

Department of Environmental Protection
Promulgation of Amendments to
Chapter 2 of Title 15 of the Rules of the City of New York
Rules Governing the Emissions from the Use of #4 and #6 Fuel Oil in Heat and
Hot Water Boilers and Burners

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Commissioner of Environmental Protection by Sections 1043 and 1403 (c) of the Charter of the City of New York, and Sections 24-104, 24-125, and 24-128 of the Administrative Code of the City of New York, and in accordance with the requirements of Section 1043 of the Charter of the City of New York, that the Department of Environmental Protection promulgates a rule governing the emissions from the use of #4 and #6 fuel oil in heat and hot water boilers and burners. These amendments were proposed and published on January 27th, 2011 in the City Record. The required hearing was held on February 28th, 2011.

Proposed Rule Amendment

Pursuant to the authority vested in the Commissioner of Environmental Protection by Section 1043 and 1403(c) of the Charter of the City of New York and Sections 24-105, 24-125, and 24-128 of the Administrative Code, the Department of Environmental Protection promulgates rules regarding emissions from the use of #4 and #6 fuel oil in heat and hot water boilers and burners. The proposed rules were not listed in the Department's fiscal year 2010 Regulatory Agenda. Please note that the proposed rules are new and therefore the text is underlined.

Statement of Basis and Purpose

Statutory Authority

Section 24-102 of the Administrative Code of the City of New York declares that it is the public policy of the City to preserve, protect, and improve the air resources of the City because every person is entitled to air that is not detrimental to life, health, and enjoyment of property. Specifically, the section declares that the emission into the open air of harmful or objectionable substances, including substances resulting from the use of fuel burning equipment, is a menace to the health, welfare, and comfort of the people of the City and a cause of extensive damage to property and that it is the public policy to actively regulate and reduce such emissions.

Section 1403(c) of the Charter of the City of New York and Section 24-105 of the Administrative Code authorize the Commissioner to regulate and control the emission of harmful air pollutants into the open air. Additionally, the Administrative Code provides that the issuance of Work Permits and Certificates of Operation are contingent upon the use of equipment, and by extension fuel,

that will satisfy the Commissioner as to their emission of contaminants. Section 24-125(b) of the Administrative Code states that in order to reduce the emission of air contaminants and to insure optimum combustion in fuel burning equipment, the Commissioner will not issue a Work Permit unless the equipment is shown to the satisfaction of the Commissioner to burn appropriate fuel. Similarly, section 24-128 of the Administrative Code provides that the Commissioner will not grant a Certificate of Operation unless the Commissioner is satisfied that the equipment satisfies the standards of section 24-125 and, if the equipment uses residual fuel oil, that it uses emissions controlling devices as determined by the Commissioner.

Summary of Provisions

In order to improve the air quality of the City, the Department of Environmental Protection is amending Chapter 2 of Title 15 of the Rules of the City of New York to prohibit the use of fuel oil grade numbers 4 and 6 in heat and hot water boilers and burners, unless it can be demonstrated that the emissions of Particulate Matter (PM) and Oxides of Nitrogen (NOx) are equivalent to or cleaner than set fuel types.

The rule:

- For owners with an existing Work Permit, requires boilers to use fuel oil grade #2, #4 and/or natural gas in order for applicants to receive a renewed Certificate of Operation. Boilers that use fuel oil grade #6 will not receive a renewed Certificate of Operation unless the applicant demonstrates that the fuel oil grade #6 that will be used will emit the same or less PM and NOx than fuel oil grade #4 on an annual basis.
- As of January 1, 2030, requires boilers to use fuel oil grade #2 and/or natural gas in order for applicants to receive a new or renewed Certificate of Operation, unless the applicant demonstrates that the fuel oil grade #4 and/or #6 to be used will emit no more PM and NOx than fuel oil grade #2 on an annual basis. This schedule will provide owners with time to convert to fuel oil grade #2, or its equivalent, or natural gas, while ensuring more rapid transition from the most polluting fuel oil.
- Alternatively, an owner of a great number of buildings with boilers that must be converted or replaced to use cleaner fuels may apply to the Commissioner of Environmental Protection to enter into an agreement with a timeline for compliance with the rule. This provision recognizes that there are additional costs associated with the conversion or replacement of a large number of boilers, that there are a limited number of licensed installers and scheduling constraints may arise when an owner has to convert or replace a great number of boilers, and that it may be possible for such owners to progress directly to the use of cleaner fuels, #2 fuel oil or natural gas, at an earlier date than would otherwise be required.
- Similarly, an owner of fewer buildings with boilers that must be converted or replaced may apply to the Commissioner of Environmental Protection to enter into an agreement with a timeline for compliance with the requirement to convert or replace boilers that use #6 fuel oil or to demonstrate equivalence to #4 fuel oil. This provision recognizes that in certain cases owners may incur higher than expected costs, and that it

may be possible for such owners to progress directly to the use of cleaner fuels, #2 fuel oil or natural gas, at an earlier date than would otherwise be required.

- For new installations, applications for a Work Permit must specify that the equipment uses fuel oil grade #2 and/or natural gas, unless the applicant demonstrates that the fuel oil grade #4 and/or #6 to be used will emit no more PM and NOx than fuel oil grade #2 on an annual basis.
- Prevents an owner of a currently-installed boiler and/or burner, who holds a Certificate of Operation, from filing a new application for functional equipment that remains at the premises. This provision codifies an existing policy. This restriction prevents an owner from inappropriately pursuing tax benefits through obtaining a new Certificate of Operation or Work Permit for existing equipment.

"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.

Statement of Purpose

The emission of Particulate Matter is associated with negative health impacts, including decreased lung function, aggravated asthma, respiratory symptoms and premature death. See United States Environmental Protection Agency, Health and Environmental Effects on Particulate Matter, Fact Sheet, July 17, 1997. Oxides of Nitrogen create ozone and smog, which reduces lung function and induces respiratory inflammation. See New York City Department of Health and Mental Hygiene, "Asthma Facts," 2d ed., May 2003.

The following table shows the level of PM and NOx produced from natural gas and fuel oil grade #2, #4, and #6. The figures in the table have been derived from the Office of Air Quality Planning and Standards, United States Environmental Protection Agency, AP-42, Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources (5th ed. 1995), using the latest emission factors published by the Environmental Protection Agency in supplements to that volume – the May 2010 supplement for fuel oil and July 1998 supplement for natural gas.

	NOx (lb./MMBTU)	PM (lb./MMBTU*)
Natural Gas	0.10	0.008
#2 Oil	0.14	0.024
#4 Oil	0.29	0.041
#6 Oil	0.37	0.050

*A standard unit of measurement that provides a basis for comparing the energy content of various grades of natural gas and other fuels. It represents one million British Thermal Units.

The table shows that the emissions levels from the use of cleaner burning fuels, such as #2 fuel oil and/or natural gas, are significantly lower than the emission levels from the use of #4 and #6 fuel oil, unless there are emission controls or changes made to the fuel. The New York City Community Air Survey found higher levels of air pollutants such as PM, NOx, and nickel in

neighborhoods with many boilers that use #4 and #6 fuel oil. In neighborhoods with high densities of boilers that use #4 and #6 fuel oil, the survey found 4 times the concentrations of nickel in fine particles as compared to neighborhoods with a low density of such boilers. See New York City Department of Health and Mental Hygiene "New York City Community Air Survey: Results from Winter Monitoring 2008-2009", December 2009. Degradation of air quality due to emissions from boilers using #4 and #6 fuel oil is especially great in densely populated neighborhoods where such boilers are the most prevalent. These rules therefore will decrease the levels of harmful pollutants emitted into the air and inhaled by many people.

Section 1. Section 2-02 of Chapter 2 of Title 15 of the Rules of the City of New York is amended by adding the following definitions in alpha-numeric order:

#2 Oil. "#2 Oil" means fuel oil grade No. 2 as classified by ASTM Standard D396-05 and available for sale and purchase in the City of New York.

#4 Oil. "#4 Oil" means fuel oil grade No. 4 as classified by ASTM Standard D396-05 and available for sale and purchase in the City of New York.

#6 Oil. "#6 Oil" s means fuel oil grade No. 6 as classified by ASTM Standard D396-05 and available for sale and purchase in the City of New York.

AP-42. "AP-42" means the United States Environmental Protection Agency publication AP-42, Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources (fifth edition, 1995).

Boiler. "Boiler" has the same meaning as it does in §24-104(9) of the Administrative Code, provided that the boiler is used to heat a building or to provide hot water to the occupants of a building.

Burner. "Burner" means an apparatus for burning fuel that is used to heat a building or to provide hot water to the occupants of a building.

Certificate of Operation. "Certificate of Operation" means an operating certificate as defined in §24-104(12) of the Administrative Code.

In-Kind Replacement. "In-Kind Replacement" means the replacement of a boiler and/or burner with equipment of the same make and model number.

Natural Gas. "Natural Gas" means a mixture of methane and other gases with an odorant as supplied by the local utility serving the premises.

NOx. "NOx" means the pollutant Oxides of Nitrogen which is the term used to describe the sum of nitric oxide (NO), nitrogen dioxide (NO2) and other oxides of nitrogen.

PM. "PM" means the pollutant Particulate Matter which is the term for a mixture of solid particles and liquid droplets found in the air.

Work Permit. "Work Permit" means an installation or alteration permit issued by the Commissioner according to §24-120 of the Administrative Code, which may be converted into a Certificate of Operation after the applicant has satisfied the appropriate provisions of the Administrative Code.

§2. Section 2-03 of Chapter 2 of Title 15 of the Rules of the City of New York is amended by adding a new subdivision e to read as follows:

(e) Prohibition of applications for currently installed equipment. The Commissioner will not approve an application for a Work Permit or a Certificate of Operation where a Certificate of Operation has been issued at a premises and remains in effect and both the installed boiler and burner remain intact at the premises. However, the existing Certificate of Operation issued for the installed boiler and burner may be renewed.

§3. Chapter 2 of Title 15 of the Rules of the City of New York is amended by adding a new section 2-15 to read as follows:

§2-15 Performance Standards for the Continued Use of #4 Oil and #6 Oil in Heat and Hot Water Boilers.

(a) General Provisions.

(1) The Commissioner will not issue a Work Permit or a Certificate of Operation for a boiler and/or burner that uses #4 oil or #6 oil unless (i) the applicant demonstrates to the satisfaction of the Commissioner that the PM and NOx emissions of the #4 oil and/or #6 oil meets the equivalency standards described in this section, or (ii) the applicant enters into a compliance agreement with the Commissioner as provided in this section.

(2) An owner who holds a Certificate of Operation for a boiler and/or burner that uses #4 oil may file an Amendment to convert the boiler and/or burner to use #2 oil and/or natural gas. An owner who holds a Certificate of Operation for a boiler and/or burner that uses #6 oil may file such an Amendment to convert the boiler and/or burner to use #2 oil, #4 oil and/or natural gas. An Amendment pursuant to this paragraph shall not require the replacement of a boiler and/or burner.

(3) The Commissioner will not approve any Amendment for a previously issued Work Permit or Certificate of Operation to convert a boiler and/or burner from using #2 oil, #4 oil and/or natural gas to using #6 oil or from using #2 oil and/or natural gas to using #4 oil.

(4) The equivalency levels of PM and NOx as set forth in this section must be demonstrated through (i) the submission by either a Professional Engineer or Registered Architect licensed under Education Law §§7202 or 7302 of detailed calculations and supporting documentation to verify the equivalency levels or (ii) the submission by the applicant of an equivalency form published by the Department that provides for calculations based on fuel use, energy values and emission factors from AP-42.

(5) Notwithstanding any other provision in this section, the Commissioner will not issue a Work Permit or a Certificate of Operation for a boiler and/or burner that uses #2 oil, #4 oil, #6 oil and/or natural gas unless the PM and NOx emissions of such boiler and/or burner meets any binding emissions standard established by state and/or federal law or regulation.

(6) Nothing in this section may be interpreted as requiring the Department of Housing Preservation, when conducting an emergency repair in accordance with sections 27-2125 through 27-2129 of the Administrative Code, to convert a boiler and/or burner to use different fuel or to replace a boiler and/or burner with a boiler and/or burner that uses a different fuel.

(b) Existing Boilers (Renewal).

(1) The Commissioner may issue a renewal of a Certificate of Operation for a boiler and/or burner that uses #2 oil, #4 oil and/or natural gas in accordance with §24-122(d) of the Administrative Code.

(2) The Commissioner will not issue a renewal of a Certificate of Operation for a boiler and/or burner that uses #6 oil, unless (i) the applicant demonstrates to the satisfaction of the Commissioner that the PM and NOx emissions of the #6 oil to be used in such boiler and/or burner will be equivalent to or less than emissions from #4 oil as provided in paragraph 4 of subdivision a of this section, or (ii) the applicant enters into a compliance agreement with the Commissioner in accordance with subdivision e of this section.

(3) An owner who holds a Certificate of Operation for a boiler and/or burner that uses #2 oil, #4 oil, #6 oil and/or natural gas, and who seeks to make an in-kind replacement for use with #2 oil, #4 oil and/or natural gas is not required to file a new application for a Work Permit and a subsequent Certificate of Operation. The owner must provide on a form to be designated by the Commissioner the make, model and serial number of the replacement equipment. The previously issued Certificate of Operation may be renewed with the previously issued application number assigned by the Department upon approval of the Amendment by the Department.

(4) An owner who holds a Certificate of Operation for a boiler and/or burner and who seeks to replace the boiler and/or burner with equipment that is not of the same make and model number must file a new application for a Work Permit and a subsequent Certificate of Operation as provided in §2-03 of this Chapter. The previously issued Certificate of Operation for the previously installed equipment will be cancelled upon receiving the application. The Department will not accept an Amendment to the previously issued Certificate of Operation for such replacement of the equipment.

(c) *New Installations (Replacement).*

(1) All applications for a Work Permit for a boiler and/or burner must specify that the equipment uses #2 oil and/or natural gas, unless the applicant demonstrates to the satisfaction of the Commissioner that the PM and NOx emissions of the #4 oil and/or #6 oil to be used in such boiler and/or burner will be equivalent to or less than the emissions from #2 oil as provided in paragraph 4 of subdivision a of this section.

(2) In cases where a Work Permit has been issued prior to the effective date of this rule for a boiler and/or burner that uses #4 oil or #6 oil, but where a Certificate of Operation has not yet been issued, the owner of the equipment must file an Amendment specifying the use of #2 oil and/or natural gas, unless the owner demonstrates to the satisfaction of the Commissioner that the PM and NOx emissions of the #4 oil and/or #6 oil to be used in such boiler and/or burner will be equivalent to or less than the emissions from #2 oil as provided in paragraph 4 of subdivision a of this section.

(d) *Sunset Provision.*

Notwithstanding any other provision in this section, after January 1, 2030, all applications for a Certificate of Operation for a boiler and/or burner must specify that the equipment uses #2 oil and/or natural gas, unless (i) the applicant demonstrates to the satisfaction of the Commissioner that the PM and NOx emissions of the #4 oil or #6 oil to be used in such boiler and/or burner will be equivalent to or less than emissions from #2 oil as provided in paragraph 4 of

subdivision a of this section, or, (ii) the applicant is an owner of fifty or more buildings with boilers and/or burners that use #4 oil or #6 oil, and enters into a compliance agreement with the Commissioner in accordance with subdivision e of this section.

(e) Compliance Agreements.

(1) A compliance agreement pursuant to subdivisions b and d of this section must include a schedule agreed to by the Commissioner for the conversion and/or replacement of boilers and/or burners, and/or demonstration of the required equivalency, until the owner is in full compliance with the provisions of this section.

(2) An owner who applies to enter into a compliance agreement must show that conversion and/or replacement of the boilers and/or burners, and/or demonstration of the required equivalency, within the time frames set forth in subdivisions b or d of this section for an owner of fifty or more buildings with boilers and/or burners that use #4 or #6 oil, or subdivision b of this section for an owner of fewer than fifty such buildings, would not be feasible or would constitute an undue hardship.

(3) For purposes of paragraph 2 of this subdivision, the Commissioner will consider several factors in considering whether to enter into the compliance agreement, including financial hardship, whether the owner is an equity owner of the buildings, the presence of underground tanks that must be remediated because of the conversion in subdivision b of this section, prior good faith efforts to comply, the scale and timing of commitments to convert to the cleanest fuels, the levels of PM and NOx emitted by the boilers, whether the boilers are located in neighborhoods with high densities of boilers that use #4 oil or #6 oil, and the public health consequences of delayed compliance with this section.

(4) An application to enter into an agreement to comply with subdivision b of this section must be filed by January 1, 2013 or the expiration date of the Certification of Operation in effect at the time of the effective date of this section, whichever is sooner.

(5) An application to enter into an agreement to comply with subdivision d of this section must be filed by January 1, 2020.

(6) An application filed according to this subdivision shall be sent to:

Director of the Division of Air and Noise Programs, Enforcement and Policy
Bureau of Environmental Compliance
New York City Department of Environmental Protection
59-17 Junction Blvd.
Flushing, NY11373

(7) The Commissioner will publish in the City Record a written opinion no later than seven days after entering into a compliance agreement, stating the facts and reasons leading to his or her decision, as well as a copy of the compliance agreement.

(8) By December 31, 2013, and every year thereafter, the Commissioner will publish a report summarizing the number of compliance agreements applied for and granted. The report will also summarize the environmental impacts of such compliance agreements and the overall program on tons of PM and NOx in the air.

(9) Notwithstanding this specific compliance provision, Section 24-110 of the Administrative Code may apply.

§4. This rule shall take effect immediately, except that subdivisions b and d of section 2-15 of Chapter 2 of Title 15 of the Rules of the City of New York as added by section 3 of this rule shall take effect on July 1, 2012.

§5. If any provision of this rule or its application to any particular person or circumstance is held invalid, the remainder of this rule and its application to other persons and circumstances shall not be affected thereby.

Rent Stabilization Code Sections

substantiated cost of the item or equipment, including installation;

(ii) where no previous increase was granted within the useful life of the item or equipment being replaced and the cost of repair is more than 75 percent of the cost of the replacement, grant a prorated increase based upon the remaining useful life;

(iii) where it is determined that an item is eligible to be replaced during its useful life, grant an increase based upon the difference between the substantiated cost of the item or equipment, including installation, and (a) the amount reimbursed from other sources, such as insurance proceeds or any other form of commercial guarantee, and (b) the amount of any increase previously granted for the same item or equipment either as a major capital improvement, or pursuant to other environmental programs, if such item or equipment has not exhausted at least 75 percent of its useful life at the time of the installation;

(iv) where it is determined that an item is eligible to be replaced even though it has not exhausted 75 percent of its useful life and that it was installed as part of a substantial rehabilitation or the new construction of a building for which the owner set initial building-wide rents, the DHCR may reduce the increase granted for a major capital improvement by a proportion of the remaining useful life of such item or equipment.

(5) Notwithstanding the provisions of subclause (4) of this clause, where an owner had substantially commenced work on the major capital improvement installation before February 1, 1991, based on prior DHCR decisions and policies, and where adherence to useful life requirements or to the conditions of the waiver would create an undue hardship, the owner's application will be determined in accordance with those prior decisions and policies.

(ii) There has been other necessary work performed in connection with, and directly related to a major capital improvement, which may be included in the computation of an increase in the legal regulated rent only if such other necessary work was completed within a reasonable time after the completion of the major capital improvement to which it relates. Such other necessary work must:

(a) improve, restore or preserve the quality of the structure and the grounds; and

(b) have been completed subsequent to, or contemporaneously with, the completion of the work for the major capital improvement.

(iii) With approval by the DHCR, there has been an increase in services or improvement, other than repairs, on a building-wide basis, which the owner can demonstrate are necessary in order to comply with a specific requirement of law.

(iv) With approval by the DHCR, there have been other improvements made or services provided to the building or building complex, other than those specified in subparagraphs (i)-(iii) of this paragraph, with the express consent of the tenants in occupancy of at least 75 percent of the housing accommodations.

(3) Improvements or installations for which the DHCR may grant applications for rent increases based upon major capital improvements pursuant to paragraph (2) of this subdivision are described on the following schedule. Other improvements or installations that are not included may also qualify, where all the requirements of paragraph (2) of this subdivision have been met.

SCHEDULE OF MAJOR CAPITAL IMPROVEMENTS

1. AIR CONDITIONER:

--new central system; or individual units set in sleeves in the exterior wall of every housing accommodation; or, air conditioning circuits and outlets in each living room and/or bedroom (SEE REWIRING).

2. ALUMINUM SIDING:

--installed in a uniform manner on all exposed sides of the building (SEE RESURFACING).

3. BATHROOM MODERNIZATION:

--complete renovation including new sinks, toilets, bathtubs, and/or showers and all required trims in every housing accommodation; or any individual component or fixture if done building wide.

4. BOILER AND/OR BURNER:

--new unit(s) including electrical work and additional components needed for the installation.

5. BOILER ROOM:

--new room where none existed before; or enlargement of existing one to accommodate new boiler.

6. CATWALK:

--complete replacement.

7. CHIMNEY:

--complete replacement, or new one where none existed before, including additional components needed for the installation.

8. COURTYARD, DRIVEWAYS AND WALKWAYS:

--resurfacing of entire original area within the property lines of the premises.

C

Effective: November 12, 2003

Mckinney's Consolidated Laws of New York Annotated Currentness
Unconsolidated Laws (Refs & Annos)
Rent Stabilization Regulations Division of Housing and Community Renewal (Refs & Annos)
Subchapter B. Rent Stabilization Code (Refs & Annos)
Part 2522. Rent Adjustments (Refs & Annos)

→ § 2522.4. Adjustment of legal regulated rent

(a) Increased space and services, new equipment, new furniture or furnishings; major capital improvements; other adjustments.

(1) An owner is entitled to a rent increase where there has been a substantial increase, other than an increase for which an adjustment may be claimed pursuant to paragraph (2) of this subdivision, of dwelling space or an increase in the services, or installation of new equipment or improvements, or new furniture or furnishings, provided in or to the tenant's housing accommodation, on written tenant consent to the rent increase. In the case of vacant housing accommodations, tenant consent shall not be required.

(2) An owner may file an application to increase the legal regulated rents of the building or building complex on forms prescribed by the DHCR, on one or more of the following grounds:

(i) There has been a major capital improvement, including an installation, which must meet all of the following criteria:

(a) deemed depreciable under the Internal Revenue Code, other than for ordinary repairs;

(b) is for the operation, preservation and maintenance of the structure;

(c) is an improvement to the building or to the building complex which inures directly or indirectly to the benefit of all tenants, and which includes the same work performed in all similar components of the building or building complex, unless the owner can satisfactorily demonstrate to the DHCR that certain of such similar components did not require improvement; and

(d) the item being replaced meets the requirements set forth on the following useful life schedule, except with DHCR approval of a waiver, as set forth in clause (e) of this subparagraph.

Useful Life Schedule For Major Capital Improvements Replacement Item or Equipment Years-Estimated Life

1) Boilers and burners

(a) Cast iron boiler

(b) Package boiler
25

(c) Steel boiler
25

(d) Burners
20

2) Windows

(a) Aluminum
20

(b) Wood
25

(c) Steel
25

(d) Storm
20

(e) Vinyl
15

3) Roofs

(a) 2-Ply (asphalt)
10

(b) 3-4 Ply (asphalt)
15

(c) 5-Ply (asphalt)
20

(d) Shingle
20

(e) Single-ply rubber
20

(f) Single-ply modified bitumen
10

(g) Quarry tile
20

**New York City Approvals of Certificates for Operation
Required for Major Capital Improvements Listed Below
(Outside New York City see your local county and/or municipality for required approvals.)**

New York City Agency
Application for Approval
(Optional. See note.)

Approvals and/or
Certificates for Operation
(Required for MCI Rent Increases)

Boiler/Burners

Type of Improvement	New York City Agency	Application for Approval (Optional. See note.)	Approvals and/or Certificates for Operation (Required for MCI Rent Increases)
All #6 Oil burners	Bureau of Air Resources	APC 5-0	APC 136-B
All #4 Oil burners emitting more than 1,000,000 BTUs.	Bureau of Air Resources	APC 5-0	APC 136-B
All #2 Oil burners emitting more than 2,800,000 BTUs.	Bureau of Air Resources	APC 5-0	APC 136-B
All Gas burners emitting more than 2,800,000 BTUs. Gas burning Installations	Bureau of Air Resources Department of Buildings	APC 5-0	APC 136-B Letter of Completion or computer printout of sign off
Oil Burning Installations Electrical Controls for Burners	Department of Buildings Bureau of Electrical Control	BEC 16A	B Form 16A or Letter of Completion Certificate of Electrical Inspection ED 60

Note: 1. Any boiler/burner installation must have approval from Bureau of Electrical Control and Department of Buildings. Approvals from the Bureau of Air Resources, depend on the emission of BTUs listed above..

**Central Air Conditioning,
Individual Air Conditioning units in
Sleeves, Air Conditioning Circuits
and Outlets**

Bureau of Electrical Control	BEC 16A with Attachments	Certificate of Electrical Inspection ED 60
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Plumbing

Department of Buildings		Letter of Completion or computer printout of sign off
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Rewiring

Bureau of Electrical Control	BEC 16A with Attachments	Certificate of Electrical Inspection ED 60
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Elevator Upgrading

Department of Buildings	ELV-1	Elevator ELV-12
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Compactor

If electrical wiring is required, see **Rewiring** above. Also, owner must supply proof of new or existing operable fire protection sprinkler system(s) installation in compactor, compactor room and refuse chute. Owner must also supply proof of operable hose bibb and floor drain in compactor room. Acceptable proof is certified statement by a licensed NYS registered Architect and/or Professional Engineer attesting that the installed system(s) comply with the rules and regulations of the NYC and/or NYS Codes as applicable and that the systems (fire prevention and compactor) are in operable condition.

Asbestos Removal

If the contractor is required to obtain an Alteration Permit or a Demolition Permit to install the MCI, the owner must supply either a "Not an Asbestos Project" form or an "Asbestos Inspection Report" signed by a licensed Asbestos Investigator.

The above list is not inclusive of all Major Capital Improvements. The owner is responsible for compliance with all local laws, ordinances, and codes and should submit all required approvals with the application

(6) If the owner has paid such outstanding taxes during the third cure period (or entered into a valid installment agreement with the City), the Department of Finance shall reinstate the tax exemption and/or abatement benefits to the property for all tax years commencing on or after July 1* after the date of the beginning of the first cure period. If the owner has not paid such outstanding taxes before the expiration of the third cure period, the property owner shall irrevocably lose all J-51 tax exemption and/or abatement benefits awarded by HPD for such tax years.

(7) The Commissioner may exempt projects assisted with Substantial Governmental Assistance or projects supervised or monitored by HPD from the procedures in this subdivision by giving notice in writing to the Department of Finance, Attn: Director of Exemptions, provided, further, that projects exempted from these procedures shall continue to have tax exemption and/or abatement benefits revoked for the period of their tax delinquency for failure to pay real estate taxes pursuant to the provisions of §5-07(f)(2).

(8) All claims for reinstatement of J-51 tax exemption and/or abatement benefits resulting from revocations made prior to the effective date of these Rules must be made in writing to the Department of Finance, Property Exemption Unit, within one year of the effective date of these Rules.

§ 5-08 Itemized Cost Breakdown Schedule. The following allowances apply to alterations, improvements and conversions for which the commencement of construction occurred after June 1, 1997. For alterations, improvements and conversions for which commencement of construction occurred on or before June 1, 1997, the Itemized Cost Breakdown Schedule in effect as of the date of such commencement of construction shall apply, except in the case of asbestos abatement, for which the allowance set forth below shall apply to all applications pending on or submitted after November 1, 1997.

MAXIMUM ALLOWANCE FOR ALL BUILDINGS

(a) General construction.

	<u>ITEM</u>	<u>UNITS</u>	<u>ALLOWANCE</u>
# *	(1) Asbestos abatement ¹		See table
# *	(2) Boiler room enclosure	sq. ft.	7.50
# *	(3) Bulkhead	sq. ft.	8.50
	(4) Ceiling, cellar (fireproof gyp bd)	sq. ft.	1.60
	(5) Ceilings, gypsum board or plaster	rooms	280.
# *	(6) Cement wash or parge waterproofing	sq. ft.	1.00
	(7) Ceramic tile, bathroom ²	bathrooms	750.
# *	(8) Chimney, masonry	floors	1200.
*	(9) Compactor, see Item 39, Refuse		
#	(10) Concrete, structural slab ³	cu. yd.	500.
#	(11) Concrete, structural foundation ³	cu. yd.	250.
#	(12) Concrete, flatwork ⁴	sq. ft.	4.00
*	(13) Deleading of lead paint hazard ⁵	-----	Applicable
			Allowance plus 10%
*	(13a) Inspection for Lead-Based Paint Hazards ^{5a}	dwelling units	400

* This reference is to the second July 1st after the date of the beginning of the first cure period.

* (13b)	Risk Assessment of Lead-Based Paint Hazards ^{5a}	dwelling units	250
(14)	Demolition & removal allowance ⁶	rooms	200.
..... DOORS (incl. frame and hardware)			
* (15)	Main entrance and lobby	set	4000.
* (16)	Hollow metal	doors	475.
(17)	Wood Swing	doors	135.
(18)	Bi-fold closet	bi-fold	110.
(19)	Sliding closet (2 doors)	set	125.
** (20)	Storm	doors	180.
(21)	Dumbwaiters converted to closets	units	250.
(22)	Dumbwaiters sealed	units	110.
(23)	Entrance, stoop, steps, concrete	risers	225.
* (24)	Fire escapes	flights	2000.
# (25)	Floor joists (incl. sub floor) ³	joists	165.
(26)	Flooring, finished wood	rooms	500.
	<u>ITEM</u>	<u>UNITS</u>	<u>ALLOWANCE</u>
(27)	Flooring, resilient w/underlayment	rooms	450.
** (28)	Insulation, wall (thermal only)	sq. ft.	0.50
** (29)	Insulation, roof (thermal only)	sq. ft.	0.85
# * (30)	Leaders and gutters	floors	40.
* (31)	Lintel replacement	units	250.
* (32)	Mailboxes	d.u.	50.
# * (33)	Masonry	sq. ft.	7.50
# * (34)	Parapet including coping	lin. ft.	135.
(35)	Partitions, gypsum board or plaster	rooms	600.
(36)	Partitions, framing	rooms	350.
# * (37)	Pointing ⁷	sq. ft.	2.00
# * (38)	Railings, roof	lin. ft.	25.
* (39)	Refuse		
* chute, complete		floors	750.
* compactor, central unit		compactors	6800.
* recycling, base separating unit (turntable &/or diverter)		chutes	17000.
* recycling, floor control panel		floors	750.
# * (40)	Roof surface	sq. ft.	1.25
(41)	Skylight including screens ⁸	units	1300.
(42)	Stairs, steel	flights	2200.
# (43)	Structural steel ³	lbs.	1.50
* (44)	Window, single pane glass ⁹	units	140.
** (45)	Window, insulating glass	units	175.
** (46)	Window, insulating glass over 24 sf	sq. ft.	10.
** (47)	Window, storm with screen	units	65.
* (48)	Window guards, approved security	units	175.
* (49)	Window guards, childproof	units	25.

(b) Elevator.

	<u>ITEM</u>	<u>UNITS</u>	<u>ALLOWANCE</u>
*	(50) New elevator, complete	units+floors	45000+7000
*	(51) Convert manual to automatic ¹⁰	units	7000.
..... ELEVATOR, PARTIAL			
*	(52) Motor ¹¹	motors	3500.

* (53)	Traction machine ¹¹	units	10000.
* (54)	One-speed controller ¹¹	controller	6200.
* (55)	Two-speed or variable controller ¹¹	controller	8000.
* (56)	Cables	floors	400.
* (57)	Shaftway door	doors	800.
* (58)	Floor call station	floors	200.
* (59)	Interlocks	interlocks	280.
* (60)	Door operator	units	2500.
* (61)	Car		
	* Reline cab	units	4200.
	* Top of car safety device	units	2800.

(c) Plumbing.

	<u>ITEM</u>	<u>UNITS</u>	<u>ALLOWANCE</u>
	(62) Bathtubs ¹²	tubs	450.
# *	(63) Hot water heater/tank (input)	MBH	See table
# **	(64) Insulation, pipe (also for heating)	lin. ft.	2.50
	(65) Kitchen sink ¹³	sinks	175.
	(66) Lavatory ¹²	lavs	150.
..... PIPING			
*	(67) Water main, risers, branches	d.u.	1700.
*	(68) Waste and vent (complete)	d.u.	1500.
# *	(69) Water service, street connect ¹⁴	lin. ft.	110.
# *	(70) Sewer, street connection	lin. ft.	200.
*	(71) Gas, risers and connections	d.u.	275.
*	(72) Sprinklers, heads only	heads	30.
*	(73) Sprinklers, piping and heads	heads	220.
# *	(74) Standpipe	floor	600.
*	(75) Tank, water storage	gallon	1.50
	(76) Water closets ¹²	units	200.
	(77) Food Waste Disposers ¹³	units	300.

(d) Heating.

	<u>ITEM</u>	<u>UNITS</u>	<u>ALLOWANCE</u>
# **	(78) Boiler-burner (output) ¹⁵	MBH	See table
# **	(79) Boiler (output)	MBH	See table
# **	(80) Burner (output) ¹⁵	MBH	See table
	(81) Convectors or radiators	units	250.
# *	(82) Electronic boiler control system	units	2500.
	(83) Exhaust duct (int. kit & bath only)	unit	310.
# *	(84) Metal boiler stack	floors	400.
# *	(85) Oil tank	gallon	See table
*	(86) Piping, heat mains, risers, branch	rooms	220.

(e) Electric.

	<u>ITEM</u>	<u>UNITS</u>	<u>ALLOWANCE</u>
*	(87) All new apartment wiring	d.u. + room	400. + 420.*
*	(88) Apartment wiring only, adequate (risers and meters separate) ¹⁶	d.u.	370.
*	(89) Service equipment and risers ¹⁶		

	Electric service equipment		
*	with individual meter	entry + d.u.	1500. +160.
*	with master meter	entry + d.u.	1500. +110.
*	Apartment panel	d.u.	300.
	Risers		
*	with individual meter ¹⁶	d.u.	500.
*	with master meter ¹⁶	d.u.	350.
* (90)	Intercom, door opener	d.u.	100.
(91)	Outlet on new circuit	circuit	100.
* (92)	Smoke detectors, hard wired	d.u.	100.
(93)	Submetering installation ¹⁷	d.u.	280.
(94)	Cogeneration equipment ¹⁹	kilowatt	400.

(f) Moderate rehabilitation only.

	<u>ITEM</u>	<u>UNITS</u>	<u>ALLOWANCE</u>
(M1)	Kitchen cabinets ¹⁸	lin. ft.	55.
(M2)	Kitchen cabinets, base & counter ¹⁸	lin. ft.	70.
(M3)	Medicine cabinets inc mirror ¹²	units	85.
(M4)	Range (minimum 24 in. width) ¹³	units	300.
(M5)	Refrigerator (min. 12 cf nominal) ¹³	units	420.
(M6)	Steam or chemical cleaning	sq. ft.	0.80

(g) Landmarks projects only.

Items of work listed on this schedule only per §5-03(a)(5)

BOILER/BURNER TABLE			
(maximum allowance)			
ITEM	OUTPUT IN MBH (Thousand BTU per hour)		
	<u>0-2,000 MBH</u>	<u>2,000-6,000 MBH</u>	<u>> 6,000 MBH</u>
Boiler-burner ¹⁵	\$1,500 + 16.50/MBH	20,000 + 7.25/MBH	47,600 + 2.65/MBH
Burner ¹⁵	\$500 + 4.75/MBH	6,000 + 2.00/MBH	8,300 + 1.65/MBH
Boiler (existing burner)	\$1,000 + 11.75/MBH	14,000 + 5.25/MBH	39,300 + 1.00/MBH

DOMESTIC HOT WATER HEATER TABLE	
(maximum allowance)	
Input in MBH	Allowance
0 - 600	\$460 + 9.10/MBH
> 600	\$1,900 + 6.70/MBH

OIL TANK TABLE	
(maximum allowance)	
Size in Gallons	Allowance

0 - 4,000	\$500 + 1.10/gal.
> 4,000	\$2,900 + .50/gal.

ASBESTOS ABATEMENT TABLE (maximum allowance)	
Internal Linear Feet	\$1,600 + \$10/linear ft.
Internal Square Feet	\$1,600 + \$10/sq. ft.

FOOTNOTES FOR ITEMIZED COST BREAKDOWN SCHEDULE

- * Denotes Major Capital Improvement (MCI).
- ** Denotes Energy Conversation Items which shall also be considered Major Capital Improvements.
- # Denotes that the item allowance may be reduced by proportion of non-residential space where the item serves both residential and non-residential space. (Items wholly within or serving the non-residential space receive no allowance.)
- ¹ For (1) removal or encapsulation of any friable asbestos when done as part of a substantial rehabilitation requiring an alteration permit, or (2) for removal of asbestos Thermal System Insulation (TSI) on other rehabilitation or (3) for removal of other friable asbestos (and not roofing, siding or flooring) pursuant to a report from a certified asbestos inspector describing condition, quantity and location of asbestos containing materials to be removed including microscopic analysis. TSI shall mean insulation applied to heating, ventilation or air conditioning systems, hot or cold domestic water systems for the purpose of preventing heat transfers or water condensation. TSI shall include insulation on boilers, water tanks, air handling equipment and ducts, piping, pipe fitting or valves.
- ² For bathroom with ceramic tile floor and full tile wainscot. Maximum one per apartment unless the apartment has two or more bedrooms. This item is eligible as an MCI if new water main, riser, and branch piping is installed throughout and if new ceramic tile and at least two new bathroom fixtures are installed in at least 90 percent of the bathrooms.
- ³ This item requires an affidavit from an engineer or architect certifying that he has personal knowledge of the installation and that the quantity claimed was installed. It also requires site photographs or other evidence satisfactory to HPD documenting the installation of the item.
- ⁴ This item includes inner walkways, courtyards, cellar slabs and the public sidewalk.
- ⁵ For construction commenced on or after August 2, 2004, requires (a) "an abatement" of lead-based paint hazards, as defined in 40 Code of Federal Regulations part 745 or any successor regulations, (b) proof of lead-based paint hazards pursuant to an "inspection" and/or "risk assessment", as defined in 40 Code of Federal Regulations part 745 or any successor regulations, and (c) proof that the dwelling unit in which such abatement occurred is occupied by a child of applicable age, as established in accordance with §27-2056.18 of the Administrative Code. Notwithstanding the foregoing, no such benefit shall be given for any abatement performed to comply with a notice of violation issued for a violation of article fourteen of subchapter two of chapter two of title 27 of the Administrative Code.

Furthermore, the deleading of lead-based paint hazards pursuant to a NYC Dept. of Health and Mental Hygiene order that is commenced prior to August 2, 2004 will continue to be eligible for J-

51 benefits provided that there is an approved contract and sign-off. The allowance for such deleading of lead-based paint hazards will be per contract.

- 5a In order to qualify for benefits pursuant to 13a or 13b above, (a) must be "inspection" or "risk assessment" as defined in 40 Code of Federal Regulations Part 745 or any successor regulations, (b) inspection or risk assessment must have determined that lead-based paint hazards exist in such dwelling unit, (c) dwelling unit in which such inspection or risk assessment occurred must be occupied by a child of applicable age, as established in accordance with §27-2056.18 of the Administrative Code, and (d) must also have performed an "abatement" of lead-based paint hazards, as defined in 40 Code of Federal Regulations Part 745 or any successor regulations, in response to such inspection or risk assessment determination. Notwithstanding the foregoing, no such benefit shall be given for any abatement performed to comply with a notice of violation issued for a violation of article fourteen of subchapter two of chapter two of title 27 of the Administrative Code. Furthermore, such benefits for inspection or risk assessment of lead-based paint hazards shall only be given for such inspections or risk assessments commenced on or after August 2, 2004.
- 6 For substantial alterations and conversions only. The maximum quantity for this item is the number of new rooms created in the space where the demolition was done.
- 7 Not eligible if brickwork is covered by cement wash or other coating.
- 8 For skylights over 16 sq. ft. The maximum allowance for eligible skylights under 16 sq. ft. shall be 50 percent of allowance listed.
- 9 Not eligible without new or existing storm window.
- 10 Plus all other applicable partial elevator items listed.
- 11 For buildings over eight stories the approved quantity shall be equal to the actual quantity increased by 10 percent for each floor over eight.
- 12 Maximum of one per apartment unless the apartment has two or more bedrooms. This item is eligible as an MCI if new water main, riser, and branch piping is installed throughout, and if new ceramic tile and at least two new bathroom fixtures are installed in at least 90 percent of the bathrooms.
- 13 Maximum of one per apartment.
- 14 For water service 2 ½" in diameter or greater than approved length shall be equal to one and one-half times the actual installed length.
- 15 Oil, gas or combination burner.
- 16 The "Adequate Wiring" MCI as set forth in the prior Rules has been divided into its components which consist of "Apartment wiring only, adequate" and "Service equipment and risers."
- 17 For submetering, the owner must comply with the rent decrease requirements of DHCR, and the project must consist of a building-wide submetering in all individual dwelling units.
- 18 The eligible length cannot exceed 8 feet in any apartment.
- 19 This item requires an affidavit from an engineer or architect certifying the installation of a natural gas-fired electric cogeneration system or the conversion or modification of an existing oil-fired cogeneration system to a natural gas-fired electric cogeneration system. Such affidavit also must

provide that the waste heat from the cogeneration unit is used for heating domestic hot water or space heating or cooling of the residential units.

§ 5-09 Additional Documentation for Certain Alterations or Improvements.

Applications for alterations requiring a new or amended Certificate of Occupancy must include:

- (a) PW-1, PW-1A, PW-1B and Initial Work Permits; and
- (b) final Certificate of Occupancy;
- (c) such additional documentation as may be applicable or requested.

The following major capital improvements require the approval of designated agencies on the forms indicated below, and such additional documentation as the Office shall require. The forms listed herein may be revised or added to by the Department of Buildings, in which case the Office will require the forms as revised. If a Borough Office was not using any of the referenced forms when documentation was obtained, the Office may require the forms then in effect or as listed in the prior Rules and Regulations.

(a) Asbestos Abatement.

- (1) Asbestos Inspection Report (ACP-7), or Asbestos Removal Plan.

(b) Adequate Wiring, New Wiring or New Service.

- (1) Certificate of Electrical Inspection (Form BEC 16A, DOB) or contractor's affidavit if the Certificate is not applicable.

(c) Boiler/Burners: Boiler and Oil Burner Replacement.

- (1) Notice of Proposed Steam or Hot Water Boiler Installation for boilers serving 6 units or more and over 350,000 BTUs (B form 900A signed by a boiler inspector, DOB); and

- (2) Initial Work Permit or PW-2 (DOB); and

- (3) For boilers with a capacity of 350,000 BTUs or more, approved Application for Certificate of Operation (APC 5-0, stamped) or Certificate of Registration (ACP 501), (Bureau of Air, Noise and Hazardous Materials, DEP); and

- (4) Certificate of Electrical Inspection (Form BEC 16A, for Bulletin 8, Bureau of Electrical Control, DOB) or contractor's affidavit if the Certificate is not applicable (e.g, if boiler only); and

- (5) Certificate of Approval for Oil Burning Installation (B Form 16A, Sign-off, DOB).

(d) Boiler/Burners: Boiler and Gas Burner or Boiler and Combination Gas and Oil Burner.

(1) Schedule B Plumbing (PW-1B) and Notice of Proposed Steam or Hot Water Boiler I Installation (B form 900A signed by a boiler inspector) (DOB); and

(2) Initial Work Permit or PW-2 (DOB); and

(3) For boilers with a capacity of 350,000 BTU's or more, approved Application for Certificate of Operation (APC 5-0, stamped) or Certificate of Registration (APC 501), (Bureau of Air, Noise and Hazardous Materials, DEP); and

(4) Certificate of Electrical Inspection (Form BEC 16A, for Bulletin 8, Bureau of Electrical Control, DOB) or contractor's affidavit if the Certificate is not applicable.

(e) Boiler/Burners: Boiler Only.

(1) If burner is oil-fired, documents (1) through (5) in paragraph (c) above; or

(2) If burner is gas-fired, documents (1) through (4) of paragraph (d) above; or

(3) If burner is gas- and oil-fired, documents (1) through (4) of paragraph (d) above.

(f) Boiler/burners: Burner Upgrading.

(1) Approved Application for Certificate of Operation (APC 5-0, stamped, Bureau of Air, Noise and Hazardous Materials, DEP).

(g) Boiler/Burners: New Central Heating System.

(1) Plan/Work Approval Application with Schedule C Heating & Combustion Equipment for oil or Schedule B Plumbing for gas (PW-1 with PW-1C or PW-1B), or computer printout showing scope of work (DOB); and

(2) Initial Work Permit or PW-2 (DOB); and

(3) Certificate of Electrical Inspection (Form BEC 16A, for Bulletin 8, Bureau of Electrical Control, DOB) or contractor's affidavit if the certificate is not applicable; and

(4) Approved Application for Certificate of Operation (APC 5-0, stamped, Bureau of Air, Noise and Hazardous Materials, DEP); and

(5) Letter of Completion for DIR. 14 on work done pursuant to permit or computer printout showing the sign-off date (DOB).

(h) Boiler enclosure.

(1) Initial Work Permit or PW-2 (DOB); and

(2) Letter of Completion for DIR. 14 on work done pursuant to permit or computer printout

showing the sign-off date (DOB).

(i) Chimney.

(1) Initial Work Permit or PW-2 (DOB); and

(2) Letter of Completion for DIR. 14 on work done pursuant to permit or computer printout showing the sign-off date (DOB).

(j) Compactor: conversions to central and upgrading of incinerators.

(1) Initial Work Permit or PW-2 (DOB); and

(2) Letter of Completion for DIR. 14 on work done pursuant to permit or computer printout showing the sign-off date (DOB).

(3) For replacement compactor, submit affidavit attesting to the replacement.

(k) Compactor: new or refuse chute.

(1) Initial Work Permit or PW-2 (DOB); and

(2) Computer print-out showing plumbing sign-off or B Form 505 (DOB) or Letter of Completion for DIR. 14 on work done pursuant to permit or computer printout showing the sign-off date (DOB).

(l) Deleading (removal of lead paint).

(1) Violation Notice, Approved Contract and Violation Dismissal (Department of Health)

(m) Elevator installation: replacement or upgrading (except replacement of hoist cables).

(1) Approved Elevator application/Permit (ELV-1, DOB); and

(2) Sign-off by a DOB inspector (Form 73), or a stamped Elevator Inspection/Test Report by Approved Private Elevator Inspection Agency (ELV-3, DOB); and

(n) Fire Escapes.

(1) Initial Work Permit or PW-2 (DOB); and

(2) Letter of Completion for DIR. 14 on work done pursuant to permit or computer printout showing the sign-off date (DOB).

(o) Hot water heater or hot water tank.