



Promulgation Details for 1 RCNY 104-26

This rule amendment became effective on October, 03, 2016.

Statement of Basis and Purpose

The Department of Buildings (DOB) is adding 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 allows DOB licensees to deactivate their licenses while remaining active in their respective trades. DOB is promulgating 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 rule allows 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 are still 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 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 If the licensee deactivates such license, the deactivated license shall no longer represent an authorization to engage in a particular trade, occupation, or business.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.