

## NEW YORK CITY FIRE DEPARTMENT

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rule**

**What are we proposing?** The Fire Department is proposing a rule setting forth requirements for the storage, handling and use of coke-fueled salamanders at construction sites.

**When and where is the hearing?** The Fire Department will hold a public hearing on the proposed rule. The public hearing will take place at 12:00 p.m. on Friday, April 24, 2015. The hearing will be in the Fire Department Auditorium at 9 MetroTech Center, Brooklyn, NY 11201.

**How do I comment on the proposed rule?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Fire Department through the NYC rules Web site at <http://rules.cityofnewyork.us>, or through the Fire Department's Web site at [www.nyc.gov/fdny](http://www.nyc.gov/fdny) using the "FDNY Rule" link.
- **Mail.** You can mail written comments to Code Development Unit, Bureau of Fire Prevention, New York City Fire Department, 9 MetroTech Center, Room 3E2, Brooklyn, NY 11201.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak at the hearing. The time that you can speak may be limited.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by Friday, April 24, 2015.

**Do you need assistance to participate in the hearing?** You must notify the Bureau of Fire Prevention if you need a sign language interpreter or other reasonable accommodation for a disability at the hearing. Write to us at the address above or telephone us at (718) 999-2042. You must notify us by Friday, April 10, 2015.

**Can I review the comments made on the proposed rule?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us>. A few days after the hearing, a record of the hearing and copies of the written comments will be available to the public at the Bureau of Fire Prevention.

**What authorizes the Fire Department to make this rule?** Sections 489 and 1043 of the New York City Charter and Sections FC 102.6.3, 307.1(5) and 307.6 of the New York City Fire Code, Title 29 of Administrative Code of the City of New York, authorize the Fire Department to propose this rule. This proposed rule was not included in the Fire Department's regulatory agenda for this Fiscal Year because the need for it arose upon enactment of Local Law No. 148 for the year 2013 on December 30, 2013.

**Where can I find the Fire Department rules?** The Fire Department rules are codified in Title 3 of the Rules of the City of New York.

**What rules govern the rulemaking process?** The Fire Department must meet the requirements of Section 1043 of the New York City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the New York City Charter.

### **Statement of Basis and Purpose of Proposed Rule**

As enacted in 2008, the New York City Fire Code prohibited the use of coke-fueled salamanders. Coke is a type of charcoal burned in open metal containers called salamanders, in order to generate heat to dry and cure the concrete and plaster used at construction sites. In response to construction industry requests and pursuant to its authority under Section FC104.8 of the Fire Code, the New York City Fire Department allowed the use of coke-fueled salamanders at construction sites on a case-by-case basis. The Fire Department granted modifications where applicants obtained a permit for this use, a person holding a Fire Department certificate of fitness supervised the use, and other safety precautions were observed.

Local Law No. 148 for the year 2013 amended the Fire Code to allow coke-fueled salamanders for construction-related drying and curing. In accordance with the new Fire Code sections (FC 307.1 and 307.6), the proposed rule provides storage, handling and use requirements for coke-fueled salamanders at construction sites. The proposed provisions govern the design of the salamanders; restrict the purposes for which, and locations at which, they may be used; mandate the monitoring of their use; and address their proper use, cleaning and replacement.

The proposed rule incorporates existing permit, certificate of fitness and other requirements for the storage, handling and use of coke salamanders. This rule does not provide the one-year compliance period afforded new permit and certificate requirements.

The Fire Department's authority for this rule is found in Sections 489 and 1043 of the New York City Charter and Sections FC 102.6.3, 307.1(5) and 307.6 of the New York City Fire Code (Title 29 of the Administrative Code of the City of New York).

The proposed rule is underlined, indicating that it is an entirely new rule.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Guidance with respect to the interpretation of the Fire Code and Fire Department rules may be obtained using the Public Inquiry Form on the Fire Department's website, [www.nyc.gov/html/fdny/html/firecode/index.shtml#p6](http://www.nyc.gov/html/fdny/html/firecode/index.shtml#p6).

Section 1. Chapter 3 of Title 3 of the Rules of the City of New York is amended by adding a new Section 307-01, to read as follows:

#### **§ 307-01 Coke-Fueled Salamanders**

(a) Scope. This section sets forth requirements for the storage, *handling* and use of *coke* and *coke-fueled salamanders* at *construction sites*.

(b) General Provisions. *Coke and coke-fueled salamanders shall be stored, handled and used in compliance with the requirements of FC307.6 and this section.*

(1) Permits. Pursuant to FC105.6, a *permit shall be obtained from the Department prior to the storage, handling or use of coke-fueled salamanders at a construction site.*

(2) Supervision. Pursuant to FC307.6, the *handling or use of coke and coke-fueled salamanders at a construction site shall be under the personal supervision of a certificate of fitness holder. The storage of coke and coke-fueled salamanders at a construction site shall be under the general supervision of a certificate of fitness holder. The certificate of fitness holder shall ensure that the coke and coke-fueled salamanders are safely stored, handled and used in compliance with the requirements of this section.*

(c) Prohibitions. It shall be unlawful to:

(1) use a *coke-fueled salamander at any location other than a construction site at which construction work is being performed pursuant to a work permit issued by the Department of Buildings;*

(2) use a *coke-fueled salamander at a construction site where the sprinkler system and/or standpipe system required by the Building Code is out of service, or any part of such system is out of service, in the area in which coke or coke-fueled salamanders are being handled or used;*

(3) use a *coke-fueled salamander for purposes of human comfort, or any other purpose other than construction-related drying or curing;*

(4) store, handle or use a *coke-fueled salamander at a construction site without a permit;*

(5) store, handle or use *coke or a coke-fueled salamander at a construction site without the requisite supervision;*

(6) use a *flammable liquid, combustible liquid or any other type of accelerant to ignite or reignite the coke;*

(7) use a *coke-fueled salamander at a construction site in any of the following locations:*

(A) on a scaffold;

(B) in any occupied building;

(C) on any floor where *hazardous materials* are stored or are in use;

- (D) on any floor that is of combustible construction;
- (E) within ten (10) feet of any wall opening of an adjoining occupied building;  
or
- (F) within 50 feet of any building occupied for educational, health care or religious purposes, place of assembly or other place of public gathering.

(d) Design and Installation Requirements. *Coke-fueled salamanders* shall consist of a metal vessel, inner grate and ash pan, which shall be fabricated in compliance with the following requirements:

- (1) The vessel and inner grate shall be designed and fabricated with sufficient strength to support the weight of the *coke*, and with sufficient durability to withstand repeated exposure to the heat generated by the burning *coke*.
- (2) The vessel shall be designed and fabricated:
  - (A) of metal not less than 18 gauge in thickness, with welded joints;
  - (B) with a diameter that does not exceed 17 inches, a height that does not exceed 20 inches and a height to diameter ratio that does not exceed 1.18;
  - (C) to be supported by sturdy metal legs, welded to the vessel, that are designed to maximize stability and reduce the potential for tipping, and that do not extend more than 12 inches from the bottom of the vessel.
- (3) The inner grate shall be fabricated of metal of substantial gauge, and installed or securely rest at the base of the vessel so as to securely hold the *coke* to be burned.
- (4) The ash pan shall be fabricated of sheet metal, with not less than a two (2) inch lip on all sides to contain the ash. The ash pan shall extend at least two (2) feet beyond the salamander in all directions.

(e) Operational Requirements. *Coke-fueled salamanders* shall be operated and maintained in compliance with the following requirements:

- (1) *Coke-fueled salamanders* in use shall be placed at least ten (10) feet from combustible material, except that such salamanders may be placed not less than 24 inches from wooden column form work or such further distance as will ensure that the form work does not attain temperatures equal to or greater than 194 degrees Fahrenheit and is not charred.
- (2) The ash pan shall be placed and positioned under the salamander. A layer of moistened sand shall be placed in the ash pan prior to use of the *coke-fueled salamander*. The ash pan shall be regularly emptied, so as to prevent ash from spilling over the lip of the ash pan.

- (3) Coke-fueled salamanders shall be loaded with coke to not more than two-thirds (2/3) of the vessel's capacity, and ignited by the certificate of fitness holder using an approved LPG-fueled torch having an LPG container capacity of not more than 20 pounds.
- (4) Coke-fueled salamanders that become damaged or unsafe to use shall be immediately extinguished and removed from the premises or, if repairable, shall be restored to a safe condition before being returned to use.
- (5) Coke-fueled salamanders shall only be used in areas with sufficient quantities of fresh air so as to maintain carbon monoxide below levels required by Federal, State and City laws, rules and regulations. The certificate of fitness holder shall inspect and conduct the required monitoring in such areas not fewer than once an hour when coke salamanders are in use, to ensure that carbon monoxide levels are being maintained below such levels.
- (6) Coke shall be stored in an approved metal bin when not being burned in a salamander. The storage bin shall be located at least ten (10) feet from any coke-fueled salamanders that are in use.
- (7) Tarpaulins used to retain heat in areas in which coke-fueled salamanders are in use shall be:
- (A) made of materials that are inherently flame-resistant or treated to be flame-resistant;
  - (B) securely fastened to prevent movement caused by the wind; and
  - (C) placed not less than ten (10) feet from any coke-fueled salamander.
- (8) Any areas in which coke-fueled salamanders are in use shall be adequately lighted to allow safe operation of the coke-fueled salamanders and to minimize the risk of accidental contact from construction activity on the construction site. Any electrical wiring or devices shall be installed in accordance with the Electrical Code.
- (9) Coke-fueled salamanders in use shall be inspected on a periodic basis by the certificate of fitness holder. Inspections shall be conducted as frequently as necessary to ensure the safe operation of the coke-fueled salamanders but in no circumstance less than once an hour.
- (f) Portable Fire Extinguisher Requirements. Areas in which coke-fueled salamanders are in use shall be provided with portable fire extinguishers with at least a 4-A rating for each 1000 square feet, with a maximum travel distance to an extinguisher of not more than 75 feet.
- (g) Recordkeeping. Periodic inspections of coke-fueled salamanders required to be conducted by the certificate of fitness holder, and any corrective action taken, shall be

recorded in a bound log book maintained at the *construction site*. The log book shall be made available for inspection by any *Department* representative.

307-01 (2/4/15)

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Use of Coke Salamanders on Construction Sites

**REFERENCE NUMBER:** 2014 RG 098

**RULEMAKING AGENCY:** New York City Fire Department

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: February 4, 2015

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE:** Use of Coke Salamanders on Construction Sites

**REFERENCE NUMBER:** 2014 RG 098

**RULEMAKING AGENCY:** New York City Fire Department

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Michael Adame  
Mayor's Office of Operations

February 24, 2015  
Date