

A LOCAL LAW

To amend the New York city charter, the administrative code of the city of New York, the New York city building code, and the New York city mechanical code, in relation to the New York city air pollution control code, and to repeal section 24-117 of the administrative code of the city of New York, relating to refuse burning equipment, section 24-119 of such code, relating to refuse compacting systems, subchapter 5 of chapter 1 of title 24 of such code, relating to fee schedules, section 24-144 of such code, relating to sulfur compounds, section 24-150 of such code, relating to smoking in passenger elevators, section 24-154 of such code, relating to environmental ratings, sections 24-179, 24-181, 24-182, 24-184, 24-185, 24-186, 24-187 and 24-188 of such code, relating to the powers and procedures of the environmental control board, including procedures for filing answers, citizens complaints, default proceedings, hearing officer decisions, board decisions, and compliance with board decisions, and subdivision (f) of section 24-190 of such code, relating to failure to pay civil penalties

Be it enacted by the Council as follows:

1 Section 1. Subdivision a of section 1049-a of the New York city charter, as
2 amended by vote of the electors of the city of New York at a general election held on November
3 2, 2010, is amended to read as follows:

4 a. There shall be in the office of administrative trials and hearings an
5 environmental control board consisting of the commissioner of environmental protection, the
6 commissioner of sanitation, the commissioner of buildings, the commissioner of health and
7 mental hygiene, the police commissioner, the fire commissioner and the chief administrative law
8 judge of the office of administrative trials and hearings, who shall be chair, all of whom shall
9 serve on the board without compensation and all of whom shall have the power to exercise or

1 delegate any of their functions, powers and duties as members of the board, and six persons to be
2 appointed by the mayor, with the advice and consent of the city council, who are not otherwise
3 employed by the city, one to be possessed of a broad general background and experience in the
4 field of air pollution control, one with such background and experience in the field of water
5 pollution control, one with such background and experience in the field of noise pollution
6 control, one with such background and experience in the real estate field, one with such
7 background and experience in the business community, and one member of the public, and who
8 shall serve for four-year terms. Such members shall be compensated at a rate that may be
9 specified by the chair and approved by the mayor. Within the board's appropriation, the chair
10 may appoint an executive director, subject to the approval of the board, and such hearing
11 officers, including non-salaried hearing officers, and other employees as the chair may from time
12 to time find necessary for the proper performance of the board's duties. The board shall be
13 convened by the chairperson or in his or her absence a deputy commissioner or at the request of
14 any three members thereof. Five members of the board, at least two of whom shall not be city
15 officials, shall constitute a quorum.

16 § 2. Title 16 of the administrative code of the city of New York is amended by
17 adding a new section 16-120.2 to read as follows:

18 § 16-120.2 Refuse compacting systems; multiple dwellings after May
19 twentieth, nineteen hundred sixty-eight.

20 (a) All multiple dwellings erected after May twentieth, nineteen hundred sixty-
21 eight that are four or more stories in height and occupied by twelve or more dwelling units, or
22 that are "class B" multiple dwellings as defined by the multiple dwelling law shall be provided
23 with a refuse compacting system constructed in conformity with all applicable laws and rules.

1 (b) On and after July first, two thousand fourteen, any refuse compacting system
2 that is required to be installed in a multiple dwelling pursuant to subdivision (a) of this section
3 shall be utilized to compact all refuse that is not required to be source separated for other
4 purposes pursuant to any provision of this title or any rules promulgated by the department in
5 such multiple dwelling before such refuse is placed outside for collection by the department.
6 Such refuse compacting system shall be maintained in good working condition and operated in
7 accordance with the rules of the department and in conformity with all other applicable laws and
8 rules.

9 (c) Any person who violates the requirements of this section shall be liable for a
10 civil penalty as follows: (1) two hundred fifty dollars for a first violation; (2) five hundred dollars
11 for a second violation; and (3) one thousand dollars for a third and subsequent violation within a
12 twelve month period. For purposes of this section, the second and any subsequent violation shall
13 only occur after notice of the first violation has been properly served and an opportunity to cure
14 such violation has been provided to the violator, provided that such opportunity to cure shall not
15 exceed thirty days. Such penalties may be recovered in a civil action brought in the name of the
16 commissioner or in a proceeding before the environmental control board.

17 § 3. Section 16-509 of the administrative code of the city of New York is
18 amended by adding a new subdivision e to read as follows:

19 e. The commission may refuse to issue a license or registration to an applicant
20 that has failed to demonstrate that such applicant will meet the requirements of section 24-163.12
21 of the code, or any rule promulgated pursuant thereto, in the performance of such license or
22 registration.

1 § 4. Subdivision a of section 16-513 of the administrative code of the city of New
2 York, as added by local law number 42 for the year 1996, is amended to read as follows:

3 a. In addition to the penalties provided in section 16-515 of this chapter, the
4 commission may, after due notice and opportunity to be heard, revoke or suspend a license or
5 registration issued pursuant to the provisions of this chapter when the registrant or licensee
6 and/or its principals, employees and/or agents: (i) have been found to be in violation of this
7 chapter or any rules promulgated pursuant thereto; (ii) have been found by a court or
8 administrative tribunal of competent jurisdiction to have violated: (A) any provision of section
9 16-119 of this code, or any rule promulgated pursuant thereto, relating to illegal dumping, (B)
10 any provision of section 16-120.1 of this code, or any rule promulgated pursuant thereto, relating
11 to the disposal of regulated medical waste and other medical waste or (C) any provision of
12 section 16-117.1 of this code, or any rule promulgated pursuant thereto, relating to the
13 transportation and disposal of waste containing asbestos; (iii) has repeatedly failed to obey
14 lawful orders of any person authorized by section 16-517 of this chapter to enforce the
15 provisions hereof; (iv) has failed to pay, within the time specified by a court, the department of
16 consumer affairs or an administrative tribunal of competent jurisdiction, any fines or civil
17 penalties imposed pursuant to this chapter or the rules promulgated pursuant thereto; (v) has been
18 found in persistent or substantial violation of any rule promulgated by the commission pursuant
19 to section 16-306 of this code or by the commissioner of consumer affairs pursuant to section 16-
20 306 or former subchapter eighteen of title twenty of this code; (vi) has been found in persistent
21 or substantial violation of any city, state, or federal law, rule or regulation regarding the handling
22 of trade waste, or any laws prohibiting deceptive, unfair, or unconscionable trade practices; (vii)
23 whenever, in relation to an investigation conducted pursuant to this chapter, the commission

1 determines, after consideration of the factors set forth in subdivision a of section 16-509 of this
2 code, that the licensee or registrant as a trade waste broker lacks good character, honesty and
3 integrity; (viii) whenever there has been any false statement or any misrepresentation as to a
4 material fact in the application or accompanying papers upon which the issuance of such license
5 or registration was based; [or] (ix) whenever the licensee or registrant has failed to notify the
6 commission as required by subdivision b of section 16-507 or subdivision c of section 16-508 of
7 this chapter of any change in the ownership interest of the business or other material change in
8 the information required on the application for such license or registration, or of the arrest or
9 criminal conviction of such licensee or registrant or any of his or her principals, employees
10 and/or agents of which the licensee had knowledge or should have known; or (x) whenever the
11 licensee or registrant has been found by the commission or a court or administrative tribunal of
12 competent jurisdiction to be in violation of the provisions of section 24-163.12 of the code, or
13 any rule promulgated pursuant thereto.

14 § 5. Subchapter 1 of chapter 1 of title 24 of the administrative code of the city of
15 New York, section 24-102 and subdivision 18 of section 24-104 as amended by local law
16 number 39 for the year 1989 and subdivision 48 of section 24-104 as amended by local law
17 number 22 for the year 2002, is amended to read as follows:

18 SUBCHAPTER 1

19 SHORT TITLE, POLICY, AND DEFINITIONS

20 § 24-101 Short title. [chapter] Chapter one of this title of the code of the city of
21 New York shall be known and may be cited as the “New York city air pollution control code”.

22 § 24-102 Declaration of policy. It is hereby declared to be the public policy of the
23 city to preserve, protect and improve the air [resources] quality of the city so as to promote

1 health, safety and welfare, prevent injury to human, plant and animal life and property, foster the
2 comfort and convenience of its inhabitants and[, to the greatest degree practicable,] facilitate the
3 enjoyment of the natural attractions of the city. It is the public policy of the city that every
4 person is entitled to air that is not detrimental to life, health and enjoyment of his or her property.
5 It is hereby declared that the emission into the open air of any harmful or objectionable
6 substance, including but not limited to smoke, soot, fly ash, dust, fumes, gas, vapors, odors or
7 any products of combustion or incomplete combustion resulting from the use of fuel burning
8 equipment or refuse burning equipment is a menace to the health, welfare and comfort of the
9 people of the city and a cause of extensive damage to property. For the purpose of controlling
10 and reducing air pollution, it is hereby declared to be the policy of the city to actively regulate
11 and eliminate such emissions. The necessity for legislation by the enactment of the provisions of
12 this chapter is hereby declared as a matter of legislative determination. This code shall be
13 liberally construed so as to effectuate the purposes described in this section. Nothing herein shall
14 be construed to abridge the emergency powers of the board of health of the department of health
15 and mental hygiene or the right of such department to engage in any of its necessary or proper
16 activities.

17 § 24-104 Definitions. When used in the New York city air pollution control code:

18 (1) Air means all the air available for human, animal or plant respiration.

19 (2) Air contaminant means any [particulate matter] particulates or any gas or any
20 combination thereof in the open air, other than uncombined water [or air].

21 [(2)] (3) Air contaminant detector means a device or combination of devices
22 [which] that cause audible and/or visible signals in the presence of an air contaminant of a
23 particular concentration, density or opacity.

1 [(3)] (4) Air contaminant recorder means an apparatus [which] that produces a
2 record of the time, duration, concentration and density or opacity of an air contaminant.

3 [(4)] (5) Air pollution means the presence in the open air of one or more
4 contaminants in quantities, of characteristics and of a duration that are or may be injurious to
5 human, animal or plant life or to property or that unreasonably interfere with the comfortable
6 enjoyment of life and property.

7 (6) Alteration means any modification or change of the design, capacity, process
8 or arrangement, or any increase in the connected load of equipment or any apparatus [which] that
9 will affect the kind [or amount] of air contaminant emitted or increase the amount of an air
10 contaminant emitted. Alteration does not include replacement or repair of [wornout] worn out or
11 defective equipment.

12 [(5)] (7) Anthracite coal means [the current definition of] anthracite coal as
13 classified by the [American society for testing and materials] ASTM standard D388-12.

14 [(6)] (8) Apparatus means any device [which] that prevents, controls, detects, or
15 records the emission of any air contaminant from fuel burning equipment.

16 [(7) Bituminous coal means the current definition of bituminous coal and
17 subbituminous coal as classified by the American society for testing and materials.

18 (8)] (9) Architectural coating means coating to be applied to stationary structures
19 and their appurtenances at the site of installation, to portable buildings at the site of installation,
20 to pavements, or to curbs. Adhesives and coatings applied in shop applications or to
21 nonstationary structures such as airplanes, ships, boats, railcars, and automobiles are not
22 considered architectural coatings for the purposes of this code.

1 (10) Biodiesel means a fuel, designated B100, that is composed exclusively of
2 mono-alkyl esters of long chain fatty acids derived from feedstock and that meets the
3 specifications of ASTM standard D6751-12.

4 (11) Bioheating fuel means a fuel comprised of biodiesel blended with petroleum
5 heating oil that meets the specifications of ASTM standard D396-12, or other specifications as
6 determined by the commissioner.

7 (12) Board means the environmental control board of the city of New York.

8 [(9)] (13) Boiler means equipment [which] that is used to heat water for the
9 purpose of generating hot water and/or steam.

10 [(10) Btu input means the quantity of heat generated by a fuel fed into a furnace
11 under conditions of complete combustion, measured in British thermal units. Btu input includes
12 sensible heat, calculated above sixty degrees F., available from materials introduced into the
13 combustion zone.

14 (11)] The hot water and/or steam generated by a boiler may be used for heating,
15 processing, or generating power or for other purposes, including but not limited to, cooking and
16 sanitation.

17 (14) British thermal unit (Btu) means the amount of energy needed to heat one
18 pound of water by one degree Fahrenheit.

19 (15) Capacity rating means the fuel burning equipment manufacturer's guaranteed
20 maximum [Btu] heat input rating in millions of Btu per hour, or the maximum four-hour average
21 actual rate, whichever is higher.

22 [(12)] (16) Certificate of operation means [an operating, sulfur exemption,
23 temporary operating, or temporary sulfur exemption certificate] a document issued by the

1 department authorizing the operation of a specific piece of equipment or apparatus that may emit
2 an air contaminant.

3 (17) Chain-driven commercial char broiler means a commercial char broiler that
4 is a semi-enclosed cooking device with a mechanical chain that automatically moves food
5 through the device.

6 [(13)] (18) Charter means the New York city charter[, including all of its
7 amendments].

8 [(14)] (19) City means the city of New York.

9 [(15)] (20) City agency means a city, county, borough, administration,
10 department, division, bureau, board or commission, or a corporation, institution or agency of
11 government, the expenses of which are paid in whole or in part from the city treasury.

12 (21) Clean wood means wood or wood pellets that have not been painted, stained,
13 or treated with any coating, glue or preservative.

14 (22) Cogeneration system means equipment for the simultaneous production of
15 electricity and heat from a single fuel source, such as natural gas, biomass, waste heat, or oil.
16 Cogeneration system is also known as a combined heat or power system.

17 (23) Combustion controller means an apparatus [which] that automatically and
18 continually maintains the proper fuel to air ratio for the optimum combustion of fuel.

19 [(16)] (24) Combustion shutoff means an apparatus [which] that is designed to
20 halt automatically a combustion process when proper combustion conditions are not being
21 maintained.

22 [(17)] (25) Commercial char broiler means a device that consists primarily of a
23 grated grill and a heat source and that is used to cook meat, including beef, lamb, pork, poultry,

1 fish, and seafood, for human consumption at a food service establishment, as such term is
2 defined in section 81.03 of the New York city health code.

3 (26) Commissioner means the commissioner of environmental protection.

4 [(18)] (27) Control apparatus means any device [which] that prevents or controls
5 the emission of [any] an air contaminant.

6 [(19)] (28) Cook stove means any wood fired or anthracite coal fired appliance
7 used primarily for cooking food for onsite consumption at a food service establishment, as such
8 term is defined in section 81.03 of the New York city health code.

9 (29) Demolition means the complete or partial removal, razing, or dismantling of
10 any exterior part of a building or structure.

11 (30) Department means the department of environmental protection.

12 [(20)] (31) Dust means solid [particulate matter which has] particulates that have
13 been released into the [open] air by natural forces or by mechanical processes.

14 [(21)] (32) Emergency generator means an internal combustion engine that
15 operates as a mechanical or electrical power source only when the usual source of power is
16 unavailable.

17 (33) Emission means dispersion of an air contaminant into the open air of the city.

18 [(22)] (34) Emission rate potential means the rate in pounds per hour at which an
19 air contaminant would be emitted to the open air in the absence of air pollution control facilities
20 or other control measures. The emission rate potential for cyclic operations shall be determined
21 by considering both the instantaneous emission potential and the total emission potential over the
22 time period of the cycle.

23 [(23)] (35) Emission source means a point at which an emission occurs.

1 [(24)] (36) Engine means a motor designed to convert energy into useful
2 mechanical motion.

3 (37) Environmental rating means a rating [indicated by the letters A, B, C or D in
4 table 1, section 24-153 of the code] as established in part two hundred twelve of title six of the
5 New York codes, rules and regulations.

6 [(25)] (38) Equipment means any device capable of causing the emission of an air
7 contaminant into the open air, or any stack, conduit, flue, duct, vent or similar device connected
8 or attached to, or serving such device.

9 [(26)] (39) Equipment used in a process means equipment (except refuse burning
10 equipment or fuel burning equipment) used in any industrial, commercial, agricultural[or other],
11 or manufacturing activity, [or in any operation, manufacture or treatment] in which chemical,
12 biological or physical properties of materials are changed.

13 [(27)] (40) Excess air means the quantity of air [which] that exceeds the
14 theoretical quantity of air required for complete combustion.

15 [(28)] (41) Exhaust [and] or ventilation source means a system [which] that
16 removes [and] or transports an air contaminant to the exterior of a building or other structure.

17 [(29)] (42) Experimental installation means equipment not previously used or
18 tested in the city, or equipment using fuel not regulated by this code or rules promulgated
19 thereunder.

20 (43) Fireplace means a hearth and fire chamber or similar prepared place in which
21 a fire may be made and which is built in conjunction with a chimney.

22 (44) Flare means an open or closed flame gas combustion device used for burning
23 off unwanted gas or flammable gas. A flare may include some or all of the following

1 components: the foundation, flare tip, structure support, burner, ignition, flare controls including
2 air injection or steam injection systems, flame arrestors, knockout pots, piping and header
3 systems.

4 (45) Fuel burning equipment means equipment, other than a motor vehicle,
5 designed to burn oil, natural gas, or renewable fuel.

6 [(30)] (46) Fuel oil grade no. 1 means a fuel oil meeting the definition of fuel oil
7 grade no. 1 as classified by ASTM standard D396-12.

8 (47) Fuel oil grade no. 2 means a fuel oil meeting the definition of fuel oil grade
9 no. 2 as classified by ASTM standard D396-12.

10 (48) Fuel oil grade no. 4 means a fuel oil meeting the definition of fuel oil grade
11 no. 4 as classified by ASTM standard D396-12.

12 (49) Fuel oil grade no. 6 means a fuel oil meeting the definition of fuel oil grade
13 no. 6 as classified by ASTM standard D396-12.

14 (50) Generator means any internal combustion engine that operates as a
15 mechanical or electrical power source.

16 (51) Heat input means the quantity of heat generated by fuel fed into equipment
17 under conditions of complete combustion, measured in British thermal units. Heat input includes
18 sensible heat, calculated above sixty degrees Fahrenheit, available from materials introduced into
19 the combustion zone.

20 (52) Horsepower means a unit of power in the United States Customary System,
21 equal to 745.7 watts or thirty-three thousand foot-pounds per minute.

1 (53) Installation means the placement, assemblage or construction of equipment
2 or apparatus at the premises where the equipment or apparatus will be used, and includes all
3 preparatory work at such premises.

4 [(31) Major deficiency means a defect in the design and/or installation that may
5 cause the equipment to generate unnecessary air pollution.

6 (32) Minor deficiency means a defect in the design and/or installation that does
7 not accomplish or provide the monitoring or maintenance capability required by the permit
8 issued to install or alter the equipment.

9 (33)] (54) Kilowatt means a unit of electrical power equal to one thousand watts.

10 (55) Mobile food vending unit shall have the same meaning as set forth in section
11 89.03 of the New York city health code.

12 (56) Motor vehicle means equipment [which] that is propelled by an engine in or
13 upon which a person or material may be transported on the ground.

14 [(34)] (57) Odorous air contaminant means any air contaminant [which] that is
15 released in sufficient concentrations to be detected by the human olfactory sense.

16 [(35)] (58) Open air means all the air available for human, animal, or plant
17 respiration, but shall not include the air in equipment and private dwellings.

18 [(36)] (59) Open fire means any outdoor fire or smoke producing process wherein
19 the products of combustion are emitted directly into open air and are not directed thereto through
20 a stack, conduit, flue, duct, vent or similar device.

21 [(37)] (60) Outdoor wood boiler means a device designed to burn wood that is
22 either located outdoors or is specified by the manufacturer for outdoor installation or installation

1 in structures not normally occupied by humans, and is used to heat building space or water by
2 means of gas or liquid heated in the device.

3 (61) Owner means and includes the owner [of the freehold] of the premises or
4 lesser estate therein or mortgagee thereof, a lessee or an agent of any of the above persons, a
5 lessee of the equipment or his or her agent, a tenant, operator, or any other person who has
6 regular control of equipment or apparatus.

7 [(38)] (62) Particulate [matter means any liquid, other than water, or any solid
8 which is or tends to be capable of becoming windblown or being suspended in air, or other gas or
9 vapor which becomes a solid or liquid at standard conditions of thirty-two degrees F. and 14.7
10 psia. Particulate matter measured on a dry basis shall be comprised of all materials collected at
11 two hundred fifty degrees F. on and prior to the dry filter medium which achieves an efficiency
12 greater than 99.9 per cent for particles 0.3 microns in diameter based on dioctyl phthalate smoke]
13 means any air or gas-borne material, except water, that exists as a liquid or solid. The
14 determination of the quantity of particulates present in a stack shall be determined in accordance
15 with emission testing methods as determined by the commissioner by rule. As used in this code,
16 particulate matter shall have the same meaning as particulates.

17 [(39)] (63) Peak shaving means the practice of utilizing on-site generating
18 capacity for use at a facility at the request of the primary electricity supplier, provided that peak
19 shaving shall not include emergency generation when the usual sources of heat, power, and
20 lighting are temporarily unavailable.

21 (64) Permissible emission rates means the maximum rate in pounds per hour
22 (lbs./hr.) at which air [contaminant may] contaminants are allowed to be emitted to the open air.

23 [(40) Permit means an installation or alteration permit.

1 (41)] (65) Person means individual or partnership, company, corporation,
2 association, firm, organization, governmental agency, administration or department, or any other
3 group of individuals, or any officer or employee thereof.

4 [(42)] (66) Portable means (i) designed to be and capable of being carried or
5 moved from one location to another, and (ii) not kept at one location for more than twelve
6 consecutive months. Mechanisms indicating that an object is designed to be and capable of
7 being carried or moved from one location to another include, but are not limited to, wheels,
8 skids, carrying handles or platforms.

9 (67) Portable equipment means equipment designed to be transported from place
10 to place for temporary operation[, other than a motor vehicle, or lawn mower, snowblower or
11 other similar domestic, non-commercial equipment] and to provide heat or hot water.

12 [(43) Process weight means total weight of the materials including solid fuels
13 introduced into any specific process but excluding liquid and gaseous fuels and combustion air.

14 (44) Process weight per hour means process weight divided by the number of
15 hours from the beginning of any specific process to the completion of the process, excluding any
16 time during which the equipment used in the process is idle.

17 (45)] (68) Portable generator means any internal combustion engine whose uses
18 may include, but are not limited to, the generation of electric power, designed to be and capable
19 of being carried or moved from one location to another.

20 (69) Professional certification means certification by a professional engineer or
21 registered architect who is licensed to practice engineering or architecture under section seven
22 thousand two hundred two or seven thousand three hundred two of the education law.

1 [(46)] (70) Professional engineer means a person licensed and registered to
2 practice the profession of engineering pursuant to the New York state education law.

3 (71) Refuse burning equipment means equipment designed to burn [waste
4 material, garbage and refuse] biological materials from hospitals or crematoriums, waste material
5 burned for the purpose of energy generation, or such other material as may be designated by the
6 department by rule.

7 [(47) Refuse compacting system means any machine or system of machines
8 capable of reducing waste material and garbage by means other than burning. So that it reduces
9 by a volume to be determined by the commissioner and is suitable for collection by the
10 department.

11 (48) Refuse containerization system means any system for the disposal of waste
12 material and garbage jointly approved as to specifications by the department of health and mental
13 hygiene, the department of housing preservation and development and the department pursuant
14 to section 27-2021 of the code, which utilizes containers compatible with mechanical loading
15 systems on vehicles operated for the collection of refuse.

16 [(49)] (72) Registered architect is a person licensed and registered to practice the
17 profession of architecture pursuant to the New York state education law.

18 (73) Registered design professional means a professional engineer or registered
19 architect.

20 (74) Registration means a notification to the department of the use or operation of
21 equipment that may result in the emission of an air contaminant.

22 (75) Renewable biomass means crops and crop residue from existing agricultural
23 land, tree residues, animal waste material and byproducts, slash and pre-commercial thinnings

1 from non-federal forest land, biomass cleared from the vicinity of buildings and other areas to
2 reduce the risk of wildfire, algae, and separated yard waste or food waste. Such term shall not
3 include processed materials such as particle board, treated or painted wood and melamine resin-
4 coated panels.

5 (76) Renewable fuel means fuel produced from renewable biomass or captured
6 from landfills or wastewater treatment.

7 (77) Residual fuel oil means a fuel oil meeting the current definition of fuel oil
8 grades No. 5 and 6 as classified by the [American society for testing and materials] ASTM
9 standard D396-12.

10 [(50)] (78) Scrubber means a control apparatus [which] that uses water or other
11 fluids to remove an air contaminant from [a gas] an exhaust stream.

12 [(51)] Solid fuels means anthracite and bituminous coal, or coke as currently
13 defined by the American society for testing and materials.

14 [(52)] (79) Standard smoke chart means the Ringelmann chart, as published by the
15 United States bureau of mines, photographically reduced to 1/18th in size for use in the field.

16 [(53)] (80) Stationary means (i) not designed to be or capable of being carried or
17 moved from one location to another, or (ii) kept at one location for more than twelve consecutive
18 months.

19 (81) This code means the air pollution control code.

20 (82) Ultra low sulfur diesel fuel means diesel fuel that has a sulfur content of no
21 more than fifteen parts per million.

22 (83) Under-fired commercial char broiler means a commercial char broiler that
23 has a grill, a high temperature radiant surface, and a heat source that is located below the food.

1 § 24-106 Investigations and studies by commissioner. The commissioner may
2 make or cause to be made any investigation or study [which] that in his or her opinion is
3 desirable for the purpose of enforcing this code or controlling or reducing the amount or kind of
4 air [contaminant] contaminants. For such purposes, the commissioner may make tests, conduct
5 hearings, compel the attendance of witnesses, and take their testimony under oath and may
6 compel the production of books, papers and other things reasonably necessary to the matter
7 under consideration.

8 § 24-107 Testing by order of commissioner. (a) If the commissioner has
9 reasonable cause to believe that any equipment or fuel is in violation of this code, the
10 commissioner may order the owner of the equipment or fuel to conduct such tests as are
11 necessary in the opinion of the commissioner to determine whether the equipment, its operation,
12 or the fuel is in violation of this code, or whether material used in any manufacturing process is
13 contributing to any violation of this code and to submit the test results to the commissioner
14 within ten days after the tests are completed.

15 (b) Such tests shall be conducted in a manner approved by the commissioner. The
16 test shall be certified by a laboratory acceptable to the commissioner. The entire test results shall
17 be reviewed and certified by a professional engineer.

18 (c) The owner shall notify the commissioner of the time and place of a test at least
19 seven days before the commencement of such test. Reasonable facilities shall be made available
20 for the commissioner to witness the test.

21 (d) If in the opinion of the commissioner tests by the department are necessary,
22 the commissioner may order the owner to provide (1) sampling holes at such points in the stack,
23 conduit, flue, duct or vent, as the commissioner may reasonably request, to provide a power

1 source suitable to the points of testing, and to provide allied facilities, exclusive of sampling and
2 sensory devices, or (2) test ports for gas burning equipment. These provisions shall be made at
3 the expense of the owner of the equipment. The owner shall be furnished with copies of the
4 analytical results of the samples collected.

5 (e) If the results of tests conducted pursuant to this section show that the
6 equipment or fuel is in violation of this code, the commissioner shall order the owner to cure the
7 defect within thirty days.

8 § 24-108 Inspection and samples. (a) The department may inspect at any
9 reasonable time and in a reasonable manner any equipment, apparatus, or fuel[, matter or thing
10 which] that affects or may affect the emission of an air contaminant including but not limited to
11 the premises where the equipment, apparatus, or fuel is used, or where the fuel is stored,
12 purchased, sold, or offered for sale for use in New York city.

13 (b) The department may inspect at any reasonable time and in a reasonable
14 manner any record relating to a use of equipment or apparatus [which] that affects or may affect
15 the emission of an air contaminant, or relating to the use of fuel, or the distribution, storage or
16 transportation of fuel for use in New York city.

17 (c) The department may, at any reasonable time and in a reasonable manner,
18 obtain a sample of an air contaminant, [fuel, process material, or other material which] or any
19 other substance used in a process that affects or may affect the emission of an air contaminant.

20 (d) If an authorized employee of the department obtains a sample of an air
21 contaminant[, fuel, process material or other material which] or any other substance used in a
22 process that affects or may affect the emission of an air contaminant during the course of an

1 inspection, he or she shall give to the owner of the equipment or fuel, prior to leaving the
2 premises, a receipt for the sample obtained.

3 (e) No person shall refuse entry or access into a place of business or into the
4 public areas of a multiple dwelling [or a place of business] to an authorized employee of the
5 department who presents appropriate credentials nor shall any person refuse entry or access into
6 any other portion of a premises to an authorized employee of the department who presents
7 appropriate credentials and a search warrant.

8 (f) The owner of every building, other than a one- or two-family [home] dwelling,
9 shall make the area where the heating system [or refuse burning equipment, or both,] is located
10 readily accessible to members of the department pursuant to the requirements of section 27-2033
11 of the code.

12 § 24-109 Registrations [generally]. (a) [In addition to the registrations required
13 by subdivision (b) of this section the commissioner may order the written registration of
14 emission sources other than those located in one or two family dwellings and motor vehicles. A
15 period of sixty days from publication in the City Record of the commissioner's order shall be
16 allowed for the filing of such registration. In cases of an emergency, the commissioner may
17 designate a shorter period of time.

18 (b)] No person shall cause or permit the following unless he or she has first
19 registered with the department:

20 (1) [the] The spraying of any insulating material in or upon any building or other
21 structure during its construction, alteration or repair[;].

22 (2) [the] The demolition of any building or other structure, or part thereof, unless
23 the demolition of the building or structure is being [demolished pursuant to chapter one of title

1 seventeen or article eight of subchapter two of chapter one of title twenty-six of the code]
2 conducted by or on behalf of a city agency pursuant to chapter one of title seventeen of the code
3 or pursuant to an order issued by the department of buildings under article two hundred fifteen of
4 chapter two of title twenty-eight of the code.

5 (3) The installation, alteration, use or operation of [any fuel burning equipment
6 which in the aggregate, feeding into a common emission point,] an individual boiler or water
7 heater that has a [Btu] heat input [or gross output] equal to or greater than three hundred fifty
8 thousand Btu per hour but less than [one] four million two hundred thousand Btu per hour.

9 (4) The installation, alteration, use or operation of [any fuel burning equipment
10 which] any boilers, including water heaters, that are owned by the same person in a single
11 building and would not individually require a registration or certificate of operation, if in the
12 aggregate[, feeding into a common emission point, has] such boilers have a [Btu] heat input [or
13 gross output] equal to or greater than three hundred fifty thousand Btu per hour [but less than 2.8
14 million Btu per hour and which uses a fuel gas, gasoline, or fuel oil grades Nos. 1 or 2 as
15 classified by the American society for testing and materials]. Such boilers shall be registered
16 together in a single registration.

17 (5) The use or operation of fuel burning equipment or portable equipment with a
18 heat input equal to or greater than three hundred fifty thousand Btu per hour but less than four
19 million two hundred thousand Btu per hour.

20 (6) The use or operation of any emergency generator that has an output equal to or
21 greater than forty kilowatts.

22 (7) The use or operation of any portable generator with an output equal to or
23 greater than forty kilowatts.

1 (8) The use or operation of a portable engine with an input equal to or greater than
2 fifty horsepower but less than six hundred horse power, unless such engine is used to power self-
3 propelled construction or landscaping equipment.

4 (9) The use or operation of a stationary generator, other than an emergency
5 generator, with an output equal to or greater than forty kilowatts but less than four hundred fifty
6 kilowatts.

7 (10) The use or operation of a stationary engine with an input of equal to or
8 greater than fifty horsepower but less than six hundred horsepower.

9 (11) The use or operation of an engine with an input equal to or greater than fifty
10 horsepower that is used exclusively at a construction site, unless such engine has an input of less
11 than six hundred horse power and is used to power self-propelled construction or landscaping
12 equipment.

13 (12) The use or operation of equipment with an environmental rating of C that
14 produces a flow rate equal to or greater than one hundred standard cubic feet per minute but less
15 than two thousand standard cubic feet per minute.

16 (13) The use or operation of a cogeneration system that has a total input equal to
17 or greater than three hundred fifty thousand Btu per hour but less than four million two hundred
18 thousand Btu per hour.

19 (14) The installation, use or operation of any flare.

20 (15) The installation, use or operation of any gasoline dispensing station.

21 (16) The installation, alteration, use or operation of any commercial char broiler.

22 (17) Any other emission source or activity not listed in paragraphs one through
23 fifteen of this subdivision that the commissioner requires by rule to be registered with the

1 department, provided that the commissioner shall not require by rule the registration of any
2 emission source or activity located in a one- or two-family dwelling or a motor vehicle.

3 (b) Registration shall not be required for any fuel burning equipment for which a
4 certificate of operation is required pursuant to subchapter four of this code.

5 (c) Registration shall be [made] filed on forms [furnished] prescribed by the
6 department.

7 (1) [Forms for registration pursuant to subdivision (a) of this section may require
8 information concerning the unit of equipment covered by the registration, the kind and amount of
9 air contaminant emitted by the equipment, medical and other scientific information concerning
10 the effects of the air contaminant on persons, animals, and plants, and any additional information
11 required by the commissioner for the purpose of enforcing this code.

12 (2) Forms for registration pursuant to paragraph one of subdivision (b) of this
13 section shall require information concerning the kind and amount of insulating material that will
14 be sprayed, the composition of the insulating material, medical and other scientific information
15 concerning the effects of the insulating material on persons, animals, and property, the
16 precautions that will be taken to prevent the insulating material from being emitted into the open
17 air, and any additional information required by the commissioner for the purpose of enforcing
18 this code. Registration for spraying of insulating material shall be filed at least five days prior to
19 commencement of such spraying work.

20 (3) Forms for registration pursuant to paragraph two of subdivision (b) of this
21 section shall require information concerning the kind and amount of particulate matter that it is
22 reasonably anticipated may be released as a result of the demolition, the precautions that will be

1 taken to prevent particulate matter from becoming air-borne, and any additional information
2 required by the commissioner for the purpose of enforcing this code.

3 (4) The registrant shall maintain the registration in current status by notifying the
4 commissioner of any change in any item of information furnished in compliance with this
5 section, other than a change in ownership, within a reasonable time not to exceed fifteen days]
6 An application for the registration of any boiler shall include documentation that the boiler has
7 passed a combustion efficiency test. The commissioner shall specify by rule the requirements
8 for such test.

9 (2) (i) An application for the registration of any generator shall include
10 documentation that the generator has passed a smoke test performed in accordance with the
11 procedures set forth in “Method 9 - Visual determination of the opacity of emissions from
12 stationary sources,” Appendix A-4 to part sixty of title forty of the code of federal regulations, or
13 documentation in the form of certification by a professional engineer or registered architect that a
14 stack test has been performed in accordance with the rules of the department.

15 (ii) The department may require that any portable generator being registered for
16 the first time be made available for a smoke test to be conducted by the department before the
17 application for registration will be processed. If the department conducts such smoke test, the
18 documentation required in subparagraph (i) of this paragraph shall not be required.

19 (iii) The requirements of this paragraph shall not apply to any newly installed
20 generator that is being registered for the first time and that is equipped with an engine certified to
21 the tier four emissions standards established by the United States environmental protection
22 agency as set forth in table one of section 1039.101 of title forty of the code of federal
23 regulations or to any subsequent United States environmental protection agency emissions

1 standard for such engine that is at least as stringent, provided that the requirements of this
2 paragraph shall apply to such generator upon renewal of such registration.

3 (d) Registration shall be [made] filed by the following persons:

4 (1) [If the registrant is a partnership or group other than a corporation, the
5 registration shall be made by an individual who is a member of the group.

6 (2) If the registrant is a corporation, the registration shall be made by an officer of
7 the corporation.

8 (3) In the case of registration pursuant to subdivision (a) of this section by the
9 owner of the equipment.

10 (4) In the case of registration pursuant to paragraph one of subdivision [(b)] (a)
11 of this section, by the [person] contractor responsible for the [construction, alteration or repair of
12 the building or other structure in or upon which] spraying [will occur] of the insulating material.

13 [(5)] (2) In the case of registration pursuant to paragraph two of subdivision [(b)]
14 (a) of this section, by the [person] contractor responsible for the demolition [of the building or
15 structure] activity.

16 (3) In the case of registration pursuant to any other paragraph of subdivision (a) of
17 this section, by the owner of the equipment or his or her authorized agent.

18 (e) [Registration shall be made in duplicate. Upon approval thereof, a stamped]
19 After a registration has been approved, the department shall return an approved copy to the
20 registrant. The approved copy [of the registration shall be returned to the registrant, and] shall be
21 displayed in accordance with section 24-113 of this subchapter.

22 (f) [Registration of equipment or apparatus shall be valid for a period of up to
23 three years from the date of approval of the initial registration or renewal, unless sooner revoked

1 or cancelled by the commissioner. Where a registration is renewed after its expiration, the
2 registration fee charged in accordance with the provisions of this part shall be increased on a
3 monthly pro-rated basis for the period of time between such expiration and renewal, unless it is
4 shown to the satisfaction of the commissioner that registration was not required under the
5 provisions of this chapter.] Any registrant, except a registrant of equipment described in
6 paragraphs seven or eight of subdivision (a) of this section, shall notify the department within
7 fifteen days of any change in the information submitted in the registration. If the change in
8 information relates to a change in ownership of the equipment then the new owner shall notify
9 the department of the change.

10 (g) Registrations shall be valid for up to three years from the date of approval,
11 unless cancelled by the department. Registrations shall be renewed in a timely manner prior to
12 expiration. A registration that has been expired for a period of one year or more shall be
13 considered cancelled by the department. Applications for registration renewals shall be
14 submitted on a form prescribed by the department.

15 (h) The application for a registration of new equipment shall indicate whether the
16 new equipment is replacing existing registered equipment. The existing registration shall be
17 cancelled upon registration of the new equipment.

18 (i) The registrant shall notify the department when removing registered
19 equipment, and the registration shall be cancelled upon such notification.

20 § 24-110 Variances. (a) The commissioner may grant individual variances[,
21 except to governmental agencies, beyond the limitations prescribed by this code,] whenever it is
22 found, upon presentation of adequate proof, that compliance with any provision of this code, or
23 with any regulation or order of the commissioner in respect to this code, would impose

1 unreasonable hardship. In granting a variance the commissioner may impose such conditions as
2 the policies of this code may require and shall [publish in the City Record] post on the Internet,
3 through a web portal that is linked to nyc.gov or any successor website maintained by or on
4 behalf of the city of New York, no later than seven days after the granting of such variance a
5 written opinion, stating the facts and reasons leading to his or her decision.

6 (b) Any variance granted pursuant to this section shall be granted for such period
7 of time[, not to exceed six months,] as shall be specified by the commissioner at the time of the
8 grant of such variance and upon the condition that the person who receives such variance shall
9 [make such periodic progress reports] provide such documentation as the commissioner shall
10 specify. Such variance may be extended [for periods not to exceed six months] by affirmative
11 action of the commissioner, but only if satisfactory progress has been shown.

12 (c) Any person seeking a variance shall do so by filing a petition for variance in a
13 form acceptable to the commissioner. The commissioner shall [promptly give written notice of
14 such petition to any person in the city who has in writing requested notice of variance petitions,
15 and shall publish notice of such petition in the City Record. If the commissioner, in his or her
16 discretion, concludes that a hearing would be advisable, or if any person files a written objection
17 to the grant of such variance within twenty-one days from the publication of notice in the City
18 Record, then a public hearing shall be held] post any petition for a variance on the Internet,
19 through a web portal that is linked to nyc.gov or any successor website maintained by or on
20 behalf of the city of New York.

21 (d) The commissioner may grant individual or group variances beyond the sulfur
22 content restriction prescribed by section 24-169 of this code, whenever it is found, upon
23 presentation of adequate proof, that the supply of fuel oil is insufficient to meet the demands of

1 residents of the city of New York for heat, hot water, and electrical power. Where an applicant
2 can show that it has an insufficient reserve of fuel oil meeting the sulfur content requirements of
3 this code and that it is unable to buy a sufficient amount of such fuel oil to meet its fuel oil
4 demands during the pendency of its variance application, the commissioner may grant a variance
5 for up to forty-five days without complying with the procedural [requirement] requirements of
6 this section, except for the [publication] requirement of subdivision (a) to post a written opinion.
7 During the time in which a temporary variance is running, the commissioner shall review, as
8 soon as practicable, the application for a variance treating it as any other variance application.

9 [(e) With respect to a variance for the spraying of any substance containing
10 asbestos in or upon a building or other structure during its construction, alteration or repair the
11 commissioner shall in determining undue hardship take cognizance that such construction,
12 alteration or repair was commenced or a permit has been granted for same by the department of
13 buildings prior to August twentieth, nineteen hundred seventy-one or six months thereafter and
14 that a non-asbestos spray material has not been approved for fireproof purposes by the
15 department of buildings.]

16 § 24-111 Interfering with or obstructing departmental personnel. No person shall
17 interfere with or obstruct [the commissioner or] any department employee in carrying out any
18 official duty [for the commissioner or the board].

19 § 24-112 False and misleading statements; unlawful reproduction or alteration of
20 documents. (a) No person shall knowingly make a false or misleading statement or submit a false
21 or misleading document to the department as to any matter within the jurisdiction of the
22 department.

1 (b) No person shall make, reproduce or alter or cause to be made, reproduced or
2 altered a work permit, certificate of operation or other document issued by the commissioner or
3 required by this code if the purpose of such reproduction or alteration is to evade or violate any
4 provision of this code or any other law.

5 § 24-113 Display of work permits, certificates of operation, registrations and
6 other notices[; removal or mutilation prohibited]. (a) Any work permit, certificate of operation or
7 registration required by this code shall be [displayed in the vicinity of the equipment on the
8 premises designated on the permit or certificate, or in the vicinity of the equipment which will be
9 operated or supervised, or in the case of registration pursuant to subdivision (b) of section 24-109
10 of this code, in the vicinity of the premises designated on the registration.

11 (b) A notice containing the provisions of subchapters six, seven and eight of this
12 chapter, or a summary of them, shall be displayed in the vicinity of the equipment of any vessel
13 while it is in waters within the jurisdiction of the city of New York. The notice shall be in the
14 language of the country of registry, and in the language commonly spoken by the crew of the
15 vessel.

16 (c) A notice printed in not less than twelve point type shall be displayed in the
17 vicinity of fuel burning equipment using residual oil containing information as may be
18 prescribed by the commissioner] prominently displayed in a manner visible to any person
19 inspecting the equipment.

20 § 24-114 Enforcement of this code by other than compulsory means. Nothing in
21 this code shall prevent the commissioner from making efforts to obtain voluntary compliance by
22 way of warning, notice or educational means. However, such non-compulsory methods need not
23 be used before proceeding by way of compulsory enforcement.

1 § 24-115 Service of papers. (a) Service of any written notice, order or decision
2 related to equipment as required by this code shall be made [on the owner] as follows:

3 (1) Either by mailing the notice, order or decision directed to the owner of the
4 equipment at the address listed in his or her application, work permit or [operating] certificate of
5 operation or at the address where the equipment is located; or

6 (2) By leaving the notice, order or decision with the owner of the equipment, or if
7 the owner is not an individual, with a member of the partnership or group concerned or with an
8 officer or managing agent of the corporation.

9 (b) Service of any written notice, order or decision not related to equipment as
10 required by this code shall be made on a person:

11 (1) [Either by] By mailing the notice, order or decision directed to the person at
12 his or her principal place of business; or

13 (2) By leaving the notice, order or decision with the person, or if the person is not
14 an individual, with a member of the partnership or group concerned, or with an officer or
15 managing agent of the corporation.

16 (c) Service of any written notice required by this code shall be made on the
17 department, commissioner or the board [as follows:

18 (1) Either] by mailing the notice to the commissioner[; or

19 (2) By leaving the notice at the department with an employee of the department
20 designated for this purpose].

21 § 24-116 Inconsistent provisions. Insofar as the provisions of this code are
22 inconsistent with the provisions of any other title of the code, or any rule or regulation of any
23 governmental agency of the city of New York, the provisions of this code shall be controlling.

1 24-121 of this code, without first obtaining a work permit from the commissioner, and such other
2 licenses or permits as may be required by other governmental agencies and departments.

3 § 24-121 [Permits] Work permits, exemptions. (a) A work permit shall not be
4 required for the installation or alteration of the following equipment or apparatus:

5 (1) Air conditioning, ventilating, or exhaust systems not designed to remove air
6 [contaminant] contaminants generated by or released from equipment or exhaust systems for
7 controlling steam and heat.

8 (2) Air contaminant detector or air contaminant recorder.

9 (3) Construction equipment except for generators.

10 (4) Deicing storage tanks.

11 (5) Dilution ventilating systems for control of welding fumes and gases.

12 [(4) Exhaust systems for controlling steam and heat.

13 (5) Fuel burning equipment, other than smoke house generators, which in the
14 aggregate has a Btu input or gross output of not more than one million Btu per hour.]

15 (6) Equipment with an environmental rating of D.

16 (7) Fuel burning equipment [which in the aggregate] that has a Btu input or a
17 gross output of less than [2.8] four million two hundred thousand Btu per hour and uses a fuel
18 gas, natural gas, gasoline or fuel oil grade No. 1 or 2 [as classified by the American society for
19 testing and materials].

20 [(7) Fumigation vaults having an environmental rating of D in accordance with
21 section 24-153 of this code.]

1 (8) Installations for the preparation of food for on-site consumption or retail
2 purchase, unless required elsewhere in this code or pursuant to [regulations] rules issued by the
3 commissioner.

4 (9) Internal combustion engines used to power any motor [vehicles] vehicle or
5 [other] any stationary [engines which have a Btu] engine that has an input of not more than
6 [three hundred fifty thousand Btu per hour] six hundred horsepower.

7 (10) Laboratory equipment used exclusively for chemical or physical analyses of
8 non-radioactive material.

9 (11) Refrigeration equipment used for cold storage.

10 (12) [Sewing equipment] Steam safety valves.

11 (13) Vents used exclusively by tanks used [in] for the storage of[:

12 (i) Residual and distillate] fuel oil[; or

13 (ii) (A)], biodiesel, liquid soap, liquid detergent, tallow or vegetable oil, waxes, or
14 emulsions.

15 (14) Vents used exclusively as part of a sanitary or storm drainage systems[; or

16 (B) steam or air safety valves; or

17 (iii) Liquid soap, liquid detergent, tallow or vegetable oil, waxes, or emulsions.

18 (14) Type metal crucible or melting pots used in connection with printing presses
19 and having an environmental rating of D in accordance with section 24-153 of this code].

20 (15) Vacuum cleaning systems used exclusively for industrial, commercial or
21 residential housekeeping.

22 (16) [Vents used exclusively for:

23 (i) Sanitary or storm drainage systems; or

1 (ii) Steam or air safety valves; or

2 (iii) Storage tanks.

3 (17)] Ventilating or exhaust systems for [paint] storage rooms or cabinets for
4 paint, ink, or solvents.

5 [(18)] (17) Water cooling towers and water cooling ponds not used for
6 evaporative cooling of process water, or not used for evaporative cooling of condensed water for
7 jet or barometric condensers.

8 (18) Equipment for which a registration is required pursuant to section 24-109 of
9 the code.

10 (19) Any other equipment or apparatus exempted by the commissioner by rule.

11 (b) A work permit shall not be required for the installation or alteration of
12 equipment or apparatus in one and two-family dwellings.

13 (c) Although a work permit is not required for the installation or alteration of the
14 equipment or apparatus listed in subdivisions (a) and (b) of this section, such equipment and
15 apparatus shall otherwise comply with this code.

16 (d) A work permit shall not be required to begin an alteration of equipment or
17 apparatus if delaying the alteration may endanger life or the supplying of essential services. The
18 department shall be notified in writing of the alteration within twenty-four hours or on the first
19 working day, after the alteration is commenced, and an application for a work permit shall be
20 filed within fourteen days after the day the alteration is commenced.

21 (e) Nothing in this section shall in any way alter, affect, or change any other
22 requirement or law of any other governmental agency or department.

1 § 24-122 [Operating certificates] Certificates of operation and renewal of
2 [operating] certificates of operation; when required. (a) No person shall cause or permit the use
3 or operation of equipment or apparatus for which [an installation or alteration] a work permit is
4 required without first obtaining a certificate of operation from the commissioner, except the use
5 or operation for the purpose of testing the equipment or apparatus or for the purpose of testing an
6 experimental installation or alteration for a reasonable period of time, not exceeding [thirty] sixty
7 days, [without first obtaining an operating certificate from the commissioner. The provisions of
8 this subdivision concerning an experimental installation or alteration shall not apply to an
9 installation or alteration for the purpose of obtaining a sulfur exemption certificate] as follows:

10 (1) Testing of the equipment, apparatus, or experimental installation or alteration
11 is permitted for an initial period of thirty days beginning upon notification to the department of a
12 start date.

13 (2) If a person discovers during testing of the equipment, apparatus, or
14 experimental installation or alteration that the equipment requires repairs, such person shall
15 notify the department of a new start date within ten days of the discovery and shall have an
16 additional thirty days from such new start date to test the equipment.

17 (b) [Except as provided in subdivision (c) of this section, or in paragraphs three
18 and four of subdivision (b) of section 24-109, no] No person shall cause or permit the use or
19 operation of the following equipment, or cause or permit the keeping of any such equipment so
20 as to be capable of being used or operated, without first obtaining [an operating] a certificate of
21 operation from the commissioner.

22 (1) Fuel burning equipment [using liquid, gaseous or solid fuel];

1 (2) Equipment used in a process, except as otherwise provided by the
2 commissioner by rule;

3 (3) Portable equipment [powered by an internal combustion engine other than a
4 motor vehicle];

5 (4) [Refuse burning equipment, including equipment operated by the department;

6 (5) Any equipment which was required by law to have an operating certificate
7 prior to January ninth, nineteen hundred eighty-three] Equipment described in subdivisions one
8 through four of section 24-118 of the code.

9 (c) [An operating certificate is not required for fuel burning equipment or refuse
10 burning equipment which is in a building to be demolished to permit the erection of a new
11 building if:

12 (1) The new building application has been approved by the department of
13 buildings; and

14 (2) Certificates of eviction have been issued by the department of housing
15 preservation and development where required; and

16 (3) Final order for eviction has been issued.] No certificate of operation shall be
17 required for equipment for which a registration is required pursuant to section 24-109 of the
18 code.

19 (d) [(1) An operating] A certificate of operation for equipment[, except refuse
20 burning equipment,] shall be valid for a period of up to three years from the date of issuance,
21 unless sooner revoked or cancelled by the commissioner.

1 [(2) An operating certificate for refuse burning equipment shall be valid for a
2 period of up to eighteen months from the date of issuance, unless sooner revoked or cancelled by
3 the commissioner.

4 (3) Where an operating certificate described in paragraph one or paragraph two of
5 this subdivision is renewed after its expiration, the fee for such certificate charged in accordance
6 with the provisions of this chapter shall be increased on a monthly pro-rated basis for the period
7 of time between such expiration and renewal, unless it is shown to the satisfaction of the
8 commissioner that such certificate was not required under the provisions of this title.

9 (e) An operating certificate is not required for equipment or apparatus the
10 installation or operation of which would not require a permit pursuant to section 24-121.

11 (f) (e) If equipment or apparatus for which [an operating] a certificate of
12 operation has been issued is dismantled or rendered inoperable, the owner of such equipment or
13 apparatus shall notify the department within twenty days on forms furnished by the department.
14 If the commissioner finds to his or her satisfaction that such equipment or apparatus has been
15 dismantled or rendered inoperable, renewal of the [operating] certificate of operation shall not be
16 required for as long as the equipment or apparatus remains dismantled or inoperable.

17 § 24-123 General requirements for applications for work permits, certificates of
18 operation, and renewal of certificates of operation. (a) Application for [an installation or
19 alteration] a work permit, for a certificate of operation or for the renewal of a certificate of
20 operation shall be made by the owner of the equipment or apparatus on forms furnished by the
21 department. If the applicant is a partnership or group other than a corporation, the application
22 shall be [made] signed by one individual who is a member of the group. If the applicant is a
23 corporation, the application shall be [made] signed by an officer of the corporation.

1 (b) [Applications for permits, and operating certificates required by subdivision
2 (b) of section 24-122 of this code, shall be filed at the department of buildings except that such
3 applications shall be filed with the department of ports and trade with respect to buildings under
4 the jurisdiction of such department.

5 (c)] A separate application is required for each unit of equipment or apparatus,
6 unless identical units of equipment or apparatus are to be installed, altered or operated in an
7 identical manner in the same building.

8 [(d)] (c) Each application shall be signed by the applicant and [professionally
9 certified as to] by an architect, engineer or any other professional approved by the commissioner
10 by rule. The architect, engineer or other professional shall certify the accuracy of the technical
11 information concerning the equipment or apparatus contained in the application, plans and other
12 papers submitted. In the case of an application for the [operating] certificate of operation
13 required by this code, the certifying [engineer or] architect, engineer or other professional shall
14 also certify that he or she inspected the equipment and that the equipment satisfies the provisions
15 of this code. [For the renewal of a certificate, the applicant's professional engineer or architect
16 shall certify that the equipment satisfies the provisions of this code.] The signature of the
17 applicant shall constitute an agreement that the applicant will assume responsibility for the
18 installation, alteration or use of the equipment or apparatus concerned in accordance with the
19 requirements of this code.

20 [(e)] (d) Application for the renewal of [an operating] a certificate of operation
21 shall be filed no later than [ninety] forty-five days and no earlier than one hundred twenty days
22 prior to the expiration of the certificate of operation.

1 [(f)] (e) Application for [an installation or alteration] a work permit or for [an
2 operating] a certificate of operation is automatically cancelled if a certificate of workers'
3 compensation and a certificate of disability insurance is not filed with the department within
4 sixty days after service on the applicant of a notice of failure to file such certificate, exclusive of
5 the day of service.

6 [§ 24-124 Information required for applications for permits, sulfur exemption
7 certificates. (a) Each application for a permit or installation or alteration of experimental
8 equipment or apparatus shall be in a manner prescribed by the commissioner.

9 (b) An application for the installation or alteration of control apparatus to obtain a
10 sulfur exemption certificate shall describe in detail the following:

11 (1) The kind and amount of fuel for which the sulfur exemption certificate is
12 sought; and

13 (2) The location of the fuel burning equipment; and

14 (3) The manner of operation of the fuel burning equipment; and

15 (4) Any additional information, evidence or documentation which may be
16 required by the commissioner.

17 (c) Information concerning secret processes which may be required, ascertained
18 or discovered by the department shall not be disclosed by any department employee, except that
19 the information may be disclosed by the commissioner if the department is subpoenaed for the
20 information or if in the course of a departmental court proceeding or department or board
21 hearing, the information is relevant to the proceeding or hearing.]

1 § 24-125 Standards for granting work permits. (a) Except as provided in section
2 24-126 of this code, no work permit shall be granted unless the applicant [demonstrates and/or]
3 certifies to the satisfaction of the commissioner that:

4 (1) The equipment is designed and will be installed or altered to operate in
5 accordance with the provisions of this code and with any applicable rules the commissioner may
6 promulgate pursuant to this code;

7 (2) The equipment [incorporates advances in the state of the art of air pollution
8 control developed for the kind and amount of air contaminant emitted by the applicant's
9 equipment] has been certified by a registered design professional to meet the current applicable
10 federal, state and city emission standards;

11 (3) [The equipment is designed and will be installed or altered consistent with any
12 regulations for such equipment issued by the commissioner;

13 (4) Equipment [which] that will have a stack [or duct three feet or more in
14 diameter], chimney, or breaching will be provided with:

15 (i) Sampling ports of a size, number and location as the [department]
16 commissioner may require, and

17 (ii) Safe access to each port, and

18 (iii) Such other sampling and testing facilities as the commissioner may require;

19 [(5)] (4) Refuse burning equipment operated by the department contains control
20 apparatus which meets [the] any performance standards that may be prescribed by the
21 commissioner;

22 (6) (5) When required by the commissioner, fuel burning equipment [which] that
23 will use residual fuel oil will be installed with an air contaminant detector together with either a

1 combustion shutoff or, when acceptable to the commissioner, an air contaminant recorder, except
2 that no combustion shutoff shall be required on fuel burning equipment used to generate steam
3 for off-premises sale or electricity; and

4 [(7)] (6) All parts of the equipment can be readily cleaned and repaired[; and

5 (8) Operation of the equipment will not prevent the attainment or maintenance of
6 applicable emission criteria].

7 (b) In order to reduce the emission of air contaminants and to insure optimum
8 combustion in fuel burning equipment and refuse burning equipment, such equipment shall be
9 shown to the satisfaction of the commissioner to:

10 (1) Be of a proper size to handle the planned load, be located in a proper place[.]
11 and incorporate appropriate apparatus [and have proper operating, regulating and control
12 devices]; and

13 (2) [Be operated at appropriate times and by appropriate persons; and

14 (3)] Burn fuel or [refuse] other material determined by the commissioner to be
15 appropriate for the specific size and type of equipment.

16 (c) The commissioner may require that any equipment or apparatus [with respect
17 to which] that requires a work permit [is required], or any class or category of such equipment or
18 apparatus, be included on a list of accepted equipment or apparatus maintained by the
19 department. No acceptance for listing of equipment or apparatus shall be granted unless the
20 applicant [demonstrates and/or certified] certifies to the satisfaction of the commissioner that
21 such equipment or apparatus complies with all applicable provisions of this code [(including the
22 requirements of subdivisions a and b of this section) and of the rules concerning engineering
23 criteria for fuel burning equipment] and such other applicable rules as the commissioner may

1 promulgate pursuant to this code. [An application for acceptance shall be accompanied by the
2 required fee.]

3 § 24-126 Conditional approval of [permits] experimental installations and
4 alterations. The commissioner may grant a work permit, or an alternative form of approval, for
5 an experimental installation or alteration on conditional approval if it appears likely from all of
6 the information submitted that the installation or alteration when completed may satisfy the
7 standards of section 24-125 of this code. The work permit shall be [for a reasonable time,] valid
8 for a period not to exceed three years. [This section shall not apply to a permit for the purpose of
9 obtaining a sulfur exemption certificate.]

10 § 24-127 [Cancellation] Expiration of [installation and alteration] work permits.

11 (a) [The commissioner may cancel a permit for the installation of equipment or apparatus in new
12 buildings] In newly constructed buildings, a work permit shall expire if the installation is not
13 completed within one year from the date of issuance of the work permit or if work on the
14 installation under the work permit is suspended for more than ninety days.

15 (b) [When not a new building, the commissioner may cancel a permit for the
16 installation or alteration of equipment or apparatus] In existing buildings, a work permit shall
17 expire if the installation or alteration is not begun within ninety days from the date of issuance of
18 the work permit or if the work of the installation or alteration is suspended for more than thirty
19 days or if the installation or alteration is not completed within six months.

20 (c) [With the consent of the commissioner, and in his or her discretion, an
21 applicant may secure an extension of the expiration date on written request to the commissioner
22 stating the reasons therefor.] Extensions may be granted for a period of not more than six

1 months per extension, provided that an application for an extension shall be made at least thirty
2 days prior to the expiration of the work permit.

3 (d) An expired work permit shall be reinstated if it is filed within one year of the
4 expiration date of the work permit. If an application for reinstatement is not filed within one
5 year of the expiration date of the work permit, then a new application shall be filed with the
6 department.

7 § 24-128 Standards for granting or renewing [operating] certificates of operation.

8 (a) No [operating] initial certificate of operation shall be granted for the use or operation of
9 equipment or apparatus for which [an installation or alteration] a work permit is required unless
10 the applicant [shows to the satisfaction of the commissioner that the equipment or apparatus
11 satisfies the standards of section 24-125 of this code and is installed or altered in accordance with
12 the requirements and conditions contained in the permit, or if installed or altered in a manner
13 which deviates from the permit, that the deviation from the permit does not adversely affect the
14 emission of air contaminant] first requests an inspection by the department to certify that the
15 equipment or apparatus is installed in accordance with the work permit and operates in
16 accordance with this code. Such inspection shall include testing as set forth in subdivision (a) of
17 section 24-129 of this code.

18 (b) [No operating certificate shall be granted for the use or operation of existing
19 equipment for which a certificate is required by subdivision (b) of section 24-122 of this code
20 unless the applicant files an application and plans as required by section 24-124 of this code for
21 installation and alteration permits, and shows to the satisfaction of the commissioner that:

22 (1) The equipment satisfied the standards required by section 24-125 of this code
23 for the granting of a permit for similar new or altered equipment, with the exception of the

1 requirements relating to stacks and ducts in paragraph four of subdivision (a) of section 24-125
2 of this code; and

3 (2) Refuse burning equipment includes the installation and use of:

4 (i) An auxiliary gas burner regulated by automatic firing clocks; and

5 (ii) An overfire air fan and nozzle system; and

6 (iii) Control apparatus such as a scrubber and/or additional control apparatus or
7 such equivalent as may be determined by the commissioner.

8 (iv) Subparagraphs (i) and (ii) shall not apply to refuse burning equipment
9 operated by the department of sanitation.

10 (3) Fuel burning equipment using residual fuel oil includes the installation and use
11 of:

12 (i) A combustion controller; and

13 (ii) An automatic oil temperature maintenance device; and

14 (iii) An automatic water temperature device or its equivalent; and

15 (iv) Such additional control apparatus as may be determined by the commissioner.

16 (4) Fuel burning equipment using solid fuel includes the installation and use of:

17 (i) A combustion controller; and

18 (ii) An automatic water temperature maintenance device or its equivalent; and

19 (iii) Such additional control apparatus as may be determined by the commissioner.

20 (c) No [operating] certificate of operation shall be granted or renewed for the use
21 or operation of equipment or apparatus unless the applicant shows to the satisfaction of the
22 commissioner that the equipment or apparatus covered by such certificate [continues to satisfy]

1 of operation satisfies the standards established in the code or by rules or regulations thereunder
2 in effect on the date of the issuance of the original [operating] certificate of operation.

3 [(d)] (c) An application for [an operating] a certificate of operation or any renewal
4 or reinstatement thereof may be denied by the commissioner if any board penalty against the
5 owner of equipment or apparatus which is the subject of the application has not been complied
6 with or satisfied.

7 [(e)] (d) If an owner fails to make an application to renew [an operating] a
8 certificate of operation within one hundred eighty days from the date of mailing of notice by the
9 commissioner that such application is required, such owner shall be required to file a new
10 application for a work permit pursuant to [section] sections 24-123 and 24-125 of the code.

11 § 24-129 Testing before granting or renewing of [operating] certificates [and
12 sulfur exemption certificates] of operation. (a) [Before an operating certificate, or a sulfur
13 exemption certificate as provided by subdivision (a) of section 24-171 of this code is granted or
14 renewed, the commissioner may require the applicant to conduct such tests as are necessary in
15 the opinion of the commissioner to determine the kind or amount of air contaminant emitted
16 from the equipment, or to determine whether the equipment or apparatus, its operation, or the
17 fuel or material used is contributing to, or is in, violation of this code. The test shall be made at
18 the expense of the applicant] A certificate of operation shall not be granted or renewed unless the
19 equipment passes such tests as the commissioner may require by rule. The commissioner may
20 require the applicant to conduct such tests. A failing test result shall result in disapproval.

21 (b) [Such tests shall be conducted, reviewed and certified as provided by
22 subdivision (b) of section 24-107 of this code. The applicant shall notify the department of the

1 time and place of a test as provided by subdivision (c) of section 24-107 of this code.
2 Reasonable facilities shall be made available for the department to witness the test.

3 (c) If in the opinion of the commissioner tests by the department are necessary,
4 the facilities for such tests, exclusive of sampling and sensory devices, shall be furnished by and
5 at the expense of the owner or lessee or his or her agent as provided by subdivision (d) of section
6 24-107 of this code.

7 § 24-130 Action on applications for work permits and certificates of operation.

8 (a) The commissioner shall act within a reasonable time not to exceed [sixty] forty-five days on
9 an application for a work permit or certificate of operation, or for a renewal of a certificate of
10 operation, and shall notify the applicant in writing of his or her approval or disapproval of the
11 application.

12 (b) If an application is disapproved, the commissioner shall set forth his or her
13 objections in the notice of disapproval [or notice of violation].

14 (c) Within [sixty] forty-five days after service on the applicant of the notice of
15 disapproval [or notice of violation exclusive of the day of service], the applicant may request the
16 commissioner to reconsider the application by answering in writing the commissioner's objection
17 to the application. The application shall be deemed cancelled if the applicant fails to answer or
18 request an extension of time within forty-five days after the service of the notice of disapproval.

19 (d) The commissioner shall consider the applicant's answer to his or her
20 objections, and shall notify the applicant in writing within a reasonable time, not to exceed
21 [sixty] forty-five days, of his or her approval or denial of the application. [Failure to answer or
22 request an extension of time within sixty days after service of the notice of disapproval or a
23 notice of violation shall be deemed a denial of the application.]

1 (e) The commissioner may grant a temporary [operating] certificate of operation
2 for a period not to exceed sixty days upon receipt of an application for the granting or renewal of
3 [an operating] a certificate of operation and may, at his or her discretion, renew a temporary
4 [operating] certificate of operation for an additional period not to exceed sixty days.

5 § 24-131 Conditions of work permits and certificates of operation to be observed.

6 The holder of a work permit or certificate of operation shall comply with the conditions and
7 terms contained [therein as well as all applicable provisions of this code] in the work permit or in
8 the certificate of operation.

9 § 24-132 Suspension or revocation of work permits and certificates of operation.

10 (a) The commissioner shall suspend or revoke a work permit or certificate of operation when
11 ordered to do so by the board pursuant to subchapter nine of this code.

12 (b) Suspension or revocation of a work permit or certificate of operation shall
13 become final five days after service of notice[, exclusive of the day of service,] on the holder of
14 the work permit or certificate of operation.

15 [§ 24-133 Denial of permits and certificates; departmental hearing, stay of action.

16 (a) When the commissioner has made a final decision denying an application for a permit or
17 certificate, the applicant for the permit or certificate may request a hearing by the commissioner
18 to reconsider his or her action. The request for a hearing shall be served within fifteen days
19 following service of notice of denial, exclusive of the day of service, upon an employee of the
20 department designated for this purpose.

21 (b) The request for a hearing shall be in a manner prescribed by the
22 commissioner.

1 (c) The person making the request shall submit a memorandum containing his or
2 her objections to the action of the commissioner within five days following service of the request
3 for a hearing, exclusive of the day of service.

4 (d) The commissioner or the designated hearing officer conducting such hearings
5 shall:

6 (i) follow the procedures found in section 24-184 of this code; and,

7 (ii) commence the hearing within thirty days after receiving the applicant's
8 memorandum.

9 (e) At the conclusion of the hearing, the commissioner or hearing officer shall
10 issue a decision in compliance with section 24-186 of this code.]

11 § 24-134 Surrender of work permits and certificates of operation. A work permit
12 or certificate [which] of operation that has been cancelled or revoked pursuant to this code shall
13 be surrendered [forthwith] to the commissioner within five business days of receipt of the notice
14 of revocation.

15 § 24-135 Transfer of work permits and certificates of operation. (a) [Any
16 purported or attempted transfer of a] A work permit [automatically revokes the permit] shall not
17 be transferred, except to the new property owner upon conveyance of the property. If the new
18 owner employs a different registered design professional, that registered design professional
19 shall recertify the application.

20 (b) [Any purported or attempted transfer of a] A certificate [automatically revokes
21 the certificate, except that] of operation shall not be transferred, except to the new property
22 owner upon conveyance of the [premises in which the equipment is located a certificate may be
23 transferred to a person other than the person named in the certificate] property.

1 year 1989, subparagraph (a) of paragraph (1) of subdivision (f), paragraph (2) of subdivision (f),
2 subdivision (h) as amended, subdivisions (i) and (j) as added, and subdivision (k) as relettered by
3 local law number 46 for the year 1988, subdivisions (l) and (m) as added by local law number
4 101 for the year 1989, subdivision (n) as added by local law number 37 for the year 2009, second
5 subdivision (n) as added by local law number 39 for the year 2009, and subdivision (o) as added
6 by local law number 77 for the year 2009, is amended to read as follows:

7 § 24-136 Asbestos work. (a) The purpose of this subchapter is to protect public
8 health and safety and the environment by minimizing the emission of asbestos fibers into the air
9 of the city when buildings or structures that contain asbestos-containing material are renovated,
10 altered, repaired, or demolished.

11 (b) For purposes of this section, the following terms shall have the following
12 meanings:

13 (1) "Asbestos" shall mean any hydrated mineral silicate separable into
14 commercially usable fibers, including but not limited to chrysotile (serpentine), amosite
15 (cumingtonite-grunerite), crocidolite (riebeckite), tremolite, anthrophyllite and actinolite.

16 (2) ["Asbestos inspection report" shall mean a report on the condition of a
17 building or structure in relation to the presence and condition of asbestos therein] "Asbestos
18 Project notification" shall mean a form filed to notify the department that an asbestos project will
19 be taking place.

20 (3) "Asbestos investigator" shall mean an individual certified by the
21 commissioner as having satisfactorily demonstrated his or her ability to identify the presence and
22 evaluate the condition of asbestos in a building or structure.

1 (4) "Asbestos containing material" shall mean asbestos or any material
2 containing more than one percent asbestos by weight.

3 (5) ["Asbestos removal plan" shall mean a plan which will be undertaken so as to
4 prevent asbestos from becoming airborne in the course of an asbestos project as defined in this
5 subdivision.

6 (6) "Asbestos handling certificate" shall mean a certificate issued to a person
7 who has satisfactorily completed an approved asbestos safety and health program.

8 [(7) "Approved safety and health program" shall mean a program certified by the
9 commissioner providing training in the handling and use of asbestos containing material, and
10 safety and health risks inherent in such handling and use, together with methods for minimizing
11 the exposure of workers and the public to asbestos fibers and, instruction in all applicable
12 federal, state and local laws and regulations pertaining to asbestos related work.

13 (8) (6) "Asbestos project" shall mean any form of work performed in
14 [connection with the alteration, renovation, modification, or demolition of] a building or
15 structure[, as defined in section 27–232 of this code,] or in connection with the replacement or
16 repair of equipment, pipes, or electrical equipment not located in a building or structure, which
17 will disturb more than [two hundred sixty] twenty-five linear feet or more than [one hundred
18 sixty] ten square feet of [friable] asbestos containing material or such smaller amounts as the
19 commissioner may establish by [regulation] rule.

20 [(9) "Friable asbestos material" shall mean any asbestos or any asbestos
21 containing material that can be crumbled, pulverized or reduced to powder when dry, by hand
22 pressure.

1 (10) (7) "AHERA" shall mean the asbestos hazard emergency response act of
2 nineteen hundred eighty-six, as amended (15 U.S.C. section [641] 2641, et seq.).

3 [(b)] (8) "Work Place Safety Plan" shall mean documents prepared by a registered
4 design professional and submitted to the department in order to obtain an asbestos abatement
5 permit.

6 (c) (1) It shall be unlawful for any individual to handle [friable] asbestos
7 material in the course of performing work for compensation on an asbestos project unless such
8 individual is a holder of a current, valid asbestos handling certificate.

9 (2) It shall be unlawful to employ or otherwise permit any individual to handle
10 [friable] asbestos material on an asbestos project when such person is not a holder of a current,
11 valid asbestos handling certificate.

12 [(c)] (d) The commissioner shall promulgate [regulations] rules establishing
13 procedures for the safeguarding of the health and safety of the public [and all], including
14 procedures to be followed by persons who work at or in the vicinity of an asbestos project. The
15 commissioner, in consultation with the fire commissioner and the commissioner of buildings,
16 shall promulgate rules [within one hundred twenty days of the enactment of this local law] which
17 give further guidance to contractors on how to maintain egress at asbestos projects, as such
18 projects are defined in the rules of the department, in accordance with all applicable laws, codes,
19 rules and regulations.

20 [(d)] (e) (1) The commissioner shall promulgate [regulations] rules establishing
21 criteria for certifying individuals as eligible to receive an asbestos handling certificate [and for
22 certifying programs as approved safety and health programs]. The commissioner may restrict the

1 asbestos handling certificate as to certain supervisory and nonsupervisory functions and
2 responsibilities.

3 (2) The commissioner shall promulgate [regulations] rules establishing criteria
4 for certifying individuals as asbestos investigators.

5 (3) Any certificate issued under this subdivision shall be valid for a period of two
6 years unless sooner suspended or revoked and may be renewed for a period of two years upon
7 submission of proof satisfactory to the commissioner that the individual continues to meet the
8 criteria established pursuant to this subdivision.

9 (4) [The initial certification of safety and health programs established pursuant to
10 this section shall expire six months after the date of such certification. Safety and health program
11 certificates may be renewed upon presentation to the commissioner of evidence satisfactory to
12 the commissioner that the program continues to satisfy the criteria established for such safety and
13 health programs. Such renewal shall be valid for a period of one year unless suspended or
14 revoked before such time. The application to renew a certificate shall be submitted with the
15 appropriate renewal fee thirty days prior to expiration of such certificate.

16 (5)] The commissioner, after providing notice and an opportunity to be heard,
17 may suspend or revoke any certificate issued under this subdivision where it is found that the
18 holder has failed to comply with this section or any rules or regulations promulgated thereunder,
19 or that a person other than the authorized holder has made use of such certificate to work on an
20 asbestos project, or that the holder of such certificate has been convicted of any crime related to
21 asbestos.

22 [(6)] (5) The commissioner shall charge a fee not to exceed [one] two hundred
23 dollars to process the application to issue or renew an asbestos handling certificate and a fee not

1 to exceed [two hundred fifty] five hundred dollars to process the application of an individual as
2 an asbestos investigator.

3 [(7)] (6) The commissioner may suspend the processing of applications for
4 certification of individuals as asbestos handlers[,] or investigators[, planners, designers, and
5 other titles for which training requirements are specified by AHERA, and the certification of
6 safety and health programs] when the commissioner determines that regulations promulgated
7 pursuant to article thirty of the labor law for the certification of such individuals [and for the
8 certification of safety and health programs] are essentially equivalent to [regulations] rules
9 promulgated by the commissioner, and that such certifications are in fact being issued.

10 [(e) (1) a.] (f) (1) The commissioner shall prescribe forms for and the content of
11 asbestos [inspection reports to be submitted in accordance with the provisions of subdivisions a,
12 b or c of section 27-198.1 of article nineteen of subchapter one of chapter one of title twenty-
13 seven of the code. Such reports] project notifications to be submitted to the department. Such
14 notifications shall require the furnishing of information deemed relevant by the commissioner for
15 evaluating[, in the case of an asbestos project,] the scope, complexity and duration of [such
16 project, or if not an asbestos project, information deemed relevant by the commissioner for
17 evaluating the samples taken and the validity of sampling techniques utilized in preparing such
18 inspection report,] the project and the compliance with the provisions of this section, any
19 [regulations] rules promulgated thereunder, and any applicable federal[and or], state, or local
20 laws, rules or regulations.

21 [b. An asbestos inspection report regarding an asbestos project, where the work
22 to be performed will cause the generation of waste which is asbestos containing material, shall
23 include: (i) the amount of such waste which will be generated; (ii) the name of the person who

1 will remove the waste and the number of the industrial waste transporter permit issued to such
2 person pursuant to article twenty-seven of the environmental conservation law; and (iii) the site
3 at which such waste will be disposed of.

4 c. If at the time the asbestos inspection report for an asbestos project is required
5 to be filed, any of the information required under subparagraph b of this paragraph is not known,
6 an amended report shall be filed thereafter with the department as soon as such information
7 becomes known. Provided no person shall authorize the transport of waste which is asbestos
8 containing material unless all information required in paragraph b has been filed with the
9 department not less than five business days prior to the time such waste is transported. Provided
10 further, however, the commissioner may for good cause shown and on such terms and conditions
11 as he or she deems reasonable and necessary permit the filing of such report less than five days
12 prior to the time such waste is transported.

13 d. Copies of all asbestos inspection reports received by or filed with the
14 department and any amendments thereto indicating that waste which is asbestos containing
15 material will be generated shall be forwarded to the department of sanitation.

16 (2) The commissioner may by regulation also require for any work which is not
17 subject to the provisions of subdivision a of section 27-198.1 of article nineteen of subchapter
18 one of chapter one of title twenty-seven of the code and for which a permit is required under
19 article nine of subchapter one of chapter one of such title that an asbestos investigator certify that
20 the work to be performed will not constitute an asbestos project or that an asbestos inspection
21 report be completed and submitted to the department of buildings in conjunction with an
22 application for such permit. The commissioner may exclude from any regulation promulgated
23 pursuant to this paragraph certain types of work within a permit category.

1 (f) (1) a. The commissioner shall promulgate regulations establishing the
2 requirements of an asbestos removal plan to be submitted in accordance with the provisions of
3 subdivision c of section 27-198.1 of article nineteen of subchapter one of chapter one of title
4 twenty-seven of the code and shall specify the type or types of demolition or alteration work for
5 which such submission shall be required. Plans submitted shall be approved by the commissioner
6 only upon a satisfactory showing that such plan will effect compliance with all applicable
7 provisions of this section, regulations promulgated thereunder, all applicable federal or state laws
8 or regulations and, in addition, that to the extent feasible, the removal of asbestos will be
9 completed prior to the commencement of any demolition work. No plan shall be considered for
10 approval unless accompanied by the payment of a fee established by the commissioner not to
11 exceed eighteen hundred dollars.

12 b. Such plan, where] (2) If the work to be performed will cause the generation of
13 waste which is asbestos containing material, the asbestos project notification shall include: (i)
14 [the amount of such waste which will be generated; (ii)] the name of the person who will remove
15 the waste and the number of the industrial waste transporter permit issued to such person
16 pursuant to article twenty-seven of the environmental conservation law; and [(iii)] (ii) the site at
17 which such waste will be disposed of.

18 [c. If at the time asbestos removal plan is required to be filed, any of the
19 information required under subparagraph b of this paragraph is not known, an amended plan
20 shall be filed thereafter with the department as soon as such information becomes known.
21 Provided no person shall authorize the transport of waste which is asbestos containing material
22 unless all information required in paragraph b has been filed with the department not less than
23 five business days prior to the time such waste is transported. Provided further, however, the

1 commissioner may for good cause shown and on such terms and conditions as he or she deems
2 reasonable and necessary permit the filing of such amended plan less than five days prior to the
3 time such waste is transported.

4 d. Copies of all asbestos removal plans filed with the department and any
5 amendments thereto indicating that waste which is asbestos containing material will be generated
6 shall be forwarded to the department of sanitation.

7 (2) The commissioner shall act within a reasonable time not to exceed sixty days
8 on an application for approval of an asbestos removal plan, and shall notify the applicant in
9 writing of his or her approval or disapproval of the application. If an application is disapproved,
10 the commissioner shall set forth his or her objections in the notice of disapproval. Within sixty
11 days after service on the applicant of the notice of disapproval, the applicant may request the
12 commissioner to reconsider the application by responding in writing to the stated objections. The
13 commissioner shall consider the applicant's responses to his or her objections, and shall notify
14 the applicant in writing within a reasonable time, not to exceed sixty days, of his or her approval
15 or denial of the application. Failure to respond to the stated objections or request an extension of
16 time within sixty days after service of the notice of disapproval shall be deemed a denial of the
17 application.]

18 (g) The commissioner may promulgate any [regulations] rules he or she deems
19 necessary to protect [the] public health and safety [of workers] and the [public] environment in
20 connection with work not constituting an asbestos project in which asbestos is or is likely to be
21 disturbed.

22 (h) [A notice or] An order to stop work may be issued by the commissioner, or
23 his or her authorized representative, at any time when it is found that work is being performed in

1 violation of the provisions of this section, or any rules or regulations promulgated thereunder and
2 which poses a threat to human safety. Upon issuance of a stop work order by the commissioner,
3 all work shall immediately stop unless otherwise specified. Such [notice or] order may be given
4 orally or in writing to the owner, lessee or occupant of the property involved, or to the agent of
5 any of them, or to the person or persons performing the work and may require all persons in or
6 about the building or premises to vacate the same forthwith, and also require such work to be
7 done as, in the opinion of the commissioner, may be necessary to remove the danger therefrom.
8 [Such notice or order shall be valid for a period of time not to exceed seventy-two hours and may
9 be extended only upon application to the board in accordance with the provisions of section 24-
10 178 of this code] A verbal stop work order shall be followed promptly by a written order and
11 shall include the reason for the issuance of the stop work order. A stop work order issued
12 pursuant to this subdivision may be appealed in accordance with the rules of the department, and
13 the commissioner shall provide notice and an opportunity to be heard within fourteen days of the
14 filing of such appeal. A stop work order shall be lifted if, upon appeal, the commissioner
15 determines that the issuance of such order was not proper, or when it has been determined that
16 the condition that gave rise to its issuance has been corrected.

17 (i) The commissioner may grant individual variances for asbestos projects at
18 specific sites, from particular requirements related to asbestos prescribed by this code and
19 [regulations] rules or orders of the commissioner promulgated thereunder, whenever it is found,
20 upon presentation of adequate proof, that compliance with such requirements would impose
21 unreasonable hardship. In granting a variance the commissioner may impose such conditions as
22 the policies of this code may require [and shall publish in the City Record no later than seven
23 days after the granting of such variance a statement of the reasons leading to his or her decision].

1 (j) [The commissioner may establish a fee to process the applications listed in
2 this subdivision as follows:

3 (1) For any asbestos project not requiring a permit or plan approval issued by the
4 department of buildings and for which an asbestos inspection report or asbestos removal plan is
5 required by this section and by regulations promulgated pursuant thereto to be filed with the
6 commissioner, the commissioner shall be entitled to charge a fee not to exceed twelve hundred
7 dollars for the asbestos inspection report or eighteen hundred dollars for the asbestos removal
8 plan.

9 (2) To process an application for a variance submitted in accordance with
10 subdivision (j) of this section, the department shall be entitled to charge a fee as established by
11 the commissioner not to exceed eighteen hundred dollars.

12 (3) The commissioner may establish a fee not to exceed the following amounts
13 for processing applications for the certification or renewal of certification of safety and health
14 programs established pursuant to this section:

PROGRAM	FEE PER PROGRAM
Asbestos Handler	\$1500.00
Asbestos Supervisor	\$ 300.00
Asbestos Investigator	\$ 750.00
Biennial Review Course	\$ 500.00
Refresher Course	\$ 300.00

21 (k) The commissioner may promulgate any additional regulations he or she
22 deems necessary to effectuate the purposes of this section.

23 (l) The commissioner shall promulgate regulations requiring asbestos
24 investigators to submit on a timely basis to the commissioner the results of any asbestos survey

1 or investigation for asbestos conducted in accordance with this section and with regulations
2 promulgated pursuant thereto if, during or as a result of such asbestos survey or investigation, the
3 asbestos investigator discovers asbestos containing material. The commissioner may require the
4 submission of the asbestos investigator's findings whether or not an asbestos project is planned
5 or scheduled.

6 (m) (1) In addition to submission of the asbestos [inspection report or asbestos
7 removal plan] project notification, the commissioner may by [regulation] rule require additional
8 notification to the department prior to the start of the asbestos project. No person shall cause or
9 permit any abatement of asbestos containing material without compliance with any such
10 additional notification requirements.

11 (2) [Except as specified in subparagraph c of paragraph one of subdivision (e)
12 and subparagraph c of paragraph one of subdivision (f) of this section, the] The commissioner
13 may prescribe by [regulation] rule the circumstances under which an asbestos [inspection report
14 or asbestos removal plan] project notification may be amended, and the circumstances under
15 which a new [asbestos inspection report or asbestos removal plan] project notification shall be
16 submitted to the department. The commissioner may consider the extent of the proposed
17 amendment, including but not limited to change in floor size, quantity of asbestos containing
18 material involved, project phasing, project duration, and replacement of abatement contractor.

19 [(n)] (k) The commissioner shall adopt rules specifying the standards for the
20 construction of temporary structures for asbestos abatement activities. In addition to any other
21 requirements, such rules shall provide that materials used in the construction of such structures
22 be non-combustible or flame resistant in compliance with reference standard NFPA 255-06 or

1 NFPA 701-99, as such standards may be modified by local law or by the [Department]
2 department of [Buildings] buildings pursuant to applicable rules.

3 [(n)] (l) Sharing the results of inspections. The commissioner, in coordination
4 with the commissioner of [the department of] buildings and the fire commissioner, shall establish
5 a procedure to share information regarding violations issued pursuant to this section, in
6 accordance with the requirements of section 28-103.7.1 of the [administrative] code [of the city
7 of New York].

8 [(o)] (m) (1) No asbestos abatement activities shall be performed within a
9 building concurrently with demolition work for the full demolition of such building or
10 concurrently with the removal of one or more stories of such building, except as provided in this
11 subdivision and the rules of the department.

12 (2) Prior to the issuance of a full demolition permit by the department of
13 buildings, the owner of the building to be demolished shall submit to the department of buildings
14 (i) certification, in a form to be provided by the rules of the department of environmental
15 protection, that the building is free of asbestos containing material or, (ii) documentation that the
16 commissioner of environmental protection has issued a variance from this requirement pursuant
17 to subdivision (i) of this section and the rules of the department, subject to the additional
18 conditions set forth in paragraph four of this subdivision.

19 (3) Prior to the issuance of an alteration permit by the department of buildings to
20 remove one or more stories of a building, the owner of the building shall submit certification to
21 the department of buildings in a form to be provided by the rules of the department of
22 environmental protection (i) that the stories to be removed are free of asbestos containing
23 material and that no abatement activities will be performed anywhere in the building

1 concurrently with the removal work authorized by such permit or (ii) that the commissioner of
2 environmental protection has issued a variance from these requirements pursuant to subdivision
3 (i) of this section and the rules of the department, subject to the additional conditions set forth in
4 paragraph four of this subdivision.

5 (4) Prior to granting any variance pursuant to subdivision (i) of this section
6 relating to the full demolition of a building or the removal of one or more stories of a building
7 that would permit the performance of abatement activities concurrent with such demolition or
8 removal work within the same building, the commissioner of environmental protection shall
9 notify and consult with the commissioner of buildings and the fire commissioner regarding the
10 appropriate safeguards for such work. Notwithstanding any inconsistent provision of section [24-
11 146.3] 24-138 of the [administrative] code, where a variance is issued to perform abatement
12 activities and demolition or removal work concurrently within the same building, the asbestos
13 abatement activities may not be performed without an asbestos permit issued pursuant to section
14 [24-146.3] 24-138, regardless of whether such a permit would otherwise be required to perform
15 such activity.

16 (5) The commissioner shall post on-line within seven days notice of any variance
17 granted under this subdivision with a statement of the reasons leading to his or her decision.

18 (6) This subdivision shall not apply to full demolition or the removal of one or
19 more stories performed as emergency work pursuant to article 215 of chapter 2 of title 28 of the
20 administrative code where the emergency warrants immediate commencement of the work or full
21 demolition with asbestos in place authorized in accordance with 12 NYCRR 56-11.5.

1 (n) The owner of a building or structure where asbestos abatement activity occurs
2 or where asbestos-containing material is disturbed shall be responsible for the performance of the
3 work by the agent, contractor, employee, or other representative of such owner.

4 § 16. Subdivisions (a), (d) and (g) of section 24-138 of subchapter 5 of chapter 1
5 of title 24 of the administrative code of the city of New York, such section 24-138 as renumbered
6 by section 14 of this local law, subdivisions (a), (d) and (g) of such section as added by local law
7 number 37 for the year 2009, are amended to read as follows:

8 (a) The commissioner shall establish a permit requirement for asbestos projects[,
9 as defined in the rules of the department,] affecting the safety of a building. On and after a date
10 to be provided in the rules establishing such a permit requirement, it shall be unlawful to
11 commence or engage in such a project unless the commissioner has issued an abatement permit
12 for such project.

13 (d) The commissioner may, on written notice to the permit holder, revoke any
14 abatement permit for failure to comply with the provisions of this section or section [24-146.1]
15 24-136 of this code or the rules adopted pursuant thereto or whenever there has been any false
16 statement or any misrepresentation as to a material fact in the application or other documents
17 submitted to the department upon the basis of which such permit was issued; or whenever an
18 abatement permit has been issued in error and conditions are such that the permit should not have
19 been issued. Such notice shall inform the permit holder of the reasons for the proposed
20 revocation and that the applicant has the right to present to the commissioner or his or her
21 representative within 10 business days of delivery of the notice by hand or 15 calendar days of
22 mailing of the notice, information as to why the permit should not be revoked. The commissioner
23 may immediately suspend any permit without prior notice to the permit holder when the

1 commissioner has determined that an imminent peril to life or property exists. The commissioner
2 shall forthwith notify the permit holder that the permit has been suspended and the reasons
3 therefore, that it is proposed to be revoked, and that the permit holder has the right to present to
4 the commissioner or his or her representative within 10 business days of delivery of the notice by
5 hand or 15 calendar days of mailing of the notice information as to why the permit should not be
6 revoked.

7 (g) The permittee shall comply with section [24-146.1] 24-136 of this code and
8 the rules of the department adopted pursuant to such section and with article 30 of the labor law
9 and rules adopted pursuant to such article. The commissioner may issue a notice or order to stop
10 work in accordance with the procedure set forth in subdivision (h) of section [24-146.1] 24-136
11 of this code at any time when work is being performed in violation of this section or section [24-
12 146.1] 24-136 of this code or rules adopted pursuant to such sections and such work poses a
13 threat to human safety.

14 § 17. Subchapter 5 of chapter 1 of title 24 of the administrative code of the city of
15 New York is amended by adding a new section 24-140 to read as follows:

16 § 24-140 Spraying of asbestos prohibited. No person shall cause or permit the
17 spraying of any substance containing asbestos in or upon a building or other structure during its
18 construction, alteration or repair.

19 § 18. Section 24-141 of subchapter 6 of chapter 1 of title 24 of the administrative
20 code of the city of New York is amended to read as follows:

21 § 24-141 Emission of odorous air [contaminant (including odorous air
22 contaminant) or water vapor; detriment to person, property or plant and animal life]
23 contaminants. No person shall cause or permit the emission of an odorous air contaminant or

1 steam, [including odorous air contaminant, or water vapor] if the air contaminant or [water
2 vapor] steam causes or may cause detriment to the health, safety, welfare or comfort of any
3 person, or injury to plant and animal life, or causes or may cause damage to property or business,
4 or if it reacts or is likely to react with any other air contaminant or natural air, or is induced to
5 react by solar energy to produce a solid, liquid or gas or any combination thereof which causes or
6 may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and
7 animal life, or which causes or may cause damage to property or business.

8 [(a) The prohibition of this section includes, but is not limited to, emission of
9 the following air contaminant:

10 (1) Air contaminant that contain cadmium, beryllium, mercury or any
11 compounds thereof;

12 (2) Air contaminant containing asbestos, except where such an air contaminant
13 is emitted from the brake lining of a motor vehicle during normal use.

14 (b) The prohibition of this section includes, but is not limited to, emissions of
15 odorous air contaminant from the following sources:

16 (1) Aircraft engines,

17 (2) Ammonia, bleaching powder or chlorine manufacture,

18 (3) Asphalt manufacture or refining,

19 (4) Blood processing,

20 (5) Bag cleaning,

21 (6) Coal tar products manufacture,

22 (7) Compost heaps,

23 (8) Crematory,

- 1 (9) Creosote treatment or manufacture,
- 2 (10) Diesel engines,
- 3 (11) Disinfectants manufacture,
- 4 (12) Distillation of bones, coal or wood,
- 5 (13) Dyestuff manufacture,
- 6 (14) Fat rendering,
- 7 (15) Fertilizer manufacture and bone grinding,
- 8 (16) Fish processing,
- 9 (17) Glue, size or gelatin manufacture,
- 10 (18) Incineration or reduction of garbage, dead animals, offal or refuse,
- 11 (19) Oiled rubber or leather goods manufacture,
- 12 (20) Paint, oil, shellac, turpentine or varnish manufacture,
- 13 (21) Paper and pulp manufacture,
- 14 (22) Petroleum refining,
- 15 (23) Plastic or resin manufacture,
- 16 (24) Processing of food stuffs,
- 17 (25) Rubber manufacture,
- 18 (26) Shoe-blackening manufacture,
- 19 (27) Soap and detergent manufacture,
- 20 (28) Slaughter-houses,
- 21 (29) Sulfuric, nitric or hydrochloric acid manufacture,
- 22 (30) Tanning, curing or storage of rawhides or skins,
- 23 (31) Tar distillation or manufacture,

1 (32) Tar roofing or waterproofing manufacture.

2 (c) The prohibition of this section, however, shall not include emissions of the
3 air contaminants in paragraph (a) when restricted to the following quantities:

4 (1) cadmium—0.15 micrograms per cubic meter.

5 (2) beryllium—10 nanograms per cubic meter.

6 (3) mercury—0.1 microgram per cubic meter.

7 (4) asbestos—27 nanograms per cubic meter.]

8 § 19. Section 24-142 of subchapter 6 of chapter 1 of title 24 of the administrative
9 code of the city of New York is amended to read as follows:

10 § 24–142 Emission of air [contaminant] contaminants; standard smoke chart. (a)

11 No person shall cause or permit the emission of an air contaminant of: (1) A density which
12 appears as dark or darker than number two on the standard smoke chart or of an opacity which
13 obscures vision to a degree equal to or greater than smoke of number two density on the standard
14 smoke chart; or

15 (2) A density which appears as dark or darker than number one on the standard
16 smoke chart, but less than number two on said chart, or of such opacity as to obscure vision to a
17 degree equal to or greater than smoke of number one density on the standard smoke chart, but
18 less than number two on said chart, if such an emission continues for longer than two minutes in
19 the aggregate in any sixty minute period.

20 (b) (1) The density or opacity of an air contaminant shall be measured in
21 accordance with the procedures set forth in “Method 9 - Visual determination of the opacity of
22 emissions from stationary sources,” Appendix A-4 to part sixty of title forty of the code of
23 federal regulations.

1 (2) The density or opacity of an air contaminant shall be measured at the point of
2 its emission[, except:

3 (1)] provided that:

4 (i) When the point of emission cannot be readily observed, it may be measured at
5 an observable point on the plume nearest the point of emission; or

6 [(2)] (ii) In the case of an air contaminant emitted from a source outside of the
7 city of New York, it shall be measured after the plume crosses the jurisdictional boundary of the
8 city of New York [city].

9 § 20. Section 24-143 of subchapter 6 of chapter 1 of title 24 of the administrative
10 code of the city of New York is amended to read as follows:

11 § 24–143 Emission of air contaminant from internal [or external] combustion
12 engine; visibility standard. No person shall cause or permit the emission of a visible air
13 contaminant from the internal [or external] combustion engine of:

14 (a) A motor vehicle while the vehicle is stationary for longer than ten
15 consecutive seconds; or

16 (b) A motor vehicle after the vehicle has moved continuously for more than
17 ninety yards [from a place where the vehicle was stationary].

18 (c) The operator or registered owner of a vehicle in violation of this section shall
19 be responsible for such violation.

20 § 21. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of
21 New York is amended by adding a new section 24-143.1 to read as follows:

22 § 24-143.1 Motorcycle emission control. Any motorcycle manufactured in the
23 year two thousand thirteen or thereafter that is present in the city of New York shall display on

1 the exhaust system of such motorcycle the emission label required pursuant to section 205.169 of
2 title forty of the code of federal regulations.

3 § 22. Section 24-144 of subchapter 6 of chapter 1 of title 24 of the administrative
4 code of the city of New York is REPEALED.

5 § 23. Section 24-145 of subchapter 6 of chapter 1 of title 24 of the administrative
6 code of the city of New York is amended to read as follows:

7 § 24-145 Emission of [particulate matter from refuse burning equipment and
8 fuel burning equipment; weight-rate standard. (a) No person shall cause or permit the emission
9 of particulate matter from refuse burning equipment and fuel burning equipment if the emission
10 from such equipment is in violation of the provisions of section 24-141 or 24-142 of this code or
11 if the particulate matter emitted as measured in the flue exceeds the following limits:

12 (1) In refuse burning equipment, the permissible particulate rate shall be as
13 provided in figure four of section 24-153 of this code. If two or more refuse burning units are
14 connected to a single flue, the total capacity rating of all refuse burning units connected to the
15 flue shall be the capacity rating for the purpose of computing the amount of particulate matter
16 which may be emitted. If a single refuse burning unit is manifold to two or more flues the
17 capacity rating of the single refuse burning unit shall be the capacity rating for the purpose of
18 computing the amount of particulate matter which may be emitted;

19 (2) In fuel burning equipment in which the preponderance of the particulate
20 matter emitted is caused by the burning of fuel, 0.40 pounds for each million Btu per hour input
21 if the equipment has a capacity rating of ten million Btu per hour or less. If the capacity rating of
22 the fuel burning equipment is more than ten million Btu per hour, the amount of permissible

1 emissions of particulate matter shall be as provided in figure three of section 24-153 of this code,
2 as measured on a dry basis.

3 (b) If two or more fuel burning units are connected to a single flue, the total
4 capacity rating of all fuel burning units connected to the flue shall be the capacity rating for the
5 purpose of computing the amount of particulate matter which may be emitted. If a single fuel
6 burning unit is manifold to two or more flues the capacity rating of the single fuel burning unit
7 shall be the capacity rating for the purpose of computing the amount of particulate matter which
8 may be emitted] particulates.

9 (a) Refuse burning equipment. (1) Refuse burning equipment used at a
10 crematorium that is covered by subpart 219-4 of part two-hundred nineteen of title six of the
11 New York codes, rules and regulations, must meet the emission limits for particulates set forth in
12 section 219-4.3 of such title.

13 (2) Refuse burning equipment used to burn infectious waste that is covered by
14 subdivision a of section 219-3.3 of title six of the New York codes, rules and regulations must
15 meet the emission limits for particulates set forth in such subdivision.

16 (3) Refuse burning equipment used to burn waste material for the purpose of
17 energy generation or that is not otherwise covered under paragraph one or two of this
18 subdivision, and that is covered by subdivision b of section 219-3.3 of title six of the New York
19 codes, rules and regulations must meet the emission limits for particulates set forth in such
20 section.

21 (b) Equipment used in a process. (1) Equipment used in a process that is covered
22 by section 212.3 of title six of the New York codes, rules and regulations must meet the emission
23 limits for particulates set forth in such section.

1 (2) Equipment used in a process that is covered by section 212.4 of title six of the
2 New York codes, rules and regulations must meet the emission limits for particulates set forth in
3 such section.

4 (c) Fuel burning equipment that meets the definition of a new oil-fired boiler, as
5 such term is used in subpart JJJJJ of part sixty-three of title forty of the code of federal
6 regulations, with a heat input capacity of ten million Btu per hour or greater and that does not
7 meet the definition of a seasonal boiler or limited-use boiler, as such terms are used in such
8 subpart, must meet emission limits for particulate matter applicable to such new oil-fired boilers
9 set forth in table one to such subpart.

10 § 24. Section 24-146 of subchapter 6 of chapter 1 of title 24 of the administrative
11 code of the city of New York is amended to read as follows:

12 § 24-146 Preventing [particulate matter] dust from becoming air-borne;
13 [spraying of asbestos prohibited;] spraying of insulating material and demolition regulated. (a)
14 The purpose of this section is to protect public health and safety and the environment by
15 minimizing the emission of dust into the air of the city.

16 (b) No person shall cause or permit [particulate matter to be handled,] any
17 material that may generate dust to be transported or stored without taking such precautions as
18 may be ordered by the commissioner or as established by the rules of the department to prevent
19 [particulate matter] dust from becoming air-borne.

20 [(b) Six months after August twentieth, nineteen hundred seventy-one no person
21 shall cause or permit the spraying of any substance containing asbestos in or upon a building or
22 other structure during its construction, alteration or repair, except if permitted by a variance
23 granted pursuant to subdivision (e) of section 24-110 of this chapter.]

1 (c) No person shall cause or permit a building or its appurtenances or a road to be
2 constructed, altered or repaired without taking such precautions as may be ordered by the
3 commissioner or as established by the rules of the department to prevent [particulate matter] dust
4 from becoming air-borne.

5 (d) No person shall cause or permit [untreated open areas located within the
6 boundaries of a zoning lot] any use, as defined by section 12-10 of the zoning resolution of the
7 city of New York, to be implemented or maintained without taking reasonable precautions as
8 established by the rules of the department, including, but not limited to, planting or covering, to
9 prevent [particulate matter] dust from becoming air-borne.

10 (e) No person shall cause or permit the spraying of any insulating material, not
11 otherwise prohibited by this [section] code, in or upon any building or other structure during its
12 construction, alteration or repair, unless he or she complies with the [following precautions: (1)
13 Before the start of spraying operations, all floor areas shall be shoveled clean. Before the
14 application of insulating material commences, the floor of the areas shall be cleared of all
15 objects, material and equipment other than that employed in the application of the insulating
16 material, or all objects, material, and equipment shall be covered with plastic or other approved
17 tarpaulins in a manner that precludes the subsequent dispersal of particulate matter.

18 (2) The entire floor, or the part of the floor to be insulated, shall be enclosed
19 with plastic or other approved tarpaulins in a manner which shall preclude the escape of
20 particulate matter from the enclosure. All interior open areas, such as elevator shafts and
21 stairwells shall be enclosed in a manner which shall prevent the escape of particulate matter from
22 the working area. Stack effect of the shafts and stairwells shall be considered in providing

1 proper enclosures. An enclosure will be considered satisfactory only if visible insulating material
2 cannot escape from the enclosure.

3 (3) Wet insulating material which has fallen to the floor shall be swept up to
4 prevent dispersal of dried material. Under no condition shall this material be removed later than
5 at the end of the working day. Swept-up material shall be placed in a heavy plastic bag strong
6 enough to resist tearing or breaking under normal handling conditions and clearly marked as
7 containing insulating material waste. The contents of the aforementioned plastic bags shall not be
8 transferred to another container. The plastic bags shall be placed upon a vehicle for disposal at a
9 site approved by the commissioner.

10 (4) All floors shall be vacuumed shortly after drying. The contents of the
11 vacuum bag shall be carefully placed in a container of the type described in paragraph three of
12 this subdivision and shall thereafter be placed on a vehicle for removal and disposal at a site
13 approved by the commissioner.

14 (5) The materials used to form the enclosure shall be thoroughly vacuumed
15 upon completion of the application of the insulation in the area. The entire floor area and ledges
16 and surfaces including tarpaulins upon which waste insulation material may have fallen, shall
17 then be vacuumed or revacuumed before removal of the enclosures.

18 (6) Enclosures shall not be dismantled until the area has been thoroughly
19 vacuumed after completion of spraying and clean-up.

20 (7) All areas used for opening bags containing insulating material and/or
21 changing of hoppers shall be enclosed in such a manner that insulating material shall not be
22 permitted to escape from the immediate area in which such activity takes place.

1 (8) Signs shall be posted outside enclosures warning persons of the hazards of
2 entering the enclosure without appropriate apparel.

3 (9) All persons involved in the spraying of insulating material at the site must
4 be furnished with suitable coveralls which must be left at the site. No person shall be permitted
5 in an area in which spraying or handling of insulating material has taken place until the final
6 vacuuming referred to in paragraph five of this subdivision has been accomplished, unless such
7 person is furnished with or wears coveralls of the type described herein. Facilities shall be
8 provided and procedures instituted and supervised that preclude the removal and dispersal of
9 insulating material from the construction site on the clothing or other appurtenances of persons
10 leaving the area.

11 (10) Any plenum or other structures coated with insulating material which are
12 intended for use in circulation of air in the building must be thoroughly cleaned of all debris, dust
13 and waste insulation. All applied insulation material within a plenum or duct must be coated with
14 a sealant approved by the commissioner which precludes exposure of the material to the
15 circulating air whenever the commissioner after ordering tests to be conducted by the
16 manufacturer in accordance with section 24-107, determines that the insulation material needs
17 such a sealant.

18 (11) A person shall be assigned the full time responsibility of supervising the
19 spraying and related operations to assure that no insulating material is released from the
20 construction site.

21 (12) In case of emission of insulation material from the construction site,
22 immediate steps shall be taken to cause the cessation of such emissions by either effective
23 control measures or work stoppage at the source of the emissions. There shall then be immediate

1 and complete clean-up of all material that has escaped the construction site by measures that will
2 insure that no further dispersal of any insulating material into the atmosphere can occur] rules of
3 the department regarding precautions for the spraying of insulating material.

4 (f) No person shall cause or permit a building or other structure to be demolished,
5 [except pursuant to chapter one of title seventeen or article eight of subchapter three of chapter
6 one of title twenty-six of the code,] unless he or she complies with the following precautions:

7 (1) Demolition by toppling of walls shall not occur except when approved by the
8 commissioner pursuant to section 24-109 of this code, or when conducted by or on behalf of a
9 city agency pursuant to chapter one of title seventeen of the code or pursuant to an order issued
10 by the department of buildings under article two hundred fifteen of chapter two of title twenty-
11 eight of the code.

12 (2) Before the demolition of any section of wall, floor, roof, or other structure,
13 [adequate] necessary wetting procedures to lay the dust or other precautions to prevent dust from
14 becoming air-borne, as set forth in this section and the rules of the department, shall be
15 employed. All debris shall be thoroughly wetted before loading and while dumping into trucks,
16 other vehicles or containers. In all cases and at all stages of demolition, wetting procedures shall
17 be adequate to lay the dust. Trucks shall be adequately covered or enclosed to prevent dust
18 dispersion while in transit to point of disposal.

19 (3) No structural members shall be dropped or thrown from any floor but shall be
20 carefully lowered to ground level [by hoists].

21 (4) [Effective January first, nineteen hundred seventy-two, debris] Debris shall
22 not be dropped or thrown outside the exterior walls of the building from any floor to any floor
23 below. In buildings twelve stories or greater in height any debris [shall be] transported outside

1 the exterior walls of the building shall be transported from the upper floors via enclosed, dust-
2 tight chutes or via buckets or other containers. Where chutes or shaftways are used either inside
3 or outside the building, a water soaking spray shall be employed to saturate the debris before it
4 reaches the point of discharge from the chute or shaftway. Where buckets or other containers are
5 used, the debris shall be adequately wetted to preclude dust dispersion when buckets or other
6 containers are dumped.

7 (5) [Effective January first, nineteen hundred seventy-two, in] (i) In the event
8 particulate matter becomes airborne for a continuous period of fifteen minutes, despite the
9 application of the [above] procedures set forth in this section and the rules of the department, or
10 because freezing temperatures preclude the use of water for laying the demolition dust, the work
11 of demolition shall cease at once until other adequate measures can be taken[. Alternate] and
12 procedures shall be evaluated by the commissioner before initiation thereof, provided, however,
13 that if the demolition work is being conducted by or on behalf of a city agency pursuant to
14 chapter one of title seventeen of the code or pursuant to an order issued by the department of
15 buildings under article two hundred fifteen of chapter two of title twenty-eight of the code and
16 freezing temperatures preclude the use of water, then the demolition work may continue as long
17 as necessary to complete the demolition process.

18 (ii) A stop work order may be issued by the commissioner, or his or her
19 authorized representative, at any time when it is found that work is being performed in violation
20 of the provisions of this section, or any rules promulgated thereunder, and such work poses a
21 threat to human safety. Upon issuance of a stop work order by the commissioner, all work shall
22 immediately stop unless otherwise specified. Such order may be given orally or in writing to the
23 owner, lessee or occupant of the property involved, or to the agent of any of them, or to the

1 person or persons performing the work. A verbal order shall be followed promptly by a written
2 order and shall include the reason for the issuance of a stop work order. The order may require
3 all such work to be done as may be necessary, in the opinion of the commissioner, to remove the
4 danger therefrom.

5 (iii) A stop work order issued pursuant to subparagraph (ii) of this paragraph may
6 be appealed in accordance with the rules of the department, and the commissioner shall provide
7 notice and an opportunity to be heard within fourteen days of the filing of such appeal. A stop
8 work order shall be lifted if, upon appeal, the commissioner determines that the issuance of such
9 order was not proper, or upon the submission of proof satisfactory to the commissioner that the
10 requirements of such order have been satisfied.

11 § 25. Section 24-147 of subchapter 6 of chapter 1 of title 24 of the administrative
12 code of the city of New York is amended to read as follows:

13 § 24–147 Emission of nitrogen oxides. [No person shall cause or permit
14 emission of an air contaminant:

15 (a) from a boiler with a capacity of five hundred million Btu per hour or more
16 and completed after August twentieth, nineteen hundred seventy-one, if the air contaminant
17 emitted has nitrogen oxides content of more than one hundred parts per million by volume of
18 undiluted emissions at ten percent excess air.

19 (b) from a boiler with a capacity of five hundred million Btu per hour or more
20 and completed before August twentieth, nineteen hundred seventy-one, if the air contaminant
21 emitted has nitrogen oxides content of more than one hundred fifty parts per million by volume
22 of undiluted emissions at ten percent excess air]

1 (a) No person shall cause or permit the use or operation of fuel burning equipment
2 that is covered by subpart 227-2 of part two hundred twenty-seven of title six of the New York
3 codes, rules and regulations in a manner inconsistent with the requirements regarding emission
4 limits for nitrogen oxides set forth in such subpart.

5 (b) The commissioner may establish rules regulating nitrogen oxides emissions
6 from boilers not regulated under subpart 227-2 of part two hundred twenty-seven of title six of
7 the New York codes, rules and regulations.

8 § 26. Section 24-148 of subchapter 6 of chapter 1 of title 24 of the administrative
9 code of the city of New York is amended to read as follows:

10 § 24-148 Architectural coatings; solvents. [(a) After July first, nineteen hundred
11 seventy-two, no person shall sell, offer for sale, apply, evaporate, dry, dilute or thin any
12 architectural coating containing a photochemically reactive solvent.

13 (b) For the purposes of this section, a photochemically reactive solvent is any
14 solvent with an aggregate of more than twenty percent of its total volume composed of the
15 chemical compounds classified below or which exceeds any of the following individual
16 percentage composition limitations, referred to the total volume of solvent:

17 1. A combination of hydrocarbons, alcohols, aldehydes, esters, ethers or ketones
18 having an olefinic or cyclo-olefinic type of unsaturation: five percent;

19 2. A combination of aromatic compounds with eight or more carbon atoms to the
20 molecule except ethylbenzene: eight percent;

21 3. A combination of ethylbenzene, ketones having branched hydrocarbon
22 structures, or toluene: twenty percent] No person shall use an architectural coating that is
23 covered by part two hundred five of title six of the New York codes, rules and regulations unless

1 such architectural coating is in compliance with the volatile organic compound limits set forth in
2 section 205.3 of such part.

3 § 27. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of
4 New York is amended by adding a new section 24-149.1 to read as follows:

5 § 24-149.1 Outdoor wood boilers. (a) No person shall burn any fuel in an outdoor
6 wood boiler except clean wood, provided that newspaper or other non-glossy, non-colored paper
7 may be used as starter fuel.

8 (b) No person shall operate an outdoor wood boiler so as to cause an emission
9 that (1) activates a smoke detector on an adjoining property; (2) impairs visibility on a public
10 street or highway; or (3) causes a visible plume that comes into contact with a building on an
11 adjacent property.

12 (c) No person shall operate an outdoor wood boiler with a thermal output rating of
13 two hundred fifty thousand Btu/h or less, unless such outdoor wood boiler:

14 (1) Is in compliance with all applicable certification standards set forth in section
15 247.8 of title six of the New York codes, rules and regulations;

16 (2) Is located at least one hundred feet from the nearest property boundary line;
17 and

18 (3) Is equipped with a permanent stack extending at least eighteen feet above
19 ground level.

20 (d) No person shall operate an outdoor wood boiler with a thermal output rating in
21 excess of two hundred fifty thousand Btu/h.

22 § 28. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of
23 New York is amended by adding a new section 24-149.2 to read as follows:

1 § 24-149.2 Fireplaces. (a) Definitions. As used in this section:

2 “Existing fireplace” means a fireplace that has been installed before July first, two
3 thousand fourteen.

4 “New fireplace” means a fireplace that has been installed on or after July first,
5 two thousand fourteen.

6 “Treated firewood” shall have the same meaning as set forth in subdivision
7 thirteen of section 192.5 of title six of the New York codes, rules and regulations.

8 (b) No person shall operate a fireplace as a primary source of heat.

9 (c) No person shall operate any new fireplace unless it is operated solely on
10 natural gas or on renewable fuel, as such term is defined in this code or as otherwise defined by
11 the rules of the department for the purposes of implementing this subdivision.

12 (d) No person shall operate any existing fireplace unless it is operated with the use
13 of treated firewood having a moisture content of twenty percent or less by weight, renewable
14 fuel, as such term is defined in this code or as otherwise defined by the rules of the department
15 for the purposes of implementing this subdivision, or such other material as may be designated
16 by the rules of the department.

17 (e) No person shall operate any fireplace unless such fireplace is in compliance
18 with applicable federal emissions standards for particulate matter as set forth in section 60.532 of
19 title forty of the code of federal regulations.

20 § 29. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of
21 New York is amended by adding a new section 24-149.3 to read as follows:

22 § 24-149.3 Wood burning heaters. (a) No person shall operate any wood burning
23 heater as a primary source of heat.

1 (b) No person shall operate any wood burning heater unless it is operated solely
2 on renewable fuel, as such term is defined in this code or as otherwise defined by the rules of the
3 department for the purposes of implementing this subdivision.

4 § 30. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of
5 New York is amended by adding a new section 24-149.4 to read as follows:

6 § 24-149.4 Commercial char broilers. (a) Definitions. As used in this section:

7 “New” means installed on or after July first, two thousand fourteen.

8 “Existing” means installed before July first, two thousand fourteen.

9 (b) No person shall operate any new commercial char broiler or any existing
10 chain-driven commercial char broiler to cook more than eight hundred seventy-five pounds of
11 meat, including but not limited to beef, lamb, pork, poultry, fish, or seafood, per week unless
12 such commercial char broiler is equipped with an emissions control device that meets the
13 requirements of the rules of the department.

14 (c) On or after July first, two thousand seventeen, the commissioner may
15 promulgate rules regulating emissions from existing under-fired commercial char broilers or new
16 commercial char broilers used to cook less than eight hundred seventy-five pounds of meat per
17 week.

18 (d) The operator of a commercial char broiler shall maintain records regarding the
19 dates of installation, replacement, cleaning, and maintenance of any emissions control device.
20 Such records shall be made available to the department upon request.

21 (e) The operator of an existing commercial char broiler that is used to cook less
22 than eight hundred seventy-five pounds of meat per week shall maintain records showing the

1 amount of meat cooked each week and the amount of meat purchased per month. Such records
2 shall be made available to the department upon request.

3 § 31. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of
4 New York is amended by adding a new section 24-149.5 to read as follows:

5 § 24-149.5 Cook stoves. (a) Definitions. As used in this section:

6 “New” means installed on or after July first, two thousand fourteen.

7 “Existing” means installed before July first, two thousand fourteen.

8 (b) No person shall use a new cook stove for the preparation of food intended for
9 on-site consumption or retail purchase without the use of an emission control device for odors,
10 smoke and particulate matter that meets the requirements for such system as established by the
11 rules of the department.

12 (c) No person shall use an existing cook stove unless such cook stove is in
13 compliance by January first, two thousand twenty with the requirements for control systems
14 established by the commissioner pursuant to subdivision (b) of this section.

15 § 32. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of
16 New York is amended by adding a new section 24-149.6 to read as follows:

17 § 24-149.6 Stationary generators. (a) Any stationary generator that is registered
18 with the department for the first time on or after July first, two thousand fourteen shall be
19 equipped with an engine certified to the tier four emissions standards established by the United
20 States environmental protection agency as set forth in table one of section 1039.101 of title forty
21 of the code of federal regulations or to any subsequent United States environmental protection
22 agency emissions standard for such engine that is at least as stringent.

1 (b) On or after January first, two thousand eighteen, the registration for a
2 stationary generator will be renewed only if such stationary generator is equipped with an engine
3 certified to the tier four emissions standards established by the United States environmental
4 protection agency as set forth in table one of section 1039.101 of title forty of the code of federal
5 regulations or to any subsequent United States environmental protection agency emissions
6 standard for such engine that is at least as stringent.

7 (c) Notwithstanding subdivisions (a) and (b) of this section, this section shall not
8 apply to any stationary generator that is used exclusively at a construction site.

9 § 33. Section 24-150 of subchapter 6 of chapter 1 of title 24 of the administrative
10 code of the city of New York is REPEALED.

11 § 34. Subdivision (d) of section 24-152 of subchapter 6 of chapter 1 of title 24 of
12 the administrative code of the city of New York is amended to read as follows:

13 (d) This section shall not apply to [refuse burning equipment,] refuse compacting
14 equipment and fuel burning equipment [which] that primarily [serve] serves residents of a
15 building or structure [which] that is occupied in whole or in part as the residence of one or more
16 persons, or [which] that is occupied for transacting business, for rendering professional services,
17 or for rendering public or civic services[, or for performing other commercial services that may
18 incidentally involve the storage of limited quantities of stocks of goods for office use or
19 purposes].

20 § 35. Section 24-153 of subchapter 6 of chapter 1 of title 24 of the administrative
21 code of the city of New York is amended to read as follows:

22 § 24–153 Emissions of air contaminant; environmental ratings. (a) No person
23 shall cause, permit or allow the emission of an air contaminant from any equipment [altered or

1 installed after August twentieth, nineteen hundred seventy-one, which] used in a process covered
2 by part two hundred twelve of title six of the New York codes, rules and regulations where such
3 emission exceeds the permissible emission rates specified in [figures one, two, three, four and
4 five, for the environmental rating as determined in accordance with table one of this section] the
5 environmental ratings for process emissions sources as set forth in such part.

6 [(a) On October first, nineteen hundred seventy-one, or such later date as
7 established by an order of the commissioner the permissible emission rates specified in this
8 section shall become applicable to equipment in existence on or prior to August twentieth,
9 nineteen hundred seventy-one.]

10 (b) The provisions of this section shall not be construed to allow or permit any
11 person to emit an air contaminant in quantities which alone or in combination with other sources
12 would contravene any air quality standards.

13 (c) This section shall be supplemental to all other provisions of this code and
14 in the event of conflict the more stringent section shall control.

15 [TABLE 1 Environmental Rating

16 Criteria

17 Rating

18 A. Includes processes, and exhaust and ventilation systems where the
19 discharge of air contaminant results, or would reasonably be expected to result, in serious
20 adverse effects on receptors or the environment. These effects may be of a health, economic or
21 aesthetic nature or any combination of these.

22 B. Includes processes, and exhaust and ventilation systems where the
23 discharge of contaminant results, or would reasonably be expected to result, in only moderate

1 and essentially localized effects; or where the multiplicity of sources of the contaminant in any
2 given area is such as to require an overall reduction of the atmospheric burden of that
3 contaminant.

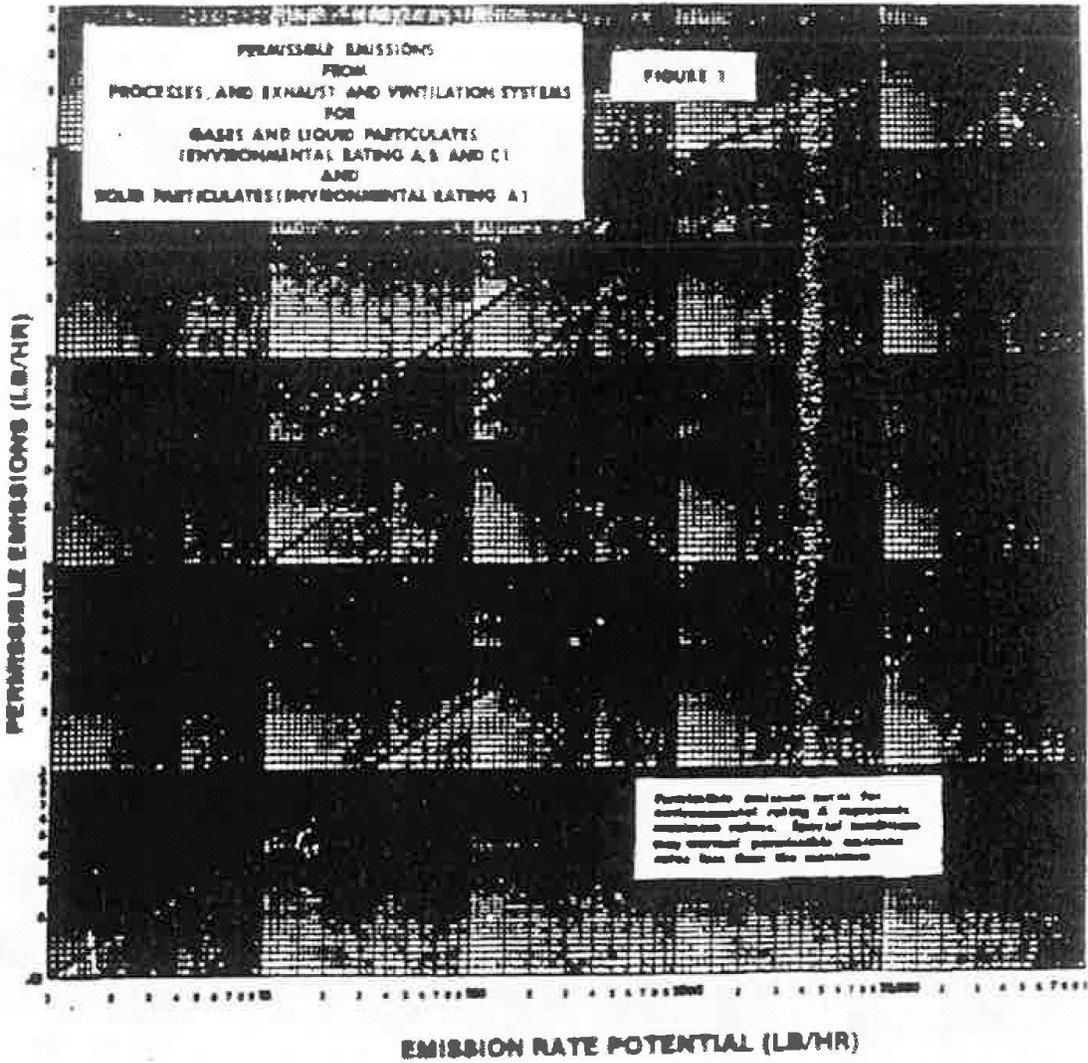
4 C. Includes processes, and exhaust and ventilation systems where the
5 discharge of contaminant would reasonably be expected to result in localized adverse effects of
6 an aesthetic or nuisance nature.

7 D. Includes processes, and exhaust and ventilation systems where, in view of
8 properties and concentrations of the emissions, isolated conditions, stack heights, and other
9 factors, it can be clearly demonstrated that discharge of contaminant will not result in measurable
10 or observable effects on receptors and not add to an existing or predictable atmospheric burden
11 of that contaminant which would reasonably be expected to cause adverse effects.

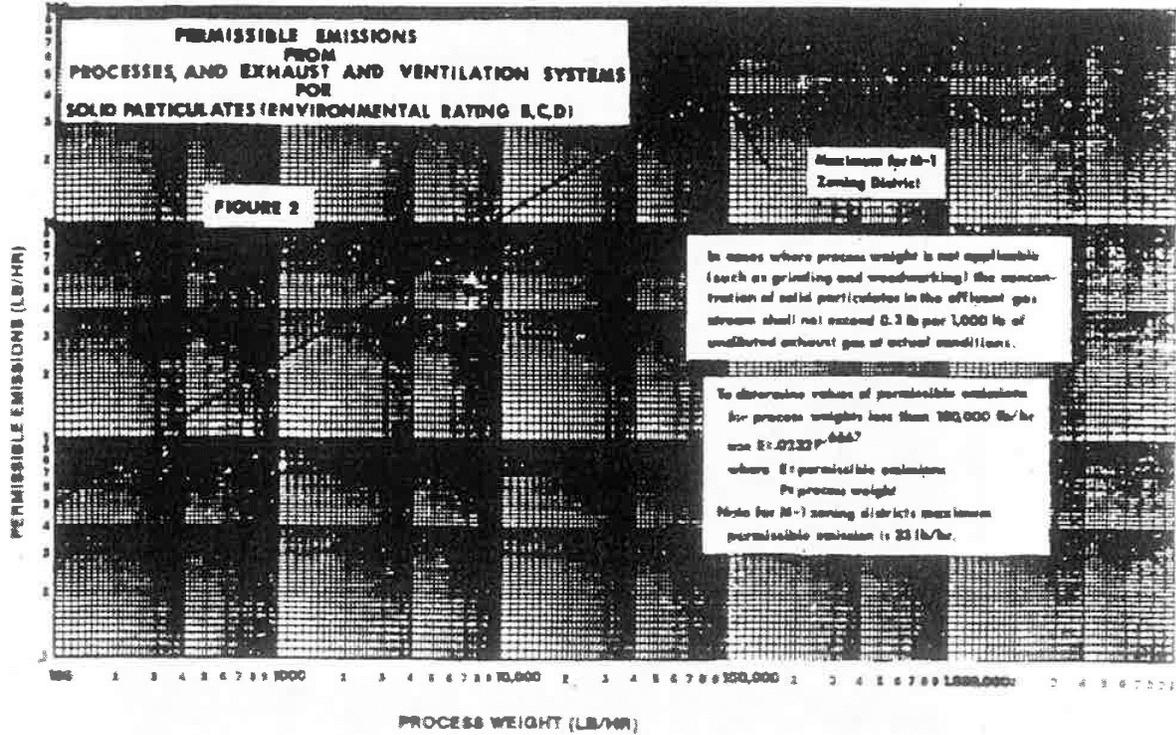
12 The following items will be considered in making a determination of the
13 environmental rating to be applied to a particular source:

- 14 (a) properties, quantities and rates of the emissions;
- 15 (b) physical surroundings of emission source;
- 16 (c) population density of surrounding area, including anticipated future
17 growth;
- 18 (d) dispersion characteristics at or near source;
- 19 (e) location of emission source relative to ground level and surrounding
20 buildings, hills, and other features of the terrain;
- 21 (f) current or anticipated ambient air quality in vicinity of source;
- 22 (g) latest findings relating to effects of ground-level concentrations of the
23 emissions on receptors;

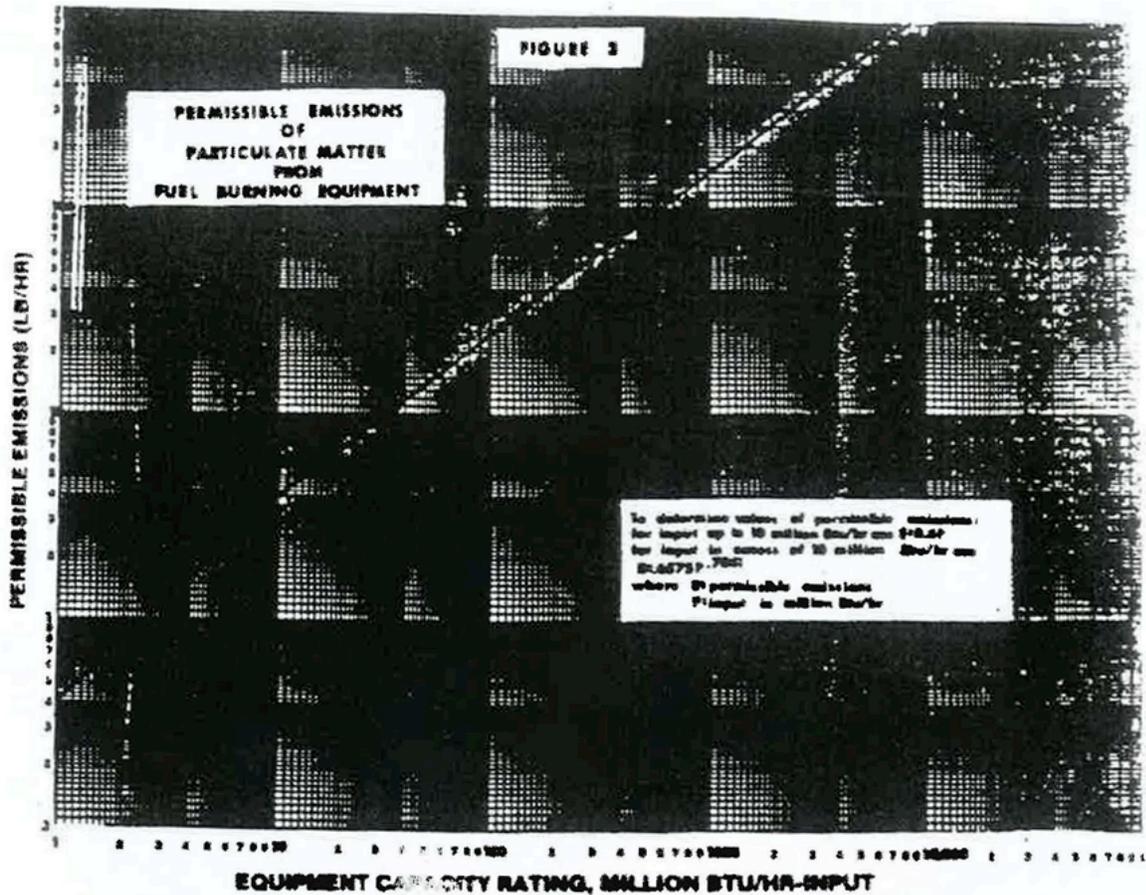
- 1 (h) possible hazardous side effects of air contaminant in question mixing with
- 2 air contaminants already in ambient air; and
- 3 (i) engineering guides which are acceptable to the commissioner.



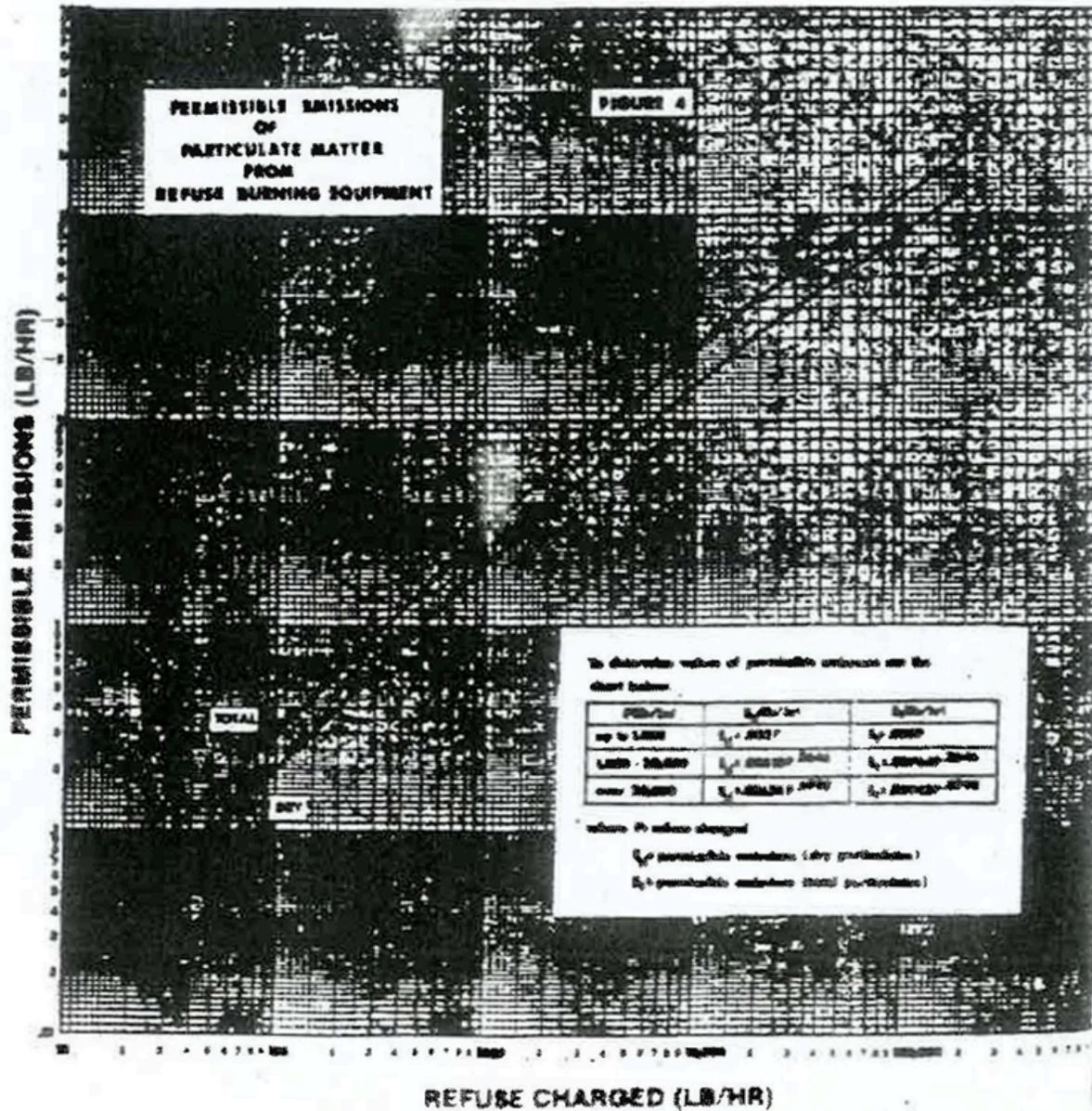
4



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3



1
 2 **FIGURE 5**
 3 **USUAL DEGREE OF AIR CLEANING REQUIRED (1) FROM PROCESSES, AND**
 4 **EXHAUST AND VENTILATION SYSTEMS FOR GASES AND LIQUID PARTICULATE**
 5 **EMISSIONS**
 6 (Environmental Ratings A*, B*, C*, and D) and
 7 Solid Particulate Emissions
 8 (Environmental Rating A*)†
 9
 10 Emission Rate Potential (lb/hr)

Environ- Less 1 10 20 100 500 1,000 1,500 4,000 Greater
 4370808v2
 SA/CB

mental	than	to	to	to	to	to	to	to	to	than
Rating	1.0	10	20	100	500	1,000	1,500	4,000	10,000	10,000

1

A	see Note (2)				99%		Greater than 99%			
B	**	90– 91%	91– 94%	94– 96%	96–97%	97– 98%	98– 99%	Greater than 99%		
C	**	70– 75%	75– 85%	85– 90%	90–93%	93–98%		Greater than 98%		
D					**					

2

3

* See Figure (1) for permissible emissions

4

† See Figure (2) for permissible emissions of solid particulates for environmental rating B, C and D.

5

6

** Degree of air cleaning may be specified by the commissioner providing satisfactory dispersion is achieved.

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(1) Where multiple emission sources are connected to a common air cleaning device, the degree of air cleaning required will be that which would be required if each individual emission source were considered separately.

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(2) For an average emission rate potential less than 1.0 lb./hr., the desired air cleaning efficiency shall be determined by the expected concentration of the air contaminant in the emission stream. Where it is uneconomical to employ air cleaning devices, other methods of control should be considered.]

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(d) The commissioner may require any owner of equipment used in a process to provide pertinent data concerning emissions so as to show compliance with the requirements of this section.

1 § 36. Section 24-154 of subchapter 6 of chapter 1 of title 24 of the administrative
2 code of the city of New York is REPEALED.

3 § 37. Subchapter 7 of chapter 1 of title 24 of the administrative code of the city of
4 New York, section 24-163 as amended by local law number 25 for the year 2004, subdivision (a)
5 of such section as amended by local law number 5 for the year 2009, subdivision (e) of such
6 section as added by local law number 4 for the year 2009, subdivisions (f) and (g) of such section
7 as added by local law number 5 for the year 2009, section 24-163.1 as added by local law
8 number 38 for the year 2005, paragraph 11 of subdivision a of such section as amended by local
9 law number 21 for the year 2006, paragraph 13 of subdivision a of such section as added by local
10 law number 75 for the year 2013, paragraph 2 of subdivision d of such section as amended by
11 local law number 76 for the year 2013, paragraph 3 of subdivision e of such section as added by
12 local law number 75 for the year 2013, subdivision g of such section as amended by local law
13 number 130 for the year 2005, section 24-163.2 as added by local law number 38 for the year
14 2005, paragraph 1 of subdivision d and subdivision g of section 24-163.2 as amended by local
15 law number 21 for the year 2006, section 24-163.3 as added by local law number 77 for the year
16 2003, section 24-163.4 as added by local law number 39 for the year 2005, paragraph 4 of
17 subdivision a of such section as amended by local law number 21 for the year 2006, paragraph 8
18 of subdivision a of such section as added, paragraph 1 of subdivision b of such section as
19 amended, paragraph 3 of subdivision b of such section as added, subdivision f of such section as
20 amended and subdivision i of such section as added by local law number 73 for the year 2013,
21 section 24-163.5 as added by local law number 40 for the year 2005, paragraph 3 of subdivision
22 b of such section as added by local law number 73 for the year 2013, subdivision h of such
23 section as amended by local law number 74 for the year 2013, section 24-163.6 as added by local

1 law number 41 for the year 2005, subdivision b of such section as amended by local law number
2 73 for the year 2013, subdivision e of such section as amended by local law number 74 for the
3 year 2013, section 24-163.7 as added by local law number 42 for the year 2005, section 24-163.8
4 as added by local law number 16 for the year 2009, section 24-163.9 as added by local law
5 number 61 for the year 2009, section 24-163.10 as added by local law number 72 for the year
6 2013, and section 24-167 as amended by local law number 43 for the year 2010, is amended to
7 read as follows:

8 SUBCHAPTER 7

9 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

10 § 24-155 Maintenance of equipment and apparatus. The owner of equipment and
11 apparatus shall maintain such equipment and apparatus in good operating order by regular
12 inspection and cleaning and by promptly making repairs.

13 § 24-156 Use of fuel burning equipment without using apparatus prohibited. (a)
14 Except as provided in subdivision (b) of this section, no person shall cause or permit the use of
15 fuel burning equipment [which] that is fitted with apparatus, other than experimental apparatus,
16 unless the required apparatus is used.

17 (b) If fuel burning equipment is fitted with apparatus and is designed to use more
18 than one kind of fuel, the equipment shall not be used unless the apparatus appropriate for the
19 particular fuel is used.

20 [§ 24-158 Use of department of sanitation refuse burning equipment without
21 control apparatus prohibited. (a) No person shall cause or permit the use of any incinerator
22 operated by the department of sanitation unless there shall be installed therein control apparatus
23 which incorporates the most effective advances in the art of air pollution control as determined

1 by the commissioner but in no event shall the emissions exceed those specified in figure four of
2 section 24-145 of this code.

3 (b) The commissioner shall submit a report to the city council on the first day of
4 October and on the first day of April of each year setting forth in detail the extent of compliance
5 with subdivision (a) of this section, the cause of whatever non-compliance may exist and what
6 action is being undertaken to assure compliance.]

7 § 24-159 Use of less than fully automatic equipment using fuel oil and use of any
8 fuel burning equipment using residual fuel oil; supervision by licensed person. No person shall
9 cause or permit the use of fuel burning equipment [which] that uses fuel oil and is less than fully
10 automatic, or the use of fuel burning equipment, whether fully automatic or not, which uses
11 residual fuel oil, except under the direct supervision of a person having a certificate of fitness [as
12 required by] pursuant to section [27-4014] FC 113 of the [code] *New York City Fire Code.*

13 § 24-160 Use of air contaminant recorder; boilers. No owner of a boiler with a
14 capacity of five hundred million Btu per hour or more shall operate it without the installation and
15 operation of an air contaminant recorder.

16 § 24-161 Use of fuel burning equipment using residual fuel oil [and use of refuse
17 burning equipment]; operation and supervision by trained person. (a) No person shall cause or
18 permit the use of fuel burning equipment using residual fuel oil, [or of refuse burning
19 equipment,] except under the operation and supervision of a person who has successfully
20 completed a course of instruction in air pollution control approved by the commissioner [or
21 completes such course within six months of his or her employment. For good cause shown, the
22 department may temporarily exempt persons from this requirement].

1 (b) The commissioner may approve courses of instruction maintained by
2 educational institutions, by industry, or by labor organizations.

3 (c) No person shall employ an operator or supervisor of fuel burning equipment
4 using residual fuel oil or of refuse burning equipment who does not have an enrollment card or
5 certificate issued by the department.

6 [§ 24-162 Operation of refuse burning equipment, other than municipal; time
7 restriction. (a) No person shall cause or permit the operation of refuse burning equipment, other
8 than refuse burning equipment operated by the department of sanitation, at any time other than
9 between seven a.m. and five p.m., of the same day, except with the approval of the
10 commissioner.

11 (b) The person seeking approval to operate refuse burning equipment at a time
12 other than that specified under subdivision (a) of this section shall submit a written request in
13 such form as prescribed by the commissioner.

14 (c) No person shall cause or permit the resumption of use of refuse burning
15 equipment for which permission has been given for the discontinuance of operation or for which
16 an order of discontinuance has been issued, unless permitted to do so by the commissioner.]

17 § 24-163 Operation of motor vehicle; idling of engine restricted. (a) [No]
18 Definitions. When used in this section:

19 (1) “Bus” shall have the same meaning as set forth in section one hundred four of
20 the vehicle and traffic law.

21 (2) “Loading and unloading” means the activity of passengers boarding or exiting
22 a bus.

1 (3) “Loading and unloading device” means a device used to move goods or
2 people on or off of a vehicle.

3 (4) “Processing device” means a device necessary to operate an engine-powered
4 refrigeration system designed to control the environment of temperature sensitive cargo,
5 including but not limited to food. Processing device shall also mean a device necessary to
6 accomplish the work, other than transporting goods, for which the vehicle or equipment was
7 designed, including, but not limited to: operating a lift, crane, pump, drill, hoist, mixer or other
8 auxiliary equipment other than a heater or air conditioner.

9 (5) “School bus depot” means any garage, lot or other facility where buses that
10 transport children to or from schools are parked overnight.

11 (6) “Multiple use bus terminal point” means a location that is both a terminal
12 point of at least one bus route, other than a school bus route, and at least one bus stop, other than
13 a school bus stop, on a different bus route.

14 (b) (1) Except as provided in this subdivision or subdivisions (f) or (g) of this
15 section, no person shall cause or permit the engine of a motor vehicle, other than a legally
16 authorized emergency motor vehicle, to idle for longer than three minutes, [except as provided in
17 subdivision (f) of this section,] while parking as defined in section one hundred twenty-nine of
18 the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle
19 and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and
20 traffic law, unless the engine is being used to actively operate a loading[,] and unloading device
21 or processing device. [When the ambient temperature is in excess of forty degrees Fahrenheit, no
22 person shall cause or permit the engine of a bus as defined in section one hundred four of the

1 vehicle and traffic law to idle while parking, standing, or stopping (as defined above) at any
2 terminal point, whether or not enclosed, along an established route.

3 (b)] (2) The prohibitions of this section shall not apply when a hybrid electric
4 vehicle, as defined in section 86.1702-99 of title forty of the code of federal regulations, is idling
5 for the purpose of providing energy for a battery or other form of energy storage recharging.

6 (3) The prohibitions of this section shall not apply to electric powered vehicles.

7 (4) The prohibitions of this section shall not apply to regeneration of a diesel
8 particulate filter.

9 (5) Buses are permitted to idle for five minutes in any thirty minute period in
10 order to operate heating or air conditioning during active loading and unloading of passengers.
11 Any diesel powered vehicle that does not move for more than two hours shall be allowed to idle
12 up to fifteen minutes for every three hour period in which it remains stationary when the outside
13 temperature is continuously below twenty-five degrees Fahrenheit.

14 (6) Any motor vehicle that has an independent refrigeration system that includes a
15 compressor operating on diesel fuel shall not run such system longer than five minutes in a
16 particular location.

17 (c) The department of transportation shall post signs relating to prohibited idling
18 that shall comply with the standards set forth in the Manual on Uniform Traffic Control Devices
19 and, where practicable, include the maximum penalty that may be imposed for a violation of
20 subdivision [a] (b) of this section as follows:

21 (1) a sign shall be posted at each exit within the city of New York of each bridge
22 and tunnel having only one terminus in the city of New York;

1 (2) signs shall be posted at a minimum of five locations in each borough where
2 two or more truck routes, whether local or through routes, intersect;

3 (3) a sign shall be posted at each bus layover area (other than school bus layover
4 areas), designated by the commissioner of transportation pursuant to section 4-10(c)(3) of title 34
5 of the rules of the city of New York, or any successor rule;

6 (4) a sign shall be posted at each multiple use bus terminal point;

7 (5) a sign shall be posted in close proximity to each school bus depot; and,

8 (6) signs shall be posted at other appropriate locations throughout the city as
9 jointly determined by the commissioner and the commissioner of transportation, including but
10 not limited to, locations for which the city receives a substantial number of complaints of idling
11 motor vehicles.

12 [(c) For the purpose of this section only the term "school bus depot" shall mean
13 any garage, lot or other facility where buses that transport children to or from schools are parked
14 over night and the term "multiple use bus terminal point" shall mean a location that is both a
15 terminal point of at least one bus route (other than a school bus route) and a bus stop (other than
16 a school bus stop) on one or more other bus routes.]

17 (d) In any proceeding relating to a violation of the restrictions on idling it shall
18 not be a defense that a sign required by this section was absent at the time of the violation.

19 (e) In addition to the department and the police department, the department of
20 parks and recreation and the department of sanitation shall have the authority to enforce
21 subdivision [a] (b) of this section and shall have the power to issue summonses, appearance
22 tickets and/or notices of violation for violations of such subdivision.

1 (f) No person shall cause or permit the engine of a motor vehicle, other than a
2 legally authorized emergency motor vehicle, to idle for longer than one minute if such motor
3 vehicle is adjacent, as determined by rule, to any public park or to any public school under the
4 jurisdiction of the New York city department of education or to any non-public school that
5 provides educational instruction to students in any grade from pre-kindergarten to the twelfth
6 grade level, while parking as defined in section one hundred twenty-nine of the vehicle and
7 traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or
8 stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the
9 engine is used to operate a loading, unloading or processing device, and provided that idling of
10 an engine of a school bus may be permitted to the extent necessary: (1) for mechanical work; (2)
11 to maintain an appropriate temperature for passenger comfort; or (3) in emergency evacuations
12 where necessary to operate wheelchair lifts. It shall be an affirmative defense that any such
13 school was not easily identifiable as a school by signage or otherwise at the time a violation of
14 this subdivision occurred.

15 (g) Service vehicles operated by a gas or electric company or by a city or state
16 agency or the port authority of New York and New Jersey are permitted to idle in order to
17 operate traffic control signals during street work.

18 (h) A report shall be submitted to the city council on an annual basis by: (1) the
19 environmental control board that states the number of notices of violation issued for engine
20 idling violations returnable to the environmental control board, including the total amount of
21 penalties imposed for such notices of violations; and (2) the department of finance that states the
22 number of summonses issued for engine idling violations pursuant to subdivision (p) of section

1 4-08 of title 34 of the rules of the city of New York, or any successor rule, including the total
2 amount of penalties imposed for such summonses.

3 § 24-163.1 Purchase of cleaner light-duty and medium-duty vehicles. a.
4 Definitions. When used in this section or in section 24-163.2 of this chapter:

5 (1) "Alternative fuel" means natural gas, liquefied petroleum gas, hydrogen,
6 electricity, and any other fuel which is at least eighty-five percent, singly or in combination,
7 methanol, ethanol, any other alcohol or ether.

8 (2) "Alternative fuel motor vehicle" means a motor vehicle that is operated using
9 solely an alternative fuel or is operated using solely an alternative fuel in combination with
10 gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

11 (3) "Average fuel economy" means the sum of the fuel economies of all motor
12 vehicles in a defined group divided by the number of motor vehicles in such group.

13 (4) "Bi-fuel motor vehicle" means a motor vehicle that is capable of being
14 operated by both an alternative fuel and gasoline or diesel fuel, but may be operated exclusively
15 by any one of such fuels.

16 (5) "City agency" means a city, county, borough, administration, department,
17 division, bureau, board or commission, or a corporation, institution or agency of government, the
18 expenses of which are paid in whole or in part from the city treasury.

19 (6) "Equivalent carbon dioxide" means the metric measure used to compare the
20 emissions from various greenhouse gases emitted by motor vehicles based upon their global
21 warming potential according to the California air resources board or the United States
22 environmental protection agency.

1 (7) "Fuel economy" means the United States environmental protection agency city
2 mileage published label value for a particular motor vehicle, pursuant to section 32908(b) of title
3 49 of the United States code.

4 (8) "Gross vehicle weight rating" means the value specified by the manufacturer
5 of a motor vehicle model as the maximum design loaded weight of a single vehicle of that
6 model.

7 (9) "Light-duty vehicle" means any motor vehicle having a gross vehicle weight
8 rating of 8,500 pounds or less.

9 (10) "Medium-duty vehicle" means any motor vehicle having a gross vehicle
10 weight rating of more than 8,500 pounds but not more than 14,000 pounds.

11 (11) "Motor vehicle" means a vehicle operated or driven upon a public highway
12 which is propelled by any power other than muscular power, except electrically-driven mobility
13 assistance devices operated or driven by a person with a disability, provided, however, that this
14 term shall not include vehicles that are specially equipped for emergency response by the
15 department, office of emergency management, sheriff's office of the department of finance,
16 police department, fire department, [or] department of correction, or office of the chief medical
17 examiner.

18 (12) "Purchase" means purchase, lease, borrow, obtain by gift or otherwise
19 acquire.

20 (13) "Use-based fuel economy" means the total number of miles driven by all
21 light-duty and medium-duty vehicles in the city fleet during the previous fiscal year divided by
22 the total amount of fuel used by such vehicles during the previous fiscal year.

1 b. (1) Except as provided for in paragraphs two and three of this subdivision,
2 beginning July 1, 2006, each light-duty vehicle and medium-duty vehicle that the city purchases
3 shall achieve the highest of the following ratings, with subparagraph one of this paragraph being
4 the highest vehicle rating, applicable to motor vehicles certified to California LEV II standards
5 and available within the applicable model year for a light-duty vehicle or medium-duty vehicle
6 that meets the requirements for the intended use by the city of such vehicle:

7 (i) zero emission vehicle (ZEV)

8 (ii) advanced technology partial zero emission vehicle (ATPZEV)

9 (iii) partial zero emission vehicle (PZEV)

10 (iv) super ultra low emission vehicle (SULEV)

11 (v) ultra low emission vehicle (ULEV)

12 (vi) low emission vehicle (LEV)

13 (2) The city shall not be required to purchase a zero emission vehicle or advanced
14 technology partial zero emission vehicle in accordance with paragraph one of this subdivision if
15 the only available vehicle or vehicles that achieve such a rating cost greater than fifty percent
16 more than the lowest bid as determined by the applicable procurement process for a vehicle
17 available in the next highest rating category that meets the requirements for the intended use by
18 the city of such vehicle or if, after consultation with the affected agency, the commissioner
19 determines that the use of such vehicle would be impractical or would unduly hinder the
20 operations of a city agency, or if the commissioner determines that the city lacks the charging
21 and fueling infrastructure to support use of such a vehicle.

1 (3) Notwithstanding the requirements of paragraph one of this subdivision, such
2 requirements need not apply to a maximum of five percent of the light-duty vehicles and
3 medium-duty vehicles purchased within each fiscal year.

4 (4) For the fiscal year beginning July 1, 2005, at least eighty percent of the light-
5 duty vehicles the city purchases in such fiscal year shall be alternative fuel motor vehicles.

6 c. (1) The city shall not purchase additional bi-fuel motor vehicles.

7 (2) Any bi-fuel motor vehicle that is owned or operated by the city shall be
8 powered on the alternative fuel on which it is capable of operating, except that such vehicle may
9 be operated on gasoline or diesel fuel (i) where, as of the date of enactment of this section, such
10 vehicle is no longer mechanically able to operate on such alternative fuel and cannot be repaired,
11 or (ii) solely for the period of time recommended by the vehicle manufacturer.

12 d. (1) Not later than October 1, 2005, the city shall complete an inventory of the
13 fuel economy of all light-duty vehicles purchased by the city during the fiscal year beginning
14 July 1, 2004, and shall calculate the average fuel economy of all such light-duty vehicles.

15 (2) The city shall achieve the following minimum percentage increases in the
16 average fuel economy of all light-duty vehicles purchased by the city during the following fiscal
17 years, relative to the average fuel economy of all such vehicles purchased by the city during the
18 fiscal year beginning July 1, 2004, calculated pursuant to paragraph one of this subdivision:

19 (i) For the fiscal year beginning July 1, 2006, five percent;

20 (ii) For the fiscal year beginning July 1, 2007, eight percent;

21 (iii) For the fiscal year beginning July 1, 2008, ten percent;

22 (iv) For the fiscal year beginning July 1, 2009, twelve percent;

23 (v) For the fiscal years beginning July 1, 2010 and July 1, 2011, fifteen percent;

1 (vi) For the fiscal years beginning July 1, 2012, July 1, 2013 and July 1, 2014,
2 eighteen percent;

3 (vii) For the fiscal year beginning July 1, 2015, twenty percent;

4 (viii) For the fiscal year beginning July 1, 2016, twenty percent;

5 (ix) For the fiscal year beginning July 1, 2017, twenty-five percent;

6 (x) For the fiscal year beginning July 1, 2018, twenty-five percent;

7 (xi) For the fiscal year beginning July 1, 2019, thirty-percent;

8 (xii) For the fiscal year beginning July 1, 2020, thirty-percent;

9 (xiii) For the fiscal year beginning July 1, 2021, thirty-five percent; and

10 (xiv) For the fiscal year beginning July 1, 2022, and for each fiscal year
11 thereafter, forty percent.

12 e. (1) Not later than January 1, 2007, and not later than January 1 of each year
13 thereafter, the mayor shall submit to the comptroller and the speaker of the council a report
14 regarding the city's purchase of light-duty vehicles and medium-duty vehicles during the
15 immediately preceding fiscal year. The information contained in this report shall also be included
16 in the preliminary mayor's management report and the mayor's management report for the
17 relevant fiscal year and shall include, but not be limited to, for each city agency: (i) the total
18 number of light-duty vehicles and medium-duty vehicles and all other motor vehicles,
19 respectively, purchased by such agency; (ii) the total number of light-duty vehicles and medium-
20 duty vehicles, respectively, purchased by such agency that are certified to California LEV II
21 standards in each of the six rating categories listed in subdivision b of this section, disaggregated
22 according to vehicle model; (iii) the reason as to why each vehicle model was purchased, rather
23 than a vehicle model rated in a higher category listed in subdivision b of this section; (iv) if an

1 available zero emission vehicle or advanced technology partial zero emission vehicle is not
2 purchased, in accordance with paragraph two of subdivision b of this section, specific
3 information regarding the cost analysis [that formed the] or other basis for such decision; (v) the
4 percentage of light-duty vehicles and medium-duty vehicles purchased within each fiscal year in
5 accordance with paragraphs one and two of subdivision b of this section; and (vi) for the report
6 required not later than January 1, 2007, the percentage of light-duty vehicles purchased by the
7 city during the fiscal year beginning July 1, 2005 that were alternative fuel motor vehicles.

8 (2) Not later than January 1, 2007, and not later than January 1 of each year
9 thereafter, the mayor shall submit to the comptroller and the speaker of the council a report
10 regarding the fuel economy of light-duty vehicles purchased by the city during the immediately
11 preceding fiscal year. The information contained in this report shall also be included in the
12 preliminary mayor's management report and the mayor's management report for the relevant
13 fiscal year and shall include, but not be limited to: (i) the average fuel economy of all light-duty
14 vehicles purchased by the city during the preceding fiscal year; and (ii) the percentage increase
15 in the average fuel economy of all such light-duty vehicles, relative to the average fuel economy
16 of all light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2004,
17 calculated pursuant to paragraph one of subdivision d of this section, that this total amount
18 represents.

19 (3) Not later than January 1, 2016, and not later than January 1 of each year
20 thereafter, the mayor shall submit to the comptroller and the speaker of the council a report
21 regarding the use-based fuel economy for the immediately preceding fiscal year. The information
22 contained in such report shall also be included in the preliminary mayor's management report
23 and the mayor's management report for the relevant fiscal year.

1 f. (1) Beginning July 1, 2006, for each fiscal year, the city shall measure the
2 amount of fuel consumed by the city's fleet of motor vehicles and the equivalent carbon dioxide
3 emitted by such vehicles, for each type of fuel consumed by such vehicles.

4 (2) For the fiscal year beginning July 1, 2006, and for each fiscal year thereafter,
5 the department shall publish on its website by October 1 following the close of each fiscal year
6 and the mayor shall include in the preliminary mayor's management report and the mayor's
7 management report for the relevant fiscal year the estimated total amount of fuel consumed by
8 the city's fleet of motor vehicles and the estimated total amount of equivalent carbon dioxide
9 emitted by such vehicles, disaggregated according to fuel type. For the purposes of this
10 subdivision, the city's fleet of motor vehicles shall include vehicles specially equipped for
11 emergency response by the department, office of emergency management, sheriff's office of the
12 department of finance, police department[or], fire department, or office of the chief medical
13 examiner.

14 g. This section shall not apply:

15 (1) where federal or state funding precludes the city from imposing the purchasing
16 requirements of this section;

17 (2) to purchases that are emergency procurements pursuant to section three
18 hundred fifteen of the charter; or

19 (3) except for subdivision f of this section, to diesel fuel-powered motor vehicles
20 subject to paragraph two of subdivision b of section 24-163.4 of this chapter.

21 h. To the extent not prohibited by law, alternative fuel motor vehicles may be
22 purchased by the city in concert with any public or private entity.

1 § 24-163.2 Alternative fuel buses and sanitation vehicles. a. Definitions. When
2 used in this section:

3 (1) "Alternative fuel bus" means a bus that is operated using solely an alternative
4 fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel,
5 and shall not include bi-fuel motor vehicles.

6 (2) "Alternative fuel sanitation vehicle" means a sanitation vehicle that is operated
7 using solely an alternative fuel or is operated using solely an alternative fuel in combination with
8 gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

9 (3) "Alternative fuel street sweeping vehicle" means a vehicle used by the
10 department of sanitation for street cleaning purposes that is operated using solely an alternative
11 fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel,
12 and shall not include bi-fuel motor vehicles.

13 (4) "Bus" means a motor vehicle that is designed to transport more than twenty
14 individuals.

15 (5) "Recyclable materials" means solid waste that may be separated, collected,
16 processed, marketed and returned to the economy in the form of raw materials or products,
17 including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste.

18 (6) "Sanitation vehicle" means a vehicle used by the department of sanitation for
19 street cleaning purposes or for the collection of solid waste or recyclable materials.

20 (7) "Solid waste" means all materials or substances discarded or rejected as being
21 spent, useless, or worthless, including but not limited to garbage, refuse, industrial and
22 commercial waste, sludges from air or water pollution control facilities or water supply treatment
23 facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and

1 construction debris and offal, but not including sewage and other highly diluted water-carried
2 materials or substances and those in gaseous forms.

3 b. For the fiscal year commencing July 1, 2005, and for each fiscal year thereafter,
4 at least twenty percent of the buses the city purchases in such fiscal year shall be alternative fuel
5 buses.

6 c. (1) Beginning no later than March 1, 2006, the commissioner of sanitation shall
7 implement a program for testing the mechanical reliability and operational feasibility of
8 alternative fuel street sweeping vehicles. Such program shall include a pilot project regarding the
9 exclusive utilization of alternative fuel street sweeping vehicles in at least four sanitation
10 districts, to be identified at the discretion of the commissioner of sanitation. At least one such
11 district shall be located in an area where high rates of asthma are found and the commissioner
12 shall consider asthma rates in his or her determination of where such other districts will be
13 located.

14 (2) The department of sanitation shall collect and analyze data to further develop
15 its initiatives for and assess the feasibility of incorporating new alternative fuel sanitation
16 vehicles and technology into its fleet.

17 d. (1) Not later than January 1, 2007, and not later than January 1 of each year
18 thereafter, the mayor shall submit to the comptroller and the speaker of the council a report
19 regarding the city's purchase of alternative fuel buses during the immediately preceding fiscal
20 year. This report shall be included in the mayor's preliminary management report and the mayor's
21 management report for the relevant fiscal year and shall include, but not be limited to: (i) the
22 total number of buses purchased by the city in the preceding fiscal year; and (ii) the number of
23 such buses that are alternative fuel buses, disaggregated according to agency, bus model and type

1 of alternative fuel used[; and (iii) the determination, if any, by the commissioner of correction
2 that there were no alternative fuel buses available that met such department's needs pertaining to
3 bus size, passenger capacity and security during the preceding fiscal year and the detailed
4 analysis that formed the basis for such determination, and, where the department of correction
5 has not purchased an alternative fuel bus due to cost, as provided for in paragraph three of
6 subdivision g of this section, the detailed cost analysis that formed the basis for such decision].

7 (2) Not later than January 1, 2007, and not later than January 1 of each year
8 thereafter, the commissioner of sanitation shall report to the mayor, the comptroller and the
9 speaker of the council on the department of sanitation's alternative fuel street sweeping vehicle
10 pilot project and all testing, analyses and assessments completed pursuant to subdivision c of this
11 section. Such report shall include, but not be limited to: (i) a description of all testing, analyses
12 and assessments, respectively, completed pursuant to that subdivision and all conclusions based
13 upon such testing, analyses and assessments, including specific information regarding efforts
14 made by the department of sanitation to further develop initiatives for the incorporation of
15 alternative fuel sanitation vehicles into its fleet, in addition to specific information regarding the
16 feasibility of incorporating such vehicles into such fleet; (ii) the number of alternative fuel street
17 sweeping vehicles included in the pilot project required pursuant to paragraph one of that
18 subdivision, the districts where such vehicles are located and the type of alternative fuel used by
19 such vehicles; and, (iii) the total number of alternative fuel sanitation vehicles owned or operated
20 by the department of sanitation, disaggregated according to vehicle model and type of alternative
21 fuel used.

1 e. Purchases of alternative fuel buses that exceed the minimum mandatory
2 purchase requirements of subdivision b of this section for a particular fiscal year may be used to
3 satisfy such applicable requirements for the immediately succeeding fiscal year.

4 f. To the extent not prohibited by law, alternative fuel buses and alternative fuel
5 sanitation vehicles may be purchased by the city in concert with any public or private entity.

6 g. This section shall not apply:

7 (1) where federal or state funding precludes the city from imposing the purchasing
8 requirements of this section; [or]

9 (2) to purchases that are emergency procurements pursuant to section three
10 hundred fifteen of the charter; or

11 (3) to the purchase of buses for use by any city agency where the commissioner
12 of such agency has made a written determination that there are no alternative fuel buses available
13 that meet the needs of such agency with respect to bus size, passenger capacity or other special
14 requirement, and has within ten business days thereafter submitted the determination to the
15 speaker of the council accompanied by the detailed analysis that formed the basis for such
16 determination; provided, however, that the purchase of buses for use by the agency shall become
17 subject to the provisions of this section immediately after a determination by the commissioner,
18 after consultation with the department of citywide administrative services, that an alternative fuel
19 bus that meets such needs has become available; and provided, further, however, that the city
20 shall not be required to purchase an alternative fuel bus for use by the agency if the only
21 available alternative fuel bus that meets the needs of such agency with respect to bus size,
22 passenger capacity or other special requirement costs more than fifty percent more than other
23 buses that meet such needs of such agency.

1 h. The commissioner may by rule require periodic testing of alternative fuel buses
2 and the submission of information concerning the operation and maintenance of such buses
3 purchased or newly operated in the city to ensure compliance with this section and to collect
4 information for reports required by this section.

5 i. The commissioner may order [the owner or operator of] a city agency that owns
6 or operates a bus to which this section applies to conduct such tests, or the department may
7 conduct such tests, as are necessary in the opinion of the commissioner to determine whether
8 such bus is in compliance with this section.

9 j. The department may inspect at a reasonable time and in a reasonable manner
10 any equipment, apparatus, fuel, matter or thing that affects or may affect the proper maintenance
11 or operation of an alternative fuel bus to which this section applies.

12 § 24-163.3 Use of ultra low sulfur diesel fuel and best available technology in
13 nonroad vehicles. a. For purposes of this section only, the following terms shall have the
14 following meanings:

15 [(1) "City agency" means a city, county, borough, administration, department,
16 division, bureau, board or commission, or a corporation, institution or agency of government, the
17 expenses of which are paid in whole or in part from the city treasury.

18 (2)] (1) "Contractor" means any person or entity that enters into a public works
19 contract with a city agency, or any person or entity that enters into an agreement with such
20 person or entity, to perform work or provide labor or services related to such public works
21 contract.

22 [(3)] (2) "Lower Manhattan" means the area of New York county consisting of
23 the area to the south of and within Fourteenth street.

1 [(4)] (3) "Motor vehicle" means any self-propelled vehicle designed for
2 transporting persons or property on a street or highway.

3 [(5)] (4) "Nonroad engine" means an internal combustion engine (including the
4 fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is
5 not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United
6 States code, except that this term shall apply to internal combustion engines used to power
7 generators, compressors or similar equipment used in any construction program or project.

8 [(6)] (5) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine,
9 fifty horsepower and greater, and that is not a motor vehicle or a vehicle used solely for
10 competition, which shall include, but not be limited to, excavators, backhoes, cranes,
11 compressors, generators, bulldozers and similar equipment, except that this term shall not apply
12 to horticultural maintenance vehicles used for landscaping purposes that are powered by a
13 nonroad engine of sixty-five horsepower or less and that are not used in any construction
14 program or project.

15 [(7) "Person" means any natural person, co-partnership, firm, company,
16 association, joint stock association, corporation or other like organization.

17 [(8)] (6) "Public works contract" means a contract with a city agency for a
18 construction program or project involving the construction, demolition, restoration,
19 rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation,
20 roadway, park or bridge; a contract with a city agency for the preparation for any construction
21 program or project involving the construction, demolition, restoration, rehabilitation, repair,
22 renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge;
23 or a contract with a city agency for any final work involved in the completion of any

1 construction program or project involving the construction, demolition, restoration,
2 rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation,
3 roadway, park or bridge.

4 [(9) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of
5 no more than fifteen parts per million.]

6 b. (1) Any diesel-powered nonroad vehicle that is owned by, operated by or on
7 behalf of, or leased by a city agency shall be powered by ultra low sulfur diesel fuel.

8 (2) Any diesel-powered nonroad vehicle that is owned by, operated by or on
9 behalf of, or leased by a city agency shall utilize the best available technology for reducing the
10 emission of pollutants, or shall be equipped with an engine certified to the applicable tier four
11 emissions standards established by the United States environmental protection agency as set
12 forth in section 1039.101 of title forty of the code of federal regulations or to any subsequent
13 United States environmental protection agency emissions standard for such engine that is at least
14 as stringent.

15 c. (1) Any solicitation for a public works contract and any contract entered into as
16 a result of such solicitation shall include a specification that all contractors in the performance of
17 such contract shall use ultra low sulfur diesel fuel in diesel-powered nonroad vehicles and all
18 contractors in the performance of such contract shall comply with such specification.

19 (2) Any solicitation for a public works contract and any contract entered into as a
20 result of such solicitation shall include a specification that all contractors in the performance of
21 such contract shall utilize the best available technology for reducing the emission of pollutants
22 for diesel-powered nonroad vehicles[and all], or shall utilize diesel-powered nonroad vehicles
23 that are equipped with engines certified to the applicable tier four emissions standards

1 established by the United States environmental protection agency as set forth in section 1039.101
2 of title forty of the code of federal regulations or to any subsequent United States environmental
3 protection agency emissions standard for such engines that is at least as stringent. All contractors
4 in the performance of such contract shall comply with such specification.

5 d. (1) (i) The commissioner shall make determinations, and shall publish a list
6 containing such determinations, as to the best available technology for reducing the emission of
7 pollutants to be used for each type of diesel-powered nonroad vehicle to which this section
8 applies for the purposes of paragraph two of subdivision b and paragraph two of subdivision c of
9 this section. Each such determination, which shall be updated on a regular basis, but in no event
10 less than once every six months, shall be primarily based upon the reduction in emissions of
11 particulate matter and secondarily based upon the reduction in emissions of nitrogen oxides
12 associated with the use of such technology and shall in no event result in an increase in the
13 emissions of either such pollutant.

14 (ii) In determining the best available technology for reducing the emission of
15 pollutants, the commissioner shall select technology from that which has been verified by the
16 United States environmental protection agency or the California air resources board [for use in
17 nonroad vehicles or onroad vehicles where such technology may also be used in nonroad
18 vehicles, but the commissioner may select technology that is not verified as such as is deemed
19 appropriate], as set forth in the executive orders of such board, for use in nonroad vehicles for
20 each engine family. If no such technology exists for a specific engine family, then the
21 commissioner shall select appropriate technology from that which has been verified by the
22 United States environmental protection agency or the California air resources board as set forth
23 in the executive orders of such board, for a different nonroad vehicle engine family. If no such

1 appropriate technology exists for a different nonroad vehicle engine family, then the
2 commissioner may select such technology that he or she deems appropriate.

3 (2) No city agency or contractor shall be required to replace best available
4 technology for reducing the emission of pollutants or other authorized technology utilized for a
5 diesel-powered nonroad vehicle in accordance with the provisions of this section within three
6 years of having first utilized such technology for such vehicle or on or before July first, two
7 thousand seventeen, whichever is later.

8 e. A city agency shall not enter into a public works contract subject to the
9 provisions of this section unless such contract permits independent monitoring of the contractor's
10 compliance with the requirements of this section and requires that the contractor comply with
11 section 24-163 of this code. If it is determined that the contractor has failed to comply with any
12 provision of this section, any costs associated with any independent monitoring incurred by the
13 city shall be reimbursed by the contractor.

14 f. (1) The provisions of subdivision b of this section shall apply to any diesel-
15 powered nonroad vehicle in use in Lower Manhattan that is owned by, operated by or on behalf
16 of, or leased by a city agency and the provisions of subdivision c of this section shall apply to
17 any public works contract for Lower Manhattan upon the effective date of this section.

18 (2) The provisions of paragraph one of subdivision b of this section shall apply to
19 all diesel-powered nonroad vehicles that are owned by, operated by or on behalf of, or leased by
20 a city agency and the provisions of paragraph one of subdivision c of this section shall apply to
21 all public works contracts six months after the effective date of this section.

22 (3) The provisions of paragraph two of subdivision b of this section shall apply to
23 all diesel-powered nonroad vehicles that are owned by, operated by or on behalf of, or leased by

1 a city agency and the provisions of paragraph two of subdivision c of this section shall apply to
2 any public works contract that is valued at two million dollars or more one year after the
3 effective date of this section.

4 (4) The provisions of paragraph two of subdivision c of this section shall apply to
5 all public works contracts eighteen months after the effective date of this section.

6 g. [(1)] On or before January 1, 2005, and every succeeding January 1, the
7 commissioner shall report to the comptroller and the speaker of the council on the use of ultra
8 low sulfur diesel fuel in diesel-powered nonroad vehicles and the use of the best available
9 technology for reducing the emission of pollutants and such other authorized technology in
10 accordance with this section for such vehicles by city agencies during the immediately
11 [preceeding] preceding fiscal year. This report shall include, but not be limited to (i) the total
12 number of diesel-powered nonroad vehicles owned by, operated by or on behalf of, or leased by
13 each city agency or used to fulfill the requirements of a public works contract for each city
14 agency; (ii) the number of such nonroad vehicles that were powered by ultra low sulfur diesel
15 fuel; (iii) the number of such nonroad vehicles that utilized the best available technology for
16 reducing the emission of pollutants, including a breakdown by vehicle model and the type of
17 technology used for each vehicle; (iv) the number of such nonroad vehicles that utilized such
18 other authorized technology in accordance with this section, including a breakdown by vehicle
19 model and the type of technology used for each vehicle; (v) the locations where such nonroad
20 vehicles that were powered by ultra low sulfur diesel fuel and/or utilized the best available
21 technology for reducing the emission of pollutants or such other authorized technology in
22 accordance with this section were used; and (vi) [all findings, and renewals of such findings,
23 issued pursuant to subdivision j of this section, which shall include, but not be limited to, for

1 each finding and renewal, the quantity of diesel fuel needed by the city agency or contractor to
2 power diesel-powered nonroad vehicles owned by, operated by or on behalf of, or leased by the
3 city agency or used to fulfill the requirements of a public works contract for such agency;
4 specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that
5 has a sulfur content of no more than thirty parts per million where a determination is in effect
6 pursuant to subdivision i of this section; and detailed information concerning the city agency's or
7 contractor's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of
8 no more than thirty parts per million where a determination is in effect pursuant to subdivision i
9 of this section; and (vii)] all findings and waivers, and renewals of such findings and waivers,
10 issued pursuant to paragraph one or paragraph three of subdivision [k] j or subdivision [m] l of
11 this section, which shall include, but not be limited to, all specific information submitted by a
12 city agency or contractor upon which such findings, waivers and renewals are based and the type
13 of such other authorized technology, if any, utilized in accordance with this section in relation to
14 each finding, waiver and renewal, instead of the best available technology for reducing the
15 emission of pollutants.

16 [(2) Where a determination is in effect pursuant to subdivision i of this section,
17 information regarding diesel fuel that has a sulfur content of no more than thirty parts per million
18 shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to
19 paragraph one of this subdivision.]

20 h. This section shall not apply:

21 (1) where federal or state funding precludes the city from imposing the
22 requirements of this section; or

1 (2) to purchases that are emergency procurements pursuant to section three
2 hundred fifteen of the charter.

3 [i. The commissioner shall issue a written determination that permits the use of
4 diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the
5 requirements of paragraph one of subdivision b and paragraph one of subdivision c of this
6 section if ultra low sulfur diesel fuel is not available to meet the needs of city agencies and
7 contractors to fulfill the requirements of this section. Such determination shall expire after six
8 months and shall be renewed in writing every six months if ultra low sulfur diesel fuel is not
9 available to meet the needs of city agencies and contractors to fulfill the requirements of this
10 section, but in no event shall be in effect after September 1, 2006.

11 j.] i. Paragraph one of subdivision b and paragraph one of subdivision c, as that
12 paragraph applies to all contractors' duty to comply with the specification, of this section shall
13 not apply to [a city agency or contractor in its fulfillment of the requirements of a public works
14 contract for such agency where such agency makes a written finding, which is approved, in
15 writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel
16 fuel that has a sulfur content of no more than thirty parts per million where a determination is in
17 effect pursuant to subdivision i of this section, is not available to meet the requirements of
18 paragraph one of subdivision b or paragraph one of subdivision c of this section, provided that
19 such agency or contractor in its fulfillment of the requirements of a public works contract for
20 such agency, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel
21 or diesel fuel that has a sulfur content of no more than thirty parts per million is available. Any
22 finding made pursuant to this subdivision shall expire after sixty days, at which time the
23 requirements of paragraph one of subdivision b and paragraph one of subdivision c of this

1 section shall be in full force and effect unless the city agency renews the finding in writing and
2 such renewal is approved by the commissioner] any diesel-powered nonroad vehicle covered
3 under a federal waiver for the use of ultra-low sulfur diesel fuel issued by the United States
4 environmental protection agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) or any regulation
5 promulgated thereunder, provided that the city agency or contractor shall fully comply with the
6 terms of such federal waiver, and the requirements of paragraph one of subdivision b and
7 paragraph one of subdivision c of this section shall be in full force and effect upon the expiration
8 of such federal waiver.

9 [k.] j. Paragraph two of subdivision b and paragraph two of subdivision c, as that
10 paragraph applies to all contractors' duty to comply with the specification, of this section shall
11 not apply:

12 (1) to a diesel-powered nonroad vehicle where a city agency makes a written
13 finding, which is approved, in writing, by the commissioner, that the best available technology
14 for reducing the emission of pollutants as required by those paragraphs is unavailable for such
15 vehicle, in which case such agency or contractor shall use whatever technology for reducing the
16 emission of pollutants, if any, is available and appropriate for such vehicle; or

17 (2) to a diesel-powered nonroad vehicle that is used to satisfy the requirements of
18 a specific public works contract for fewer than twenty calendar days; or

19 (3) to a diesel-powered nonroad vehicle where the commissioner has issued a
20 written waiver based upon a city agency or contractor having demonstrated to the commissioner
21 that the use of the best available technology for reducing the emission of pollutants might
22 endanger the operator of such vehicle or those working near such vehicle, due to engine
23 malfunction, in which case such city agency or contractor shall use whatever technology for

1 reducing the emission of pollutants, if any, is available and appropriate for such vehicle, which
2 would not endanger the operator of such vehicle or those working near such vehicle.

3 [l.] k. In determining which technology to use for the purposes of paragraph one
4 or paragraph three of subdivision [k] j of this section, a city agency or contractor shall primarily
5 consider the reduction in emissions of particulate matter and secondarily consider the reduction
6 in emissions of nitrogen oxides associated with the use of such technology, which shall in no
7 event result in an increase in the emissions of either such pollutant.

8 [m.] l. Any finding or waiver made or issued pursuant to paragraph one or
9 paragraph three of subdivision [k] j of this section shall expire after one hundred eighty days, at
10 which time the requirements of paragraph two of subdivision b and paragraph two of subdivision
11 c of this section shall be in full force and effect unless the city agency renews the finding, in
12 writing, and the commissioner approves such finding, in writing, or the commissioner renews the
13 waiver, in writing.

14 [n.] m. Any contractor who violates any provision of this section[, except as
15 provided in subdivision o of this section,] shall be liable for a civil penalty [between the amounts
16 of one thousand and ten thousand dollars, in addition to twice the amount of money saved by
17 such contractor for failure to comply with this section] in accordance with section 24-178 of the
18 code.

19 [o. No] n. Any contractor [shall make] that makes a false claim with respect to
20 the provisions of this section to a city agency shall be subject to enforcement pursuant to the
21 provisions of chapter eight of title seven of the code. [Where a contractor has been found to have
22 done so, such contractor shall be liable for a civil penalty of twenty thousand dollars, in addition

1 to twice the amount of money saved by such contractor in association with having made such
2 false claim.]

3 [p.] o. This section shall not apply to any public works contract entered into or
4 renewed prior to [the effective date of this section] June nineteenth, two thousand four.

5 [q.] p. Nothing in this section shall be construed to limit the city's authority to
6 cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide
7 supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or
8 entity pre-qualification as a vendor, or otherwise deny a person or entity city business.

9 § 24-163.4 Use of ultra low sulfur diesel fuel and best available retrofit
10 technology by the city's diesel fuel-powered motor vehicles. a. Definitions. When used in this
11 section:

12 (1) "Best available retrofit technology" means technology, verified by the United
13 States environmental protection agency or the California air resources board, for reducing the
14 emission of pollutants that achieves reductions in particulate matter emissions at the highest
15 classification level for diesel emission control strategies, as set forth in subdivision d of this
16 section, that is applicable to the particular engine and application. Such technology shall also, at
17 a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such
18 particulate matter reduction level and shall in no event result in a net increase in the emissions of
19 either particulate matter or nitrogen oxides.

20 (2) "City agency" means a city, county, borough, administration, department,
21 division, bureau, board or commission, or a corporation, institution or agency of government, the
22 expenses of which are paid in whole or in part from the city treasury.

1 (3) "Gross vehicle weight rating" means the value specified by the manufacturer
2 of a motor vehicle model as the maximum design loaded weight of a single vehicle of that
3 model.

4 (4) "Motor vehicle" means a vehicle operated or driven upon a public highway
5 which is propelled by any power other than muscular power, except electrically-driven mobility
6 assistance devices operated or driven by a person with a disability, provided, however, that this
7 term shall not include vehicles that are specially equipped for emergency response by the
8 department, office of emergency management, sheriff's office of the department of finance,
9 police department or fire department or vehicles, other than buses, specially equipped for
10 emergency response by the department of correction.

11 (5) "Person" means any natural person, co-partnership, firm, company,
12 association, joint stock association, corporation or other like organization.

13 (6) "Reasonable cost" means that such technology does not cost greater than thirty
14 percent more than other technology applicable to the particular engine and application that falls
15 within the same classification level for diesel emission control strategies, as set forth in
16 subdivision d of this section, when considering the cost of the strategies, themselves, and the cost
17 of installation.

18 (7) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no
19 more than fifteen parts per million.

20 (8) "Biodiesel" means a fuel, designated B100, that is composed exclusively of
21 mono-alkyl esters of long chain fatty acids derived from feedstock and that meets the
22 specifications of [the American society of testing and materials] ASTM designation D 6751-12.

1 b. (1) Each diesel fuel-powered motor vehicle owned or operated by a city agency
2 shall be powered by an ultra low sulfur diesel fuel blend containing biodiesel as follows:

3 i. for the fiscal years beginning July 1, 2014, and July 1, 2015, an ultra low sulfur
4 diesel fuel blend containing at least five percent biodiesel (B5) by volume; and

5 ii. for the fiscal year beginning July 1, 2016, and thereafter, between the months
6 of April to November, inclusive, an ultra low sulfur diesel fuel blend containing at least twenty
7 percent biodiesel (B20) by volume, and between the months of December to March, inclusive, an
8 ultra low sulfur diesel fuel blend containing at least five percent biodiesel (B5) by volume.

9 (2) Diesel fuel-powered motor vehicles having a gross vehicle weight rating of
10 more than 8,500 pounds that are owned or operated by city agencies shall utilize the best
11 available retrofit technology or be equipped with an engine certified to the applicable 2007
12 United States environmental protection agency standard for particulate matter as set forth in
13 section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States
14 environmental protection agency standard for such pollutant that is at least as stringent, pursuant
15 to the following schedule:

16 i. 7% of all such motor vehicles by January 1, 2007;

17 ii. 14% of all such motor vehicles by January 1, 2008;

18 iii. 30% of all such motor vehicles by January 1, 2009;

19 iv. 50% of all such motor vehicles by January 1, 2010;

20 v. 70% of all such motor vehicles by January 1, 2011;

21 vi. 90% of all such motor vehicles by January 1, 2012;

22 vii. 100% of all such motor vehicles by July 1, 2012.

1 (3) Notwithstanding any provision of subdivision c of this section, diesel fuel-
2 powered motor vehicles having a gross vehicle weight rating of more than 8,500 pounds that are
3 owned or operated by city agencies shall utilize the best available retrofit technology that meets
4 the level 4 emission control strategy as defined in subdivision d of this section, or be equipped
5 with an engine certified to the applicable 2007 United States environmental protection agency
6 standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal
7 regulations or to any subsequent United States environmental protection agency standard for
8 such pollutant that is at least as stringent, pursuant to the following schedule:

9 i. 50% of all such motor vehicles by January 1, 2014;

10 ii. 70% of all such motor vehicles by January 1, 2015;

11 iii. 80 % of all such motor vehicles by January 1, 2016; and

12 iv. 90 % of all such motor vehicles by January 1, 2017.

13 c. (1) The commissioner shall make determinations, and shall publish a list
14 containing such determinations, as to the best available retrofit technology to be used for each
15 type of diesel fuel-powered motor vehicle to which this section applies. Each such determination
16 shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once
17 every six months.

18 (2) The commissioner may determine that a technology, whether or not it has
19 been verified by the United States environmental protection agency or the California air
20 resources board, may be appropriate to test, on an experimental basis, on a particular type of
21 diesel fuel-powered motor vehicle owned or operated by a city agency. The commissioner may
22 authorize such technology to be installed on up to five percent or twenty-five of such type of
23 motor vehicle, whichever is less. Any motor vehicle on which such technology is installed may

1 be counted for the purpose of meeting the requirements of paragraph two of subdivision b of this
2 section. Such technology shall not be required to be installed on other motor vehicles of the same
3 type and shall be subject to the provisions of paragraph three of this subdivision.

4 (3) No city agency shall be required to replace best available retrofit technology
5 or experimental technology utilized for a diesel fuel-powered motor vehicle in accordance with
6 the provisions of this section within three years of having first utilized such technology for such
7 vehicle, except that technology that falls within Level 4, as set forth in subdivision d of this
8 section, shall not be required to be replaced until it has reached the end of its useful life.

9 d. The classification levels for diesel emission control strategies are as follows,
10 with Level 4 being the highest classification level:

11 i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or
12 greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter
13 per brake horsepower-hour;

14 ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50
15 and 84 percent;

16 iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25
17 and 49 percent;

18 iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20
19 and 24 percent.

20 e. [The commissioner shall issue a written determination that permits the use of
21 diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the
22 requirements of this section if ultra low sulfur diesel fuel is not available to meet the needs of
23 city agencies to fulfill the requirements of this section. Such determination shall expire after six

1 months and shall be renewed in writing every six months if such lack of availability persists, but
2 in no event shall be in effect after September 1, 2006.

3 f. The commissioner may issue a waiver for the use of] (1) Paragraph one of
4 subdivision b of this section, as that paragraph applies to the requirement that each diesel fuel-
5 powered motor vehicle owned or operated by a city agency be powered by ultra low sulfur diesel
6 fuel [where a city agency makes a written finding, which is approved, in writing, by the
7 commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a
8 sulfur content of no more than thirty parts per million where a determination is in effect pursuant
9 to subdivision e of this section, is not available to meet the requirements of this section, provided
10 that such agency, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel
11 fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available for
12 its diesel fuel-powered motor vehicles. Any waiver issued pursuant to this paragraph shall expire
13 after two months, unless the city agency renews the finding, in writing, and the commissioner
14 approves such renewal, in writing], shall not apply to any motor vehicle covered under a federal
15 waiver for the use of ultra-low sulfur diesel fuel issued by the United States environmental
16 protection agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) or any regulation promulgated
17 thereunder, provided that the city agency shall fully comply with the terms of such federal
18 waiver, and the requirements of paragraph one of subdivision b of this section shall be in full
19 force and effect upon the expiration of such federal waiver.

20 (2) The commissioner may issue a waiver for the use of an ultra low sulfur diesel
21 fuel blend that contains the amount of biodiesel required pursuant to subdivision b of this section
22 where a city agency makes a written finding, which is approved, in writing, by the
23 commissioner, that a sufficient quantity of such ultra low sulfur diesel fuel blend containing

1 biodiesel is not available to meet the requirements of this section. Any waiver issued pursuant to
2 this paragraph shall expire after two months, unless the city agency renews the finding, in
3 writing, and the commissioner approves such renewal, in writing.

4 (3) The commissioner may issue a waiver for the use of an ultra low sulfur diesel
5 fuel blend that contains the amount of biodiesel required pursuant to subdivision b of this section
6 where a city agency makes a written finding, which is approved, in writing, by the
7 commissioner, that the use of biodiesel in a particular type of motor vehicle would void the
8 manufacturer's warranty for such vehicle.

9 [g.] f. (1) Not later than January 1, 2007, and not later than January 1 of each year
10 thereafter, the commissioner shall submit a report to the comptroller and the speaker of the
11 council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the
12 best available retrofit technology by diesel fuel-powered motor vehicles owned or operated by
13 city agencies during the immediately preceding calendar year. The information contained in this
14 report shall include, but not be limited to, for each city agency: (i) the total number of diesel fuel-
15 powered motor vehicles owned or operated by such agency; (ii) the number of such motor
16 vehicles that were powered by ultra low sulfur diesel fuel; (iii) the total number of diesel fuel-
17 powered motor vehicles owned or operated by such agency having a gross vehicle weight rating
18 of more than 8,500 pounds; (iv) the number of such motor vehicles that utilized the best
19 available retrofit technology, including a breakdown by motor vehicle model, engine year and
20 the type of technology used for each vehicle; (v) the number of such motor vehicles that are
21 equipped with an engine certified to the applicable 2007 United States environmental protection
22 agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of
23 federal regulations or to any subsequent United States environmental protection agency standard

1 for particulate matter that is at least as stringent; (vi) the number of such motor vehicles that
2 utilized technology in accordance with paragraph two of subdivision c of this section and the
3 results and analyses regarding the testing of such technology; and (vii) all waivers, findings, and
4 renewals of such findings, issued pursuant to subdivision [f] e of this section, which, for each
5 waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel
6 fuel-powered motor vehicles owned or operated by such agency[; specific information
7 concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of
8 no more than thirty parts per million where a determination is in effect pursuant to subdivision e
9 of this section; and detailed information concerning the agency's efforts to obtain ultra low sulfur
10 diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a
11 determination is in effect pursuant to subdivision e of this section.

12 (2) Where a determination is in effect pursuant to subdivision e of this section,
13 information regarding diesel fuel that has a sulfur content of no more than thirty parts per million
14 shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to
15 paragraph one of this subdivision].

16 [(3)] (2) The report due January 1, 2007 in accordance with paragraph one of this
17 subdivision shall only include the information required pursuant to subparagraphs (i), (ii) and
18 (vii) of such paragraph.

19 [h.] g. This section shall not apply:

20 (1) where federal or state funding precludes the city from imposing the
21 requirements of this section; or

22 (2) to purchases that are emergency procurements pursuant to section three
23 hundred fifteen of the charter.

1 [i.] h. B20 winter pilot program. Not later than December 1, 2016, the
2 commissioner of citywide administrative services shall establish a pilot program to determine the
3 feasibility of utilizing an ultra low sulfur diesel fuel blend containing at least twenty percent
4 biodiesel (B20) by volume in city-owned diesel fuel-powered motor vehicles during the months
5 of December to March, inclusive. The pilot program shall include not less than five percent of
6 the city's total diesel fuel-powered motor vehicle fleet, which shall be representative of the
7 vehicle types and operating conditions of the fleet as a whole, and shall include vehicles from the
8 department of citywide administrative services, department of environmental protection,
9 department of parks and recreation, department of sanitation, and department of transportation
10 and vehicles from other city agencies at the discretion of the commissioner of citywide
11 administrative services. Such pilot program shall continue until March 31 of the second calendar
12 year after such pilot program was initiated, and within four months of the conclusion of such
13 pilot program, the commissioner of citywide administrative services shall issue a report to the
14 mayor and the speaker of the council detailing the findings of such pilot program with
15 recommendations for the use of an ultra low sulfur diesel fuel blend containing at least twenty
16 percent biodiesel (B20) by volume in city-owned diesel fuel-powered motor vehicles during the
17 months of December to March, inclusive.

18 § 24-163.5 Use of ultra low sulfur diesel fuel and best available retrofit
19 technology in the fulfillment of solid waste contracts and recyclable materials contracts. a.
20 Definitions. When used in this section:

21 (1) "Best available retrofit technology" means technology, verified by the United
22 States environmental protection agency or the California air resources board unless as otherwise
23 deemed appropriate by the commissioner for a nonroad vehicle, for reducing the emission of
24

1 pollutants that achieves reductions in particulate matter emissions at the highest classification
2 level for diesel emission control strategies, as set forth in subdivision d of this section, that is
3 applicable to the particular engine and application. Such technology shall also, at a reasonable
4 cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter
5 reduction level and shall in no event result in a net increase in the emissions of either particulate
6 matter or nitrogen oxides.

7 [(2) "City agency" means a city, county, borough, administration, department,
8 division, bureau, board or commission, or a corporation, institution or agency of government, the
9 expenses of which are paid in whole or in part from the city treasury.

10 [(3)] (2) "Contractor" means any person or entity that enters into a solid waste
11 contract or recyclable materials contract with a city agency, or any person or entity that enters
12 into an agreement with such person or entity, to perform work or provide labor or services
13 related to such solid waste contract or recyclable materials contract.

14 [(4)] (3) "Motor vehicle" shall mean a vehicle operated or driven upon a public
15 highway which is propelled by any power other than muscular power, except electrically-driven
16 mobility assistance devices operated or driven by a person with a disability.

17 [(5)] (4) "Nonroad engine" means an internal combustion engine (including the
18 fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is
19 not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United
20 States code, except that this term shall apply to internal combustion engines used to power
21 generators, compressors or similar equipment used in the fulfillment of any solid waste contract
22 or recyclable materials contract.

1 [(6)] (5) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine,
2 fifty horsepower and greater, and that is not a motor vehicle or a vehicle used solely for
3 competition, which shall include, but not be limited to, front loaders, excavators, backhoes,
4 cranes, compressors, generators, bulldozers and similar equipment.

5 [(7)] (6) "Operate primarily within the city of New York" means that greater than
6 fifty percent of the time spent or miles traveled by a motor vehicle or nonroad vehicle during the
7 performance of a solid waste contract or recyclable materials contract occurs within the city of
8 New York.

9 [(8) "Person" means any natural person, co-partnership, firm, company,
10 association, joint stock association, corporation or other like organization.

11 [(9)] (7) "Reasonable cost" means that such technology does not cost greater than
12 thirty percent more than other technology applicable to the particular engine and application that
13 falls within the same classification level for diesel emission control strategies, as set forth in
14 subdivision d of this section, when considering the cost of the strategies, themselves, and the cost
15 of installation.

16 [(10)] (8) "Recyclable materials" means solid waste that may be separated,
17 collected, processed, marketed and returned to the economy in the form of raw materials or
18 products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and
19 yard waste.

20 [(11)] (9) "Recyclable materials contract" means a contract with a city agency, the
21 primary purpose of which is to provide for the handling, transport or disposal of recyclable
22 materials.

1 [(12)] (10) "Solid waste" means all materials or substances discarded or rejected
2 as being spent, useless, or worthless, including but not limited to garbage, refuse, industrial and
3 commercial waste, sludges from air or water pollution control facilities or water supply treatment
4 facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and
5 construction debris and offal, but not including sewage and other highly diluted water-carried
6 materials or substances and those in gaseous forms.

7 [(13)] (11) "Solid waste contract" means a contract with a city agency, the
8 primary purpose of which is to provide for the handling, transport or disposal of solid waste.

9 [(14) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of
10 no more than fifteen parts per million.]

11 b. (1) Any solid waste contract or recyclable materials contract shall specify that
12 all diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used in the
13 performance of such contract that operate primarily within the city of New York shall be
14 powered by ultra low sulfur diesel fuel and all contractors in the performance of such contract
15 shall comply with such specification.

16 (2) Any solid waste contract or recyclable materials contract shall specify that, as
17 of March 1, 2006, all diesel fuel-powered motor vehicles and diesel fuel-powered nonroad
18 vehicles used in the performance of such contract that operate primarily within the city of New
19 York shall utilize the best available retrofit technology and all contractors in the performance of
20 such contract shall comply with such specification.

21 (3) Notwithstanding any provision of subdivision c of this section, any solid waste
22 contract or recyclable materials contract entered into pursuant to requests for bids and/or requests
23 for proposals issued after the effective date of the local law that added this paragraph shall

1 specify that, as of January 1, 2017, all diesel fuel-powered motor vehicles used in the
2 performance of such contract that operate primarily within the city of New York shall utilize the
3 best available retrofit technology that meets the level 4 emission control strategy as defined in
4 subdivision d of this section, or be equipped with an engine certified to the applicable 2007
5 United States environmental protection agency standard for particulate matter as set forth in
6 section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States
7 environmental protection agency standard for such pollutant that is at least as stringent, and all
8 contractors in the performance of such contract shall comply with such specification.

9 c. (1) The commissioner shall make determinations, and shall publish a list
10 containing such determinations, as to the best available retrofit technology to be used for each
11 type of diesel fuel-powered motor vehicle and diesel fuel-powered nonroad vehicle to which this
12 section applies. Each such determination shall be reviewed and revised, as needed, on a regular
13 basis, but in no event less often than once every six months.

14 (2) No contractor shall be required to replace best available retrofit technology or
15 other authorized technology utilized for a diesel fuel-powered motor vehicle or diesel fuel-
16 powered nonroad vehicle in accordance with the provisions of this section within three years of
17 having first utilized such technology for such vehicle, except that technology that falls within
18 Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it
19 has reached the end of its useful life.

20 d. The classification levels for diesel emission control strategies are as follows,
21 with Level 4 being the highest classification level:

1 i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or
2 greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter
3 per brake horsepower-hour;

4 ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50
5 and 84 percent;

6 iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25
7 and 49 percent;

8 iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20
9 and 24 percent.

10 e. A city agency shall not enter into a solid waste contract or recyclable materials
11 contract subject to the provisions of this section unless such contract permits independent
12 monitoring of the contractor's compliance with the requirements of this section and requires that
13 the contractor comply with section 24-163 of this code. If it is determined that the contractor has
14 failed to comply with any provision of this section, any costs associated with any independent
15 monitoring incurred by the city shall be reimbursed by the contractor.

16 f. [The commissioner shall issue a written determination that permits the use of
17 diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the
18 requirements of paragraph one of subdivision b of this section if ultra low sulfur diesel fuel is not
19 available to meet the needs of contractors to fulfill the requirements of this section. Such
20 determination shall expire after six months and shall be renewed in writing every six months if
21 such lack of availability persists, but in no event shall be in effect after September 1, 2006.

22 g. The commissioner may issue a waiver for the use of ultra low sulfur diesel fuel
23 where the city agency that has entered into the applicable solid waste contract or recyclable

1 materials contract makes a written finding, which is approved, in writing, by the commissioner,
2 that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of
3 no more than thirty parts per million where a determination is in effect pursuant to subdivision f
4 of this section, is not available to meet the requirements of this section, provided that the
5 contractor, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or
6 diesel fuel that has a sulfur content of no more than thirty parts per million is available for its
7 diesel fuel-powered vehicles. Any waiver issued pursuant to this subdivision shall expire after
8 two months, unless the city agency renews the finding, in writing, and the commissioner
9 approves such renewal, in writing] Paragraph one of subdivision b of this section, as that
10 paragraph applies to all contractors' duty to comply with the specification, shall not apply to any
11 motor vehicle or nonroad vehicle covered under a federal waiver for the use of ultra-low sulfur
12 diesel fuel issued by the United States environmental protection agency pursuant to 42 U.S.C. §
13 7545(c)(4)(C)(ii) or any regulation promulgated thereunder, provided that the contractor shall
14 fully comply with the terms of such federal waiver, and the requirements of paragraph one of
15 subdivision b of this section shall be in full force and effect upon the expiration of such federal
16 waiver.

17 [h.] g. The commissioner may issue a waiver for the use of the best available retrofit
18 technology by a diesel fuel-powered motor vehicle or diesel fuel-powered nonroad vehicle where
19 the city agency that has entered into the applicable solid waste contract or recyclable materials
20 contract makes a written finding, which is approved, in writing, by the commissioner, that such
21 technology is unavailable for purchase for such vehicle, in which case the contractor shall be
22 required to use the technology for reducing the emission of pollutants that would be the next best
23 best available retrofit technology and that is available for purchase for such vehicle. Any waiver

1 issued pursuant to this subdivision shall expire after three years. The commissioner shall not
2 renew any waiver issued pursuant to this subdivision after January 1, 2014.

3 [i.] h. (1) Paragraph two of subdivision b of this section shall not apply to a diesel-
4 fuel powered motor vehicle that is equipped with an engine certified to the applicable 2007
5 United States environmental protection agency standard for particulate matter as set forth in
6 section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States
7 environmental protection agency standard for such pollutant that is at least as stringent.

8 (2) Paragraph two of subdivision b of this section shall not apply to a diesel-fuel
9 powered nonroad vehicle that is equipped with an engine certified to the applicable United States
10 environmental protection agency standard for particulate matter for such vehicle as set forth in
11 [the Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel; Final Rule,
12 published in the federal register on June 29, 2004 at 69 Fed. Reg. 38,958 et seq.] section
13 1039.101 of title forty of the code of federal regulations, or to any subsequent United States
14 environmental protection agency standard for such pollutant that is at least as stringent.

15 [j. (1)] i. Not later than January 1, 2007, and not later than January 1 of each year
16 thereafter, the commissioner shall submit a report to the comptroller and the speaker of the
17 council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the
18 best available retrofit technology by diesel fuel-powered motor vehicles and diesel fuel-powered
19 nonroad vehicles used in the performance of a solid waste contract or recyclable materials
20 contract during the immediately preceding fiscal year. This report shall include, but not be
21 limited to: (i) the total number of diesel fuel-powered motor vehicles and diesel fuel-powered
22 nonroad vehicles, respectively, used in the performance of solid waste contracts or recyclable
23 materials contracts; (ii) the number of such motor vehicles and nonroad vehicles, respectively,

1 that were powered by ultra low sulfur diesel fuel; (iii) the number of such motor vehicles and
2 nonroad vehicles, respectively, that utilized the best available retrofit technology, including a
3 breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv)
4 the number of such motor vehicles and nonroad vehicles, respectively, that utilized other
5 authorized technology in accordance with this section, including a breakdown by vehicle model,
6 engine year and the type of technology used for each vehicle; (v) the number of such motor
7 vehicles and nonroad vehicles, respectively, that are equipped with an engine certified to the
8 applicable United States environmental protection agency standard for particulate matter in
9 accordance with subdivision [i] h of this section; (vi) the locations where such motor vehicles
10 and nonroad vehicles, respectively, that were powered by ultra low sulfur diesel fuel, utilized the
11 best available retrofit technology, utilized such other authorized technology in accordance with
12 this section or were equipped with an engine certified to the applicable United States
13 environmental protection agency standard for particulate matter were used; and (vii) [all waivers,
14 findings, and renewals of such findings, issued pursuant to subdivision g of this section, which
15 shall include, but not be limited to, for each waiver, the quantity of diesel fuel needed by the
16 contractor to power diesel fuel-powered motor vehicles and diesel fuel-powered nonroad
17 vehicles used to fulfill the requirements of a solid waste contract or recyclable materials contract;
18 specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that
19 has a sulfur content of no more than thirty parts per million where a determination is in effect
20 pursuant to subdivision f of this section; and detailed information concerning the contractor's
21 efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more
22 than thirty parts per million where a determination is in effect pursuant to subdivision f of this
23 section; and (viii)] all waivers issued pursuant to subdivision [h] g of this section, which shall

1 include, but not be limited to, all findings and specific information submitted by the city agency
2 or contractor upon which such waivers are based and the type of other authorized technology
3 utilized in accordance with this section in relation to each waiver, instead of the best available
4 retrofit technology.

5 [(2) Where a determination is in effect pursuant to subdivision f of this section,
6 information regarding diesel fuel that has a sulfur content of no more than thirty parts per million
7 shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to
8 paragraph one of this subdivision.

9 k.] j. This section shall not apply:

10 (1) where federal or state funding precludes the city from imposing the
11 requirements of this section; or

12 (2) to purchases that are emergency procurements pursuant to section three
13 hundred fifteen of the charter.

14 [1.] k. Any contractor who violates any provision of this section[, except as
15 provided in subdivision m of this section,] shall be liable for a civil penalty [of not less than one
16 thousand dollars and not more than ten thousand dollars, in addition to twice the amount of
17 money saved by such contractor for failure to comply with this section] in accordance with
18 section 24-178 of the code.

19 [m.] l. Where a contractor has been found to have made a false claim with respect
20 to the provisions of this section, such contractor shall be [liable for an additional civil penalty of
21 twenty thousand dollars] subject to enforcement pursuant to the provisions of chapter eight of
22 title seven of the code.

1 [n.] m. This section shall not apply to any solid waste contract or recyclable
2 materials contract entered into or renewed prior to [the effective date of this section] September
3 ninth, two thousand five.

4 [o.] n. Nothing in this section shall be construed to limit the city's authority to
5 cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide
6 supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or
7 entity pre-qualification as a vendor, or otherwise deny a person or entity city business.

8 § 24-163.6 Use of best available retrofit technology by sight-seeing buses. a.
9 Definitions. When used in this section:

10 (1) "Best available retrofit technology" means technology, verified by the United
11 States environmental protection agency or the California air resources board, for reducing the
12 emission of pollutants that achieves reductions in particulate matter emissions at the highest
13 classification level for diesel emission control strategies, as set forth in subdivision d of this
14 section, that is applicable to the particular engine and application. Such technology shall also, at
15 a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such
16 particulate matter reduction level and shall in no event result in a net increase in the emissions of
17 either particulate matter or nitrogen oxides.

18 (2) "Reasonable cost" means that such technology does not cost greater than thirty
19 percent more than other technology applicable to the particular engine and application that falls
20 within the same classification level for diesel emission control strategies, as set forth in
21 subdivision d of this section, when considering the cost of the strategies, themselves, and the cost
22 of installation.

1 (3) "Sight-seeing bus" means a motor vehicle designed to comfortably seat and
2 carry eight or more passengers operating for hire from a fixed point in the city of New York to a
3 place or places of interest or amusements, and shall also include a vehicle, designed as aforesaid
4 which by oral or written contract is let and hired or otherwise engaged for its exclusive use for a
5 specific or special trip or excursion from a starting point within the city of New York.

6 b. (1) Beginning January 1, 2007, any diesel fuel-powered sight-seeing bus that is
7 licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code and that is
8 equipped with an engine that is over three years old shall utilize the best available retrofit
9 technology.

10 (2) Notwithstanding any provision of subdivision c of this section, any diesel fuel-
11 powered sight-seeing bus that is licensed pursuant to subchapter 21 of chapter 2 of title 20 of the
12 administrative code shall utilize the best available retrofit technology that meets the level 4
13 emission control strategy as defined in subdivision d of this section, or be equipped with an
14 engine certified to the applicable 2007 United States environmental protection agency standard
15 for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal
16 regulations or to any subsequent United States environmental protection agency standard for
17 such pollutant that is at least as stringent, by January 1, 2017.

18 c. (1) The commissioner shall make determinations, and shall publish a list
19 containing such determinations, as to the best available retrofit technology to be used for each
20 type of diesel fuel-powered sight-seeing bus to which this section applies. Each such
21 determination shall be reviewed and revised, as needed, on a regular basis, but in no event less
22 often than once every six months.

1 (2) No owner or operator of a diesel fuel-powered sight-seeing bus licensed
2 pursuant to the provisions of subchapter 21 of chapter 2 of title 20 of the administrative code
3 shall be required to replace best available retrofit technology or other authorized technology
4 utilized for a diesel fuel-powered bus in accordance with the provisions of this section within
5 three years of having first utilized such technology for such bus, except that technology that falls
6 within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced
7 until it has reached the end of its useful life.

8 d. The classification levels for diesel emission control strategies are as follows,
9 with Level 4 being the highest classification level:

10 i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or
11 greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter
12 per brake horsepower-hour;

13 ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50
14 and 84 percent;

15 iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25
16 and 49 percent;

17 iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20
18 and 24 percent.

19 e. The commissioner may issue a waiver for the use of the best available retrofit
20 technology by a diesel fuel-powered sight-seeing bus where the department of consumer affairs
21 makes a written finding, which is approved, in writing, by the commissioner, that such
22 technology is unavailable for purchase for such bus, in which case the owner or operator of such
23 bus shall be required to use the technology for reducing the emission of pollutants that would be

1 the next best best available retrofit technology and that is available for purchase for such bus.
2 Any waiver issued pursuant to this subdivision shall expire after three years. The commissioner
3 shall not renew any waiver issued pursuant to this subdivision after January 1, 2014.

4 f. The requirements of subdivision b of this section shall not apply to a diesel-fuel
5 powered sight-seeing bus that is equipped with an engine certified to the applicable 2007 United
6 States environmental protection agency standard for particulate matter as set forth in section
7 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States
8 environmental protection agency standard for such pollutant that is at least as stringent.

9 g. Not later than January 1, 2008, and not later than January 1 of each year
10 thereafter, the commissioner shall submit a report to the comptroller and the speaker of the
11 council regarding, among other things, the use of the best available retrofit technology by diesel
12 fuel-powered sight-seeing buses during the immediately preceding fiscal year. This report shall
13 include, but not be limited to: (i) the total number of diesel fuel-powered sight-seeing buses
14 licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code; (ii) the
15 number of such buses that utilized the best available retrofit technology, including a breakdown
16 by vehicle model, engine year and the type of technology used for each vehicle; (iii) the number
17 of such buses that utilized other authorized technology in accordance with this section, including
18 a breakdown by vehicle model, engine year and the type of technology used for each vehicle;
19 (iv) the number of such buses that are equipped with an engine certified to the applicable United
20 States environmental protection agency standard for particulate matter in accordance with
21 subdivision f of this section; (v) the locations where such buses that utilized the best available
22 retrofit technology, utilized such other authorized technology in accordance with this section or
23 were equipped with an engine certified to the applicable United States environmental protection

1 agency standard for particulate matter were used; (vi) the age of the engine with which each bus
2 that did not utilize the best available retrofit technology is equipped; and (vii) all waivers issued
3 pursuant to subdivision e of this section, which shall include, but not be limited to, all findings
4 and specific information submitted by the department of consumer affairs or the owner or
5 operator of a diesel fuel-powered sight-seeing bus upon which such waivers are based and the
6 type of other authorized technology utilized in accordance with this section in relation to each
7 waiver, instead of the best available retrofit technology.

8 h. Any owner or operator of a diesel fuel-powered sight-seeing bus who violates
9 any provision of this section[, except as provided in subdivision i of this section,] shall be liable
10 for a civil penalty [of not less than one thousand dollars and not more than ten thousand dollars,
11 in addition to twice the amount of money saved by such owner or operator for failure to comply
12 with this section] in accordance with section 24-178 of the code.

13 i. Where an owner or operator of a diesel fuel-powered sight-seeing bus has been
14 found to have made a false claim with respect to the provisions of this section, such owner or
15 operator shall be [liable for an additional civil penalty of twenty thousand dollars] subject to
16 enforcement pursuant to the provisions of chapter eight of title seven of the code.

17 § 24-163.7 Use of ultra low sulfur diesel fuel and best available retrofit
18 technology in school bus transportation. a. Definitions. For the purposes of this section only, the
19 following terms shall have the following meanings:

20 (1) "Best available retrofit technology" means technology, verified by the United
21 States environmental protection agency or the California air resources board, for reducing the
22 emission of pollutants that achieves reductions in particulate matter emissions at the highest
23 classification level for diesel emission control strategies, as set forth in subdivision e of this

1 section, that is applicable to the particular engine and application. Such technology shall also, at
2 a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such
3 particulate matter reduction level and shall in no event result in a net increase in the emissions of
4 either particulate matter or nitrogen oxides.

5 (2) "Department of education" means the New York city department of education,
6 formerly known as the New York city board of education, and any successor agency or entity
7 thereto, the expenses of which are paid in whole or in part from the city treasury.

8 (3) ["Person" means any natural person, partnership, firm, company, association,
9 joint stock association, corporation or other legal entity.

10 (4)] "Reasonable cost" means that such technology does not cost greater than
11 thirty percent more than other technology applicable to the particular engine and application that
12 falls within the same classification level for diesel emission control strategies, as set forth in
13 subdivision e of this section, when considering the cost of the strategies, themselves, and the cost
14 of installation.

15 [(5)] (4) "School bus" means any vehicle operated pursuant to a school bus
16 contract, designed to transport ten or more children at one time, of the designation "Type C bus"
17 or "Type D bus" as set forth in 17 NYCRR §§ 720.1(Z) and (AA), and used to transport children
18 to or from any school located in the city of New York, and excluding any vehicle utilized
19 primarily to transport children with special educational needs who do not travel to and from
20 school in vehicles used to transport general education students.

21 [(6)] (5) "School bus contract" means any agreement between any person and the
22 department of education to transport children on a school bus.

1 [(7) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no
2 more than fifteen parts per million.]

3 b. (1) Beginning July 1, 2006, any diesel fuel-powered school bus that is operated
4 by a person who fuels such school bus at any facility at which ultra low sulfur diesel fuel is
5 available, or of which such person has the exclusive use and control, or at which such person has
6 the ability to specify the fuel to be made available, shall be powered by ultra low sulfur diesel
7 fuel.

8 (2) Beginning September 1, 2006, any diesel fuel-powered school bus to which
9 paragraph one of this subdivision does not apply shall be powered by ultra low sulfur diesel fuel.

10 c. Diesel fuel-powered school buses shall utilize the best available retrofit
11 technology in accordance with the following schedule:

12 i. 50% of school buses used to fulfill each school bus contract by September 1,
13 2006;

14 ii. 100% of school buses used to fulfill each school bus contract by September 1,
15 [2007] 2014.

16 d. (1) The commissioner shall make determinations, and shall publish a list
17 containing such determinations, as to the best available retrofit technology to be used for each
18 type of diesel fuel-powered school bus to which this section applies. Each such determination
19 shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once
20 every six months.

21 (2) No person shall be required to replace best available retrofit technology or
22 other authorized technology utilized for a diesel fuel-powered school bus in accordance with the
23 provisions of this section within three years of having first utilized such technology for such bus,

1 except that technology that falls within Level 4, as set forth in subdivision e of this section, shall
2 not be required to be replaced until it has reached the end of its useful life.

3 (3) For purposes of this subdivision, any best available retrofit technology, or
4 substantially similar technology, purchased or installed in whole or in part with funds provided
5 by the state of New York or the federal government pursuant to a specific diesel emissions
6 reduction program in effect upon the date of enactment of this section, shall constitute the best
7 available retrofit technology for a period of not less than three years from the date on which such
8 equipment was installed.

9 e. The classification levels for diesel emission control strategies are as follows,
10 with Level 4 being the highest classification level:

11 i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or
12 greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter
13 per brake horsepower-hour;

14 ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50
15 and 84 percent;

16 iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25
17 and 49 percent;

18 iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20
19 and 24 percent.

20 f. [The commissioner shall issue a written determination that permits the use of
21 diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the
22 requirements of subdivision b of this section if ultra low sulfur diesel fuel is not available to meet
23 the needs of school buses to fulfill the requirements of this section. Such determination shall

1 expire after six months and shall be renewed in writing every six months thereafter if such lack
2 of availability persists, but in no event shall be in effect after September 1, 2006.

3 g. The commissioner may issue a waiver for the use of ultra low sulfur diesel fuel
4 where the department of education makes a written finding, which is approved, in writing, by the
5 commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a
6 sulfur content of no more than thirty parts per million where a determination is in effect pursuant
7 to subdivision f of this section, is not available to meet the requirements of this section, provided
8 that school buses, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel
9 fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available.
10 Any waiver issued pursuant to this subdivision shall expire after two months, unless the city
11 agency renews the finding, in writing, and the commissioner approves renewal, in writing.

12 h.] Subdivision b of this section shall not apply to any school bus covered under a
13 federal waiver for the use of ultra-low sulfur diesel fuel issued by the United States
14 environmental protection agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) or any regulation
15 promulgated thereunder, provided that the owner and operator of such school bus shall fully
16 comply with the terms of such federal waiver, and the requirements of subdivision b of this
17 section shall be in full force and effect upon the expiration of such federal waiver.

18 g. The commissioner may issue a waiver for the use of the best available retrofit
19 technology by a diesel fuel-powered school bus where the department of education makes a
20 written finding, which is approved, in writing, by the commissioner, that such technology is
21 unavailable for purchase for such bus, in which case the owner or operator of such school bus
22 shall be required to use the technology for reducing the emission of pollutants that would be the

1 next best best available retrofit technology and that is available for purchase for such bus. Any
2 waiver issued pursuant to this subdivision shall expire after three years.

3 [i.] h. Subdivision c of this section shall not apply to a diesel-fuel powered school
4 bus that is equipped with an engine certified to the applicable 2007 United States environmental
5 protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of
6 the code of federal regulations or to any subsequent United States environmental protection
7 agency standard for such pollutant that is at least as stringent.

8 [j. (1)] i. Not later than January 1, 2007, and not later than January 1 of each year
9 thereafter, the commissioner shall submit a report to the comptroller and the speaker of the
10 council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the
11 best available retrofit technology by school buses during the immediately preceding fiscal year.
12 The information contained in this report shall also be included in the mayor's preliminary
13 management report and the mayor's management report for the relevant fiscal year and shall
14 include, but not be limited to: (i) the number of school buses used to fulfill the requirements of
15 school bus contracts; (ii) the number of such buses that were powered by ultra low sulfur diesel
16 fuel; (iii) the number of such buses that utilized the best available retrofit technology, including a
17 breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv)
18 the number of such buses that utilized other authorized technology in accordance with this
19 section, including a breakdown by vehicle model, engine age and the type of technology used for
20 each vehicle; (v) the number of such buses that are equipped with an engine certified to the
21 applicable United States environmental protection agency standard for particulate matter in
22 accordance with subdivision [i] h. of this section; (vi) the school districts where such buses that
23 were powered by ultra low sulfur diesel fuel, utilized the best available retrofit technology,

1 utilized such other authorized technology in accordance with this section or were equipped with
2 an engine certified to the applicable United States environmental protection agency standard for
3 particulate matter were used; and (vii) [all waivers, findings and renewals of such findings issued
4 pursuant to subdivision g of this section, which shall include, but not be limited to, for each
5 waiver, the quantity of diesel fuel needed by the school bus owner or operator to power diesel
6 fuel-powered school buses used to fulfill the requirements of a school bus contract; specific
7 information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a
8 sulfur content of no more than thirty parts per million where a determination is in effect pursuant
9 to subdivision f of this section; and detailed information concerning the school bus owner's or
10 operator's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no
11 more than thirty parts per million where a determination is in effect pursuant to subdivision f of
12 this section; and (viii)] all waivers issued pursuant to subdivision [h] g of this section, which
13 shall include, but not be limited to, all findings and specific information submitted by the
14 department of education or a school bus owner or operator upon which such waivers are based
15 and the type of other authorized technology utilized in accordance with this section in relation to
16 each waiver, instead of the best available retrofit technology.

17 [(2) Where a determination is in effect pursuant to subdivision f of this section,
18 information regarding diesel fuel that has a sulfur content of no more than thirty parts per million
19 shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to
20 paragraph one of this subdivision.

21 k.] j. This section shall not apply:

22 (1) where federal or state funding precludes the city from imposing the
23 requirements of this section;

1 (2) to purchases that are emergency procurements pursuant to section three
2 hundred fifteen of the New York city charter; or

3 (3) where federal or state law prohibits the application of the requirements of this
4 section.

5 [l.] k. Any person who violates any provision of this section[, except as provided
6 in subdivision m of this section,] shall be liable for a civil penalty [of not less than one thousand
7 dollars and not more than ten thousand dollars, in addition to twice the amount of money saved
8 by such person for failure to comply with this section] in accordance with section 24-178 of the
9 code.

10 [m.] l. Where a person has been found to have made a false claim with respect to
11 the provisions of this section, such person shall be [liable for an additional civil penalty of
12 twenty thousand dollars] subject to enforcement pursuant to the provisions of chapter eight of
13 title seven of the code.

14 [n.] m. This section shall not apply to any school bus contract entered into or
15 renewed prior to [the effective date of this section] May ninth, two thousand five.

16 [o.] n. Nothing in this section shall be construed to limit the authority of the
17 department of education or of the city of New York to cancel or terminate a contract, deny or
18 withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility
19 finding, issue a non-responsiveness finding, deny a person or entity prequalification as a vendor,
20 or otherwise deny a person or entity city business.

21 § 24-163.8 Use of ultra low sulfur diesel fuel in diesel-powered generators used in
22 the production of films, television programs and advertisements, and at street fairs. a.
23 Definitions. When used in this chapter:

1 [(1)] "Alternative fuel" means a fuel, other than gasoline or standard diesel fuel,
2 which may be used to power a generator subject to the provisions of this section so long as the
3 respective quantities of each pollutant emitted by such generator when operated using such fuel
4 do not exceed the respective quantities of each pollutant emitted when such generator is operated
5 using ultra low sulfur diesel fuel.

6 [(2) "City agency" means a city, county, borough, administration, department,
7 division, bureau, board or commission, or a corporation, institution or agency of government, the
8 expenses of which are paid in whole or in part from the city treasury.

9 (3) "Generator" means a machine or device that combusts fossil fuel to create
10 electricity.

11 (4) "Person" means any natural person, partnership, firm, company, association,
12 joint stock association, corporation or other legal entity.

13 (5) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no
14 more than fifteen parts per million.]

15 b. (1) Any diesel-powered generator that is used to provide electrical power for
16 equipment used in the production of any film, television program or advertisement, or for a street
17 fair, where such production or street fair requires a permit from a city agency, shall be powered
18 by ultra low sulfur diesel fuel.

19 (2) The mayor's office of film, theatre, and broadcasting shall issue to all film,
20 television and advertising production companies that apply for a filming permit a notice that
21 recites the provisions of this section and states that any diesel-powered generator that is utilized
22 in a film, television or advertising production must use ultra low sulfur diesel fuel or an
23 alternative fuel.

1 (3) The street activity permit office shall issue to all applicants for a street activity
2 permit for a street fair a notice that recites the provisions of this section and states that any
3 diesel-powered generator that is utilized for a street fair must use ultra low sulfur diesel fuel or
4 an alternative fuel.

5 c. Any person who violates any provision of this section [or] shall be liable for a
6 civil penalty in accordance with section 24-178 of the code. Any person who has been found to
7 have made a false claim to a city agency with respect to the provisions of this section shall be
8 [liable for a civil penalty in the amount of five hundred dollars for each false claim to a city
9 agency and five hundred dollars for each day in which they are otherwise in violation of such
10 provision] subject to enforcement pursuant to the provisions of chapter eight of title seven of the
11 code.

12 § 24-163.9 Retrofitting of and age limitations on diesel fuel-powered school
13 buses.

14 a. Definitions. For the purposes of this section only, the following terms shall
15 have the following meanings:

16 (1) "Department of education" means the New York city department of education,
17 formerly known as the New York city board of education, and any successor agency or entity
18 thereto, the expenses of which are paid in whole or in part from the city treasury.

19 [(2) "Person" means any natural person, partnership, firm, company, association,
20 joint stock association, corporation or other legal entity.

21 (3)] (2) "School bus" means any vehicle of the designation "Type A bus," "Type
22 B bus," "Type C bus," or "Type D bus," as set forth in subdivisions x, y, z, and aa of section
23 720.1 of title seventeen of New York codes, rules and regulations, that is operated pursuant to a

1 school bus contract and is used to transport children to or from any school located in the city of
2 New York.

3 [(4)] (3) "School bus contract" means any agreement between any person and the
4 department of education to transport children on a school bus.

5 b. Diesel fuel-powered school buses shall utilize a closed crankcase ventilation
6 system, selected from among the mobile sources devices identified and approved as part of the
7 diesel retrofit verified technologies list by the United States environmental protection agency or
8 the list of currently verified diesel emission control strategies by the California air resources
9 board, to reduce engine emissions to the school bus cabin, in accordance with the following
10 schedule:

11 (1) fifty percent of diesel fuel-powered school buses used to fulfill each school
12 bus contract shall be equipped with such a closed crankcase ventilation system by September 1,
13 2010;

14 (2) one hundred percent of diesel fuel-powered school buses used to fulfill each
15 school bus contract shall be equipped with such a closed crankcase ventilation system by
16 September 1, 2011;

17 c. [Diesel] Notwithstanding subdivision b of this section, any diesel fuel-powered
18 school bus of the designation "Type A bus" or "Type B bus," as set forth in subdivisions x and y
19 of section 720.1 of title seventeen of New York codes, rules and regulations, with a pre-2007
20 engine model year shall utilize a closed crankcase ventilation system within six months of a
21 finding by the United States environmental protection agency or the California air resources
22 board that such technology is available for use in such bus, provided however, that such
23 technology shall not be required to be installed if such bus is scheduled to be retired within

1 twelve months of such finding pursuant to the schedule set forth in paragraph two of subdivision
2 d of this section.

3 d. (1) No diesel fuel-powered school [buses] bus of the designation "Type A bus"
4 or "Type B bus," as set forth in subdivisions x and y of section 720.1 of title seventeen of New
5 York codes, rules and regulations, with an engine model year of 2007 or later or that is utilizing a
6 closed crankcase ventilation system pursuant to subdivision c of this section and no diesel fuel-
7 powered school bus of the designation "Type C bus" or "Type D bus," as set forth in
8 subdivisions z and aa of section 720.1 of title seventeen of New York codes, rules and
9 regulations, shall [not] be used to fulfill any school bus contract beyond the end of the sixteenth
10 year from the date of manufacture, as noted on the vehicle registration, or the end of the school
11 year in which that date falls, whichever is later.

12 (2) Except for any "Type A bus" or "Type B bus" utilizing a closed crankcase
13 ventilation system pursuant to subdivision c of this section, no diesel fuel-powered school bus of
14 the designation "Type A bus" or "Type B bus," as set forth in subdivisions x and y of section
15 720.1 of title seventeen of New York codes, rules and regulations, with a pre-2007 engine model
16 year shall be used to fulfill any school bus contract entered into pursuant to a request for
17 proposals or request for bids issued after July 1, 2014 beyond the dates set forth in the following
18 schedule:

19 i. All 1997 engine model years, September 1, 2014;

20 ii. All 1998 engine model years, September 1, 2015;

21 iii. All 1999 engine model years, September 1, 2016;

22 iv. All 2000 engine model years, September 1, 2017, and provided, further, that

23 five percent of any contractor's "Type A buses" or "Type B buses" with 2001 through 2004

1 engine model years that are not utilizing a closed crankcase ventilation system pursuant to
2 subdivision c of this section that are used to fulfill any school bus contract shall be replaced
3 pursuant to subdivision e of this section by September 1, 2017;

4 v. All 2001 engine model years, September 1, 2018, and provided, further, that
5 twenty percent of any contractor's "Type A buses" or "Type B buses" with 2002 through 2005
6 engine model years that are not utilizing a closed crankcase ventilation system pursuant to
7 subdivision c of this section that are used to fulfill any school bus contract shall be replaced
8 pursuant to subdivision e of this section by September 1, 2018;

9 vi. All 2002 engine model years, September 1, 2019, and provided, further, that
10 twenty percent of any contractor's "Type A buses" or "Type B buses" with 2003 through 2006
11 engine model years that are not utilizing a closed crankcase ventilation system pursuant to
12 subdivision c of this section that are used to fulfill any school bus contract shall be replaced
13 pursuant to subdivision e of this section by September 1, 2019;

14 vii. All 2003 through 2006 engine model years, September 1, 2020.

15 [d.] e. School buses shall be replaced pursuant to subdivision [c] d of this section
16 with (1) a school bus meeting the most recent diesel engine emissions standards issued by the
17 United States environmental protection agency, or (2) an all-electric, gasoline-powered,
18 compressed natural gas, or hybrid school bus, as long as the particulate matter emissions of such
19 school bus do not exceed emission levels permitted in the most recent diesel engine emissions
20 standards issued by the United States environmental protection agency.

21 [e.] f. No later than December 31, 2011, and no later than December 31 of every
22 year thereafter, the department of education shall submit a report to the mayor and the speaker of
23 the council on compliance with this section. Such report shall include, but not be limited to, data

1 on the age and crankcase ventilation retrofit status of every school bus pursuant to a school bus
2 contract. The department of education shall also perform yearly reviews on a sample of school
3 buses from at least ten different vendors to verify the accuracy of data reported.

4 [f.] g. This section shall not apply:

5 (1) where federal or state funding precludes the city from imposing the
6 requirements of this section;

7 (2) to purchases that are emergency procurements pursuant to section three
8 hundred fifteen of the New York city charter; or

9 (3) where federal or state law prohibits the application of the requirements of this
10 section.

11 [g.] h. Any person who violates any provision of this section[, except as provided
12 in subdivision h of this section,] shall be liable for a civil penalty [of not less than one thousand
13 dollars and not more than ten thousand dollars, in addition to twice the amount of money saved
14 by such person for failure to comply with this section] in accordance with section 24-178 of the
15 code.

16 [h.] i. Where a person has been found to have made a false claim with respect to
17 the provisions of this section, such person shall be [liable for an additional civil penalty of
18 twenty thousand dollars] subject to enforcement pursuant to the provisions of chapter eight of
19 title seven of the code.

20 [i.] j. Nothing in this section shall be construed to limit the authority of the
21 department of education or of the city of New York to cancel or terminate a contract, deny or
22 withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility

1 finding, issue a non-responsiveness finding, deny a person or entity prequalification as a vendor,
2 or otherwise deny a person or entity city business.

3 §24-163.10 Use of auxiliary power units in ambulances. a. When used in this
4 section, “auxiliary power unit” means a device located on or in a vehicle that supplies cooling,
5 heating and electrical power to such vehicle while the vehicle’s engine is turned off. Not later
6 than January first, two thousand fourteen, the fire department shall develop and implement a
7 pilot project for a period of not less than one year to ascertain the benefits and reliability of
8 utilizing auxiliary power units in ambulances operated by the city of New York. Such pilot
9 project shall employ auxiliary power units to power the ambulance’s electrical load, diagnostic
10 devices, ancillary electrical equipment, tools and cabin temperature without the need to engage
11 the engine or use another source of power.

12 b. Not later than July first, two thousand fifteen, the fire department shall submit a
13 report to the mayor and the speaker of the council detailing the findings of such pilot project,
14 including but not limited to data on actual reduction in vehicular emissions, and a cost-benefit
15 analysis for equipping the entire ambulance fleet with auxiliary power units.

16 § 24-163.11 Mobile food vending units. Any mobile food vending unit that is
17 equipped with an auxiliary engine that meets applicable tier four emissions standards established
18 by the United States environmental protection agency as set forth in section 1039.101 of title
19 forty of the code of federal regulations or any subsequent United States environmental protection
20 agency emissions standard for such engine that is at least as stringent, or that uses an alternative
21 fuel, as defined by the rules of the department, shall be entitled to a waiver of any fee established
22 by the department for the registration of such engine pursuant to section 24-109 of the code.
23 Any waiver issued pursuant to this subdivision shall expire after six years.

1 § 24-163.12 Trade Waste Vehicles. a. Definitions. When used in this section:

2 (1) “Best available retrofit technology” means technology verified by the United
3 States environmental protection agency or the California air resources board for reducing the
4 emission of pollutants that achieves reductions in particulate matter emissions at the highest
5 classification level for diesel emission control strategies that is applicable to the particular engine
6 and application.

7 (2) “Heavy duty trade waste hauling vehicle” means any diesel-fuel powered
8 vehicle with a gross weight of over sixteen thousand pounds that is owned or operated by an
9 entity that is required to be licensed or registered by the New York city business integrity
10 commission pursuant to section 16-505 of the code and that is operated in New York city for
11 collection and/or removal of trade waste.

12 (3) “Trade waste” shall have the same meaning as set forth in subdivision f of
13 section 16-501 of the code.

14 b. Use of best available retrofit technology in heavy duty trade waste hauling
15 vehicles.

16 (1) Beginning January first, two thousand twenty, any heavy duty trade waste
17 hauling vehicle shall utilize best available retrofit technology or be equipped with an engine
18 certified to the applicable two thousand seven United States environmental protection agency
19 standard for particulate matter as set forth in section 86.007-11 of title forty of the code of
20 federal regulations or to any subsequent United States environmental protection agency standard
21 for such pollutant that is at least as stringent.

22 (2) The commissioner shall make determinations, and shall publish a list
23 containing such determinations, as to the best available retrofit technology to be used for each

1 type of heavy duty commercial waste hauling vehicle to which this section applies. Each such
2 determination shall be reviewed and revised, as needed, on a regular basis, but in no event less
3 often than once every six months.

4 c. Waivers. Financial hardship. The chairperson of the business integrity
5 commission may issue a waiver of the requirements of paragraph one of subdivision b of this
6 section if the chairperson finds that the applicant for such waiver has demonstrated that
7 compliance with such requirements would cause undue financial hardship on the applicant. An
8 application for such waiver must be filed with the business integrity commission on or before
9 July first, two thousand nineteen or no later than one hundred eighty days before the applicant
10 for such waiver would be required to be licensed or registered by the New York city business
11 integrity commission pursuant to section 16-505 of the code, provided that an application for
12 renewal of an existing waiver must be filed no later than one hundred eighty days before the
13 expiration of such waiver. Any waiver issued pursuant to this paragraph shall expire no later
14 than two years after issuance. All waivers issued pursuant to this subdivision shall expire no
15 later than January first, two thousand twenty-five.

16 d. Enforcement

17 (1) In addition to the department, the business integrity commission shall have the
18 authority to enforce paragraph one of subdivision b of this section and shall have the power to
19 issue notices of violation for violations of such paragraph.

20 (2) Any owner or operator of a heavy duty trade waste hauling vehicle who
21 violates any provision of this section shall be liable for a civil penalty in accordance with section
22 24-178 of the code. All notices of violation issued in accordance with this section shall be
23 returnable to the board.

1 (3) Nothing in this section shall be construed to limit the authority of the business
2 integrity commission to deny, suspend or revoke any license or registration in accordance with
3 chapter one of title 16-A of the code or otherwise enforce the provisions of such chapter.

4 (4) The business integrity commission shall have the authority to promulgate any
5 rules necessary to enforce the provisions of this section, including but not limited to establishing
6 criteria for the issuance of waivers pursuant to subdivision c of this section and establishing
7 procedures for owners and operators of heavy duty trade waste hauling vehicles to demonstrate
8 compliance with the requirements of this section.

9 § 24-164 Operation of soot blower of vessels prohibited. No person shall cause or
10 permit the soot blower of a vessel, other than a vessel which travels only in waters within the
11 jurisdiction of the city of New York, to operate while the vessel is within the waters of the city.

12 § 24-165 Use of air contaminant [detector; use of contaminant recorder; recording
13 of time, duration, concentration and density of air contaminant] detectors and recorders. (a)
14 Whenever the use of an air contaminant detector is required by this code, the air contaminant
15 detector must automatically cause both an audible signal sufficiently loud to be heard by a
16 person of normal hearing twenty feet from the detector and a readily visible flashing red light
17 upon the emission of an air contaminant of a density which appears darker than number one on
18 the standard smoke chart, or of an opacity which obscures vision to a degree greater than smoke
19 of number one density on the standard smoke chart.

20 (b) The [signalling] signaling devices of the air contaminant detector shall also be
21 located at the principal work location of the person supervising the equipment.

22 (c) If two or more units of equipment are connected to a single flue, one air
23 contaminant detector may be used if installed to monitor all of the units.

1 (d) If the light source of a photoelectric type of air contaminant detector fails to
2 operate properly, the detector must automatically cause an audible signal sufficiently loud to be
3 heard by a person of normal hearing twenty feet away from the detector and a readily visible
4 flashing red light which shall continue to operate until manually reset.

5 (e) Whenever the use of an air contaminant recorder is required by this code, the
6 air contaminant recorder must:

7 (1) continuously produce a record of the time, duration, concentration and density
8 of an air contaminant of a density which appears darker than number one on the standard smoke
9 chart, or of an opacity which obscures vision to a degree greater than number one; or

10 (2) continuously produce a record of the time, duration, and concentration of
11 sulfur dioxide and nitrogen oxides by volume and particulate matter by weight.

12 (f) [Except as provided in section 24-171 of this code, the] The record made by
13 the air contaminant recorder shall be dated and retained on the premises where the recorder is
14 located for a period of sixty days from the last date appearing on the record.

15 § 24-166 Use of combustion shutoff; halting of emission of air contaminant. (a)
16 Whenever the use of a combustion shutoff is required by this code or by the commissioner, the
17 combustion shutoff must automatically halt the operation of fuel burning equipment using fuel
18 oil within two minutes after the emission of an air contaminant of a density which appears darker
19 than number one on the standard smoke chart, or of an opacity which obscures vision to a degree
20 greater than smoke of number one density on the standard smoke chart.

21 (b) No person shall cause or permit the resumption of the normal operation of the
22 fuel burning equipment whose operation was halted by a combustion shutoff until the equipment
23 operates in accordance with the standards of this code.

1 (e) No person shall cause or permit the use of a kind or grade of fuel in a diesel
2 powered generator other than ultra low sulfur diesel.

3 § 24-168.1 Clean heating oil. (a) Definitions. For the purpose of this section, the
4 following terms shall have the following meanings:

5 (1) [“Biodiesel” shall mean a fuel, designated B100, that is composed exclusively
6 of mono-alkyl esters of long chain fatty acids derived from feedstock and that meets the
7 specifications of the American Society of Testing and Materials designation D 6751-09a.

8 (2) “Bioheating fuel” shall mean a fuel comprised of biodiesel blended with
9 petroleum heating oil that meets the specifications of the American Society of Testing and
10 Materials designation D 396-09a or other specifications as determined by the commissioner.

11 (3) [“District steam system” shall mean a system for the production of steam and
12 for its transmission and distribution through underground pipelines to multiple buildings.

13 [(4) “Emergency generator” shall mean a machine or device that combusts fuel to
14 create electricity and that is used for the purpose of providing backup power in the event of a
15 general interruption in electrical service.

16 (5) (2) “Feedstock” shall mean soybean oil, oil from annual covercrops, algal oil,
17 biogenic waste oils, fats or greases, or non-food grade corn oil, provided that the commissioner
18 may modify the definition of feedstock based on the vegetable oils, animal fats or cellulosic
19 biomass listed in table 1 of 40 C.F.R. § 80.1426.

20 [(6) (3) “Heating oil” shall mean oil refined for the purpose of use as fuel for
21 combustion in a heating system and that meets the specifications of [the American Society of
22 Testing and Materials] ASTM designation D [396-09a] 396-12 or other specifications as
23 determined by the commissioner.

1 [(7)] (4) “Heating system” shall mean a system that generates heat, hot air, hot
2 water or steam by combustion and distributes it within a building, provided that “heating system”
3 shall not include wood burning stoves.

4 [(8) “Renewable biomass” shall mean crops and crop residue from existing
5 agricultural land, tree residues, animal waste material and byproducts, slash and pre-commercial
6 thinnings from non-federal forest lands, biomass cleared from the vicinity of buildings and other
7 areas to reduce the risk of wildfire, algae, and separated yard waste or food waste. Such term
8 shall not include processed materials such as particle board, treated or painted wood, and
9 melamine resin-coated panels.

10 (9) “Renewable fuel” shall mean fuel produced from renewable biomass.]

11 (b) (1) After October 1, 2012, no person shall cause or permit the use in any
12 building in the city or deliver to any building in the city for use in such building, heating oil that
13 is fuel oil grade no. 2[,] or no. 4 or [no. 6 containing] residual fuel if such heating oil contains
14 less than two percent biodiesel by volume. The provisions of this subdivision shall not apply to
15 the use or delivery of heating oil for use in an emergency generator or for use in a boiler where
16 heating oil from a dual-use tank supplies both such boiler and an emergency generator.

17 (2) The commissioner may authorize the use of any renewable fuel in heating
18 systems if he or she determines that such fuel meets an applicable [American Society for Testing
19 and Materials] ASTM International standard or other standard as determined by the
20 commissioner, and the emissions from such fuel contain equal or lesser amounts of particulate
21 matter, sulfur dioxide and nitrogen oxides than the emissions from fuel oil grade no. 2.

22 (c) The commissioner may waive the requirements of paragraph [1] one of
23 subdivision b of this section in accordance with the provisions of this subdivision.

1 (1) A waiver may be issued for a particular type of boiler or fuel if the
2 commissioner finds that:

3 (i) a sufficient quantity of bioheating fuel containing two percent biodiesel is not
4 available in the city for that boiler type;

5 (ii) the price of available bioheating fuel for that boiler type is at least fifteen
6 percent more than the price of a comparable fuel oil grade of one hundred percent petroleum
7 heating oil;

8 (iii) the use of bioheating fuel would void the manufacturer's warranty for that
9 boiler type; or

10 (iv) there is no applicable [American Society of Testing and Materials] ASTM
11 International standard or other standard as determined by the commissioner to govern the
12 specification of the bioheating fuel for purposes of receiving bids and enforcing contracts.

13 (2) Any waiver issued pursuant to subparagraph (i) or (ii) of paragraph [1] one of
14 this subdivision shall expire after three months, unless renewed in writing by the commissioner.

15 (3) Any waiver issued pursuant to subparagraph (iii) or (iv) of paragraph [1] one
16 of this subdivision shall expire after six months, unless renewed in writing by the commissioner.

17 (4) A waiver may be issued for a specific district steam system if the
18 commissioner finds based on documentation submitted by the applicant, including but not
19 limited to a report certified by a professional engineer, that compliance with the requirements of
20 paragraph [1] one of subdivision b of this section would result in damage to equipment used to
21 generate steam within such district steam system. Any waiver issued pursuant to this paragraph
22 shall expire after one year, unless renewed in writing by the commissioner.

1 (d)(1) No later than September [1, 2013] first, two thousand thirteen, and no later
2 than September [1] first of every year thereafter, the commissioner shall submit a report to the
3 mayor and the speaker of the council, which shall include:

4 (i) all waivers, findings and renewals of such findings issued pursuant to this
5 section during the immediately preceding calendar year;

6 (ii) a summary of the information received pursuant to subdivision e of this
7 section;

8 (iii) all waivers, findings and renewals of such findings issued pursuant to
9 subdivision b of section 24-169 of this code during the immediately preceding calendar year; and

10 (iv) determinations made by the commissioner regarding renewable biomass
11 pursuant to paragraph [2] two of subdivision b of this section and any recommendations with
12 respect to the use of renewable biomass in the city, considering appropriate standards and
13 experiential use.

14 (2) The report required pursuant to this subdivision may be satisfied by including
15 such information in the management report and preliminary management report made public and
16 submitted to the council by the mayor pursuant to section twelve of the New York city charter.

17 (e)(1) The commissioner shall require persons who supply heating oil directly to
18 buildings in the city to disclose annually to the commissioner the following information
19 regarding fuel oil supplied:

20 (i) the amount in gallons of each fuel oil grade supplied by such person to
21 buildings by zip code; and

22 (ii) the average percentage of biodiesel blended into each fuel oil grade supplied
23 by such person within the city and the types of feedstock used in the creation of such biodiesel.

1 (2) The commissioner shall prescribe the form in which required information shall
2 be reported annually to the department. Such form shall be certified by the person supplying the
3 information as to the completeness and accuracy of the information provided.

4 (3) The department shall require that records be maintained to substantiate the
5 information provided pursuant to this subdivision and that such records shall be made available
6 for inspection and audit by the department for a period up to three years.

7 (f) The department shall require that building owners who receive shipments of
8 heating oil maintain such records as may be required by the commissioner by rule and make
9 available such records for inspection and audit by the department for a period of up to three
10 years.

11 (g) The term “fuel oil” as used in any provision of the administrative code of the
12 city of New York or the rules of the city of New York shall be deemed to include heating oil that
13 is fuel oil grade no. 2, no. 4 or no. 6 containing biodiesel.

14 [(g) The commissioner shall promulgate rules to carry out the provisions of this
15 section.]

16 (h) The commissioner shall have the authority to sample, test and analyze heating
17 oil supplied to buildings in the city to determine compliance with this section.

18 § 24-169 Sulfur content of fuel restricted. Except for ocean-going vessels
19 engaged in international or interstate trade, no person[, other than one having a sulfur exemption
20 certificate,] shall cause or permit the use, or if intended for use in New York city, the purchase,
21 sale, offer for sale, storage or transportation of:

22 (a) Fuel oil grade no. 2 [as classified by the American Society for Testing and
23 Materials] that contains more than [0.2 percent of sulfur by weight and after June 30, 2012, more

1 than] the amount of sulfur set forth in section 19-0325 of the environmental conservation law or
2 as provided by an executive order of the governor issued pursuant to such section.

3 (b) Residual fuel oil and fuel oil grade no. 4 [as classified by the American
4 Society for Testing and Materials or solid fuel on a dry basis] that [contains] contain more than
5 the following percentages of sulfur by weight:

6 (1) for residual fuel oil 0.30 percent and

7 (2) for fuel oil grade no. 4 [after October 1, 2012,] more than 0.15 percent,
8 provided that the commissioner may waive the requirements of this paragraph if the
9 commissioner finds that there is an insufficient quantity of fuel oil grade no. 2 that contains no
10 more than 0.0015 percent of sulfur by weight. Any waiver issued pursuant to this subdivision
11 shall expire after three months, unless renewed in writing by the commissioner. The [provisions
12 of] percentage provided in paragraph [1] one of this subdivision shall apply as the maximum
13 percentage for fuel oil grade no. 4 during the period such waiver is in effect.

14 (c) [Residual fuel oil or fuel oil grade no. 4 as classified by the American society
15 for testing and materials used in facilities for the generation of steam for off-premises sale and
16 electricity, which contains more than the following percentages of sulfur by weight:

17 (1) For a period ending October first, nineteen hundred seventy-one, one percent;

18 (2) For a period ending October first, nineteen hundred seventy-two, an annual
19 average of 0.55 percent;

20 (3) After October first, nineteen hundred seventy-two, 0.30 percent.

21 (d) Those facilities burning solid fuel which are operated in compliance with this
22 code may, at the discretion of the commissioner, continue to burn solid fuel containing up to 0.7
23 percent sulfur after October first, nineteen hundred seventy-one, provided that there is no

1 increase or expansion of use and further provided that a report, satisfactory to the commissioner,
2 is submitted setting forth a detailed program, including a specific time schedule, for the
3 termination of use of such solid fuel.

4 (e) Sulfur by weight shall be calculated by the methods of the [American society
5 for testing and materials] ASTM designation D 2622-10.

6 [§ 24-170 Reporting of fuel supplies. The owner of any boiler with a capacity of
7 five hundred million Btu per hour or more shall report fuel supply information to the
8 commissioner on or before the first day of each month.

9 § 24-171 Sulfur exemption certificates. (a) Except for fuel burning equipment
10 that must comply with the sulfur dioxide emission standards of section 24-144 of this code, the
11 commissioner may grant a certificate of exemption from the sulfur content restrictions of section
12 24-169 of this code if the applicant establishes to the satisfaction of the commissioner that the
13 fuel burning equipment is operated in such a manner, or is equipped with such control apparatus,
14 as to continuously prevent the emission of any sulfur compound or compounds in an amount
15 greater than that which would have been emitted from the same fuel burning equipment, if
16 operated, in the absence of control apparatus, using fuel which complies with the sulfur content
17 restrictions of section 24-169 of this code.

18 (b) The commissioner may grant a temporary certificate of exemption from the
19 sulfur content restrictions of section 24-169 of this code, if the applicant establishes to the
20 satisfaction of the commissioner that the application is for the purpose of conducting an
21 experimental operation prior to application for a sulfur exemption certificate.

22 (c) A sulfur exemption certificate shall be valid for one year from the date granted
23 or renewed, unless sooner suspended or revoked. Application for renewal shall be made by the

1 holder of the certificate, and shall be postmarked, or where personally delivered, date stamped by
2 the department no later than ninety days prior to the expiration of the certificate. The
3 commissioner may renew a sulfur exemption certificate if he or she is satisfied that the
4 provisions of this code and the conditions and terms contained in the certificate will be met.

5 (d) Any sulfur exemption certificate or temporary sulfur exemption certificate
6 issued by the commissioner shall be limited to the kind and amount of fuel specified, and to use
7 in the equipment described, and may be further limited as determined by the commissioner.

8 (e) A separate application for a sulfur exemption certificate or temporary sulfur
9 exemption certificate shall be made for each unit of fuel burning equipment for which exemption
10 is sought.

11 (f) In addition to the conditions and limitations for the issuance of a sulfur
12 exemption certificate or temporary sulfur exemption certificate specified in this section, the
13 commissioner may provide such further conditions or limitations as he or she may deem
14 appropriate.

15 (g) A temporary sulfur exemption certificate shall be valid for three months from
16 the date granted or renewed, unless sooner suspended or revoked. The commissioner may renew
17 a temporary certificate no more than once upon application which is postmarked or dated by the
18 department no later than fourteen days prior to the expiration of the certificate.

19 § 24-172 Volatile content of solid fuel restricted. (a) No person shall cause or
20 permit the use of solid fuel as the normal boiler fuel which contains more volatile matter by
21 weight in any part thereof than:

22 (1) If used in equipment which is hand-fed, fourteen percent; or

23 (2) If used in equipment which is mechanically fed, thirty-two percent.

1 (b) Volatile matter shall be calculated on a moisture and ash-free basis.]

2 § 24-173 Use of [solid fuel] coal. (a) [Except as provided in subdivision (c) of this
3 section, no person shall cause or permit the use of solid fuel in fuel burning equipment to provide
4 heat or hot water for any structure or any part thereof, other than the generation of steam for off-
5 premises sale.

6 (b) No person shall cause or permit the use of solid fuel in fuel burning equipment
7 for any purpose whatsoever, unless he or she has complied with subdivision (c) of this section.
8 No person shall cause or permit the use of bituminous coal in fuel burning equipment, for which
9 an operating certificate or certificate of registration is required pursuant to this chapter for any
10 purpose whatsoever.

11 (c) Solid fuel, unless otherwise prohibited by this section, may be used for fueling
12 boilers used for on-site space heating, provided that:

13 (1) No expansion of capacity of the boiler shall be made over capacity existing on
14 May twentieth, nineteen hundred sixty-eight; and

15 (2) Only anthracite coal is used; or

16 (3) The solid fuel shall meet the following criteria:

17 (a) Volatile content shall not exceed thirty-two percent by weight.

18 (b) Fixed carbon shall not be lower than sixty-six percent by weight.

19 (c) Ash shall not exceed four percent by weight.

20 (d) Sulfur shall not exceed 0.7 percent by weight.

21 (e) Heating value shall not be less than fourteen thousand seven hundred fifty
22 Btu/lb.

1 All the above criteria shall be measured on a dry basis.] No person shall cause or
2 permit the use of any type of coal in fuel burning equipment, except for the use of anthracite coal
3 in one of the following:

4 (1) in the generation of electricity for utilities;

5 (2) as provided in section 24-149.5 of this code; or

6 (3) in boilers used for onsite space heating provided that there has been no
7 expansion of capacity of the boiler over the capacity existing on May twentieth, nineteen
8 hundred sixty-eight.

9 [§ 24-174 Lead content of gasoline restricted. (a) No person shall cause or permit
10 the use, or, if intended for use in the city of New York, the purchase, sale, offer for sale, storage
11 or transportation of gasoline which contains more than the following amount of lead by weight
12 for the respective octane ranges as follows:

95.9 Octane No.* & Above	Below 95.9 Octane No.*
(1) On and after November 1, 1971 2.0 grams per gal.	1.5 grams per gal.
(2) On and after January 1, 1972 1.0 grams per gal.	1.0 grams per gal.
(3) On and after January 1, 1973 0.5 grams per gal.	0.5 grams per gal.
(4) On and after January 1, 1974 zero grams	zero grams

15
16 * The term octane number shall mean research octane number or rating
17 measured by the research method.

1 (b) Where the lead content of gasoline is restricted to zero grams per gallon as in
2 subdivision (a) of this section, gasoline which contains 0.075 grams of lead per gallon shall be
3 deemed to meet such restriction.

4 § 24-175 Volatility limits on gasoline. Effective October first, nineteen hundred
5 seventy-one, no person shall cause or permit the use, or, if intended for use in the city of New
6 York, the purchase, sale, offer for sale, storage or transportation of gasoline which exceeds the
7 following volatility limits:

8 (a) For the period October first, through April thirtieth, not to exceed twelve Reid
9 vapor pressure.

10 (b) For the period May first through September thirtieth, not to exceed seven Reid
11 vapor pressure.]

12 § 24-176 Fuel information ticket required for shipment or delivery of fuel into
13 New York city. No person[, other than a dealer in solid fuel who complies with section 20-626
14 of the code,] shall cause or permit the shipment or delivery of fuel into New York city for use in
15 the city without first reporting the shipment or delivery on a form prescribed by the department
16 to be known as a fuel information ticket. A fuel information ticket shall not be required for fuel
17 shipped into New York city in the engine fuel tank of a motor vehicle. A shipment or delivery
18 includes any sale or non-sale transaction, or any transaction between shipper and recipient who
19 are identical.

20 § 24-177 General requirements for fuel information tickets. (a) Each fuel
21 information ticket shall contain the following statement signed by the shipper of the fuel: "I
22 hereby attest that I have shipped to the recipient named hereon the fuel specified in this ticket."

1 (b) Copies of the fuel information ticket required to be retained by the shipper of
2 fuel by subdivision (c) of this section shall be kept at the shipper's place of business. The copy
3 of the fuel information ticket required to be retained by the recipient of the fuel by subdivision
4 (c) of this section shall be kept at his or her place of business or at the place where the delivery
5 was received.

6 (c) All records relating to the use of fuel, or the distribution, storage or
7 transportation of fuel for use in the city of New York shall be retained for not less than one year
8 and shall be kept readily available at all times during business hours for inspection by the
9 department.

10 (d) This section shall apply to all shipments of fuel into the city and it shall be no
11 defense to non-compliance that the shipment was not made pursuant to a sales transaction
12 between the shipper and the recipient or that the shipper and the recipient are identical.

13 § 39. Section 24-178 of the administrative code of the city of New York,
14 subparagraph (i) of paragraph 5 of subdivision (b), as amended by local law number 57 for the
15 year 1989 and civil penalties as added by local law number 6 for the year 1991, local law number
16 77 for the year 2003, local law number 25 for the year 2004, local law number 40 for the year
17 2005, local law number 41 for the year 2005, local law number 42 for the year 2005, local law
18 number 37 for the year 2009, and local law number 43 for the year 2010, subparagraph (iii) of
19 paragraph 5 of subdivision (b) and paragraphs 7 and 8 of subdivision (b) as amended by local
20 law number 57 for the year 1989, is amended to read as follows:

21 § 24-178 Powers of the board. (a) [The board, in addition to other duties assigned
22 to it by law, shall have the power to conduct hearings pursuant to this chapter and, by the

1 issuance of a subpoena, compel the attendance of witnesses and the production of any books,
2 papers or other things relating to the matter under investigation.

3 (b)] The board may, upon notice pursuant to this chapter, and after a hearing
4 pursuant to [section 24-184 of this code, or in default thereof pursuant to section 24-185 of this
5 code:

6 (1) Order the commissioner to revoke or suspend a permit or certificate issued
7 pursuant to this code for any equipment or apparatus, where such equipment or apparatus causes,
8 or is maintained or operated, so as to cause a violation of any provision of this code or order or
9 regulation promulgated by the commissioner or the board.

10 (2) Order the owner of any equipment or apparatus, which causes or is maintained
11 or operated so as to cause a violation of any provision of this code, or any order or regulation
12 promulgated by the commissioner or the board, to install any apparatus which can reasonably be
13 expected to correct the violation, or to clean, repair, properly maintain, replace or alter such
14 equipment or apparatus in a manner which can reasonably be expected to correct the violation;

15 (3) Seal] the rules of the board:

16 (1) Order the commissioner to seal any equipment or apparatus which causes or is
17 maintained or operated so as to cause a violation of any provision of this code or order or
18 [regulation] rule promulgated by the commissioner or the board, except as provided in
19 subdivision [(c)] (b) of this section;

20 [(4)] (2) Order any person to cease and desist from any activity or process [which]
21 that causes or is conducted so as to cause, a violation of any provision of this code or any order
22 or regulation promulgated by the commissioner or the board, except as provided in subdivision
23 [(c)] (b) of this section;

1 [(5) (i) Impose a civil penalty in each instance in an amount as hereinafter set
 2 forth in the table of civil penalties, including schedules E, F and G of civil penalties for
 3 equipment requiring operating certificates, except as provided in paragraph six of this
 4 subdivision, against any person who violates any provision of this code or of any order, rule or
 5 regulation promulgated thereunder.

6 TABLE OF CIVIL PENALTIES

7 =====

8 Violations related to section, Civil Penalties subdivision and paragraph Maximum Minimum
 9 _____

10	24-109(b)(1).....	\$2,600	\$650	24-109(b)(2).....	2,600	650
11	24-109(b)(3).....	1,400	350	24-109(b)(4).....	1,750	440
12	24-111.....	1,750	440	24-112.....	1,750	440
13	24-113.....	300	75	24-118 In case of violation of this		
14	section involving incinerators					
15	with grates having cross					
16	sectional areas of less than					
17	twenty-five square feet.....	6,000	1,500	In case of violation of this		
18	section involving incinerators					
19	with grates having cross					
20	sectional areas equal to or					
21	greater than twenty-five square					

1 feet..... 20,000 5,000 24-119(a)..... 4,000 1,000

2 24-120..... As Per Schedule As Per Schedule

3 E, F, or G, E, F, or G,

4 whichever is whichever is

5 applicable applicable 24-122(a)..... As Per Schedule As Per Schedule

6 E, F, or G, E, F, or G,

7 whichever is whichever is

8 applicable applicable 24-122(b)(1)..... As Per Schedule E As Per Schedule E

9 24-122(b)(2)..... As Per Schedule F As Per Schedule F

10 24-122(b)(3)..... As Per Schedule E As Per Schedule E

11 24-122(b)(4)..... As Per Schedule G As Per Schedule G

12 24-122(b)(5)..... As Per Schedule As Per Schedule E, F, or G, E, F, or G,

13 whichever is whichever is

14 applicable applicable

15 24-141 In the case of violations of this

16 section by operation of equipment

17 or apparatus requiring operating

18 or registration certificates . As Per Schedule As Per Schedule

19 E, F, or G, E, F, or G,

20 whichever is whichever is

21 applicable applicable In the case of violations of this

22 section by sources other than

23 those requiring operating or

1 registration certificates..... 1,000 250

2 24-142..... As Per Schedule As Per Schedule

3 E, F, or G, E, F, or G,

4 whichever is whichever is

5 applicable applicable

6 24-144..... As Per Schedule As Per Schedule

7 E or F, E or F,

8 whichever is whichever is

9 applicable applicable

10 24-145..... As Per Schedule As Per Schedule

11 E or F, E or F,

12 whichever is whichever is

13 applicable applicable

14 24-146(a)..... 1,750 440 24-146(b)..... 12,000 3,000

15 24-146(c)..... 1,750 440 24-146(d)..... 1,400 350

16 24-146(e)..... 1,750 440 24-146(f)..... 3,000 750

17 24-146.1; provided that such

18 \$1,000-\$10,000 penalty shall not

19 apply to violations of 24-146.1(b)(1)..... 10,000 1,000

20 24-146.1(b)(1)..... 1,000 250 24-146.3..... 15,000 1,000

21 24-147..... 3,500 815 24-148..... 2,625 660

22 24-150..... 500 125 24-151..... 3,500 875

23 24-153..... As Per Schedule As Per Schedule

1 E or F, E or F,
2 whichever is whichever is
3 applicable applicable 24-155..... As Per Schedule As Per Schedule
4 E, F, or G, E, F, or G,
5 whichever is whichever is
6 applicable applicable 24-156..... As Per Schedule As Per Schedule
7 E, F, or G, E, F, or G,
8 whichever is whichever is
9 applicable applicable 24-160..... As Per Schedule E As Per Schedule E
10 24-162(a)..... As Per Schedule G As Per Schedule G
11 24-162(c)..... As Per Schedule G As Per Schedule G
12 24-163; provided that a minimum
13 penalty of \$330 and a maximum
14 penalty of \$1,500 shall apply to
15 a second violation of such
16 section by the same respondent
17 within a period of two years and
18 a minimum penalty of \$440 and a
19 maximum penalty of \$2,000 shall
20 apply to a third or subsequent
21 violation of such section by the
22 same respondent within a period
23 of two years.....

1 1,000 220 24-163.2..... 5,000 1,000 24-163.3; plus twice the amount of
2 money saved by the contractor for
3 failure to comply with such
4 section; provided that such
5 \$1,000 - \$10,000 penalty and
6 additional penalty shall not
7 apply to violations of 24-163.3(o) 10,000 1,000 24-163.3(o); plus twice the amount
8 of money saved by the contractor
9 in association with having made
10 such false claim..... 20,000 20,000 24-163.5; plus twice the amount of
11 money saved by the contractor for
12 failure to comply with such
13 section; provided that such
14 \$1,000 - \$10,000 penalty and
15 additional penalty shall not
16 apply to 24-163.5(m)..... 10,000 1,000 24-163.5(m)..... 20,000 20,000
17 24-163.6; plus twice the amount of
18 money saved by the owner or
19 operator of a sight-seeing bus
20 for failure to comply with such
21 section; provided that such
22 \$1,000 - \$10,000 penalty and
23 additional penalty shall not

1 apply to 24-163.6(i)..... 10,000 1,000 24-163.6(i)..... 20,000 20,000
 2 24-163.7; plus twice the amount of
 3 money saved by the school bus
 4 owner or operator for failure to
 5 comply with such section;
 6 provided that such \$1,000 -
 7 \$10,000 penalty and additional
 8 penalty shall not apply to
 9 24-163.7(m)..... 10,000 1,000 24-163.7(m)..... 20,000 20,000
 10 24-164..... 1,750 440 24-165..... As Per Schedule As Per Schedule
 11 E, F, or G, E, F, or G,
 12 whichever is whichever is
 13 applicable applicable 24-168..... As Per Schedule As Per Schedule
 14 E, F, or G, E, F, or G,
 15 whichever is whichever is
 16 applicable applicable 24-168.1(b); provided that the
 17 penalty specified herein shall
 18 apply only to a violation by
 19 reason of the use or purchase of
 20 fuel oil that does not conform to
 21 the standards in such subdivisionAs Per Schedule E As Per Schedule E
 22 24-168.1(b); plus twice the amount
 23 of money saved for failure to

1 comply with such section;
2 provided that such \$1,000-\$10,000
3 penalty and additional penalty
4 shall apply only to a violation
5 by reason of the delivery of fuel
6 oil that does not conform to the
7 standards in such subdivision. 10,000 1,000 24-169 (a), (b) and (c); provided
8 that the civil penalty specified
9 herein shall apply only to a
10 violation by reason of the use or
11 purchase of fuel oil which does
12 not conform to the standards in
13 such subdivision..... As Per Schedule As Per Schedule
14 E, F, or G, E, F, or G,
15 whichever is whichever is
16 applicable applicable 24-169 (a), (b) and (c); provided
17 that such \$1,500-\$6,000 civil
18 penalty shall apply only to a
19 violation by reason of the
20 standards set forth in such
21 subdivisions..... \$6,000 1,500
22 24-173(a)..... As Per Schedule As Per Schedule
23 E or F, E or F,

1 whichever is whichever is
2 applicable applicable 24-173(c)(1)..... As Per Schedule E As Per Schedule E
3 24-174(a); provided that such
4 \$220-\$875 civil penalty shall
5 apply only to a violation by
6 reason of use or purchase of
7 gasoline which does not conform
8 to standards set forth in such subdivision 875 220 24-174(a); provided that such
9 \$660-\$2,650 civil penalty shall
10 apply only to a violation by
11 reason of the sale, storage or
12 transportation of gasoline which
13 does not conform to the standards
14 set forth in such subdivision. 2,650 660 24-175; provided that such
15 \$220-\$875 civil penalty shall
16 apply only to a violation by
17 reason of the use or purchase of
18 gasoline which does not conform
19 to the standards set forth in such section 875 220 24-175; provided that such
20 \$660-\$2,650 civil penalty shall
21 apply only to a violation by
22 reason of the sale, offer for
23 sale, storage or transportation

1 of gasoline which does not
2 conform to the standards set
3 forth in such section..... 2,650 660 All remaining sections,
4 subdivisions and paragraphs... 875 220

5 =====

6 CIVIL PENALTY SCHEDULES FOR EQUIPMENT REQUIRING

7 OPERATING CERTIFICATES

8 SCHEDULE E--PENALTIES FOR FUEL BURNING EQUIPMENT

9 Gross Input or Designed Fuel Consumption of

10 Equipment in Millions of BTU/hr

11 =====

12 #4 or #6 Fuel Oil & Gasoline, #2 Fuel Oil Civil Penalties

13 Solid Fuels and Nat. Gas Max. Min.

14 _____

15 less than 2.8 less than 2.8 \$1,400 \$ 350

16 2.8 to less than 21 2.8 to less than 50 1,800 450

17 21 to less than 42 50 or greater 3,000 750

18 42 or greater 4,000 1,000

19 =====

20 SCHEDULE F--PENALTIES FOR OTHER THAN FUEL

1 OR REFUSE BURNING EQUIPMENT

2 =====

3 Emission Rate in Civil Penalties Based on Environmental

4 Cubic Feet per Minute Ratings as Contained in Section 24-153

5 Env. Rating A Env. Rating B Env. Rating C Env. Rating D

6 Max. Min. Max. Min. Max. Min. Max. Min.

7 _____

8 Less

9 than

10 5,000 \$6,000 \$1,500 \$4,000 \$1,000 \$3,000 \$ 750 \$2,000 \$ 500

11 5,000

12 to

13 less

14 than

15 20,000 8,000 2,000 6,000 1,500 4,000 1,000 3,000 750

16 20,000

17 or

18 greater 12,000 3,000 8,000 2,000 6,000 1,500 5,000 1,000

19 =====

20 SCHEDULE G--PENALTIES FOR REFUSE BURNING EQUIPMENT

21 =====

1 Maximum Horizontal Inside Cross Sectional
 2 Area of Primary Combustion Chamber in Civil Penalties
 3 Square Feet Max. Min.

5	25 or less.....	\$1,600	\$400
6	25-40.....	2,000	500
7	Above 40.....	3,000	750

9 (ii) Impose a separate penalty for each day on which a violation under this code
 10 shall have occurred.

11 (iii) Remit, in whole or in part, such civil penalty if, at the conclusion of the
 12 hearing, or at the time of the board determination under section 24-187 of this code, or at the date
 13 on which a stipulation is executed by the parties in settlement of the proceeding pursuant to
 14 section 24-183 of this code, the respondent is no longer in violation of a provision of this code or
 15 of any order, rule or regulation promulgated thereunder and is not in default under section 24-
 16 185 of this subchapter.

17 (iv) Impose an additional civil penalty, in the amount of ten per cent (10%) of the
 18 penalty originally imposed, for late payment of penalty for each month or part thereof that the
 19 penalty payment is in arrears. In no event shall the total additional civil penalty exceed the
 20 maximum set forth in the table of civil penalties or schedules E, F and G of civil penalties for
 21 equipment requiring operating certificates, or as modified pursuant to paragraph six of
 22 subdivision (b) of this section.

1 (v) Remit in whole or in part, such civil penalty at the conclusion of the hearing,
2 or at a date on which a stipulation is executed by the parties in proceedings pursuant to section
3 24-183 of this chapter, if the respondent was in violation of this code through the action or
4 inaction of an agency of the city of New York and not through the action or inaction of the
5 respondent.

6 (6) Order any person to be classified as a persistent violator if such person is
7 found to be in violation of this code and has also on one or more prior occasions within the
8 preceding five years been found to be in violation of this code, where such repeated violations
9 evidence substantial disregard thereof. If a person is classified as a persistent violator, the board
10 shall in each instance double the amount of the penalty which it would otherwise impose
11 pursuant to paragraph five of this subdivision. Such double penalties shall be imposed for
12 violations which the board finds a person committed pursuant to the same proceeding at which it
13 classified such person as a persistent violator and for all violations committed within the two
14 years immediately following such classification, after which such classification shall terminate.
15 However, if at the end of such two year period such person is still in violation of this code
16 because of a failure to take or complete a corrective action as required by the board, such
17 classification shall continue until such time as such person is no longer in violation of this code
18 because of such failure, at which time such classification shall cease. Thereafter, the board may
19 again classify such person as a persistent violator, on the same basis it used originally.

20 (7) Impose a civil penalty of not more than two hundred fifty dollars on any
21 owner of equipment for each day such equipment is sealed pursuant to this section;

(8) Impose a civil penalty of not less than one thousand nor more than four thousand dollars on any person who willfully breaks, or causes or permits the breaking of, a seal placed on equipment pursuant to this section.

(9) Order any person or the commissioner to install any apparatus or to clean, repair or alter any equipment or apparatus which causes, or is maintained or operated so as to cause, a violation of this code.

(c)] (3) (i) Impose a civil penalty in each instance in an amount as hereinafter set forth in the table of civil penalties against any person who violates any provision of this code or of any order, rule or regulation promulgated thereunder.

TABLE OF CIVIL PENALTIES

Violation	Minimum	Maximum
24-108	\$200	\$800
24-109(a)(1)-(2)	800	3200
24-109(a)(3)-(17)	400	1600
24-109(f)	400	1600
24-109(g)	400	1600
24-111	400	1600
24-112	400	1600
24-113	200	800
24-118	1600	6400
24-120	800	3200
24-122	800	3200
24-123(d)	800	3200
24-131	200	800
24-136	1000	15000
24-138	1000	15000
24-139	1600	6400
24-141	400	1600
24-142	400	1600
24-143	200	800
24-143.1	200	800
24-145	800	3200
24-146(b)-(d)	400	1600
24-146(e), (f)	800	3200
24-147	800	3200

24-148	800	3200
24-149	200	800
24-149.1	400	1600
24-149.2	400	1600
24-149.3	400	1600
24-149.4	800	3200
24-149.5	400	1600
24-151	800	3200
24-152	200	800
24-153	800	3200
24-155	400	1600
24-156	400	1600
24-159	200	800
24-160	400	1600
24-161	200	800
24-163	200	2000
24-163.3, 24-163.5, 24-163.6, 24-163.7, 24-163.9, 24-163.12	1000 ¹	10000 ¹
24-163.8	500	500
24-164	400	1600
24-165	400	1600
24-166	200	800
24-167	200	800
24-168	800	3200
24-168.1	800	3200
24-169	1600	6400
24-173	1600	6400
24-176	200	800
24-177	200	800
All other sections, subdivisions and paragraphs of this chapter	400	1600

1

2 (ii) Impose a separate penalty for each day on which a violation under this code
3 shall have occurred.

4 (iii) Impose an additional civil penalty, in the amount of ten per cent (10%) of the
5 penalty originally imposed, for late payment of a penalty for each month or part thereof that the

¹ Plus twice the money saved by failing to comply.

1 penalty payment is in arrears. In no event shall the total additional civil penalty exceed the
2 maximum set forth in the table of civil penalties.

3 (4) Impose a civil penalty of not less than one thousand nor more than four
4 thousand dollars on any person who willfully breaks, or causes or permits the breaking of, a seal
5 placed on equipment pursuant to this section.

6 (b) The board may, upon notice pursuant to section 24-180 of this code, order any
7 person to:

8 (1) Cease and desist from the installation or alteration of equipment or apparatus,
9 without a permit as required by section 24-120 of this code;

10 (2) Cease and desist from the operation of any equipment or apparatus without a
11 certificate and the board may also order the commissioner to seal any such equipment or
12 apparatus;

13 (3) Cease and desist from the spraying of insulating material on, or the demolition
14 of, any building or structure which does not conform to the requirements of section 24-109 or
15 24-146 of this code or any rule promulgated thereunder. The board may also order the
16 commissioner to seal any equipment used therefor.

17 [(d)] (c) The board may order the commissioner to install any apparatus or to
18 clean, repair, or alter any equipment or apparatus which causes or is maintained or operated so as
19 to cause a violation of an order issued pursuant to paragraph two of subdivision [(b)] (a) of this
20 section, where such installation, cleaning, repairing, or alteration can reasonably be expected to
21 correct such a violation. Any work required under such an order may be executed by the
22 commissioner through the officers, agents or contractors of the department. The department shall
23 be reimbursed promptly for all costs and expenses of such work by the owner of the equipment

1 or apparatus to which the order relates and in respect to which such expenses were incurred.
2 Such expenses may be recovered in a civil action brought in the name of the commissioner.

3 [(e)] (d) If an order of the board issued pursuant to subdivisions (a) and (b) [and
4 (c)] of this section provides for a period of time during which a person subject to the order is
5 permitted to correct a violation, the board may require the respondent to post a performance bond
6 or other security with the department in a form and amount sufficient to assure the correction of
7 such violation within the prescribed time. In the event of a failure to meet the schedule
8 prescribed by the board, the sum named in the bond or other security shall be forfeited and shall
9 be paid to the commissioner.

10 [(f)] (e) The board may order any person to cease and desist from an activity
11 which it reasonably believes causes an emission of an air contaminant which creates an imminent
12 peril to the public health. Such order shall be effective upon service thereof. Any party affected
13 by such an order may request a hearing on written notice, and he or she shall be afforded a
14 hearing, within twenty-four hours after service of such request, pursuant to [section 24-184 of
15 this code] the rules of the board. If such an accelerated hearing is not requested, then a hearing
16 shall be afforded within ten days of the issuance of the order. The board shall issue its final
17 decision and order thereon within three days from the conclusion of a hearing held pursuant to
18 this [subsection] subdivision.

19 § 40. Section 24-179 of the administrative code of the city of New York is
20 REPEALED.

21 § 41. Section 24-180 of the administrative code of the city of New York is
22 amended to read as follows:

1 § 24-180 Notice of violation. (a) Notice, required by this subchapter, shall be
2 given by issuance of a notice of violation.

3 (b) Whenever the commissioner has reasonable cause to believe that a violation
4 of any provision of this code or any order or [regulation] rule promulgated thereunder may exist,
5 he or she may cause to have a notice of violation issued and served on:

6 (1) The person in violation; or

7 (2) An owner [with an equity interest in] of the equipment in violation[; or

8 (3) If an owner with an equity interest in the equipment in violation cannot be
9 located with due diligence, any other owner of said equipment].

10 (c) A notice of violation shall[:

11 (1) Specify the section or sections of this code, order, or regulation that such
12 person or equipment is in violation of; and

13 (2) Indicate the amount of the civil penalty that such person is subject to; and

14 (3) Contain a brief statement of the nature of the violation; and

15 (4) Require a written response that conforms to section 24-181 of this code; and

16 (5) Require such person or owner of equipment to answer the allegations in the
17 notice of violation at a designated time and place, unless a hearing is not required by section 24-
18 178 of this code] include the information specified in the rules of the board.

19 § 42. Sections 24-181 and 24-182 of the administrative code of the city of New
20 York are REPEALED.

21 § 43. Section 24-183 of the administrative code of the city of New York is
22 amended to read as follows:

1 § 24-183 [Settlement of proceedings. The board may settle any proceeding by
2 stipulation and may exercise any or all of its powers under section 24-178 of this code thereby, at
3 any time prior to the issuance of a decision pursuant to section 24-186 of this code]
4 Adjudication, settlement and settlement by stipulation. The adjudication, settlement or settlement
5 by stipulation of any notice of violation issued pursuant to this subchapter shall be in accordance
6 with section 1049-a of the New York city charter and the applicable rules of the board.

7 § 44. Sections 24-184, 24-185, 24-186, 24-187 and 24-188 of the administrative
8 code of the city of New York are REPEALED.

9 § 45. Subdivision (f) of section 24-190 of the administrative code of the city of
10 New York is REPEALED.

11 § 46. Subdivisions (g) and (h) of section 24-190 of the administrative code of the
12 city of New York are designated subdivisions (f) and (g) respectively.

13 § 47. Section 28-106.1.1 of the administrative code of the city of New York, as
14 added by local law number 77 for the year 2009, is amended to read as follows:

15 § 28-106.1.1 Full demolition permit. The commissioner shall not issue a full
16 demolition permit unless the owner of the building provides certification in a form and manner to
17 be provided in the rules of the department of environmental protection that (i) the building is free
18 of asbestos containing material, or (ii) the commissioner of environmental protection, has issued
19 a variance from this requirement in accordance with subdivision [(o)] (m) of section [24-146.1]
20 24-136 of the administrative code and the rules of the department of environmental protection,
21 subject to the requirement that demolition work will be performed only in parts of the building
22 that are certified free of asbestos containing material. The full demolition permit shall be subject

1 to such additional conditions as the department of buildings may require of the permittee based
2 on the size and complexity of the demolition job.

3 Exception: This section 28-106.1.1 shall not apply to full demolition performed
4 as emergency work pursuant to article 215 of chapter 2 of this title where the emergency
5 warrants immediate commencement of the work or full demolition with asbestos in place
6 authorized pursuant to 12 NYCRR 56-11.5.

7 § 48. Section 28-106.1.2 of the administrative code of the city of New York, as
8 added by local law number 77 for the year 2009, is amended to read as follows:

9 § 28-106.1.2 Alteration permit for the removal of one or more stories. The
10 commissioner shall not issue an alteration permit for the removal of one or more stories of a
11 building unless the owner of the building provides certification in a form and manner to be
12 provided in the rules of the department of environmental protection that (i) the stories to be
13 removed are free of asbestos containing material and that no abatement activities will be
14 performed anywhere in the building concurrently with the removal work authorized by such
15 permit or (ii) the commissioner of environmental protection has issued a variance from these
16 requirements in accordance with subdivision [(o)] (m) of section [24-146.1] 24-136 of the
17 administrative code and the rules of the department of environmental protection, subject to the
18 requirement that work authorized by the alteration permit will be performed only in parts of the
19 building that are certified free of asbestos containing material. The alteration permit shall be
20 subject to such additional conditions as the department of buildings may require of the permittee
21 based on the size and complexity of the work.

1 Exception: This section 28-106.1.2 shall not apply to removal of one or more
2 stories performed as emergency work pursuant to article 215 of chapter 2 of this title where the
3 emergency warrants immediate commencement of the work.

4 § 49. Section 28-106.3 of the administrative code of the city of New York, as
5 added by local law number 37 for the year 2009, is amended to read as follows:

6 § 28-106.3 Permit exemption. Except as otherwise provided by rule, work
7 performed in the course of and only for the purpose of an asbestos project that is required to be
8 permitted pursuant to section [24-146.3] 24-138 of the administrative code shall be exempt from
9 the permit requirements of this code.

10 § 50. Section 28-106.4 of the administrative code of the city of New York, as
11 added by local law number 37 for the year 2009, is amended to read as follows:

12 § 28-106.4 Definitions. For the purposes of this article, the terms "asbestos" and
13 "asbestos project" shall have the meanings as are ascribed in section [24-146.1] 24-136 of the
14 administrative code.

15 § 51. Section 2111.1 of the New York city building code, as added by local law
16 number 33 for the year 2007, is amended to read as follows:

17 2111.1 [Definition] General. A masonry fireplace is a fireplace constructed of
18 concrete or masonry. Masonry fireplaces shall be constructed in accordance with this section,
19 Table 2111.1 and Figure 2111.1. All masonry fireplaces shall be installed, altered and
20 maintained in buildings in conformity with the applicable provisions of the *New York City Air*
21 *Pollution Control Code* and no new masonry fireplaces shall be permitted except those that burn
22 the types of fuel allowed by section 24-149.2 of such code.

1 § 52. Section 3303.5.4 of the New York city building code, as added by local
2 law number 33 for the year 2007, is amended to read as follows:

3 3303.5.4 Air pollution. The provisions of the *Air Pollution Control Code* shall
4 apply in order to prevent [particulate matter] dust from becoming airborne.

5 § 53. Sections 901.3, 901.4, 901.5 and 901.6 of the New York city mechanical
6 code, as added by local law number 33 for the year 2007, are re-numbered 901.4, 901.5, 901.6
7 and 901.7, respectively.

8 § 54. Chapter 9 of the New York city mechanical code is amended by adding a
9 new section 901.3 to read as follows:

10 901.3 Solid fuel-burning fireplaces and appliances. All solid fuel-burning
11 fireplaces and appliances shall be installed, altered and maintained in buildings in conformity
12 with the applicable provisions of the *New York City Air Pollution Control Code* and no new solid
13 fuel-burning fireplaces or appliances shall be permitted except those that burn the types of fuel
14 allowed by such code.

15 § 55. This local law shall take effect July 1, 2014, except that the commissioner of
16 environmental protection may take all actions necessary, including the promulgation of rules, to
17 implement this local law on or before the date upon which it shall take effect.