

NEW YORK CITY FIRE DEPARTMENT

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Fire Department is proposing to amend three rules:

- 3 RCNY §113-01, entitled “Certificates of Fitness and Certificates of Qualification,” is proposed to be amended to require refrigerating system operating engineer certificate holders to complete a continuing education course in building operation, maintenance and recordkeeping as a condition of renewal for such certificate.
- 3 RCNY §113-07, entitled “Refrigerating System Operating Engineer Training Courses,” is proposed to be amended to include building operation, maintenance and recordkeeping in the refrigerating system operating engineer Certificate of Qualification training course curriculum.
- 3 RCNY §113-12, entitled “Building Operation, Maintenance and Recordkeeping Training Courses,” is proposed to be amended to include the additional topics of company certificates and stationary battery storage systems in the building operation, maintenance and recordkeeping training course curriculum.

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 11:00 a.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 rule by:

- **Website.** You can submit comments to the Fire Department through the NYC rules website at <http://rules.cityofnewyork.us>, or through the Fire Department’s website at <http://www.nyc.gov/fdny> (use the “FDNY Rules” 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 rule 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 Section 102.6.3 of the New York City Fire Code, Title 29 of New York City Administrative Code, authorize the Fire Department to propose these rules. These proposed rules were not included in the Fire Department's regulatory agenda for this Fiscal Year because the need for such rules was not anticipated.

Where can I find the Fire Department rules? The Fire Department rules are set forth 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 City Charter when creating or changing rules. This notice is made in accordance with the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rules

According to Fire Code Section FC113.7.3, the Fire Department may require a certificate holder to complete a Department-approved continuing education program as a condition of renewal of the certificate.

The proposed rules would require refrigerating system operating engineer certificate holders to have completed a continuing education course in building operation, maintenance and recordkeeping from a Department-approved continuing education program by the time of their next certificate renewal. This will ensure that operating engineers, who typically have other important responsibilities relating to building operation and maintenance, are familiar with applicable Fire Code requirements, which have undergone a comprehensive revision in 2008 and were revised again effective March 2014.

Refrigerating system operating engineer certificate holders who also hold a Fire Safety Director Certificate of Fitness will not be required to re-take the course because the proposed continuing education requirement in building operation, maintenance and recordkeeping for refrigerating system operating engineer certificate holders is substantially similar to the continuing education that Fire Safety Director Certificate of Fitness holders are already required to complete, as set forth in 3 RCNY §113-02.

The proposed rule would also require that building operation, maintenance and recordkeeping be included as a topic in the curriculum for refrigerating system operating engineer certificate training courses. This amendment is substantially similar to 3 RCNY §113-05, which makes building operation, maintenance and recordkeeping a required topic in the training course curriculum for fire safety directors.

The proposed rule would also add company certificates and stationary battery storage systems as additional topics in the curriculum for building operation, maintenance and recordkeeping training courses. These topics are relevant to the duties and responsibilities of many refrigerating system operating engineers.

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

Terms used in the proposed rule that are defined in the Fire Code or elsewhere in the Fire Department's rules are indicated by *italics*.

New material is underlined. Material to be deleted is in [brackets].

“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.

Section 1. Paragraph (2) of Subdivision (f) of Section 113-01 of Chapter 1 of Title 3 of the Rules of the City of New York is proposed to be renumbered to be paragraph (3) and a new paragraph (2) is proposed to be added to read as follows:

(2) Renewal applications. On or after [SIX MONTHS AFTER EFFECTIVE DATE OF SECTION], the holder of a *certificate of qualification* who has not successfully completed a course that addressed issues of building operation, maintenance and recordkeeping, as set forth in R113-07(c)(2)(V), shall, at the time of the next renewal of such certificate, present evidence of the successful completion of such a course. Such course shall be conducted by an institution or program accredited by the *Department* pursuant to R113-04 and 113-12. Applicants that can demonstrate that they have successfully completed a continuing education course in building operations, maintenance and recordkeeping in connection with the renewal of their *certificate of fitness* for fire safety director, as set forth in R113-02(c)(7), shall be deemed to have satisfied this requirement.

[(2)] (3) 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 (1) 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 (1) work location for the same day and time if *personal supervision* is required at more than one (1) 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.

§2. Paragraph 2 of Subdivision (c) of Section 113-07 of Chapter 1 of Title 3 of the Rules of the City of New York is proposed to be amended by adding a new item (V) to read as follows:

(V) Building operation, maintenance and recordkeeping. Building Code, Fire Code and rule requirements for building operation, maintenance and recordkeeping, as set forth in R113-12(c)(2).

§3. Subdivision (c) of Section 113-12 of Chapter 1 of Title 3 of the Rules of the City of New York is amended to read as follows:

- (c) Required Hours and Topics of Instruction
- (1) Training courses shall, at a minimum, provide not less than seven (7) hours of live instruction.
 - (2) Training courses shall provide instruction in the following Fire Code, *Building Code*, and *rule* requirements associated with building operations and maintenance;
 - (A) *permits, [and] certificates of fitness, and company certificates*
 - (B) emergency planning and preparedness
 - (C) emergency power systems, including Chapter 8 of NFPA 110, and NFPA 111
 - (D) elevator in readiness
 - (E) *refrigerating systems*, including operator inspection after repair, monthly testing, and operator logbook.
 - (F) flame-resistant decorations
 - (G) *fire alarm systems*, including Chapter 10 of NFPA 72
 - (H) *sprinkler systems*, including Chapters 5, 8 and 9 of NFPA 25
 - (I) *standpipe systems*, including Chapters 6, 8 and 9 of NFPA 25
 - (J) *out-of-service sprinkler, standpipe and fire alarm systems*, including impairment coordinator, *fire guard* and notification requirements
 - (K) portable fire extinguishers
 - (L) *commercial cooking systems*
 - (M) smoke control systems
 - (N) non-water fire extinguishing systems
 - (O) *means of egress*, including *Building Code* required exit and elevator signage, and photoluminescent pathway markings
 - (P) *hot work operations*

- (Q) *fumigation* and insecticidal fogging operations
- (R) painting of *sprinkler* and *standpipe system* piping and valve handles in both new and existing buildings, as set forth in BC 903.6 and 905.11[.]
- (S) stationary storage battery systems.

113-01, 113-07 and 113-12 (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: Training requirement for refrigerating system operating engineer

REFERENCE NUMBER: 2014 RG 100

RULEMAKING AGENCY: 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 5, 2015

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

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

RULE TITLE: Training requirement for refrigerating system operating engineer

REFERENCE NUMBER: FDNY 113-01; FDNY 113-07; FDNY 113-12

RULEMAKING AGENCY: Fire Department of the City of New York

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/ Brady Hamed
Mayor's Office of Operations

February 10, 2015
Date