



Promulgation Details for 1 RCNY 105-03

This rule became effective on September, 15, 2013.

This rule has an effective date of 09-15-13.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, and Sections 27-3015(a)(4) and 28-401.14, 28-402.2, 28-404.3, BC 3310.9 and BC 3314.4 of the Administrative Code of the City of New York, as well as Section 9-01 of Title 1 of the Rules of the City of New York, that the Department of Buildings hereby adopts the amendments to Section 104-06 of Subchapter D of Chapter 100 and Section 3314-01 of Chapter 3300 and the addition of new Section 105-03 of Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York, regarding course requirements for construction trades.

This rule was first published on March 22, 2013 and a public hearing thereon was held on April 26, 2013.

Dated: August 9, 2013
New York, New York



Robert D. LiMandri
Commissioner

Statement of Basis and Purpose

The following amendments to section 104-06 and section 3314-01 and new section 105-03 of Title 1 of the Rules of the City of New York are adopted pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter.

A number of provisions of the Administrative Code of the City of New York and Title 1 of the Rules of the City of New York require that individuals in the construction trades (identified below) take Department-approved courses as part of trade license qualification, license renewal and worker training:

- Concrete Safety Manager- Building Code (“BC”) 3310.9 (qualification) of the NYC Administrative Code (“Admin Code”); Section 104-06 of Title 1 of the Rules of the City of New York (“RCNY”) (continuing education)
- Hoist Machine Operator- 1 RCNY 104-09 (qualification) and 1 RCNY 104-06 (continuing education)
- Site Safety Manager- Admin Code 28-402.2 (qualification) and 1 RCNY 104-06 (continuing education)
- Site Safety Coordinator- Admin Code 28-403.2 (qualification) and 1 RCNY 104-06 (continuing education)
- Rigger- Admin Code 28-404.3 and 1 RCNY 104-06 (continuing education)
- Filing Representative- Admin Code 28-416.3 (qualification) and 1 RCNY 104-06 (continuing education)
- Construction Superintendent- 1 RCNY 104-06 (continuing education)
- Electrician- Admin Code 27-3015(a)(4) and 1 RCNY 104-06 (continuing education)
- Master Plumber- 1 RCNY 104-06 (continuing education)
- Master Fire Suppression Piping Contractor- 1 RCNY 104-06 (continuing education)
- Supported Scaffold Worker- BC 3314.4 (training)
- Suspended Scaffold Supervisor- 1 RCNY 9-01(training)
- Suspended Scaffold User- 1 RCNY 9-03 (training)
- Mast-Climbing work platform- BC 3314-01 (training)

The new section 105-03 outlines the requirements of Department-approved courses so that course providers are aware of the process and conditions for approval and revocation of the approval. Qualified course providers are required to submit an application for Department approval of the course they wish to provide. Once the course is approved, the course providers must comply with the rule requirements and issue completion cards or certificates of completion to attendees who have completed the approved courses.

The Department amends section 104-06, regarding licensee continuing education requirements, by moving the course content and approval requirements to the new section 105-03, where they are more appropriately placed. Additionally, the date for Electricians to complete their continuing education requirements is being extended to give

them more time to comply with the new continuing education requirements of this rule. Section 104-06 is also amended to allow for the acceptance of some types of course credit for classes completed by electricians in other jurisdictions.

The Department amends section 3314-01, regarding mast-climbing work platforms, changing the required period for training providers to retain records of course attendees from six years to seven years. This change makes the rule consistent with the record retention requirements for course providers in the new section 105-03.

* * *

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

New matter is underlined; matter [in brackets] is deleted.

* * *

Section 1. Paragraph 3 of subdivision b of section 104-06 of subchapter D of chapter 100 of title 1 of the rules of the City of New York is amended to read as follows:

- (3) Electrician (Master/Special). Beginning [January] July 1, [2012] 2014, during the one (1) year immediately prior to renewal, the licensee [shall] must have successfully completed a course approved by the Department of at least eight (8) hours, at least four (4) hours of which [shall] must focus on the New York City Electrical Code and other requirements pursuant to section 105-03 of subchapter E of this chapter. The Department will accept for each license year up to four (4) credit hours earned from an electrical continuing education course offered in another jurisdiction as part of a licensed electrician renewal process in that jurisdiction, provided that the course is at least eight (8) credit hours per license year in that jurisdiction, the credits were earned during the three (3) years immediately prior to renewal and:
- (i) the jurisdiction follows the National Electrical Code/NFPA 70;
 - (ii) the course provider is a certified provider within that jurisdiction;
and
 - (iii) the course is taught by an instructor with experience in the electrical field who is certified as an electrical course provider in jurisdictions following the National Electrical Code/NFPA 70.

Credit hours earned in another jurisdiction will not count toward the at least four (4) hours that must focus on the New York City Electrical Code and other requirements pursuant to section 105-03.

§ 2. Subdivision c of section 104-06 of subchapter D of chapter 100 of title 1 of the rules of the City of New York is amended to read as follows:

(c) [Course providers and content. Course providers seeking the Department's approval of courses shall submit written proposals that include the following:

- (1) Identification of the type(s) and class(es) of licensees for which the proposed course(s) will be taught;
- (2) A proposed curriculum appropriate for the type(s) and class(es) of licensees to which the course(s) will be taught. No more than four (4) hours of any curriculum shall consist of course materials or credits to be applied to multiple license types. This provision shall not apply to Master and Special Electricians. Except for the curriculum for filing representatives, which shall not include the requirements of subparagraphs (vii) and (viii) of this paragraph, all curricula shall include but not be limited to:
 - (i) Business practices;
 - (ii) Relevant building code provisions, rules, and policy and procedure notices enacted or promulgated by the Department;
 - (iii) Department of Environmental Protection water rules for Master Fire Suppression Piping Contractor and Master Plumber courses;
 - (iv) Occupational Safety and Health Standards for the Construction Industry for Site Safety Manager and Site Safety Coordinator courses;
 - (v) For Master Electricians, Special Electricians, Master Fire Suppression Piping Contractors and Master Plumbers, relevant New York City Fire Department code provisions, rules and policies, and relevant utility regulations;
 - (vi) Relevant Department of Buildings' filing and inspection requirements;
 - (vii) Safety/hazardous materials;
 - (viii) New technology;
 - (ix) Corruption prevention standards; and
 - (x) Other subjects identified by the Commissioner.
- (3) A schedule detailing the proposed course cost(s) to individuals and/or groups wishing to enroll;
- (4) A listing of proposed course availability, including a schedule of their times and locations;
- (5) A detailed statement of the proposed provider's qualifications, including but not limited to instruction staff names and qualifications, other jurisdictions in which the provider has been approved to provide continuing education or other courses (if any), the composition of its governing authority, identification of its administrative resources (Physical and human), certification that its facilities and equipment are adequate to deliver the training program, and documentation of financial viability;

- (6) A detailed statement of the proposed provider's procedures for confirming the identity and attendance of individuals taking any course(s), including logs reflecting those in attendance at different times during the course, and for the issuance of a fraud-resistant document demonstrating that a licensee attended the course(s);
 - (7) A commitment to generate and retain for five (5) years records of the course(s) offered, including attendance logs for each session of each course and course evaluations by the attendees; and
 - (8) Such other items as the Commissioner may deem appropriate and necessary.]
- Department-approved courses.** The Department will approve continuing education courses pursuant to the requirements of section 105-03 of subchapter E of this chapter.

§ 3. Subdivisions d and e of section 104-06 of subchapter D of chapter 100 of title 1 of the rules of the City of New York are REPEALED.

§ 4. Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new Section 105-03 to read as follows:

§105-03 Department-Approved Courses.

(a) Scope. This section outlines the requirements for Department-approved courses required by the Administrative Code and Department rules for training, license qualification and licensee continuing education. Unless otherwise authorized under the Administrative Code or Department rules, only Department-approved courses may be offered to fulfill Department course requirements.

(b) Course Provider Application Process.

(1) The course provider applicant must submit:

(i) an application form provided by the Department; and

(ii) proof that the applicant has met the requirements of paragraph (2) of subdivision (d) of this section. Prior to the date provided in that paragraph, an applicant that does not meet the requirements of that paragraph must submit upon application all documentation necessary for the department to determine whether the course would meet all the requirements of this section.

(2) A listing of the providers of the approved courses will be available through the Department's website. Incomplete or inaccurate applications will be rejected.

(c) Approved Courses.

(1) Course Requirements.

(i) All courses must comply with the Department's course curricula published on its website, which lists the relevant citations for statutory or other requirements listed in this paragraph.

(ii) No more than four (4) hours of any curriculum may consist of course materials or credits to be applied to multiple license types.

Exception: Subparagraph (ii) does not apply to course curricula for Master and Special Electrician, Master Plumber and Master Fire Suppression Piping Contractor.

(iii) All curricula must include the following information as applicable to the relevant construction trade:

(A) Business practices;

(B) Relevant building code provisions, rules, and policy and procedure notices enacted or promulgated by the Department;

(C) Administrative code provisions, rules and policy and procedure notices enacted or promulgated by any other city agency;

(D) Overview of Occupational Safety and Health Standards ("OSHS") for the Construction Industry;

(E) Relevant Department of Buildings filing and inspection requirements;

(F) Safety/hazardous materials;

(G) New technology;

(H) Corruption prevention standards; and

(I) Other subjects identified by the Commissioner.

(iv) All courses must reflect any changes in the Department's published course curricula or any applicable laws, rules and regulations within ninety (90) days.

(2) Notification of Approved Courses.

(i) The course provider must have a website and must publish course schedules on its website, including dates, times, and locations, and otherwise make all course schedules available in writing to the Department upon request. The course provider must also notify the Department of a scheduled course at least three (3) business days

prior to it being offered. All information on the course provider's website, including the location of courses and the courses taught, must be current.

- (ii) The course provider must notify the Department of any changes to the course within fourteen (14) days of such change.
- (3) Course Review. At the end of each course, the instructor(s) must conduct a review of the materials taught. The Department may require that a hands-on or written performance evaluation be given to attendees.
- (4) Course Instructor(s). Course providers must require that the course instructor(s) demonstrate that he or she is credentialed or trained in instructional methods and learning processes. The instructor(s) must also successfully demonstrate to the course provider his or her ability to solve or resolve problems relating to the subject matter by possession of a recognized degree, certificate, licensure or professional standing, or by extensive knowledge, training, and experience, in the subject matter being taught. To the extent that the course instructor(s) holds, or has held, a trade license issued by the Department, it must be in good standing and not be surrendered to, suspended by or revoked by the Department.
 - (i) For Supported Scaffold, Suspended Scaffold and Mast-Climber training courses, the instructor(s) must also be authorized by the Occupational Safety and Health Administration ("OSHA") as a trainer(s) for its Construction and Outreach Program.
 - (ii) For Hoist Machine Operator courses, the instructor(s) must also hold a valid New York City Hoist Machine Operator's license or hold a national certification for crane operation.
 - (iii) For Master and Special Electrician courses, the instructor(s) must demonstrate credentials or training in instructional methods and learning processes through licensure or certification, including but not limited to, certification as an electrical course provider in jurisdictions following the National Electrical Code/NFPA 70.
- (5) Course Facilities. The course facilities must:
 - (i) Have sufficient room to accommodate all expected attendees and the equipment needed to perform hands-on exercises where required as part of the course;

- (ii) Make provisions for the presentation of training material in all media types (computer, projectors, video/DVD players, etc); and
 - (iii) Comply with all applicable laws, rules and regulations relating to occupancy, zoning, egress, fire detection, fire suppression, light, ventilation, cleanliness, sanitary facilities, emergency notification and evacuation procedures.
- (6) Attendance Record. The course provider must have in place fraud-resistant procedures for confirming the identity and attendance of individuals taking any course(s), including logs reflecting those in attendance at different times during the course, and be able to produce the logs and any other documentation demonstrating that an attendee attended the course(s).
- (7) Course Completion.
 - (i) For training courses, the course provider must issue a wallet-size identification card to attendees upon course completion. Such card must contain the following information:
 - (A) The name of the person to whom it was issued;
 - (B) A photograph of the person to whom it was issued;
 - (C) The name and address of the issuing organization;
 - (D) The date of issuance;
 - (E) An indication of the type of training and the number of credit hours completed; and
 - (F) The signature of the course administrator.
 - (ii) For qualification and continuing education courses, the course provider must issue a certificate of completion to the attendees upon course completion. Such certificate must contain the following information:
 - (A) The name of the person to whom it was issued;
 - (B) The name and address of the issuing organization;
 - (C) The date of issuance;
 - (D) An indication of the type of course and the number of credit hours completed; and
 - (E) The signature of the course administrator.
 - (iii) The course provider must maintain a record of all the names of course attendees and the course they completed for a period of seven (7) years from the date of completion. The course provider must make these records available to the Department upon request.

- (8) Department Observation and Evaluation. The Department may observe any Department-approved course without prior notification to the course provider. The Department may evaluate courses taught by course providers through audit or other means at such intervals as it deems necessary and may require additional information as it deems necessary.

(d) Course Provider Requirements

- (1) The course provider must be a sole proprietorship, a corporate officer of a course provider corporation, a partner of a course provider partnership, an educational institution, a governmental agency or authority, a trade union, or a trade association, provided that a governmental agency or authority need not comply with paragraph (2) of this subdivision.
- (2) Beginning on August 31, 2014, the course provider must provide proof that it is:
- (i) approved by the New York State Department of Education, such as through a registered New York State Department of Labor vocational, trade or apprenticeship program;
 - (ii) licensed as an educational institution by the New York State Department of Education;
 - (iii) accredited by an accrediting organization recognized by the United States Department of Education or the Council for Higher Education Accreditation; or
 - (iv) certified by an organization accredited by the American National Standards Institute (ANSI) as a Standards Developing Organization with published standards for continuing education and training.

Upon a determination of good cause, including but not limited to the absence of approved courses needed to meet a Department requirement, the Commissioner may extend the time to meet the requirements of this paragraph beyond August 31, 2014.

For alternative Mast-Climbing work platform training course provider requirements to those listed in (d)(2), herein, see section 3314-01(m).

- (3) Course providers must continuously maintain the qualifications required by paragraphs (1) and (2) of this subdivision and must provide a copy of such approval, license, accreditation or certification to the Department upon

request. The course provider must immediately notify the Department of any lapse or expiration of its approval, license, accreditation or certification.

(4) The individual course provider, the principals or partners of the course provider corporation or partnership and all course instructors must comply with all applicable Federal, State and local laws, rules and regulations.

(5) The course provider must notify the Department of any changes to the course provider's name within fourteen (14) days of such change.

(e) Suspension and Revocation of Approval

(1) Following notice and an opportunity to be heard, the Department may suspend or revoke approval of a course provider's courses based on the failure to comply with a Department requirement. However, when the public safety may be imminently jeopardized, the Commissioner may, pending an opportunity to be heard and Department determination, suspend approval for a period not exceeding thirty (30) days.

(2) The basis for the suspension or revocation of a course approval may form the basis for the suspension or revocation of any or all of that course provider's approved courses.

(3) The Department will post on its website that the approval of a course has been suspended or revoked.

(f) Notwithstanding the forgoing, the Department may act as a provider, or the sole provider, of any course to fulfill a Department course requirement. A listing of available Department courses will be posted on the Department's website.

§ 5. Paragraph 6 of subdivision m of section 3314-01 of chapter 3300 of title 1 of the rules of the City of New York is amended to read as follows:

(6) Records. The training provider of training courses required by paragraphs (1) or (2) of this subdivision (m) shall maintain records of all who attended the course(s) for a period of not less than [six (6)] seven (7) years. Such records shall be made available to the department upon request.