

NEW YORK CITY FIRE DEPARTMENT

Notice of Adoption
of Amendments to
Fire Department Rule
3 RCNY §3405-01, entitled
“Storage and Use of Fuel Oil on Mobile Trailers for
Heating and Power Generation”

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Fire Commissioner of the City of New York pursuant to Sections FC102.6.3 and FC3405 of the New York City Fire Code (Title 29 of Administrative Code of the City of New York), and in accordance with the requirements of Section 1043 of the New York City Charter, that the New York City Fire Department has adopted the above final rule.

The public hearing was held on January 3, 2017. The rule shall take effect on March 15, 2017.

The Notice of Adoption, final rule and the Statement of Basis and Purpose of Final Rule, will be available on the Fire Department’s website (www.nyc.gov/fdny) and NYCRULES (www.nyc.gov/NYCRULES).

Statement of Basis and Purpose of Final Rule

The Fire Code regulates the manufacturing, storage, handling, use and transportation of hazardous materials in New York City, including fuel oil, a combustible liquid.

Section 3405-01 of the Fire Department’s rules (Title 3 of the Rules of the City of New York) allows mobile heating and power generating trailers to operate with a citywide permit, and sets forth permit, supervision, and design and installation requirements. The rule was originally developed in response to the use of these trailers to serve buildings whose heating or electrical systems were undergoing major repairs or replacement and were taken out of service. The trailers are typically parked on the street and connected to building utilities by piping or electrical lines.

Permitting of Mobile Trailers for Outdoor Gatherings

When this rule was originally promulgated, the Fire Department did not envision that these trailers would be used at public gatherings like street fairs and festivals near large numbers of people, cooking operations, and other activities where their presence may potentially pose a danger to others. In response to this unanticipated use of these trailers, the Fire Department has amended the rule to clarify when the citywide permit may be used and what it authorizes, and to specifically provide that a site-specific permit, different from the one used for building heating and electrical systems, is required for mobile heating and power generating trailers used at street fairs, bazaars, carnivals, concerts, festivals, and similar outdoor gatherings.

Additional Capacity Permitted

The Fire Department additionally amends the rule to increase from 550 gallons to 1200 gallons the fuel oil storage capacity permitted on mobile heating and power generating trailers. Trailers with 1200-gallon tanks have become the industry standard; use of such trailers has been allowed by the Fire Department by modification (variance) without incident. Although the rule allows the on-site storage of a substantial additional amount of fuel, the risk of fire and fuel spills is greatest when the tanks are being filled. During peak usage, when the equipment is in constant operation, a 550 gallon tank may need to be refueled daily. The larger tank reduces the need for frequent fueling and therefore reduces the risk of fire or spills. Accordingly, the Fire Department has concluded that 1200-gallon capacity trailers should be allowed, eliminating the need for special applications and additional fees to obtain permission to use larger tanks.

The Fire Department received a comment from a public utility urging that the maximum fuel storage capacity allowed by the rule be further increased to 1400 gallons. The public utility indicated that its fleet of mobile trailers includes power generators with integrated fuel tanks with a capacity of that amount. After due consideration of this comment, the Fire Department has determined to retain the maximum capacity at the amount proposed, 1200 gallons, but, in recognition that there may be a legitimate need for use of such larger equipment in New York City, has amended the rule to authorize the Fire Department to approve a higher maximum fuel storage capacity after review of the trailer design and any other relevant considerations.

Elimination of Certificate of Fitness Requirement For Most Uses

The Fire Department is further amending the rule to provide that mobile heating and power-generating trailers only need to be supervised when connected to a high-pressure boiler. Personal supervision of most residential heating systems is no longer required by the New York City Department of Buildings (DOB) now that use of #6 fuel oil has been virtually eliminated for environmental reasons and replaced by fuels that do not require pre-heating. Personal supervision by a DOB-licensed operating engineer continues to be required by DOB for high-pressure boilers. Accordingly, the requirement of a certificate of fitness has been eliminated where no high-pressure boiler is involved.

Rule Clarifications

As amended, the section makes clear that it applies only to mobile heating and power generating trailers with storage for more than 10 gallons of combustible liquid fuel on the trailer or in the equipment mounted thereon, which require a permit as set forth in FC105.6 .

Additionally, the rule has been amended to clarify that a mobile trailer with heating and power generating equipment that stores 10 gallons or less of combustible liquid fuel (or no fuel) in or upon the trailer, but is fueled by an off-vehicle temporary tank, is subject to the permit requirement applicable to combustible liquid fuel storage in the tank (also set forth in FC105.6), rather than the permit requirement applicable to mobile trailers.

To summarize, the amended rule:

1. Clarifies the authorization granted to operate mobile trailers under a citywide permit and makes clear that use at a street fair requires a site-specific permit to address the fire safety concerns associated with operation at such an event;
2. Allows larger (1200-gallon) tanks to be installed on such mobile trailers instead of the current 550 gallon tanks, and authorizes the Fire Department to approve mobile trailers with maximum fuel storage capacity in excess of that amount under such terms and conditions as the Department deems appropriate;
3. Eliminates the supervision requirement except for use of such mobile trailers in connection with high-pressure boilers;
4. Clarifies that the rule applies only to mobile heating and power generating trailers that require a permit – that is, trailers with storage for more than 10 gallons of combustible liquid fuel on the trailer or in the equipment mounted thereon; and
5. Clarifies that a mobile trailer with heating and power generating equipment that stores 10 gallons or less of combustible liquid fuel (or no fuel) in or upon the trailer, but is fueled by an off-vehicle temporary tank, is subject to the permit requirement applicable to combustible liquid fuel storage in the tank, not the permit requirement applicable to mobile trailers.

Text that has been deleted is indicated by [brackets]. Text that has been added is underlined.

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, <http://www1.nyc.gov/site/fdny/about/resources/code-and-rules/nyc-fire-code.page>.

Section 1. Section 3405-01 of Chapter 34 of Title 3 of the Rules of the City of New York is amended to read as follows:

§ 3405-01 Storage and Use of Fuel Oil on Mobile Trailers for Heating and Power Generation

(a) Scope[.]

(1) This section sets forth standards, requirements and procedures for mobile trailers that store and use fuel oil for heating and generation of electrical power.

(2) A mobile trailer equipped with a boiler, generator, or other equipment used for heating and power generation, upon which ten gallons or less of fuel oil (or no fuel oil) is stored (including within the heating or power generating equipment) is not subject to the provisions of this section. When the heating or power generating equipment on such a mobile trailer is fueled from an off-vehicle

temporary fuel tank, the applicable permit requirement is the one for storage of combustible liquids generally (the third listed permit requirement for flammable or combustible liquid fuel set forth in FC105.6), rather than the one applicable to mobile heating and generating trailers.

(b) General Provisions

(1) Applicability. Mobile trailers that store and use more than 10 gallons of fuel oil for heating, including steam and hot water, and generation of electrical power, shall be designed, installed and operated in compliance with the requirements of the *construction codes* and this section.

(2) Permit. [Each] A permit must be obtained for each mobile heating or power generating trailer [shall obtain a] as follows:

(A) A citywide permit must be obtained for the [citywide] transportation, storage, handling and use of combustible liquid on any mobile heating or power generating trailer that will be used at a location for 30 days or less, except as otherwise provided below. Issuance of a citywide permit for a mobile heating or power generating trailer allows the trailer to be parked at any lawful location (subject to any applicable Fire Code or rule restrictions) and to remain overnight at such location.

(B) A site-specific permit must be obtained for the storage, handling and use of combustible liquid on any [Mobile] mobile heating and power generating [trailers utilized] trailer that will be used at [one (1) site] a location for more than 30 days [shall] must obtain a site-specific permit for the storage and use of combustible liquid at that location].

(C) A site-specific permit must be obtained for the storage, handling and use of combustible liquid on any mobile heating and power generating trailer that will be used at a street fair, bazaar, carnival, concert, festival or similar public outdoor gathering.

(3) Supervision. While in operation, mobile emergency heating and power generating trailers connected to a high pressure boiler [shall] must be under the *personal supervision* of [a *certificate of fitness* holder or] a person holding a high pressure boiler operating engineer's license issued by the *Department of Buildings*.

(4) Delivery of fuel oil. Only *cargo tanks* for which a *permit* has been issued may be used to deliver fuel oil to mobile heating and power generating trailers.

(c) Design and Installation Requirements. Mobile heating and power generating trailers using fuel oil shall be designed and installed in compliance with the following requirements:

- (1) Fuel oil piping systems and boilers shall be designed and installed in compliance with the requirements of the *Mechanical Code*. The power-generating equipment, and all electrical devices, equipment and systems on the trailer shall be designed and installed in compliance with the requirements of the *Building Code* and the *Electrical Code*. Documentation of compliance with such codes shall be submitted to the *Department* in an *approved* form.
- (2) Fuel oil storage tanks shall be constructed in accordance with the requirements of the *Mechanical Code*. No more than [550] 1200 gallons of fuel oil shall be stored on the trailer. Use of a mobile trailer with a fuel storage tank with a maximum fuel storage capacity exceeding 1200 gallons may be authorized by the Department. The owner or operator of the mobile trailer shall first make application to the Technology Management Unit of the Bureau of Fire Prevention for review of the design of the mobile trailer, tank installation and/or heating or power-generating equipment or system and any other relevant considerations, and approval of its use. The Department may approve use of such a non-conforming mobile trailer subject to such terms and conditions as it may deem necessary and appropriate given the mobile trailer's excess fuel storage capacity, including requiring a site-specific permit, irrespective of the provisions of R340501(b)(2).
- (3) A clearly identified and readily accessible remote control shut-down switch for the oil burning equipment shall be provided inside the trailer, immediately accessible upon entry.
- (4) The chassis shall be designed and constructed to support the total load supported by the trailer, including all heating or power generating equipment. The *Department* may require a letter from the chassis manufacturer confirming such design capacity.
- (5) Fuel oil storage tanks shall be provided with secondary containment of *liquid-tight construction*. Such containment shall be constructed of metal, and [shall] have a capacity of not less than the maximum capacity of the fuel oil storage tanks.
- (6) Signs shall be posted on both sides of the trailer that read: "Mobile Heating Trailer" or "Mobile Power Generator", as applicable, in six (6) inch letters, and bear the name and address of the owner in two (2) inch letters.
- (7) The trailer and equipment shall be electrically grounded in an *approved* manner.
- (8) Each fuel oil storage tank fill line shall be provided with both a shut-off valve and a check valve.
- (9) *Department of Buildings* permits or other approvals shall be posted at a conspicuous location inside the trailer.