

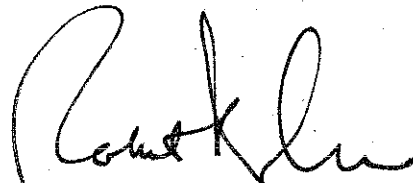
NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to Sections 104-01, 104-02, 104-03, 104-05, 104-06, 104-07 and 104-09 and the addition of new Sections 104-10 and 104-11 to Subchapter D of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York regarding licensing.

This rule was first published on October 14, 2010, and a public hearing thereon was held on November 15, 2010.

Dated: _____

Dec 22, 2010
New York, New York



Robert D. LiMandri
Commissioner

Section 1. Subdivision a of section 104-01 of subchapter D of chapter 100 of title 1 of the rules of the city of New York is amended to read as follows:

(a) Definitions.

(1) For purposes of this subchapter, the terms “City,” “Commissioner” and “Department” shall have the same meanings as set forth in §28-101.5 of the Administrative Code.

(2) For purposes of this [rule]subchapter, the term “license” shall have the same meaning as is set forth in §28-401.3 of the Administrative Code, except that the term shall include “certificate of competence” whenever such a certificate is required by Chapter 4 of title 28 of the Administrative Code.

§2. Paragraph 1 of subdivision b of section 104-01 of subchapter D of chapter 100 of title 1 of the rules of the city of New York is amended to read as follows:

(1) Applicability.

[(i)] This subdivision (b) shall apply to Department-sponsored examinations administered for the following licenses:

[(A) Site Safety Manager Certificate] (i) Electrician (Master/Special)

[(B) Private Elevator Inspection Agency Director Certificate] (ii) High Pressure Boiler Operating Engineer

[(C) Private Elevator Inspection Agency Inspector Certificate] (iii) Master Fire Suppression Piping Contractor (Classes A, B and C)

[(D) Additional license types may be added to this listing as responsibility for their administration is transferred from the Department of Citywide Administrative Services to the Department of Buildings.] (iv) Master Plumber

(v) Oil Burning Equipment Installer (Classes A and B)

(vi) Portable High Pressure Boiler Operating Engineer

(vii) Private Elevator Inspection Agency Director

(viii) Private Elevator Inspection Agency Inspector

(ix) Rigger (Master/Special/Climber or Tower Crane)

(x) Sign Hanger (Master/Special)

(xi) Site Safety Manager

§3. Item D of subparagraph iii of paragraph 2 of subdivision b of section 104-01 of subchapter D of chapter 100 of title 1 of the rules of the city of New York is amended to read as follows:

(D) Candidates who fail the written test three (3) times within six (6) months must wait six (6) months before applying again to take the written test, in accordance with the procedure in paragraph (c) of this rule.

§4. Subdivision c of section 104-01 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) Education, training and experience. An applicant must possess the minimum education, training and/or experience requirements specified by the Administrative Code at the time of filing the application. For purposes of this subdivision (c), the term “experience” refers to that experience gained as the result of full-time employment, unless otherwise determined by the Commissioner. An applicant shall verify the claimed experience by submitting documentation, including, but not limited to, the following:

(1) Notarized affidavits from all past or current employers under whom experience is claimed. Affidavits from New York City licensees shall be sealed where applicable. Affidavits shall include the following information:

(i) Applicant’s job title (helper, journeyman, etc.);

(ii) A detailed description of applicant’s duties;

(iii) When applicant worked with the licensee (employment dates shall be in mm/dd/yyyy format);

(iv) Whether employment was on a full or part-time basis, detailing the average weekly hours; and

(v) Where license supervision is required, a statement by the licensee that he or she directly supervised applicant’s work.

(2) Social Security History of Earnings for the years applicant is claiming as experience reflecting wages appropriate for the trade.

(3) Where the code requires supervision in the design and installation of plumbing or fire suppression systems, evidence that the supervising licensees performed such work as demonstrated by permits, completed contracts or such other documentation as the Department may require.

(4) Where the applicant is self-employed, the applicant shall verify that he or she performed qualifying work by submitting documentation, including but not limited to personal and business tax returns, route sheets or work logs from the supervising licensee, contracts with customers, and statements from customers detailing the work the applicant performed and when that work was performed.

§5. Paragraph 3 of subdivision d of section 104-01 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) A candidate who has been notified of failure to meet the fitness and qualification requirements [may] and who has additional relevant information or documentation for the Department's review shall request reconsideration [provided that the candidate has additional relevant information or documentation for the Department's review]. Such appeal [must]shall be in writing with an original signature and addressed as the Commissioner may require. The request for reconsideration [must]shall state the title of the license examination, the applicant's name and return address, the date of the Department's denial and a detailed statement of the grounds for reconsideration with any supporting documentation. The request for reconsideration [must]shall be received not later than sixty (60) days from the date of notification of the denial of the license.

§6. Section 104-02 of subchapter D of chapter 100 of title 1 of the rules of the city of New York is amended to read as follows:

§104-02 [Proof of required] Required insurance.

(a) [General liability insurance.

(1)]The following categories of licensee[s] are [required to submit proof of insurance prior to issuance or renewal of a license]subject to the requirements set forth in this section:

[(i) Master Plumber] (1) Elevator Inspection Agency Director

[(ii) Master Fire Suppression Piping Contractor] (2) General Contractor

[(iii)](3) Master Electrician

[(iv) Special Electrician (to the extent of his/her employer's coverage)] (4) Master Fire Suppression Piping Contractor

[(v) Rigger (Master/Special)] (5) Master Plumber

[(vi) Sign Hanger (Master/Special)] (6) Oil Burner Equipment Installer

[(vii) Elevator Inspection Agency Director] (7) Rigger
(Master/Special/Climber or Tower Crane)

[(viii) General Contractors.] (8) Safety Registrants

[(ix)](9) Sign Hanger (Master/Special)

[(x)](10) Special Electrician (employer's coverage)

[(2) Each holder of and applicant for a license shall secure Commercial General Liability (CGL) insurance policy or policies satisfying the requirements in this subparagraph. All CGL insurance policies, whether primary, excess or umbrella, shall:

(i) Be issued by a company or companies that may lawfully issue the required policy and has an A.M. Best rating of at least A-VII or a Standard and Poor's rating of at least AA.

(ii) Provide coverage at least as broad as that provided by the most recent edition of ISO Form CG 0001;

(iii) Provide coverage of at least \$1,000,000 (one million dollars) combined single limit per occurrence;

(iv) Contain the following endorsement: This policy shall not be cancelled or terminated, or modified or changed unless thirty (30) days prior written notice is sent to the Named Insured and the commissioner of the New York City Department of Buildings, except that notice of termination for non-payment may be made on only ten (10) days written notice.]

[(3) Each holder of and applicant for a license shall file with the Department proof that there is in place insurance that provides the coverage set forth in this subdivision. Proof may consist of an insurance certificate, in which case the insurance certificate shall be accompanied by a sworn statement in a form prescribed by the Department from the insurer or from a licensed insurance broker certifying that the insurance certificate may be relied upon as proof that the certificate is accurate in all respects and that the insurance certified thereon is in force.]

[(4) The holder of and applicant for a license shall provide a copy of any required policy within thirty days of a request for such policy by the Department or the New York City Law Department.]

[(5) A failure by the City or the Department to enforce any of the foregoing requirements shall not constitute a waiver of such requirement or any other requirement.]

(b) Commercial general liability insurance.

(1) Each applicant for and holder of a license shall, at its expense, procure and maintain commercial general liability (CGL) insurance satisfying the requirements of this subdivision. All CGL insurance policies shall:

(i) Be issued by a company or companies that may lawfully issue the required policy and has an A.M. Best rating of at least A-VII or a Standard and Poor's rating of at least A;

(ii) Provide coverage at least as broad as set forth in the most recent edition of Insurance Services Office (ISO) Form CG 0001;

(iii) Provide coverage of at least \$1,000,000 (one million dollars) combined single limit per occurrence; and

(iv) Contain the following endorsement: This policy shall not be cancelled or terminated, or modified or changed unless thirty (30) days' prior written notice is sent to the Named Insured and the New York City Department of Buildings, Licensing Unit, 280 Broadway, 6th floor, New York, NY 10007, except that termination for non-payment may be made on only ten (10) days' written notice.

(2) Each applicant for and holder of a license shall provide proof of CGL insurance by submission of a certificate of insurance in a form satisfactory to the Department that:

(i) satisfies the requirements of subdivision (e) of this section;

(ii) identifies the insurance company that issued such insurance policy, the policy number, limit(s) of insurance, and expiration date; and

(iii) is accompanied by a sworn statement in a form prescribed by the Department from a licensed insurance broker certifying that the insurance certificate may be relied upon as accurate in all respects and that the insurance certified thereon is in force.

(3) Any holder of a license who, during the term of the license, is issued any permit of the types set forth in Administrative Code §28-105.2 shall cause the City, together with its officials and employees, to be named as an additional insured on the insurance required under this subdivision with regard to all operations pursuant to all such permits. The City's coverage shall be at least as broad as set forth in the most recent edition of ISO Form CG 2012 or CG 2026.

[(b)](c) Workers' compensation insurance [and disability insurance]. [Holders of and applicants for the] Each applicant for and holder of a license [types specified in this subdivision] shall, at [their]its own expense, procure and maintain workers' compensation [and disability] insurance[:], or a waiver of such insurance from the New York State Workers' Compensation Board, and shall submit proof thereof in a form acceptable to the Department and in compliance with subdivision (e) of this section. ACORD forms are not acceptable proof of workers' compensation coverage.

- [(1) Master Plumber
- (2) Master Fire Suppression Piping Contractor
- (3) Master Electrician
- (4) Special Electrician (to the extent of his/her employer's coverage
- (5) Oil Burner Equipment Installer
- (6) Rigger (Master/Special)
- (7) Sign Hanger (Master/Special)
- (8) Elevator Inspection Agency Director
- (9) General Contractor]

[(c) Acceptable forms:

(1) Workers' compensation insurance. The licensee must submit one of the following forms to the Department, or another form acceptable to the Department, or exemption from required coverage:

- (i) C-105.2 Certificate of Worker's Compensation Insurance.
- (ii) U-26.3 -- State Insurance Fund Certificate of Workers' Compensation Insurance.
- (iii) Request for WC/DB Exemption (Form CE-200).

(2) Disability insurance. The licensee must submit demonstrating required disability insurance coverage or exemption from required coverage.]

(d) Disability insurance. Each applicant for and holder of a license shall, at its own expense, procure and maintain disability insurance, or a waiver of such insurance from

the New York State Workers' Compensation Board, and shall submit proof thereof in a form acceptable to the Department and in compliance with subdivision (e) of this section.

[(d) Requirements for all submitted insurance certificates] (e) Proof of insurance.

[(1) Insurance certificate requirements. All submitted] Proof of insurance [certificates must] shall not contain any handwritten corrections and shall contain the following information:

[(i)](1) The applicant's or licensee's license, registration or tracking number(s)[.];

[(ii) The insurance policy number(s).]

[(iii)](2) [The] With regard to all workers' compensation or disability certificates, the applicant's or licensee's federal Employer Identification Number [of the insured] or [the] social security number, [on any workers' compensation or disability certificates.] and policy expiration date(s);

[(iv)](3) The policy holder's business address[, which cannot be] (not a post office box)[. The address must appear] exactly as it appears on the Department's Buildings Information System ("BIS")[.]; and

[(v)](4) New York City Department of Buildings, Attn: Licensing Unit, 280 Broadway, 6th Floor, New York, NY 10007 [shall be] specified as a certificate holder.

(f) If, at any time after a license has been issued, any policy of insurance required by this section expires, is cancelled or otherwise terminates, the licensee shall notify the Department and procure, at its own expense, a renewal or replacement policy that fully complies with the requirements of this section and, prior to the date of such termination, submit proof thereof in conformity with the requirements of this section.

(g) Any applicant for or holder of a license shall provide a copy of any insurance policy secured in compliance with this section within thirty (30) days of a request for such policy by the Department or the New York City Law Department.

(h) A failure by the City or the Department to enforce any of the foregoing requirements shall not constitute a waiver of such requirement or any other requirement.

§7. Section 104-03 of subchapter D of chapter 100 of title 1 of the rules of the city of New York is amended to read as follows:

§104-03 Term of license.

(a) The term of a license issued to a new or renewal applicant for which an examination is required shall be three (3) years, measured from the date the license is issued, except as otherwise specified by law or in this rule.

(b) The term of a license issued to a new or renewal applicant for which no examination is required shall be one (1) year, measured from the date the license is issued, except as otherwise specified by law or in this rule.

(c) The term of a construction superintendent registration issued to a new or renewal applicant shall be three (3) years measured from the date the registration is issued.

(d) The term of a general contractor registration issued to a new or renewal applicant shall be three (3) years, measured from the date of the applicant's birthday.

(e) The term of a concrete safety manager registration issued to a new or renewal applicant shall be three (3) years, measured from the date the registration is issued.

(f) The term of a safety registration issued to a new or renewal applicant shall be three (3) years, measured from the date the registration is issued.

(g) The term of a master electrician or special electrician license issued to a new or renewal applicant shall be one (1) year, measured from the date of the applicant's birthday.

(h) Nothing contained herein shall limit the authority of the Commissioner to stagger the issuance of licenses based on considerations other than the date of issuance of the license or to otherwise provide for reasonable implementation of modifications to license terms.

§8. Section 104-05 of subchapter D of chapter 100 of title 1 of the rules of the city of New York is amended to read as follows:

§104-05 Reinstatement of license. In accordance with §28-401.13 of the Administrative Code, a license may be reinstated in accordance with the following requirements.

(a) A license that has been expired for less than one (1) year may be reinstated upon filing of an application with the Department. Such reinstatement shall be subject to any applicable late and reinstatement fees.

(b) A license that has been expired for a period of one (1) year to five (5) years from the date of expiration may be reinstated without examination where the applicant demonstrates continued competence and completion of any and all required continuing education requirements.

- (1) Continued competence shall be demonstrated by the applicant's active and legal engagement in the trade for which the applicant's license was issued. The applicant shall supply the Department with the following:
- (i) A resume detailing employment history and the duties the applicant performed in each position during the time the license was expired;
 - (ii) A signed and notarized statement from the applicant's employer stating the nature of the applicant's duties and the dates of such employment;
 - (iii) For work in the trade requiring the supervision of a licensed person in accordance with Chapter 4 of the Code, a signed and notarized (or sealed) statement from the supervising licensee stating that he or she supervised the applicant, the dates of such supervision and the nature of the applicant's duties; and
 - (iv) Any other documentation the Department deems appropriate.
- (2) An applicant for reinstatement must be actively and legally engaged in the trade during the time period between the expiration of the license and the date of the application for reinstatement, except for periods of time away from the trade not to exceed, in the aggregate, one (1) year.
- (3) A candidate shall appear and furnish to the Department all requested original [forms,] documents [and fees] within six (6) months of the date of the request for reinstatement. Failure to do so will result in the denial of the reinstated license and will require a reexamination and reapplication.
- (4) A candidate shall appear, furnish to the Department all requested original forms and pay to the Department all required fees within three (3) months of the date of the notice of approval of reinstatement. Failure to do so will result in the denial of the reinstated license and will require a reexamination and reapplication.
- (c) No license shall be reinstated if it is expired for over five (5) years. The applicant must reapply for a new license and meet all applicable qualifications, including any required examination.
- (d) Exceptions to reinstatement provisions. If an application for renewal of a [license] registration for Construction Superintendent, Concrete Safety Manager, [or] General Contractor or Safety Registration is not filed within one (1) year of a registration's expiration, the applicant must reapply for a new registration and meet all applicable qualifications.
- (e) This section shall not apply to Electricians.

§9. Subdivisions a and b of section 104-06 of subchapter D of chapter 100 of title 1 of the rules of the city of New York are amended to read as follows:

§104-06 Continuing education requirements.

(a) Applicability. This section shall be applicable to license holders seeking renewal of licenses requiring the completion of continuing education course(s) and to applicants seeking Department approval to provide continuing education courses for the following license types:

- (1) [Construction Superintendent.] Concrete Safety Manager
- (2) [Master Plumber.] Construction Superintendent
- (3) [Master Fire Suppression Piping Contractor.] Electrician (Master/Special)
- (4) Filing Representative
- (5) [Site Safety Manager.] Master Fire Suppression Piping Contractor
- [(5)] (6) [Site Safety Coordinator.] Master Plumber
- [(6)] (7) [Concrete Safety Manager.] Rigger (Master/Special/Climber or Tower Crane)
- [(7)] (8) [Master Electrician.] Site Safety Coordinator
- [(8)] (9) [Special Electrician.] Site Safety Manager

(b) Course requirements for license renewals. The following courses are required for renewal of the below listed license types:

- (1) Concrete Safety Manager. During the one (1) year immediately prior to renewal, the licensee shall have successfully completed an eight- (8) hour Department-approved course that is sufficient to qualify the individual as a competent person under OSHA standards to oversee concrete operations, or any equivalent course(s) approved by the Commissioner, including those in electronic format.
- (2) Construction Superintendent. During the one (1) year [period] immediately prior to renewal, the licensee shall have successfully completed a seven- (7) hour Site Safety Manager refresher course approved by the Department, or any equivalent course(s) approved by the Department, including those in electronic format.

[(2) Concrete Safety Manager. During the one (1) year immediately prior to renewal, the licensee shall have successfully completed an eight (8) hour Department-approved course that is sufficient to qualify the individual as a competent person under OSHA standards to oversee concrete operations, or any equivalent course(s) approved by the Commissioner, including those in electronic format.]

(3) Electrician (Master/Special). Beginning January 1, 2012, during the one (1) year immediately prior to renewal, the licensee shall have successfully completed a course approved by the Department of at least eight (8) hours, at least four (4) hours of which shall focus on the New York City Electrical Code.

(4) Filing Representative. During the one (1) year immediately prior to renewal, the registrant shall have attended a Department-administered or Department-approved integrity training.

(5) Master Fire Suppression Piping Contractor and Master Plumber [and Master Fire Suppression Piping Contractor]. During the two (2) years [period] immediately prior to renewal, the licensee shall have successfully completed a one- (1) day (seven- (7) hour) continuing education course approved by the Department.

(6) Master Rigger. During the three (3) years immediately prior to renewal, the licensee shall have successfully completed a Department-approved eight- (8) hour re-certification course including instruction on inspection, maintenance, repair, use, installation, hazards associated with, and the relevant sections of the building code and industry practice with regards to:

- (i) Rigging methods, hardware, and equipment;
- (ii) Hoisting machines, including cranes and derricks;
- (iii) Climber/tower crane assembly, jumping, and disassembly;
- (iv) Suspended scaffolds;
- (v) Critical picks; and
- (vi) Fall hazards and fall protection.

(7) Special Rigger. During the three (3) years immediately prior to renewal, the licensee shall have successfully completed a Department-approved eight- (8) hour re-certification course including instruction on inspection, maintenance, repair, use, installation, hazards associated with, and the relevant sections of the building code and industry practice with regards to:

- (i) Rigging methods, hardware, and equipment;
- (ii) Hoisting machines with a manufacturer's rated capacity of one ton or less;
- (iii) Suspended scaffolds;
- (iv) Critical picks; and
- (v) Fall hazards and fall protection.

(8) Climber or Tower Crane Rigger. During the three (3) years immediately prior to renewal, the licensee shall have successfully completed a Department-approved eight- (8) hour re-certification course including instruction on inspection, maintenance, repair, use, installation, hazards associated with, and the relevant sections of the building code and industry practice with regards to:

- (i) Climber/tower crane assembly, jumping, and disassembly; and
- (ii) Fall hazards and fall protection.

(9) Site Safety Coordinator. During the two (2) years immediately prior to renewal, the licensee shall have successfully completed a Site Safety Manager refresher course approved by the Department.

[(4)](10) Site Safety Manager. During the one (1) year [period] immediately prior to renewal, the licensee shall have successfully completed a seven- (7) hour Site Safety Manager refresher course approved by the Department.

[(5) Site Safety Coordinator. During the two (2) year period immediately prior to renewal, the licensee shall have successfully completed a Site Safety Manager refresher course approved by the Department.]

[(6) Master Electrician and Special Electrician. Effective January 1, 2010, during the one (1) year period immediately prior to renewal, the licensee shall have successfully completed a course of at least 8 hours, at least 4 hours of which shall focus on the New York City Electrical Code, approved by the Department.]

§10. Paragraphs 2, 6, and 7 of subdivision c of section 104-06 of subchapter D of chapter 100 of title 1 of the rules of the city of New York are amended to read as follows:

(2) A proposed curriculum appropriate for the type(s) and class(es) of licensees to which the course(s) will be taught. [Except for Master and Special

Electricians, no]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. [All] 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 [W]water [R]rules for Master Fire Suppression Piping Contractor and [m]Master [p]Plumber [and master fire suppression piping contractor] courses;
 - (iv) Occupational Safety and Health Standards for the Construction Industry for Site Safety Manager and Site Safety Coordinator courses;
 - (v) For Master Electricians, [and] 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) [Integrity/anti-corruption]Corruption prevention standards;[,] and
 - (x) Other subjects identified by the Commissioner.
- (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

§11. Section 104-07 of subchapter D of chapter 100 of title 1 of the rules of the city of New York is amended to read as follows:

§104-07 Suspension or revocation.

(a) Hearings concerning disciplinary proceedings pursuant to Administrative Code §28-401.19 seeking suspension or revocation, with or without penalties, against any licensee or holder of a certificate[s] of competence issued by the Department shall be held before the Office of Administrative Trials and Hearings pursuant to 1 RCNY 105-05 and shall be governed by the rules of procedure utilized at that tribunal.

(b) Stop work and suspension of permits. Upon any suspension or revocation of a license, certificate of competence, approval or authorization, unless replaced by another licensee, certificate holder, approved agency, special inspector, or registered design professional within five (5) business days of such suspension or revocation, all open jobs on which the licensee, certificate holder, approved agency, special inspector, or registered design professional is designated shall be stopped and the permits shall be suspended until such time as another licensee, certificate holder, approved agency, special inspector, or registered design professional is designated or such permits expire. Where the [c]Commissioner has summarily suspended a license or certificate of competence pursuant to Administrative Code §28-401.19.1, all open jobs on which the licensee, certificate holder, approved agency, special inspector, or registered design professional is designated shall be stopped immediately and the permits shall be suspended immediately for the earlier of the duration of the suspension or until such time as another licensee, certificate holder, approved agency, special inspector, or registered design professional is designated or until such permits expire.

(c) Conduct of hearing by office of administrative trials and hearings. The administrative law judge assigned to hear any matter specified in this rule shall submit his or her proposed findings of fact and recommended decision to the [c]Commissioner. Where the [c]Commissioner has summarily suspended a license or certificate of competence pursuant to Administrative Code §28-401.19.1, at the conclusion of the hearing on the first return date, the administrative law judge may lift the suspension, finally determine the matter, or, if the administrative law judge finds that the summary suspension was appropriate, but that further hearings are necessary to make a final determination of the charges, the administrative law judge may make a finding as to the need for further hearings and continue the suspension pending such further hearings without need for issuance of a [c]Commissioner's order.

§12. Section 104-09 of subchapter D of chapter 100 of title 1 of the rules of the city of New York is amended to read as follows:

§104-09 Hoisting Machine Operators [Class C].

(a) Qualifications. In addition to the qualification requirements set forth in the Administrative Code, an applicant for a Class A, B or C Hoisting Machine Operator license shall satisfy the following requirements:

(1) An applicant for a Class A, B or C Hoisting Machine Operator license shall possess a valid driver's license effective for the term of the Hoisting Machine Operator license sought.

(2) An applicant for a Class A, B or C Hoisting Machine Operator license shall provide evidence on a form prescribed by the Commissioner that he or she has passed a physical exam that complies with the standards of ASME B 30.5-2007, or the most recent version approved by the Department, and that he or she has complied with the substance abuse testing provisions and standards of ASME B 30.5-2007, or the most recent version approved by the Department. Such evidence shall include the name, address and telephone number of the laboratory that performed the tests and consent to the release by such laboratory of the test results to the Department upon request of the Department.

(3) [Applicants] An applicant for a Class C Hoisting Machine Operator license shall satisfy the qualification and examination requirements of the Administrative Code by complying with the following requirements:

[(1) Applicants] (i) An applicant shall furnish to the Department a certification issued by [the National Commission for the Certification of Crane Operators or an equivalent certification entity approved by the Department] an organization accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The certification shall authorize operation of the type of equipment for which the applicant seeks a license. The applicant shall provide to the Department a copy of the certification, a copy of future re-certifications and documentation of new specialties acquired. The applicable certification shall be maintained continuously for the duration of the license term.

[(2) Applicants] (ii) An applicant shall provide proof of experience demonstrating two (2) years of work, within the three (3) years prior to application, under the direct and continuing supervision of a Hoisting Machine Operator licensed by the Department or by another jurisdiction that regulates crane operators. The qualifying work shall include instruction in outrigger placement incorporating at least 100 crane set-ups. At least one (1) year of the qualifying work must have been undertaken in the city of New York or in an urban area of comparable density, as determined by the [c]Commissioner.

(iii) Additional qualification requirements. In addition to the qualification requirements set forth in the Administrative Code and in this

subdivision (a), all Hoisting Machine Operator Class C license applicants shall complete a forty- (40) hour training course, approved by the Department, covering those provisions of local law and regulation that are unique to New York City.

(b) Fitness requirements for renewal and reinstatement. As a condition of license renewal or reinstatement, a licensed or previously licensed Class A, B or C Hoisting Machine Operator shall provide evidence of fitness to perform the work authorized to be performed by a holder of the license [type] held or once held by the applicant. Such evidence shall consist of:

(1) For Class A, B and C Hoisting Machine Operators, evidence on a form prescribed by the Commissioner that the licensee has passed a physical exam that complies with the standards of ASME B 30.5-2007, or the most recent version approved by the Department, and that the licensee has complied with the substance abuse testing provisions and standards of ASME B 30.5-2007, or the most recent version approved by the Department. Such evidence shall include the name, address and telephone number of the laboratory that performed the tests and consent to the release by such laboratory of the test results to the Department upon request of the Department.

(2) For Class C Hoisting Machine Operators, a valid certification(s) issued by [the National Commission for the Certification of Crane Operators or an equivalent certification entity approved by the Department] an organization accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The certification shall authorize the operation of the type of equipment for which the [licensee is licensed] license is held or sought and the licensee shall provide to the Department a copy of the certification, a copy of future re-certifications and documentation of new specialties acquired. [Class C Hoisting Machine Operator's licenses that have been or will be renewed or reinstated at any time between July 1, 2008 and September 30, 2009 shall be conditioned on the licensee's satisfaction of the requirements of this rule by September 30, 2009, and shall lapse, effective October 1, 2009, upon failure to satisfy such condition, provided, however, that the commissioner may for cause, following notice and an opportunity to be heard, accelerate the date by which holders of such licenses must satisfy the requirements of this rule and in such case, upon failure to satisfy such condition, the license shall lapse. Renewal applicants shall satisfy the requirements of this rule at every subsequent renewal. The licensee shall pay the full license renewal or reinstatement fee at the time of renewal or reinstatement.]

(3) A renewal applicant shall possess a valid driver's license effective for the term of the renewal sought.

(4) A renewal applicant shall satisfy the requirements of this rule at every subsequent renewal.

(c) [Licensees] Hoisting Machine Operator Class A and B licensees shall provide to the Department no later than [September 30, 2009 or at an earlier date determined by the commissioner pursuant to subdivision (b)] six months after the effective date of this section, or upon application, renewal, or re[-]instatement, as applicable[:], the information required in paragraph (1) of subdivision (b) of this section. The Commissioner may for cause, following notice and an opportunity to be heard, accelerate the date by which holders of Hoisting Machine Operator Class A and B licenses must satisfy the requirements of this subdivision and in such case, upon failure to satisfy such condition, the license shall lapse.

[(1) Evidence of having passed a physical exam that complies with the standards of ASME B 30, effective for the term of the license sought or held by the licensee; and

(2) Evidence of having certified compliance with the substance abuse testing provisions and standards of ASME B 30, effective for the term of the license sought or held by the licensee. Such evidence shall include the name, address and telephone number of the laboratory that performed the tests and consent to the release by such laboratory of the test results to the Department upon request of the Department.

(3) Evidence of a valid certification(s) issued by the National Commission for the Certification of Crane Operators or an equivalent certification entity approved by the Department.]

(d) A Class A, B or C Hoisting Machine Operator license issued following compliance with this rule shall authorize the operation of only that type of equipment for which Department records indicate the licensee is qualified or certified.

(e) The provisions of this rule shall be in addition to the qualification, renewal and reinstatement requirements prescribed by articles 401 and 405 of title 28 of the Administrative Code.

(f) In addition to any other documents required to be maintained on[-] site by a licensed Class A, B or C Hoisting Machine Operator, such Operator shall have on[-] site at all times the following documents:

(1) [The] For a Class C licensee only, the certification(s) issued to him or her by [the National Commission for the Certification of Crane Operators or equivalent certification entity approved by the Department] an organization accredited by the National Commission for Certifying Agencies (NCCA) or the

American National Standards Institute (ANSI) and acceptable to the Commissioner; and

(2) The hoisting machine operator license issued to him or her by the Department,[]; and

(3) Evidence of having passed a physical exam that complies with the standards of ASME B 30, effective for the term of the license held by the licensee; and

(4) Evidence of having certified compliance with the substance abuse testing provisions and standards of ASME B 30, effective for the term of the license held by the licensee.]

§13. Subchapter D of chapter 100 of title 1 of the rules of the city of New York is amended by adding a new section 104-10 to read as follows:

§104-10 Riggers.

(a) Qualifications. In addition to the qualification and examination requirements of the Administrative Code, an applicant for the following types of rigger licenses shall satisfy the following requirements:

(1) Master Rigger. An applicant for a Master Rigger license shall have successfully completed a Department-approved training course of not less than thirty (30) hours, including instruction on inspection, maintenance, repair, use, installation, hazards associated with, and the relevant sections of the building code and industry practice with regards to:

(i) Rigging methods, hardware, and equipment;

(ii) Hoisting machines, including cranes and derricks;

(iii) Climber/tower crane assembly, jumping, and disassembly;

(iv) Suspended scaffolds;

(v) Critical picks; and

(vi) Fall hazards and fall protection.

(2) Special Rigger. An applicant for a Special Rigger license shall have successfully completed a Department-approved training course of not less than thirty (30) hours, including instruction on inspection, maintenance, repair, use, installation, hazards associated with, and the relevant sections of the building code and industry practice with regards to:

- (i) Rigging methods, hardware, and equipment;
- (ii) Hoisting machines with a manufacturers rated capacity of one ton or less;
- (iii) Suspended scaffolds;
- (iv) Critical picks; and
- (v) Fall hazards and fall protection.

(3) Climber or tower crane rigger. An applicant for a Climber or Tower Crane Rigger license shall have successfully completed a Department-approved training course of not less than thirty (30) hours, including instruction on inspection, maintenance, repair, use, installation, hazards associated with, and the relevant sections of the building code and industry practice with regards to:

- (i) Climber/tower crane assembly, jumping, and disassembly; and
- (ii) Fall hazards and fall protection.

(4) Previous course. Any person who, within the three (3) years prior to the date of the application has successfully completed at least a thirty- (30) hour training course meeting the requirements of this subdivision need not take a second thirty- (30) hour course, provided such person provides the Department a dated certificate evidencing completion of such a training course. Such person shall, however, be subject to the continuing education requirements of §104-06 of this subchapter.

(5) Fitness. An applicant for a Master, Special or Climber or Tower Crane Rigger license shall provide evidence of fitness to perform the work authorized by the license. Such evidence shall be on a form prescribed by the Commissioner and shall establish that the applicant has passed a physical exam that complies with subdivision (c) of this section, and that the applicant has complied with the substance abuse testing provisions and standards of subdivision (c) of this section. Such evidence shall include the name, address and telephone number of the laboratory that performed the tests and consent to the release by such laboratory of the test results to the Department upon request of the Department.

(6) Additional requirements.

- (i) Where a licensed master rigger chooses to personally supervise the installation or use of a suspended scaffold, the licensee shall have completed all additional training required by section 9-03 of title 1 of the rules of the city of New York.

(ii) Where a licensed master rigger chooses to personally supervise the assembly, jump, or disassembly of a climber/tower crane, the licensee shall have completed all additional training required by section 3319.10 of the building code.

(iii) Where a licensed special rigger chooses to personally supervise the installation or use of a suspended scaffold, the licensee shall have completed all additional training required by section 9-03 of title 1 of the rules of the city of New York.

(b) Fitness requirements for renewal and reinstatement. As a condition of license renewal or reinstatement, a licensed or previously licensed Master, Special or Climber or Tower crane rigger shall provide evidence of fitness to perform the work authorized to be performed by a holder of the license held or once held by the applicant. Evidence shall be on a form prescribed by the Commissioner and shall establish that the applicant has passed a physical exam that complies with subdivision (c) of this section, and that the applicant has received a negative result for a substance abuse test as required in subdivision (c) of this section. Such evidence shall include the name, address and telephone number of the laboratory that performed the tests and consent to the release by such laboratory of the test results to the Department upon request of the Department. A renewal applicant shall satisfy the requirements of this rule at every subsequent renewal.

(c) Physical exam. Applicants for a Master, Special or Climber or Tower Crane Rigger license shall meet the following physical qualifications, unless it can be shown that failure to meet the qualifications will not affect the ability to perform the work authorized to be performed by a holder of the license sought. In such cases, specialized clinical or medical judgments and tests may be required. The following physical qualifications shall be met at all times throughout the term of the license.

(1) Vision of at least 20/30 Snellen in one eye and 20/50 in the other, with or without corrective lenses.

(2) Ability to distinguish colors, regardless of position, if color differentiation is required to perform the work authorized to be performed by the license.

(3) Adequate hearing to meet operational demands, with or without hearing aid.

(4) Sufficient strength, endurance, agility, coordination, and speed of reaction to meet job demands.

(5) Normal depth perception, field of vision, reaction time, manual dexterity, coordination, and no tendencies to dizziness or similar undesirable characteristics.

(6) A negative result for a substance abuse test.

(7) No evidence of having physical defects or emotional instability that could create a hazard for the rigger or others, or that in the opinion of the examiner could interfere with the rigger's performance.

(8) No evidence of being subject to seizures or loss of physical control.

§14. Subchapter D of chapter 100 of title 1 of the rules of the city of New York is amended by adding a new section 104-11 to read as follows:

§104-11 Welders.

(a) Qualifications. An applicant for a welder license shall satisfy the qualification and examination requirements of the Administrative Code by complying with the following requirements:

(1) Applicants shall furnish to the Department a welder certification issued by the American Welding Society or the State of New York. The applicant shall provide to the Department a copy of the certification, a copy of future re-certifications and documentation of new certifications acquired. The applicable certification shall be maintained continuously for the duration of the license term and shall authorize performance of the type of welds the licensee performs.

(2) Applicants shall provide evidence of fitness to perform the work authorized to be performed by a holder of the license sought. Such evidence shall consist of documentation on a form prescribed by the Department that the applicant has passed a visual acuity test effective for the term of the license sought.

(b) Fitness requirements for renewal and reinstatement. As a condition of license renewal or reinstatement, a licensed or previously licensed welder shall provide evidence of fitness to perform the work authorized to be performed by a holder of the license held or once held by the licensee. Such evidence shall consist of:

(1) A welder certification issued by the American Welding Society or the State of New York. The licensed or previously licensed welder shall provide to the Department a copy of the certification, a copy of future re-certifications and documentation of new certifications acquired. The applicable certification shall be maintained continuously for the duration of the license term and shall authorize performance of the type of welds the licensee performs.

(2) Documentation on a form prescribed by the Department that the licensee has passed a visual acuity test effective for the term of the license held or once held by the licensee.

(3) A renewal applicant shall satisfy the requirements of this subdivision at every subsequent renewal.

STATEMENT OF BASIS AND PURPOSE

The foregoing rule is promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter.

This rule amends §104-01 by clarifying the meaning of the term “license” and by listing the license examinations for which the Department expects to assume operational authority: Electrician (Master/Special), High Pressure Boiler Operating Engineer, Master Fire Suppression Piping Contractor (Classes A and B), Master Plumber, Oil Burning Equipment Installer (Classes A and B), Portable High Pressure Boiler Operating Engineer, Rigger (Master/Special/Tower), and Sign Hanger (Master/Special). It also adds provisions that indicate how an applicant can verify required experience.

The rule also clarifies and updates § 104-02, reflecting the license types required to submit proof of general liability, workers’ compensation and disability insurance; by adding a requirement that licensees shall ensure that their insurance policies cover the city, its officials and employees as “Additional Insured”; by prescribing certain standard notification and indemnity provisions in required insurance; and by adding a requirement that all submitted insurance documents must not contain any handwritten corrections.

Amendments to §§ 104-03 and 104-05 reflect recently enacted legislation requiring a Safety Registration. Section 104-03 is also amended to indicate the term of electrical licenses is one year, not three.

Section 104-06 reflects proposed new training requirements for Riggers and new substantive and procedural requirements for course providers.

The rule amends §104-07 to add a missing reference to § 105-05 relating to the Office of Administrative Trials and Hearings.

The rule additionally amends §104-09 governing Class A, B or C Hoisting Machine Operator licensees and/or applicants; to add qualification, examination and fitness requirements for license issuance, renewal and reinstatement; deletes certain requirements that are no longer relevant due to the passage of time; and extends the period for which Hoisting Machine Operator Classes A and B licensees shall provide to the Department certain information required to demonstrate fitness.

The rule further adds a new §104-10 containing training requirements for Master, Special and Climber or Tower Crane Riggers, reflecting the provisions of Local Law 44 of 2008, and requires evidence of fitness for all Riggers pursuant to Administrative Code §28-401.8 and §28-404.4.3.

A new section is added to cover Welders. Section 104-11 reflects the Department’s shift from administering local examinations for welder license applicants to accepting American Welding Society or New York State-issued welder certifications.