

NEW YORK CITY FIRE DEPARTMENT

Notice of Promulgation of

Amendments to 3 RCNY §17-01,
entitled "Central Station Monitoring of Fire Alarm Systems;"

Renumbered Section 3 RCNY 17-08, entitled
"Telegraphic Alarm Communications in Theaters, Opera Houses and Concert Halls;"

Renumbered Section 3 RCNY §17-02, entitled
"Supervision of More than One Interior Fire Alarm System;" and

A New Section, 3 RCNY §17-02,
entitled "Compensation for Operation of Auxiliary Fire Alarm Systems"; and

Notice of Repeal of 3 RCNY §17-04, entitled
"Compensation Schedule Fixing the Fees to be Paid by Entities
Engaged in the Operation of Auxiliary Fire Alarm Systems."

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Fire Commissioner of the City of New York by Section 489 of the New York City Charter and Sections 27-4014 and 27-4267.4 of the New York City Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, that the New York City Fire Department hereby promulgates the above rule. The entire rule is underlined to indicate that it is new.

The public hearing was held on January 17, 2008. In accordance with Section 1043(e)(1) of the New York City Charter, the amendments to 3 RCNY §17-01, and renumbered sections 3 RCNY §9-02 and 17-08, are hereby adopted effective June 30, 2008; existing section 3 RCNY §17-04 is hereby repealed effective July 1, 2009; and new section 3 RCNY §17-02, hereby adopted effective July 1, 2009.

This notice, the rule, and the statement of basis and purpose will be available for at least 90 days on the Fire Department Internet website at:

www.nyc.gov/fdny

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§1. The titles of §17-01 of Title 3 of the Rules of the City of New York and subdivision (a) thereof, and portions of subdivision (b) of such rule, are hereby amended, the statement of intent of such rule (as published in the City Record on August 30, 1996) is hereby repealed, and a new unnumbered introductory paragraph is added to subdivision (a) of such rule, effective June 30, 2008, as follows:

§17-01 Central Station [Companies, Central Station Facilities and Central Station Signalling Systems] Monitoring of Fire Alarm Systems

(a) Applicability and General Provisions. This section governs the monitoring and related maintenance of all fire alarm systems that are installed in premises located in New York City and that transmit an alarm signal to a central station facility that monitors such systems for the purpose of re-transmitting or otherwise reporting fire alarms to the Department. This section also governs the operation of the central station facilities that monitor and maintain fire alarm systems, and sets forth requirements for the certification of the alarm monitoring companies and other businesses that operate such facilities. The standards for fire alarm system monitoring and related maintenance set forth in this section are applicable to all premises equipped with fire alarm systems, and all central station companies that monitor such fire alarm systems. The following general provisions apply to all central station monitoring of fire alarm systems:

* * *

(b) Definitions

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Central Station Facility. A facility [which] that receives alarm signals from a protected premises [and/or] and re-transmits or otherwise reports such alarm signals to [a Fire]the Department[Communications Office].

* * *

Proprietary [Signaling System] Central Station Facility. A central station [signaling system in which the central station facility is located at the protected premises and is under the control of] facility operated by or on behalf of the owner of the protected premises monitored by the facility, that monitors protected premises other than the premises in which the central station facility is located. For purposes of this section and 3 RCNY §17-02, unless otherwise specifically

provided, reference to “central station company” shall be deemed to include proprietary central station facilities.

Protected Premises. A building, occupancy or structure [which has a system for transmitting alarms to the Fire Department via a central station facility] located in New York City that is equipped with a fire alarm system that transmits an alarm signal to a central station facility that monitors such system for the purpose of reporting fire alarms to the Department, whether or not the installation of such system on such premises is required by law.

* * *

Subscriber. An owner of a [protective] protected premises, or an owner of a fire alarm system installed on such a premises, who has [contracted with a] arranged for a central station company [for the service of receiving alarm signals from the protected premises and retransmitting such signals] to monitor the fire alarm system on the protected premises for the purpose of reporting fire alarms to the [Fire] Department [Communications Office].

* * *

§2. Subdivisions (e) and (f) of §17-01 of Title 3 of the Rules of the City of New York, relating to certificates of operation and terminal assignments, are hereby repealed, effective June 30, 2008, and re-promulgated to read as follows:

(e) Certificate of Operation

(1) It shall be unlawful for any person, company, corporation or other entity to operate a central station company or central station facility that monitors fire alarm systems in protected premises without a Certificate of Operation. A central station company shall obtain a Certificate of Operation prior to operating any central station facility or transmitting any alarms to the Fire Department received from a protected premises.

(2) Original applications.

(i) Application requirements. Application for a Certificate of Operation shall be made to the Bureau of Fire Prevention at Fire Department Headquarters. The application shall include sworn statement by an owner or principal of the company, in the form prescribed by the Department, containing the following

information, and such other information and documentation as the Department may require:

- (A) the names and addresses of the owners or principals of the company who will operate the central station facility;
 - (B) the address of each central station facility to be operated by the central station company;
 - (C) the names of the persons who will be employed at each central station facility as dispatchers;
 - (D) the name and address of an agent located in New York City who is authorized to receive process on behalf of the central station company. The agent's designation shall provide that the service of process upon him or her shall confer personal jurisdiction over the central station company in any judicial or administrative proceeding or action. This provision shall not be construed to limit the parties upon whom, or manner by which, service may be effected in accordance with applicable law; and
 - (E) the listing or approval of the central station company and its central station facility by a nationally recognized testing laboratory as a central station, or equivalent, and attaching a copy of such listing and/or approval.
- (ii) Inspection of central station facility. Each central station facility to be operated by a central station company shall be inspected for compliance with the provisions of this section prior to issuance of a Certificate of Operation. Such inspection shall be conducted at the expense of the applicant, at the rate of two hundred ten dollars (\$210) per hour, plus reasonable travel expenses for any central station facility located outside of New York City.
- (3) Term. Certificates of Operation shall be issued for a term of one year, or for such shorter period as may be determined by the Department to be appropriate.
- (4) Renewal applications.
- (i) Renewal certificates. Applications for renewal of Certificate of Operation shall be reviewed in accordance with the applicable provisions of 3 RCNY §9-01, including consideration of the central station company's compliance with the requirements of this

section and any misconduct by the central station company or its owners or principals.

(ii) Time for submission. Central station companies shall apply for renewal of their Certificates of Operation not later than thirty days prior to the expiration date of their certificate.

(iii) Application requirements. Applications for renewal of Certificates of Operation shall be made in the same manner as original applications. Renewal applications shall include a copy of the current listing or approval for the central station company and its central station facility by a nationally recognized testing laboratory and updated submissions containing all of the other information required for an original application, together with such other additional information or documentation as the Department may require with respect to the central station company's continuing qualifications and fitness for a Certificate of Operation.

(iv) Inspection of central station facility. Each central station facility operated by a central station company shall be inspected for compliance with the provisions of this section prior to renewal of a Certificate of Operation. Such inspection shall be conducted at the expense of the applicant, at the rate of \$210 per hour, plus reasonable travel expenses for any central station facility located outside of New York City.

(5) Certificate fees. The fee for an original application for a Certificate of Operation shall be three thousand five hundred dollars (\$3,500). The annual fee for a renewal application shall be two thousand five hundred dollars (\$2,500). Fees are non-refundable and may be paid in cash, or by check or money order payable to "New York City Fire Department."

(6) Compensation. Every central station company shall pay compensation to the Fire Department in accordance with the provisions of 3 RCNY §17-04 (through and including June 30, 2009) and 3 RCNY §17-02 (beginning July 1, 2009). Failure to timely remit such compensation shall be grounds for non-renewal, suspension or revocation of a Certificate of Operation, or denial of a new Certificate of Operation, in addition to any and all other remedies provided by law.

(7) Posting of certificate. A copy of the Certificate of Operation shall be posted at each central station facility operated by the central station company.

(f) Registration of Central Station-Monitored Fire Alarm Systems

- (1) Central station companies shall register each fire alarm system on each protected premises that it is monitoring by submitting to the Bureau of Fire Prevention, on the application form prescribed by the Department, the following information and such other information and documentation as the Department may require:
 - (i) The address of the protected premises in which the fire alarm system(s) are installed;
 - (ii) The number and type of fire alarm systems monitored at the premises, regardless of the number of terminals associated with each such system;
 - (iii) The floors, or portions thereof, monitored by each fire alarm system;
 - (iv) The name, address and telephone number of the owner or operator of each fire alarm system; and
 - (v) The type and location of each terminal, including manual pull stations, sprinkler and standpipe system flow alarms and tamper switches, and heat, smoke and carbon monoxide detectors, associated with each fire alarm system.
- (2) A central station company shall register with the Department each fire alarm system it proposes to monitor prior to the commencement of the receipt or retransmission of alarm signals from the fire alarm system, including resumption of previously discontinued or suspended monitoring service.
- (3) The Department may deny a registration application upon a determination that the fire alarm system has not been installed and/or is not being operating in accordance with all applicable laws, rules and regulations, or other good cause. The Department may conduct an inspection of the protected premises to verify the proper installation and operation of the fire alarm system. A central station company shall not monitor any fire alarm system as to which the Department has denied registration.
- (4) A central station company shall give prior written notice to the Department, on a form prescribed by the Department, of the discontinuance or temporary suspension of its monitoring of a fire alarm system, at least ten (10) days prior to such discontinuance or suspension. Five (5) additional days notice shall be provided if notice is given by mail.

(5) A central station company shall give written notice to the Department within seven (7) days of any change in any of the information set forth on its fire alarm system application form.

§3. Subdivision (g) of §17-01 of Title 3 of the Rules of the City of New York is hereby amended, effective June 30, 2008, as follows:

(g) [Modifications] Modification. Whenever circumstances, conditions, [limitations] or surroundings render it impracticable to comply with any or all of the foregoing requirements, the Fire Commissioner may waive or modify provisions over which [he] the Commissioner has jurisdiction[,] to such extent as he or she may deem necessary, consistent with public safety.

§4. Subdivision (h) of §17-01 of Title 3 of the Rules of the City of New York, relating to a savings clause for this section, is hereby repealed, effective June 30, 2008.

§5. Section 17-02 of Title 3 of the Rules of the City of New York, entitled “Telegraphic Alarm Communications in Theaters, Opera Houses and Concert Halls,” is hereby re-numbered, effective June 30, 2008, as Section 17-08 of said title.

§6. Section 17-03 of Title 3 of the Rules of the City of New York, entitled “Supervision of More than One Interior Fire Alarm System,” is hereby re-numbered, effective June 30, 2008, as Section 9-02 of said title.

§7. Section 17-04 of Title 3 of the Rules of the City of New York, “Compensation Schedule Fixing the Fees to be Paid by Entities Engaged in the Operation

of Auxiliary Fire Alarm Systems,” relating to fees paid by fire alarm companies operating auxiliary fire alarm systems, is hereby repealed, effective July 1, 2009.

§8. A new section, §17-02 of Title 3 of the Rules of the City of New York, is hereby added, effective July 1, 2009, to read as follows:

§17-02 Compensation for Operation of Auxiliary Fire Alarm Systems

(a) Applicability

This section sets forth the compensation required to be paid to the City of New York pursuant to Administrative Code §15-127(a)(1) by a central station company or a proprietary central station facility, as those terms are defined in 3 RCNY §17-01(b), for operation of an auxiliary fire alarm system.

(b) Definitions

Auxiliary Fire Alarm System. The re-transmission or other reporting to the Department of alarm signals from the monitoring of fire alarm systems by a central station company, proprietary central station facility, or any other person or company that receives compensation or derives any other financial benefit therefrom.

(c) Required Compensation

Each central station company shall pay to the Department, on an annual basis, or such other basis as the Department may require or authorize, its proportionate share of the cost associated with its use of the Department’s fire alarm communications system, as calculated in accordance with the provisions of this section.

(d) Computation of Compensation

- (1) The Department will calculate, not less frequently than on an annual basis, the compensation each central station company is required to remit to the Department, in accordance with the computation set forth in this subdivision.**
- (2) Compensation shall be based on the costs of operating the Department’s Communication Offices for the preceding fiscal year, allocated according**

to the number of fire alarm systems monitored by each central station company as of July 1st of the preceding fiscal year, and the volume of central station company alarm traffic generated by each central station company in the preceding fiscal year.

(3) Step One: Calculation of Total Central Station Company Cost. This amount will be calculated as follows:

(i) the total alarm traffic handled by the Fire Department's communications offices is calculated for the preceding fiscal year;

(ii) the alarm traffic generated by all central station companies ("total central station alarm traffic") is calculated as a percentage of the total alarm traffic for the preceding fiscal year; and

(iii) the total cost of operating the Fire Department's communications offices is calculated for the preceding fiscal year ("total operating cost") and is multiplied by the percentage representing the total central station alarm traffic in the preceding fiscal year, to obtain the cost attributable to the total central station alarm traffic for the preceding fiscal year ("total central station cost").

(4) Step Two: Calculation of Individual Central Station Compensation Amounts. These amounts will be calculated as follows:

(i) the total number of fire alarm systems monitored by central station companies as of July 1st of the preceding fiscal year, and the number of fire alarm systems monitored by each central station company as of such date, are tabulated, and the percentage of the total number of monitored fire alarm systems is calculated for each central station company ("alarm system allocation");

(ii) the total central station alarm traffic generated by each central station company is separately tabulated for the preceding fiscal year, and each central station company's percentage of the total central station alarm traffic is calculated ("alarm traffic allocation");

(iii) the two percentages representing the alarm system and alarm traffic allocations are averaged (added together and divided by two) to obtain a single combined percentage for each central station company ("total allocation"); and

(iv) each central station company is charged the percentage representing its total allocation, of the total central station cost for the preceding fiscal year.

(e) Billing and Payment

- (1) The Department will bill each central station company on or about October 1st for the coming year, or such other date as the Department may designate.
- (2) Each central station company shall remit payment in full no later than 60 days of receipt of the invoice.
- (3) Any central station company that fails to timely remit payment shall additionally be liable to the Department for interest on the compensation due and owing to the Department. Such interest shall be computed for the period from the date of the bill to the date of payment, based on the amount of the bill and the rate of interest set forth in Section 5004 of the New York Civil Practice Law and Rules. Such interest shall constitute part of the compensation required by this section.

(f) Modification

Whenever circumstances, conditions, or surroundings render it impracticable to comply with any or all of the foregoing requirements, the Fire Commissioner may waive or modify provisions over which the Commissioner has jurisdiction to such extent as he or she may deem necessary, consistent with public safety.

STATEMENT OF BASIS AND PURPOSE OF FINAL RULE:

The Department has determined to repeal the existing compensation provisions applicable to private fire alarm companies, as set forth in 3 RCNY §17-04, and promulgate a new rule, 3 RCNY §17-02. New York City Administrative Code §15-127(a)(1) requires that central stations remit certain compensation to the City. The current rule provides for compensation based on each central station company's "terminal assignments," which reflect the number of devices that can transmit an alarm, namely manual fire alarm devices, smoke and heat detectors, and fire sprinkler valves.

Currently, central station companies must pay \$135 for each Class E and Class J terminal assignment, and \$45 for all other terminal assignments. Higher rates are charged for the terminals associated with required office and residential (Class E and Class J) fire alarm systems because they incorporate all three types of alarm devices. The rates, which were last revised in 1994, were based on the Department's cost of licensing the central station companies, registering the protected premises, and operating communications offices (insofar as they handle central station alarm traffic).

The new rule, 3 RCNY §17-02, which, as discussed below, will take effect on July 1, 2009, will calculate the compensation required by Administrative Code §15-127(a)(1) based on the cost of the Department's communications office operation attributable to

central station alarm traffic, with the Department's other costs reflected in the fee for the Department Certificate of Operation, as provided in 3 RCNY §17-01(e). The amount of compensation to be paid by each central station company will be calculated based on its percentage of all central station alarm traffic and its percentage of the total number of fire alarm systems monitored by the central station companies.

The Department has undertaken to eliminate terminal assignments as the basis for the calculation of compensation to encourage the use of modern technology that can pinpoint the specific type and location of the device that is transmitting the fire alarm. The present system of calculating compensation on the basis of the total number of terminal assignments discourages the installation and registration of multiple terminals and, hence, the reporting of fire alarms to the Department with such specific information. The purpose of the rule is to encourage the reporting of specific information at the time of the re-transmission of the fire alarm to the Department, which should enhance the ability of the responding Fire Department units to swiftly locate and attack the source of the alarm, benefiting the owners of the protected premises and enhancing public safety.

The payment of compensation by the central station companies based in part on the alarm traffic they generate should also have the beneficial effect of encouraging the elimination of unnecessary and unwarranted alarms through proper installation and better maintenance of fire alarm systems. The Fire Department receives many such alarms, which endanger the public by generating an emergency response when none is needed, and diverting Fire Department personnel from other, actual emergencies. The Department does not believe that this system of compensation will result in the non-reporting of fire alarms, given the financial and other consequences to a central station company of failing to re-transmit a fire alarm to the Fire Department.

The payment of compensation by the central station companies will also be based on the number of fire alarm systems they monitor. This component of the compensation will contribute to ensuring that the costs of the system are equally shared among all central station companies benefiting from the dedicated central station telephone lines in the Department's Communications Offices and other special procedures for central stations. It will also serve to ameliorate any volatility in an individual central station company's annual compensation resulting from an unexpected increase in alarms on premises monitored by that company.

The payment and billing provisions of the final rule are consistent with the current rule and Fire Department practice, except that the new language incorporates a provision requiring the payment of interest for late payments. The new section omits the current language provision that states that the compensation is not a tax. This provision has been omitted because it is a statement of law, which need not be included in the rule.

The amendments to the Fire Department rule governing central stations, 3 RCNY §17-01, reference the new compensation rule; clarify the requirements for obtaining a Certificate of Operation for a central station company and facility; and revise the requirements for registering fire alarm systems and associated terminals. Fire Department rules 3 RCNY

§§ 17-02 and 17-03 have been re-numbered to allow the rules relating to central station monitoring and compensation to be grouped together.

The Fire Department received public comment from central station companies and their representatives in response to the proposed rule. The submissions included expressions of concern regarding the manner in which the Fire Department intends to calculate its costs and the central stations' alarm traffic in computing the compensation to be paid by central station companies pursuant to 3 RCNY §17-02. The submissions also expressed concern as to the manner in which the Department intended to address the impact of the alarm traffic of private fire alarm companies that monitor smoke detectors associated with residential home security systems. Concern was also expressed that the rule could cause practical difficulties in the manner in which central station companies bill their customers.

The Department has considered these comments and concluded that they do not warrant a substantive change in the rule at this time. However, the Department is persuaded by the comments that there are a number of practical issues affecting the implementation of the new rule that make it prudent to postpone the effective date of the new compensation provisions of 3 RCNY §17-02 until July 1, 2009 (and postpone the repeal of the existing terminal assignment fee provisions of 3 RCNY §17-04 until July 1, 2009), while proceeding with the other proposed rule changes. This will allow the Department to implement the new fire alarm system registration requirements, address issues affecting the calculation of central station alarm traffic, including the issue of "unassigned" fire alarm traffic received from residential home security systems, and otherwise seek to resolve any implementation issues of concern to central station companies.

The Department has also concluded that adopting the new rule, but postponing the effective date of the new compensation provisions, would best serve to ensure that the goals of the rule are accomplished, and that attention will be focused on the issues of concern to the central stations. A July 2009 effective date for the compensation provisions allows sufficient time for further rulemaking, if determined to be necessary.

If any subparagraph, paragraph or subdivision of this section shall be adjudged by any court or agency of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the subparagraph, paragraph or subdivision thereof directly involved in the controversy in which such judgment shall have been rendered.

17-02 (5/15/08)