

NEW YORK CITY DEPARTMENT OF BUILDINGS

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Buildings (DOB) proposes to add a new Section 104-26 to Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York ("RCNY"), which will allow DOB licensees to deactivate their licenses while remaining active in their respective trades.

When and where is the hearing? DOB will hold a public hearing on the proposed rule. The public hearing will take place at 10am on 7/8/16. The hearing will be in the 3rd floor conference room at 280 Broadway.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the DOB through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.
- **Fax.** You can fax comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-393-2085. You can also sign up in the hearing room before the hearing begins on 7/8/16. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by 7/8/16.

Do you need assistance to participate in the hearing? You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail or email at the addresses given above. You may also tell us by telephone at 212-393-2085. You must tell us by 7/1/16.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments and a summary of oral comments concerning the proposed rule will be available to the public at the Office of the General Counsel.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter, and Section 28-401.22 of the Administrative Code of the City of New York, authorize DOB to make this proposed rule. This proposed rule was not included in DOB's regulatory agenda for this Fiscal Year because it was not contemplated when DOB published the agenda.

Where can I find the DOB's rules? The DOB's rules are in Title 1 of the Rules of the City of New York.

What rules govern the rulemaking process? DOB must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose

The Department of Buildings (DOB) proposes to add a new Section, 104-26, to Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York ("RCNY"), which will allow DOB licensees to deactivate their licenses while remaining active in their respective trades. DOB is proposing this rule in response to industry concerns about the operating cost of maintaining licensure while the licensee is not actively practicing as a licensee for business or other reasons.

The proposed rule would allow licensees to hold their deactivated licenses without requiring them to carry on businesses and carry insurance, which will relieve them of many of the costs associated with maintaining an active license. However, these licensees would still be required to renew their licenses and pay the DOB-related costs of holding their deactivated licenses.

Although a licensee who chooses to deactivate his or her license may continue to work in the licensed trade under the supervision of an active licensee, he or she may not practice in the trade or business as a licensee or hold him or herself out as a licensee while the license is deactivated.

The proposed rule omits Filing Representatives, Construction Superintendents, Concrete Safety Managers, General Contractors and Safety Registrations because members of these trades are not permitted to work under the direction of other licensees. Electricians are also omitted because deactivation of their licenses is already permitted by existing provisions of the Electrical 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. Subchapter D of chapter 11 of title 1 of the Rules of the City of New York is amended by adding a new section 104-26, to read as follows:

§ 104-26 Deactivation of License.

If the holder of a license issued pursuant to section 28-401.10 of the Administrative Code is no longer engaged in a business or trade licensed by the department, but does not wish to leave the licensed trade, the license holder may so notify the department and submit his or her license and seal to the department for deactivation. If the licensee deactivates such license, the deactivated license shall no longer represent an authorization to engage in a particular trade, occupation, or business. While a licensee who chooses to deactivate his or her license may continue to work in the licensed trade under the supervision of an active licensee, he or she may not practice in the trade or business as a licensee or hold him or herself out as a licensee while the license is deactivated.

(a) Applicability. This section applies to Master Plumbers, Master Fire Suppression Piping Contractors, High Pressure Boiler Operating Engineers, Welders, Riggers, Sign Hangers, Oil Burners, Site Safety Managers, Hoist Machine Operators, Private Elevator Inspection Agency Inspectors and Private Elevator Inspection Agency Directors.

(b) Deactivation. A license can remain deactivated for a maximum of twelve years after the date of deactivation. If a licensee fails to reactivate a license after this twelve year period, the deactivated license will lapse. In order to deactivate a license, at the time of application for deactivation, the licensee must ensure that:

(1) All outstanding fines, penalties, or fees related to the licensee's professional dealings with the city or any governmental entity are paid, and

(2) There are no violations for work performed under such license pending hearing or in default, and

(3) Open applications filed under such license – including permits, jobs, scaffold notifications, and Limited Alteration Applications (LAAs) that name the licensee, as well as permits issued to the licensee – have been scheduled for inspection in accordance with department procedures, re-filed by another licensee, or withdrawn, and

(4) He or she surrenders his or her license card, plate and/ or seal, if applicable.

(c) Deactivation renewal. While the license is deactivated, the licensee must still submit a renewal application, continue to pay the license renewal fees required during each deactivation period, take any required continuing education courses and maintain certifications required by rule. If the licensee submits the renewal application after the date on which the license would have otherwise expired, the licensee must comply with the relevant provisions of Administrative Code section 28-401.13, and any other applicable rules and regulations.

If a license has been deactivated for more than five, but fewer than twelve, years:

(1) At renewal, the commissioner may require the licensee submit an affidavit and supporting documentation satisfactory to the department stating that, during each of the last three years, the individual has continuously been actively and legally engaged in the trade for which the applicant's license was issued, under the direct supervision of a licensee for their specific trade in order to prevent the deactivated license from expiring.

(2) If the licensee cannot satisfactorily demonstrate active and legal engagement in the relevant trade, in order to prevent the license from expiring, the licensee must reactivate the license for at least one license term. If the license expires, applicants must comply with late renewal and reinstatement requirements of Administrative Code section 28-401.13, and any other applicable rules and regulations.

(d) Reactivation. To reactivate a license, the licensee must comply with the license issuance requirements for his or her specific trade, pay all applicable fees, and submit all forms as prescribed by the commissioner.

(1) If the licensee has complied with the deactivation requirements of this rule, the license may be reactivated up to five years after the date of deactivation.

(2) The department may refuse to reactivate a license on any grounds on the basis of which it could deny, suspend or revoke such license.

(e) Master Plumbers and Master Fire Suppression Piping Contractors must also comply with the certificate of competence requirements of Chapter 4 of Title 28 of the Administrative Code.

PROPOSED

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Deactivation of Buildings Trade Licenses

REFERENCE NUMBER: 2016 RG 011

RULEMAKING AGENCY: Department of Buildings

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: March 15, 2016

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Deactivation of Buildings Trade Licenses

REFERENCE NUMBER: DOB-77

RULEMAKING AGENCY: Department of Buildings

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

March 15, 2016
Date