01(j), in addition to the requirements set forth in R3809-01(c), (d), (e), (f) and (i).

(2) Construction sites

(A) A site-specific permit shall be obtained for LPG storage, handling and use on a construction site, except that a city-wide LPG permit may be obtained for tar kettle and torch operations where no reserve storage is needed and LPG containers are removed from the site at the end of each workday, and the construction work requiring LPG use is to be completed within thirty (30) days of commencement.

(B) Except as provided in R3809-01(j)(2)(D), all LPG for use on construction sites shall be stored in outdoor storage facilities that comply with the requirements of R3809-01(g)(1)(B), (C) and (D). No construction site shall store more than 5,000 pounds of LPG. No construction site storage facility shall:

(1) have a capacity exceeding 2,500 pounds of LPG in any single storage facility;

(2) be within 50 feet of any other LPG storage facility;

(3) be within 25 feet of the building under construction;

(4) be within 50 feet of any aboveground flammable liquid or combustible liquid storage tank;

- (5) be within 50 feet of any combustible material;
 - (6) be within 50 feet of any building occupied as a multiple dwelling;
 - (7) be within 100 feet of any subway entrance, exit, vent or other opening; and
 - (8) be within 100 feet of the lot line of any property occupied for educational, health care or religious purposes, place of public assembly, or other place of public gathering.
- (C) Each *construction site* storage facility shall be provided with a wheeled type portable fire extinguisher with at least a 40-B:C rating. Such portable fire extinguisher shall be kept outside of the storage facility or placed at another readily accessible location not more than 30 feet from the storage facility.
- (D) *LPG containers* may be stored inside an unoccupied building under construction where no allowable outdoor location is available, provided that such *containers* are stored on the ground floor at a location acceptable to the *Department* that is as far as possible but in no event less than ten (10) feet from any flue, stairwell, or elevator shaft, and the amount of *LPG* so stored is acceptable to the *Department* but in no event exceeds a total of 1,250 pounds. *LPG containers* may be stored at one additional location on the ground floor of the same building if a minimum separation distance of 70 feet between storage locations can be provided and maintained. The amount of *LPG* stored at such additional location shall not exceed 1,250 pounds.
- (E) Pursuant to FC3805.3(14) and R3809-01(b)(2)(H), non-metallic hose may be used at a *construction site* where:
- (1) The construction activity does not allow use of a stationary *LPG* appliance, necessitating a flexible connection between the appliance and the *LPG container*;
 - (2) The length of the hose does not exceed 30 feet; and
 - (3) The hose is designed for a working pressure of not less than 250 pounds per square inch when the construction activity is being performed outdoors, or 350 pounds per square inch when it is being performed indoors.
- (F) Tar kettle and torch operations

- (1) LPG heaters for tar kettles shall be operated under the personal supervision of a certificate of fitness holder.
- (2) All torch operations shall be performed by a certificate of fitness holder.
- (3) It shall be unlawful for any person to operate, maintain or use a kindled tar kettle or torch in or on the roof of any building, except that torches may be used for emergency indoor repairs in accordance with R3809-01(j)(3) and may be used on the roof of any building having a roof of noncombustible construction.
- (4) Fire guards holding a certificate of fitness shall be on continuous duty during any torch operations on the roof of a building. There shall be one fire guard on the roof for each torch operator, and there shall be at least one fire guard on the floor or level below the torch operation. Such fire guards shall not be assigned any duties other than to remain alert and guard against fire and shall be alert to sparks, the transmission of heat, and the potential ignition of combustible material. Such fire guards shall be responsible for ensuring that fire extinguishing equipment is readily accessible from the time torch operations are commenced until an hour after such operations are completed.
- (5) A fire guard holding a certificate of fitness shall inspect all areas exposed to the effects of torch operations after the completion of torch operations for the purpose of detecting fires. The first inspection shall be conducted one-half hour after completion of torch operations; the second inspection one hour after completion of torch operations. The fire guard shall prepare and sign an inspection report confirming the safe condition of the premises. Such report shall be submitted to and retained by the person in charge of the torch operations.
- (6) A portable fire extinguisher with at least a 2-A:20-B:C rating shall be provided for each torch.
- (7) All movement of LPG containers within a building shall be performed in the following manner:

 - (a) Transportation plugs shall be installed on the LPG containers to secure gas-tight the outlet valve connection.
 - (b) LPG containers at all times shall be moved under the personal supervision of a certificate of fitness holder. At no time shall the containers be left unattended.

(c) LPG containers with a capacity of more than 20 pounds shall be moved to another floor of the building only by freight elevator, construction elevator, or passenger elevator when approved, and such elevator shall be occupied only by those persons engaged in moving the containers. LPG containers with a capacity of 20 pounds or less shall be moved in the same manner, except that they may be moved in building stairwells if such stairwells are unoccupied.

(G) Asphalt melters

(1) LPG-fueled asphalt melters shall be stored, handled, used and maintained in the same manner as LPG-fueled tar kettles, including compliance with the provisions of FC303 and R3809-01(j)(2)(F), except as otherwise provided in R3809-01(j)(2)(G)(7) with respect to use of an LPG-fueled asphalt melter on a roof.

(2) LPG-fueled asphalt melters shall be designed to utilize indirect heating and an enclosed flame, and shall be provided with a thermostatic control and an automatic shut-off to limit the temperatures to which the asphalt may be heated. Such melters shall be operated so as to limit the heating of the asphalt to a temperature not exceeding 425°F, or 50°F below the flashpoint of the asphalt, whichever is lower.

(3) Asphalt melter covers shall be automatic-closing by approved devices designed to operate in the event of fire.

(4) Only one (1) LPG container with a maximum capacity of 100 pounds of LPG may be connected to an LPG-fueled asphalt melter.

(5) LPG-fueled asphalt melters may be used on the roof of any unoccupied building 100 feet or more in height having a roof of noncombustible construction, provided that they are designed and operated in compliance with the following requirements:

(a) LPG-fueled asphalt melters used on roofs shall have a design capacity of not more than 200 gallons of asphalt, or such lesser amount as may be safely supported by the roof structure.

(b) Only one such asphalt melter shall be brought onto or operated on a roof at a time.

(c) The *certificate of fitness* holder responsible for the *personal supervision* of such asphalt melter shall be provided with a cellular phone or other means of communication for immediate notification to the *Department* of a *fire* or other emergency.

(d) Only *LPG containers* connected for use shall be kept on the roof.

(H) Curing and drying applications

(1) The use of *LPG* for curing concrete, drying plaster and similar *applications* shall be prohibited in any occupied building, any location within 50 feet of an occupied building, and any location within 100 feet of the lot line of any property occupied for educational, health care or religious purposes, a place of public assembly, or other place of public gathering.

(2) The use of *LPG* for curing concrete, drying plaster and similar *applications* shall be under the *personal supervision* of a *certificate of fitness* holder. The *certificate of fitness* holder shall inspect the area where *LPG containers* and heaters are in use on not less than an hourly basis. The results of each inspection shall be recorded in a log book which shall be maintained on the *premises* and made available for inspection by any *Department* representative.

(3) Heaters used for curing concrete, drying plaster and similar applications shall be placed at least six (6) feet from any *LPG container* or combustible material, and ten (10) feet from any tarpaulin cover. Such heaters shall only be used in a well-ventilated area and shall not be placed on unprotected wood flooring.

(4) Pursuant to FC3805.3(14) and R3809-01(b)(2)(H), non-metallic hose may be used at a *construction site* where flexibility is required for such operation, provided that:

(a) The length of the hose is as short as practical, but in no circumstance exceeds 30 feet; and

(b) The hose shall be fabricated of materials that are resistant to the action of *LPG* both as liquid and vapor and designed for a working pressure of 350 pounds per square inch.

(5) *LPG*/heater assemblies shall be provided with a portable fire extinguisher with at least a 20-B:C rating located not more than 30

feet away. A travel distance of up to 50 feet may be allowed if a portable fire extinguisher with at least a 40-B:C rating is provided.

(3) Emergency indoor repairs

(A) Pursuant to FC3805.3(5) and (6), and R3809-01(b)(2)(B) and (C), LPG equipment and containers may be used indoors, except in an occupied place of public assembly, for the purpose of performing emergency repairs. Such LPG use shall be subject to the following requirements:

(1) LPG use at the work site shall be limited to two (2) LPG containers, each with a capacity not greater than 20 pounds;

(2) LPG containers with a capacity greater than sixteen and four tenths ounces (16.4 oz.) shall not be left unattended;

(3) All LPG use shall be under the personal supervision of a certificate of fitness holder; and

(4) All LPG containers shall be removed from inside the building at the end of the work day.

(B) Pursuant to FC3805.3(14) and R3809-01(b)(2)(H), non-metallic hose may be used for emergency indoor repairs where the nature of the repair work requires a flexible connection between the appliance and the LPG container provided that;

(1) The length of the hose does not exceed six (6) feet; and

(2) The hose is designed for a working pressure of not less than 350 pounds per square inch.

(C) Pursuant to FC3805.3(2) and R3809-01(b)(2)(A), a single LPG container with a capacity not greater than 16.4 ounces may be used below grade for emergency indoor repairs, provided that the container is not left unattended.

(4) Manhole operations

(A) LPG containers and heaters shall not be brought into manholes or located within six (6) feet of manholes.

(B) LPG storage, handling and use at each manhole work site shall be limited to two LPG containers, each with a capacity not greater than 33½ pounds. Such LPG containers shall be removed from the work site at the end of each work day unless they are stored in a tool cart that:

- (1) is constructed of steel;
 - (2) has a door at least one quarter inch thick that is locked at all times;
 - (3) has not less than one hundred (100) square inches of fixed ventilation at the bottom with a suitable screen as a flash arrestor;
 - (4) has six-inch placards bearing United States Department of Transportation designation "1075" permanently affixed to two opposite exterior walls of the tool cart;
 - (5) has "No Smoking" signs permanently affixed to the tool cart in a conspicuous location;
 - (6) has the *LPG containers* positioned within the cart such that *container* shut-off valves are unobstructed and readily accessible; and
 - (7) is situated outdoors and is not located within the distances set forth in R3809-01(g)(4), except that R3809-01(g)(4)(B) and (g)(4)(C) shall not apply.
- (C) All *LPG* use shall be under the *personal supervision* of a *certificate of fitness* holder.
- (D) Pursuant to FC3805.3(14) and R3809-01(b)(2)(H), non-metallic hose may be used for manhole operations where the task does not allow use of a stationary *LPG* appliance, necessitating a flexible connection between the appliance and the *LPG container*, provided that;
- (1) The length of the hose does not exceed 30 feet; and
 - (2) The hose is designed for a working pressure of not less than 250 pounds per square inch.
- (5) Motor vehicles equipped with *LPG containers*
- (A) *Motor vehicles* equipped with *LPG containers* for use on the *motor vehicle* shall not be left unattended on any street, highway, avenue or alley; in any congested area; within 50 feet of the property line of any multiple dwelling, building occupied for educational, health care or religious purposes, place of public assembly, or any other place of public gathering; or within 50 feet of any subway entrance, exit, vent or other opening.
 - (B) *LPG* storage and use on any vehicle for the purpose of marking traffic lanes shall be limited to four (4) *LPG containers*.

- (C) Forklifts, tractors and similar material handling vehicles or devices equipped with *LPG containers* shall comply with the following requirements:
- (1) *LPG* storage and use on such vehicles and devices shall be limited to one (1) *LPG container* with a capacity not greater than 40 pounds.
 - (2) Whenever *LPG containers* are installed in a horizontal position, the *container* shall be of such a design that the pressure relief valve will discharge vapor.
 - (3) All such material handling vehicles and devices shall be stored and used in locations with adequate ventilation.
 - (4) Storage and use of such material handling vehicles and devices below grade, including in a basement or cellar, is prohibited.
 - (5) Such material handling vehicles and devices shall not be parked, or the *LPG containers* replaced, near open flames or other heat or ignition sources, or near open pits, underground entrances, elevator shafts, or similar areas.
 - (6) Every material handling vehicle or device shall be provided with a portable fire extinguisher with at least a 2-B:C rating.
- (6) Mobile cooking uses. Mobile food units, as that term is defined in §89.01(c) of the New York City Health Code (including but not limited to *motor vehicles, pushcarts and stands*) that are equipped with *LPG containers* for cooking purposes shall comply with the following requirements:
- (A) *LPG* storage and use shall be limited to two (2) *LPG containers* on all types of mobile food units. *LPG containers* on mobile food units that are not *motor vehicles* shall have a *container* capacity of not more than 20 pounds each.
 - (B) No *flammable liquid* or *combustible liquid* shall be used for cooking or any other purpose on any mobile food unit.
 - (C) No mobile food unit shall store or use *LPG* for cooking or any other purpose within:
 - (1) two (2) feet of any combustible material;
 - (2) two (2) feet of any building, except as follows:

- (a) five (5) feet of any below-grade building opening, including any door, openable window or intake or exhaust vent;
 - (b) ten (10) feet of any building of wood frame construction;
 - (c) 20 feet of any building entrance; and
 - (d) ten (10) feet of any building occupied as a multiple dwelling, or any building occupied for educational, health care or religious purposes, a place of public assembly, or other place of public gathering;
- (3) five (5) feet of any flammable gas storage, including another mobile food unit equipped with LPG containers;
- (4) five (5) feet of any subway vent or other opening, except a subway entrance or exit;
- (5) ten (10) feet of any subway entrance or exit; and
- (6) ten (10) feet of any vent or fill line of any flammable liquid storage tank.
- (D) All mobile food units that are motor vehicles shall also comply with the restrictions applicable to vehicles equipped with LPG containers set forth in R3809-01(j)(5)(A).
- (E) LPG container valves shall be closed when the mobile food unit or its cooking equipment is not in use.
- (F) Each mobile food unit that is a motor vehicle shall be provided with a portable fire extinguisher with at least a 20-B:C rating. Each mobile food unit that is not a motor vehicle shall be provided with a portable fire extinguisher with at least a 2-B:C rating, which shall be mounted on the mobile food unit away from the heat source.
- (7) Commercial establishments. Commercial establishments which store, handle and use LPG for cooking and oil burner ignition shall comply with the following requirements:
 - (A) LPG storage, handling and use shall be limited to LPG containers with a capacity not greater than 16.4 ounces unless the container is connected for use in a stationary installation.

- (B) All LPG devices, equipment and systems shall be installed by a plumber.
 - (C) Rigid piping shall be used for all connections between LPG devices, equipment and systems and LPG containers.
 - (D) Flexible metallic hoses and/or tubing may be used where flexibility is required for commercial oil burner ignition or cooking operations, provided that the hose or tubing is designed for use with LPG, and the length of hose or tubing does not exceed six (6) feet.
 - (E) LPG storage and use for the purposes authorized by R3809-01(j)(7) is subject to the prohibition set forth in FC3805.3(10), and shall be discontinued in compliance with the requirements of R3809-01(k)(2).
- (8) Moored vessels. Residentially occupied vessels moored in marinas which store, handle and use LPG for space heating and cooking purposes shall comply with the following requirements:
- (A) LPG storage, handling and use shall be limited to two (2) LPG containers.
 - (B) All LPG devices, equipment and systems used on such a vessel shall serve only that vessel and no others.
 - (C) All LPG devices, equipment and system shall be installed either by the vessel manufacturer or by a plumber.
- (9) Street fairs, bazaars, carnivals, concerts, festivals and similar outdoor public gatherings. LPG storage, handling and use in connection with any street fair, bazaar, concert, festival or other similar outdoor public gathering shall be subject to the following requirements:
- (A) LPG storage and use shall be limited to two (2) LPG containers per LPG device or equipment, each with a capacity not greater than 20 pounds.
 - (B) There shall be a person responsible for the operation of each LPG device or equipment. One person may not operate more than one LPG device or equipment.
 - (C) LPG shall not be stored, handled or used for cooking or any other purpose within the distances set forth in R3809-01(j)(6)(D), and a separation distance of five (5) feet shall be maintained between LPG containers connected for use to LPG device or equipment.
 - (D) Notwithstanding the provisions of R3809-01(b)(2)(H), non-metallic hose may be used at a street fair, bazaar, carnival, concert, festival or similar outdoor public gathering where:

- (1) The LPG containers, appliances and all equipment and components are stored, used and connected for use outdoors;
- (2) The length of the hose does not exceed six (6) feet; and
- (3) The hose is designed for a working pressure of not less than 250 pounds per square inch.

- (E) The certificate of fitness holder supervising LPG storage, handling and use in connection with the event shall inspect each device, equipment or system and incidental storage area prior to commencement of use each day to confirm that all such devices, equipment and systems are in good working order and that all necessary and appropriate fire safety precautions have been taken. A record of such surveillance shall be maintained either at a central location for all concessionaires, or at each concession area, booth or other location, and shall be made available for inspection by any Department representative.

- (10) Hot air balloon operations. LPG handling and use for hot air balloon operations shall comply with following requirements:
 - (A) The storage, handling and use of LPG, including any reserve storage incidental to use, shall not exceed a total of 300 pounds.
 - (B) Pursuant to FC3805.3(13) and R3809-01(b)(2)(G), LPG may be withdrawn and utilized in liquid form if required by the nature of the operation.
 - (C) The burner and fuel system are operated in accordance with the FAA Flight manual and manufacturer's instruction.
 - (D) The entire operation shall be conducted under the personal supervision of an FAA license holder and a certificate of fitness holder. Such individual shall continuously monitor the area to ensure compliance with the provisions of FC Chapter 38 and this section.
 - (E) Hot air balloons shall be secured in an approved manner by not less than a three-point tie down during LPG operations and whenever the balloon is filled with hot air.
 - (F) LPG containers shall not be left unattended. LPG containers shall be removed from the site at the conclusion of each day's hot air balloon operations, and shall not be left at the site overnight.

- (G) Smoking is prohibited on the balloon or within 25 feet of any LPG storage, handling or use.
- (H) There shall be no storage, handling or use of flammable liquids or combustible liquids within 20 feet of the area approved for hot air balloon operations, as set forth in FC1111.3.
- (I) There shall be no storage, handling or use of flammable gases within 20 feet of the area approved for hot air balloon operations, as set forth in FC1111.3.
- (J) The hot air balloon shall be provided with a portable fire extinguisher with at least a 10-B:C rating. The LPG storage area shall be provided with a separate portable fire extinguisher with at least a 10-B:C rating.
- (K) Pursuant to FC3805.3(14) and R3809-01(b)(2)(H), non-metallic hose may be used where flexibility is required for such operation, provided that:
 - (1) The length of the hose is as short as practicable; and
 - (2) The hose shall be designed for a working pressure of 350 pounds per square inch.
- (11) Group A occupancies and similar public gathering places. LPG storage, handling and use in Group A occupancies and similar public gathering places shall additionally comply with the requirements of R308-01.

(k) Previously Exempt Storage and Use Requirements

- (1) Exemptions. Subject to the provisions of R3809-01(1), LPG storage, handling and use in or for the following pre-existing stationary installations and other facilities shall be designed, installed, operated and maintained in accordance with the original approval conditions and the provisions of this R3809-01, except as follows:
 - (A) The provisions of R3809-01(f)(5) and R3809-01(i)(7) shall not apply to any stationary LPG installation that was issued a permit prior to March 1, 2000, including the stationary LPG installations described in R3809-01(j)(7) and R3809-01(k)(1)(B), (C) and (D).
 - (B) The provisions of R3809-01(b)(2)(B) and R3809-01(i)(5) shall not apply to a LPG container installation in a residential occupancy that was issued a permit prior to March 1, 2000.

- (C) The provisions of R3809-01(b)(2)(F) shall not apply to *LPG* storage and use for non-residential space heating or water heating when a *permit* for such storage and use was issued prior to March 1, 2000.
- (D) The provisions of R3809-01(b)(2)(D) and (b)(2)(E), and R3809-01(f)(5) shall not apply to a roof-mounted emergency generator installation that was issued a *permit* prior to March 1, 2000.
- (E) The provisions of R3809-01(g) and R3809-01(f)(5) shall not apply to an outdoor *LPG* storage facility that was issued a *permit* prior to March 1, 2000.
- (F) The provisions of R3809-01(h)(2)(C) and R3809-01(h)(4) shall not apply to an indoor *LPG* storage facility that was issued a *permit* prior to March 1, 2000.

(l) Previously Exempt and Pre-Existing Stationary LPG Installations

- (1) *LPG* storage, *handling* and use for *LPG* installations that were previously exempt from certain provisions of former *rule 3 RCNY 25-01* by subdivision (k) thereof, was required to have been discontinued on or before June 30, 2008, and all *LPG containers* removed from the *premises* if access to *piped natural gas* was available on or before July 1, 2003.
- (2) *LPG* storage, *handling* and use for *pre-existing* stationary *LPG* installations that were previously exempt from certain provisions of former *rule 3 RCNY 25-01* by subdivision (k) thereof, because access to *piped natural gas* was not available until on or after July 2, 2003, shall be discontinued and all *LPG containers* removed from the *premises*, within five (5) years after access to *piped natural gas* became or becomes available.
- (3) Notwithstanding any other provision of R3809-01(k), the *Department* may require any stationary installation or other *facility* granted an exemption by R3809-01(k) to comply with all applicable provisions of this section and may require discontinuance and removal of any such installation or other *facility* not in compliance with the provisions of this section, where the *Department* finds that such installation or other *facility* has been operated contrary to the original approval conditions or poses an undue danger to public safety.

STATEMENT OF BASIS AND PURPOSE FOR CHAPTER 38 (LIQUEFIED PETROLEUM GASES):

The chapter includes a section (R3809-01) governing the storage, handling and use of liquefied petroleum gases (LPG). The section differs from the existing rule (3 RCNY §25-01) in that it includes requirements for the use of LPG for hot air balloon operations, and provides

requirements for the use of LPG-fueled asphalt melters, including use of such melters on the roof of buildings. The section also differs from the existing rule in that it restricts the indoor storage of LPG at construction sites to 1,250 pounds of LPG at one or more locations on the ground floor of the building, with a minimum separation distance of 70 feet. The existing rule allows for 2,500 pounds of LPG to be stored at a single location at a construction site, and does not restrict such storage to the ground floor.

FDNY Rules (1st) (9/8/08)