Promulgation Details for 1 RCNY 104-09

This rule became effective on October, 22, 2008.

Since such date, one or more amendments have been made to this rule. Each rule amendment has its own effective date and Statement of Basis and Purpose.

Below you will find one or more rule amendments (the most recent appearing at the top), followed by the original rule.

The effective date of each amendment and the original rule can be found at the top of each "NOTICE OF ADOPTION OF RULE."

This amendment has an effective date of 03-02-17.

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 Section 104-09 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding hoisting machine operators.

This rule was first published on December 12, 2016 and a public hearing thereon was held on January 13, 2017.

Dated: 1.23.17
New York, New York

Rick D. Chandler, P.E.
Commissioner

Statement of Basis and Purpose

The Department of Buildings (DOB) is amending section 104-09 of Title 1 of the Rules of the City of New York relating to hoisting machine operators. The amendments reflect the New York State Supreme Court's decision that the portion of the current rule relating to out-of-state experience in an urban area of comparable density for a Class A Hoisting Machine License is invalid.

DOB's authority for this rule is found in Sections 643 and 1043(a) of the New York City Charter, Sections 28-401.6 and 28-405.3 of the City Administrative Code.

New material is underlined.
[Deleted material is in brackets.]

"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.

Paragraph (4) of subdivision (a) of section 104-09 of Title 1 of the Rules of the City of New York is amended to read as follows:

(4) [An applicant for a Class A or C Hoisting Machine Operator license shall provide proof of experience demonstrating the years of experience required by the Administrative Code and compliance with the following requirements:

(i) For a Class A Hoisting Machine Operator license at least three (3) years of work within the five (5) years prior to application must have been under the direct and continuing supervision of a Hoisting Machine Operator licensed by the Department or by another jurisdiction within the United States that regulates crane operators.

(A) At least one (1) year of the qualifying experience must have been undertaken in the City of New York.

(B) Notwithstanding the above, in lieu of the one (1) year of qualifying experience undertaken in the City of New York, the applicant may have, for at least the past ten (10) years prior to application, held a Hoisting Machine Operator license issued by a jurisdiction within the United States, with at least five (5) years of experience within those (10) years having been in an urban area of comparable density within the United States, as determined by the Commissioner.

(C) In addition to the requirements of either (A) or (B), above, the other two (2) required years of qualifying experience must have been undertaken either in the City of New York or in an urban area of comparable density within the United States, as determined by the Commissioner.

(ii) For] An applicant for a Class C Hoisting Machine Operator license must provide proof of experience demonstrating at least two (2) years of work within the three (3) years prior to application [must have been] under the direct and continuing supervision of a Hoisting Machine Operator licensed by the Department or by another jurisdiction within the United States that regulates crane operators. 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 within the United States, as determined by the Commissioner.

This amendment has an effective date of 10-15-14.

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 104-06 and 104-09 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding course requirements for electrician, hoist machine operator and rigger license renewals and certification requirements for hoist machine operator licenses.

This rule was first published on July 29, 2014 and a public hearing thereon was held on September 2, 2014.

Dated: 9/8/14
New York, New York

Rick D. Chandler, P.E.
Commissioner

Statement of Basis and Purpose of Rule

Sections 104-06 and 104-09 of the Department's rules require certain courses and certifications to be obtained by electrician, hoisting machine operator and rigger licensees prior to renewal of their licenses. The rule amendments will extend the date for compliance with these requirements because the required courses and certifications are not currently available.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter, as well as in Article 401 of Chapter 4 of Title 28 of the New York City Administrative Code.

New material is underlined.
[Deleted material is in brackets.]

"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.

Section 1. Paragraphs (3), (5), (7) and (8) 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 are amended to read as follows:

(3) Electrician (Master/Special). Beginning July 1, [2014]2015, during the one (1) year immediately prior to renewal, the licensee must have successfully completed a course approved by the Department of at least eight (8) hours, at least four (4) hours of which 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.

(5) Hoisting Machine Operator. Beginning July 1, [2013]2015, during the one (1) year immediately prior to renewal, the licensee must have successfully completed a Department-approved eight- (8) hour course covering those provisions of the

administrative code and regulations that are unique to New York City for the operation of a hoisting machine and the unique hazards of operating a hoisting machine within New York City.

(7) Master Rigger. [During]Beginning July 1, 2015, 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.

(8) Special Rigger. [During] Beginning July 1, 2015, 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.

§2. Section 104-06 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new subdivision (d) to read as follows:

(d) Additional powers of the commissioner. The commissioner may, upon a determination of good cause, extend the dates and deadlines set forth in this rule.

§3. Subparagraphs (i) and (ii) of paragraph (2) of subdivision (b) of section 104-09 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) Valid national certification(s) as follows:

(i) For Class A Hoisting Machine Operators whose license is renewed or reinstated on or after July 1, [2013]2015, one or more valid certification(s) issued by an organization accredited to offer crane operator certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. For Class A Hoisting Machine Operators with licenses renewed or reinstated prior to July 1, 2015, such certification must be obtained within one year of renewal. The certification(s) shall authorize the operation of the type of equipment for which

the license is held or sought and the licensee shall provide to the Department a copy of the certification(s), a copy of future re-certifications and documentation of new specialties acquired. The applicable certification(s) must be maintained continuously for the duration of the license term.

(ii) For Class B Hoisting Machine Operators whose license is renewed or reinstated on or after July 1, [2013]2015, all crane operator certifications issued by an organization accredited to offer tower, mobile and crawler crane operator certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. For Class B Hoisting Machine Operators with licenses renewed or reinstated prior to July 1, 2015, such certification must be obtained within one year of renewal. The applicant must have passed at least one of the certification exams on a friction crane. The licensee must provide to the Department a copy of the certifications, a copy of future re-certifications and documentation of new specialties acquired. The applicable certifications must be maintained continuously for the duration of the license term.

§4. Section 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new subdivision (g) to read as follows:

(g) Additional powers of the commissioner. The commissioner may, upon a determination of good cause, extend the dates and deadlines set forth in this rule.

This amendment has an effective date of 05-26-12.

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 104-06 and 104-09 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding hoist machine operator training and examinations.

This rule was first published on December 30, 2011 and a public hearing thereon was held on February 3, 2012.

Dated: April 20, 2012
New York, New York

Robert D. LiMandri
Commissioner

STATEMENT OF BASIS AND PURPOSE

Sections 104-06 and 104-09 of Chapter 100 of Title 1 of the Rules of the City of New York are being amended pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) of the New York City Charter and sections 28-401.5, 28-401.6, 28-401.7, 28-401.14, and Article 405 of Title 28 of the New York City Administrative Code (Administrative Code).

For the purposes of this rule, "shall" and "must" have the same meaning.

Rule changes pertaining to operators of power operated hoisting machines:

New OSHA Licensing Requirements

Section 28-405.1 of the Administrative Code requires the operators of power operated hoisting machines (including cranes and derricks) with a rated capacity of over one ton to hold a valid Hoisting Machine Operators (HMO) license from the New York City Department of Buildings (the Department). HMO licenses are divided into three classes, class A, B, and C. Section 28-401.7 further requires all applicants for a license to pass an examination.

In November 2010, new rules promulgated by the Occupational Safety and Health Administration (OSHA) governing the operation of cranes and derricks became effective (29 CFR 1926 Subpart CC). Section 1926.1427 of the OSHA rule requires all crane operators in the United States to be certified. Licenses issued by a state or local government are recognized as fulfilling the OSHA certification requirement, if the "testing meets industry recognized criteria for written testing materials, practical examinations, test administration, grading, facilities/equipment and personnel," and the licensees are retested at least every five years.

Examination

Section 104-09 of Title 1 of the Rules of the City of New York requires applicants for a Class C HMO license to pass an examination administered by "an organization accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner." Such an organization meets the OSHA requirement for testing. Section 104-09 further requires Class C HMO licensees to maintain their national certification for the license period. To maintain their national certification, licensees are subject to retesting every five years, which satisfies the OSHA retesting requirement.

The amendment to section 104-09 will bring the examinations for Class A and Class B HMO licenses in line with the new OSHA requirements by requiring applicants to pass an examination administered by the same type of organization as Class C examinations. The exams for Class A and B HMO applicants are currently administered through the New York City Department of Citywide Administrative Services (DCAS).

Section 28-405.2 of the Administrative Code establishes a Class B HMO license as authorizing the "operation of hoisting machine without limitation or restriction." Accordingly, the amendment to section 104-09 requires Class B applicants to be certified to operate all classes of cranes. Further, the examination currently administered through the DCAS occurs on a friction crane. The amendment requires at least one of the certification exams for a Class B applicant to have been passed on a friction crane. Similarly, where a Class A or C applicant seeks to operate a friction crane, the amendment requires that such applicant pass a certification exam on a friction crane.

Years of Experience

Section 28-405.3 of the Administrative Code further requires applicants for a Class A, B or C HMO license to possess a number of years of experience operating a hoisting machine under the direct and continuing supervision of a licensed operator before applying for their license. Section 104-09 clarifies that for a Class C HMO, the experience may be obtained within New York City or in an "urban area of comparable density within the United States," under the supervision of a hoisting machine operator licensed by that jurisdiction. The amendment to section 104-09 expands this provision to Class A HMO license applicants and adds a requirement that at least one year of experience be obtained within New York City. As an alternative to the one year of experience in New York City, the requirement may be satisfied by having held a license issued by another jurisdiction within the United States for the past ten years prior to application, with at least five years of experience in an urban area of comparable density. Section 104-09 also requires applicants for a Class C HMO license to have performed "outrigger placement incorporating at least 100 crane set-ups." The amendment to Section 104-09 expands this requirement to Class A HMO applicants.

Training Course

Section 104-09 specifies that applicants for a Class C HMO license are to complete a 40-hour training course. The amendment to section 104-09 expands this requirement to Class A and B HMO applicants.

Section 28-401.14 of the Administrative Code authorizes the Commissioner to require applicants for the renewal of a license to complete education courses approved by the Department. Section 104-06 requires individuals applying to renew other licenses issued by the Department, including but not limited to electricians, plumbers, and site safety managers, to complete a refresher course. The amendment to section 104-06 requires individuals seeking to renew a Class A, B, or C HMO license to complete an 8-hour refresher course.

Section 1. Subdivision a of section 104-06 of subchapter D of chapter 100 of title 1 of the rules of the City of New York is amended by adding a new paragraph 5 to read as follows:

(5) Hoisting Machine Operator

§2. Paragraphs 5 through 9 of subdivision a of section 104-06 are renumbered 6 through 10, respectively.

§3. Subdivision b of section 104-06 is amended by adding a new paragraph 5 to read as follows:

(5) Hoisting Machine Operator. Beginning July 1, 2013, during the one (1) year immediately prior to renewal, the licensee must have successfully completed a Department-approved eight- (8) hour course covering those provisions of the administrative code and regulations that are unique to New York City for the operation of a hoisting machine and the unique hazards of operating a hoisting machine within New York City.

§4. Paragraphs 5 through 10 of subdivision b of section 104-06 are renumbered 6 through 11, respectively.

§5. Paragraph 3 of subdivision a of 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:

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

(i) [An applicant shall furnish] For a Class A or C applicant, providing to the Department [a] one or more certifications issued by an organization accredited to offer crane certifications 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.

(ii) For a class B applicant, providing to the Department all crane operator certifications issued by an organization accredited to offer tower, mobile, and crawler crane operator certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The applicant must have passed at least one of the certification exams on a friction crane. The applicant must provide to the Department a copy of the certifications, a copy of future re-certifications and documentation of new specialties acquired. The applicable certifications must be maintained continuously for the duration of the license term.

[(ii)](4) An applicant for a Class A or C Hoisting Machine Operator license 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 years of experience required by the Administrative Code and compliance with the following requirements:

(i) For a Class A Hoisting Machine Operator license at least three (3) years of work within the five (5) years prior to application must have been under the direct and continuing supervision of a Hoisting Machine Operator licensed by the Department or by another jurisdiction within the United States that regulates crane operators.

(A) At least one (1) year of the qualifying experience must have been undertaken in the City of New York.

(B) Notwithstanding the above, in lieu of the one (1) year of qualifying experience undertaken in the City of New York, the applicant may have, for at least the past ten (10) years prior to application, held a Hoisting Machine Operator license issued by a jurisdiction within the United States, with at least five (5) years of experience within those (10) years having been in an urban area of comparable density within the United States, as determined by the Commissioner.

(C) In addition to the requirements of either (A) or (B), above, the other two (2) required years of qualifying experience must have been undertaken either in the City of New York or in an urban area of comparable density within the United States, as determined by the Commissioner.

(ii) For a Class C Hoisting Machine Operator license at least two (2) years of work within the three (3) years prior to application must have been under the direct and continuing supervision of a

Hoisting Machine Operator licensed by the Department or by another jurisdiction within the United States that regulates crane operators. 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 within the United States, as determined by the Commissioner.

(5) [The] For a Class A or C Hoisting Machine Operator license, the qualifying work shall include [instruction in] outrigger placement incorporating at least one hundred (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 Commissioner.] For a Class A Hoisting Machine Operator license, at least 25 of the set-ups must have occurred on machinery for which a Class A license is required. Where an applicant for a Class A Hoisting Machine Operator license already possesses a Class C Hoisting Machine Operator license, the requirement for the remaining 75 set-ups on non Class A machinery is waived.

[(iii)](6) 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 A, B, and 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 for the operation of a hoisting machine and the unique hazards of operating a hoisting machine within New York City.

§6. Paragraph 2 of subdivision b of section 104-09 is amended to read as follows:

(2) Valid national certification(s) as follows:

(i) For Class A Hoisting Machine Operators whose license is renewed or reinstated on or after July 1, 2013, one or more valid certification(s) issued by an organization accredited to offer crane operator certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The certification(s) shall authorize the operation of the type of equipment for which the license is held or sought and the licensee shall provide to the Department a copy of the certification(s), a copy of future re-certifications and documentation of new specialties acquired. The applicable certification(s) must be maintained continuously for the duration of the license term.

(ii) For Class B Hoisting Machine Operators whose license is renewed or reinstated on or after July 1, 2013, all crane operator certifications issued by an organization accredited to offer tower, mobile and crawler crane operator certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The applicant must have passed at least one of the certification exams on a friction crane. The licensee must provide to the Department a copy of the certifications, a copy of future re-certifications and documentation of new specialties acquired. The applicable certifications must be maintained continuously for the duration of the license term.

(iii) For Class C Hoisting Machine Operators, [a] one or more valid certification(s) issued by an organization accredited to offer crane operator certifications by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner. The certification(s) shall authorize the operation of the type of equipment for which the license is held or sought and the licensee shall provide to the Department a copy of the certification(s), a copy of future re-certifications and documentation of new specialties acquired. The applicable certification(s) must be maintained continuously for the duration of the license term.

§7. Subdivision d of section 104-09 is amended to read as follows:

(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] crane for which Department records indicate the licensee is qualified or certified. For a Class A or C Hoisting Machine Operator license, where the applicant or licensee wishes to operate a friction crane, the applicant must have passed at least one of the certification exams on a friction crane.

§8. Paragraph 1 of subdivision f of section 104-09 is amended to read as follows:

(1) [For a Class C licensee only, the] The certification(s) issued to him or her by an organization accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and acceptable to the Commissioner; and

This amendment has an effective date of 02-03-11.

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.

<u>(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.</u>

(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]<u>registration</u> for Construction Superintendent, Concrete Safety Manager, [or] General Contractor <u>or Safety Registration</u> is not filed within one <u>(1)</u> year of a registration's expiration, the applicant must reapply for a new registration and meet all applicable qualifications.

<u>(e) This section shall not apply to Electricians.</u>

§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.

This rule has an effective date of 02-20-09.

NYC Buildings

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Statement of Substantial Need for Earlier Implementation

I hereby find, pursuant to § 1043, subdivision e, paragraph 1(c) of the New York City Charter, and hereby represent to the Mayor, that there is a substantial need for the earlier implementation of new Subchapter D and Sections §104-01 through §104-07, §104-09 and §104-22 to Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, relating to licensing and qualification and regulation of businesses, trades and occupations engaged in building work.

The rule sets forth the procedures that will govern the Department's administration of certain licensing exams and addresses license terms for licenses of various types making clear that the Commissioner maintains the authority to stagger the issuance of licenses based on considerations other than the date of issuance of the subject license, or to otherwise provide for reasonable implementation of modifications to the terms. The rule also specifies insurance amounts, applicability to specific license categories, proper documentation, and certificate requirements and updates and recognizes the need to exempt certain licensees from required workers' compensation and disability insurance requirements when the licensee has no employees. In addition, the rule specifies requirements and procedures for license reinstatement, specifying the licensees required to meet continuing education requirements, and setting forth their course requirements as well as requirements for course providers seeking Department approval. Furthermore, the rule also reflects licensee obligations such as notification of address change and notification of criminal conviction. Finally, the rule requires license applicants to take examinations as provided in Department rule and authorizes the commissioner to require hoisting machine operators to provide proof of fitness to perform authorized work as a condition to license renewal.

§104-09 contains certification requirements for certain crane operators that have been in effect via emergency rule since October 22, 2008. Therefore, in order to avoid a gap in the regulation, there is a substantial need for the earlier implementation of these rules pursuant to Charter § 1043(e)(1)(c).

Robert D. LiMandri
Commissioner
Department of Buildings

APPROVED: _____
Michael R. Bloomberg
Mayor

DATE: 2-17-09

safety **service** **integrity**

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 Title 28, Article 401 of the Administrative Code, that the Department of Buildings hereby adopts a new Subchapter D and Sections §104-01 through §104-07, §104-09 and §104-22 to Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York relating to licensing.

Matter underlined is new.

This rule was first published on December 22, 2008 and a public hearing thereon was held on January 26, 2009.

Dated: 2 · 17, 2009
New York, New York

Robert D. LiMandri
Commissioner

Section 1. Title 1 of the Rules of the City of New York is amended by adding a new Subchapter D and Sections §104-01 through §104-07, §104-09 and §104-22 to Chapter 100 of Title 1 of the Rules of the City of New York, to read as follows:

Subchapter D
Licensing and Registration of Businesses, Trades and Occupations
Engaged in Building Work

§104-01 Examinations and Other Qualifications.

(a) Definitions. For purposes of this rule, the term "license" shall include "certificate of competence" whenever such a certificate is required by Chapter 4 of title 28 of the Administrative Code.

(b) Examinations

(1) Applicability

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

(A) Site Safety Manager Certificate

(B) Private Elevator Inspection Agency Director Certificate

(C) Private Elevator Inspection Agency Inspector Certificate

(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.

(2) Examination procedures.

(i) The examination shall consist of a written and/or a practical test, and a background investigation of the applicant's character and fitness and training/experience.

(ii) Candidates must first apply for the written examination by submitting an application on a form prescribed by the Department to the Department's Licensing Unit or its designee. The application must be accompanied by the examination fee and any other required documents as set forth in the Department's rules.

(iii) Failed written test.

(A) Candidates who fail the written test must wait at least fourteen (14) days before retaking it.

(B) Each time a candidate wishes to take the written test, including after a failure, the candidate must reapply to the Department and pay the required fee as set forth in the Department's rules.

(C) Candidates may take the written test three (3) times within a six (6) month period.

(D) Candidates who fail the written test three 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.

(iv) A candidate who has been notified of failure to pass the written test may appeal such failure only if the candidate has failed by not more than

five (5) points. Such appeal must be in writing with an original signature and addressed as the Commissioner may require. The appeal must state the title of the license examination, the applicant's name, return address and social security number, the date of the test and a detailed statement of the grounds for appeal. The appeal must be received not later than thirty (30) days from the date of notification of failure to pass the license exam.

(3) Issuance of license after examination.

(i) A candidate who passes the required examination as provided in this rule and who is found to have met the qualifications of §28-401.6 of the Administrative Code, after an investigation, shall receive a notice of qualification from the Department.

(ii) Upon receipt of the notice of qualification, the applicant must contact the Department's Licensing Unit to schedule an appointment to obtain the license.

(iii) The applicant shall appear and furnish to the Department all requested original forms, documents and fees within one (1) year of the date of the Department's notice of qualification. Failure to do so within the time specified will result in the denial of the license and will require a re-examination and reapplication.

(iv) License examinations administered by other agencies. License examinations administered by other agencies for licenses regulated by the Department shall continue to be subject to such other agency's rules and regulations regarding examinations and investigations until the responsibility for administering particular licensing examinations is transferred to the Department, at which point the provisions of this rule shall apply.

(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.

(d) Investigation.

(1) The Department or its designee shall conduct an investigation of each candidate to determine the candidate's fitness and qualification for the license. An applicant's failure to meet the requirements specified by the Administrative Code or by the Department's rules, and/or an applicant's refusal to cooperate with an investigation, will result in denial of the license or certificate of competence.

(2) Candidates who refuse to provide all requested documents within six (6) months of the date of request shall be denied a license or certificate of competence.

(3) A candidate who has been notified of failure to meet the fitness and qualification requirements may request reconsideration provided that the candidate has additional relevant information or documentation for the Department's review. Such appeal must be in writing with an original signature and addressed as the Commissioner may require. The request for reconsideration must 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 be received not later than sixty (60) days from the date of notification of the denial of the license.

(e) Change of address.

(1) Candidates shall promptly notify the Department in writing of any address change that occurs after filing the license application.

(2) Failure to furnish such notification may result in denial of the license..

§104-02 Proof of required insurance.

(a) General liability insurance.

(1) The following licensees are required to submit proof of insurance prior to issuance or renewal of a license:

(i) Master Plumber

(ii) Master Fire Suppression Piping Contractor

(iii) Master Electrician

(iv) Special Electrician (to the extent of his/her employer's coverage)

(v) Rigger (Master/Special)

(vi) Sign Hanger (Master/Special)

(vii) Elevator Inspection Agency Director

(viii) General Contractors.

(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) Workers' compensation insurance and disability insurance. Holders of and applicants for the license types specified in this subdivision shall, at their expense, procure and maintain workers' compensation and disability insurance:

(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 a form demonstrating required disability insurance coverage or exemption from required coverage.

(d) Requirements for all submitted insurance certificates.

(1) Insurance certificate requirements. All submitted insurance certificates must contain the following:

(i) The licensee's license or tracking number(s).

(ii) The insurance policy number(s).

(iii) The federal Employer Identification Number of the insured or the social security number on any workers' compensation or disability certificates.

(iv) The policy holder's business address, which cannot be a post office box. The address must appear exactly as on the Department's Buildings Information System ("BIS").

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

§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 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 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) 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.

§104-04 Renewal . License renewals shall be governed by the provisions of Administrative Code §28-401.12.

§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 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 year to five 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.

(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 for Construction Superintendent, Concrete Safety Manager or General Contractor is not filed within one year of a registration's expiration, the applicant must reapply for a new registration and meet all applicable qualifications.

§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.

(2) Master Plumber.

(3) Master Fire Suppression Piping Contractor.

(4) Site Safety Manager.

(5) Site Safety Coordinator.

(6) Concrete Safety Manager.

(7) Master Electrician.

(8) Special Electrician.

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

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

(4) Site Safety Manager. During the one (1) year period immediately prior to renewal, the licensee shall have successfully completed a 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.

(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. Except for Master and Special Electricians, no more than 4 hours of any curriculum shall consist of course materials or credits to be applied to multiple license types. 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 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, relevant New York City Fire Department code provisions, rules and policies, and relevant utility regulations;

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

(vi) Safety/hazardous materials;

(viii) New technology;

(ix) Integrity/anti-corruption standard;, 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 of individuals taking any course(s) 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 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.

(d) Course approval. The Department of Buildings shall notify proposed course providers in writing of its approval. The Department may reevaluate approved courses through audit or other means at such intervals as it deems necessary and may withdraw approval or impose additional requirements.

(e) Listing of approved course providers. Approved course providers shall be listed on the Department's website.

§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 certificates of competence issued by the Department shall be held before
the Office of Administrative Trials and Hearings 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 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 commissioner. Where the 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 commissioner's order.

§104-09 Hoisting Machine Operators Class C.

(a) Applicants 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 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. 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 shall provide proof of experience demonstrating two years work, within the three 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 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 commissioner.

(b) Fitness requirements for renewal and reinstatement. As a condition of license renewal or reinstatement, a licensed or previously licensed Class 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 a valid certification(s) issued by the National Commission for the Certification of Crane Operators or an equivalent certification entity approved by the Department. The certification shall authorize the operation of the type of equipment for which the licensee is licensed 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.

(c) 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) or upon application, renewal, or re-instatement, as applicable:

(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 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 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 C Hoisting Machine Operator, such Operator shall have on-site at all times the following documents:

(1) 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; 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.

§104-22 Other obligations.

(a) Licensees shall promptly notify the Department in writing of any address change within thirty (30) days of the change.

(b) Licensees, as part of their obligation to maintain good moral character, shall notify the Department in writing of any criminal conviction within ten (10) days of the occurrence.

STATEMENT OF BASIS AND PURPOSE

This rule is adopted pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) of the New York City Charter and Title 28, Article 401 of the New York City Administrative Code. Article 401 authorizes rulemaking regarding the licensing, qualification and regulation of businesses, trades and occupations engaged in building work.

The rule sets forth the procedures that will govern the Department's administration of certain licensing exams. The rule will apply to specified license types; other license types may be added as responsibility for their administration is assumed by the Department. The rule also covers investigations of license applicants and certain administrative housekeeping matters.

In addition, the rule addresses license terms for licenses of various types and makes clear that the Commissioner maintains the authority to stagger the issuance of licenses based on considerations other than the date of issuance of the subject license, or to otherwise provide for reasonable implementation of modifications to the terms.

The rule also implements §28-401.9 by specifying insurance amounts, applicability to specific license categories, proper documentation, and certificate requirements and updates. It recognizes the need to exempt certain licensees from required workers' compensation and disability insurance requirements when the licensee has no employees.

The rule implements §28-401.13 and §28-401.14 by specifying requirements and procedures for license reinstatement, specifying the licensees required to meet continuing education requirements, and setting forth their course requirements as well as requirements for course providers seeking Department approval.

The rule also reflects miscellaneous licensee obligations not confined to the material covered in any one of the sections of Subchapter D. Such topics include notification of address change and notification of criminal conviction.

Finally, the rule contains provisions based on Sections 28-401.7 and 28-405.4 of the Administrative Code. The first requires license applicants to take examinations as provided in Department rule. The second authorizes the commissioner to require hoisting machine operators to provide proof of fitness to perform authorized work as a condition to license renewal. Recent crane accidents have prompted the City to re-assess its testing and ongoing training requirements for all persons involved in the operation of cranes, including Class C Hoisting Machine Operators. The examination for the Class C Hoisting Machine Operator license is alleged by law enforcement authorities to have been the subject of improprieties, making it necessary for the Department to take permanent steps to restore integrity to the examination and license renewal processes for this license type.

This rule has an effective date of 10-22-08.

FINDING OF IMMEDIATE THREAT

IT IS HEREBY CERTIFIED that the immediate effectiveness of the emergency rule relating to the qualifications of Class C Hoisting Machine Operators is necessary to prevent an immediate threat to health, safety and property, by addressing recently demonstrated gaps in the integrity of the license examination and renewal process for this type of crane license. I hereby make the following finding of immediate threat to health, safety and property necessary to establish that an emergency rulemaking is required in relation to the protection of health, safety and property.

On Friday, June 6, an Assistant Chief in the Department of Buildings' Cranes and Derricks unit was arrested on corruption charges for allegedly having received bribes from a crane company, having falsified crane inspection reports and having tampered with licensing exams. The Department responded in several ways, one of which was to review the Hoisting Machine Operator Class C license exams whose integrity was implicated in the alleged wrongdoing. The emergency rule reflected in this action is the product of that review. By moving to a national testing standard for this type of license and requiring it at the earliest possible time, the Department hopes to immediately enhance the qualifications and training of Class C Operators and to address the sort of compromise of integrity alleged to have occurred in the administration of the Class C exam to date.

IT IS THEREFORE HEREBY CERTIFIED that the immediate effectiveness of a rule relating to the qualifications of Class C Hoisting Machine Operators is necessary to address an immediate threat to health, safety and property.

Dated: October 14, 2008

ROBERT D. LiMANDRI
COMMISSIONER-DESIGNATE OF
BUILDINGS

APPROVED:

MICHAEL R. BLOOMBERG
MAYOR

NOTICE OF ADOPTION OF EMERGENCY RULE RELATING TO QUALIFICATIONS OF CLASS C HOISTING MACHINE OPERATORS

Pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) of the New York City Charter and sections 28-401.6, 28-401.7, 28-405.3.3 and 28-405.4 of the New York City Administrative Code, notice is hereby given of the adoption of the following emergency rules, effective immediately, relating to qualifications of Class C Hoisting Machine Operators

New material is underlined.

Section 1. Chapter 104 of Title 1 of the Rules of the City of New York is amended by adding a new subchapter D to read as follows:

Subchapter D
Licensing and Registration of Businesses, Trades and Occupations
Engaged in Building Work

§104-09 Hoisting Machine Operators Class C

(a) Applicants 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 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. 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 shall provide proof of experience demonstrating two years work, within the three 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. At least one 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 commissioner.

(b) Fitness requirements for renewal and reinstatement. As a condition of license renewal or reinstatement, a licensed or previously licensed Class 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 a valid certification(s) issued by the National Commission for the Certification of Crane Operators or an equivalent certification entity approved by the Department. The certification shall authorize the operation of the type of equipment for which the licensee is licensed 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.

(c) 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) or upon application, renewal, or re-instatement, as applicable:

(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 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 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 C Hoisting Machine Operator, such Operator shall have on-site at all times the following documents:

(1) 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; 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.

STATEMENT OF BASIS AND PURPOSE

This rule is adopted pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) and (h) of the New York City Charter and sections 28-401.7 and 28-405.4 of the New York City Administrative Code.

The proposed rule is based on Sections 28-401.6, 28-401.7, 28-405.3.3 and 28-405.4 of the Administrative Code. The first two sections require license applicants to satisfy qualification requirements in addition to those prescribed by statute and to take examinations as provided in Department rule. Section 28-405.3.3 governs experience requirements for Class C Hoisting Machine Operators, and 28-405.4 authorizes the commissioner to require Hoisting Machine Operators to provide proof of fitness to perform authorized work as a condition to license renewal.

Recent crane accidents have prompted the City to re-assess its oversight of crane operations. The review covers testing, experience and ongoing training requirements for all persons involved in the operation of cranes, including Class C Hoisting Machine Operators. The examination for the Class C Hoisting Machine Operator license is alleged by law enforcement authorities to have been the subject of improprieties, making it necessary for the Department to take immediate steps to restore integrity to the examination and license renewal and reinstatement processes for this license type. This rulemaking accomplishes that purpose by substituting for the Department-administered examination previously given to Class C Hoisting Machine Operators an examination given by a national certification entity as part of its certification process for operators of the type of equipment operated by Class C Hoisting Machine Operators. The Department finds it necessary to apply the new requirement to all holders of Class C licenses, including those who have renewed their license since the July 1, 2008 effective date of the New York City Construction Codes, by giving these licensees until September 30, 2009 to comply. The Department further finds it necessary to authorize the commissioner to accelerate the date by which compliance with this rule will be required to account for circumstances, such as the recent indictment for examination-related improprieties, of a crane company employing licensees. Under such circumstances, the Department is empowered for good cause to require that licensees associated with the company either confirm their qualifications or fulfill the new examination requirement on an accelerated schedule. In addition, the Department finds it necessary to require that new applicants for a Class C Hoisting Machine Operator license demonstrate experience in operating cranes in dense urban conditions, and thus requires in this rulemaking that such applicants have acquired at least a portion of their qualifying experience in New York City or in an urban area of comparable density as determined by the Department.