

## 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) is proposing to exempt operators of certain cranes of a limited size and capacity from licensing requirements.

**When and where is the hearing?** DOB will hold a public hearing on the proposed rule. The public hearing will take place at 2pm on 8/17/17. The hearing will be in the 3<sup>rd</sup> floor conference room at 280 Broadway.

**This location has the following accessibility option(s) available:** Wheelchair accessibility.

**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 website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [dobrules@buildings.nyc.gov](mailto:dobrules@buildings.nyc.gov).
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7<sup>th</sup> 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 8/17/17. You can speak for up to three minutes.

**Is there a deadline to submit comments?** Yes, you must submit comments by 8/17/17.

**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 8/3/17.

**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

article 405 of chapter 4 of title 28 of the New York City Administrative Code 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 DOB's rules?** 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 of Rule**

Section 28-405.1 of article 405 of chapter 4 of title 28 of the New York City Administrative Code ("Article 405") authorizes the department to exempt, via rule, "operators of mobile cranes of a limited size and capacity" from licensing requirements that would ordinarily apply to any person who takes charge or operates any power-operated hoisting machine used for hoisting purposes or cableways. The proposed amendment to paragraph (1) of subdivision (i) of section 3319-01 of title 1 of the Rules of the City of New York, which contains such licensing exemptions, would add a new exemption #7.

Specifically, the proposed amendment would exempt mobile cranes with a telescopic or hydraulic boom, including jibs and any other extensions to the boom, not exceeding 50 feet (15.24 m) in length with a manufacturer's rated capacity of 3 tons (2.72 t) or less, otherwise known as "mini cranes", from the licensing requirements of Article 405, so long as the operator has completed a manufacturer or nationally-recognized certification program that is acceptable to the department. The licensing requirements in Article 405 require a person to be licensed as a hoisting machine operator in order to operate a hoisting machine, and require 2 to 3 years of experience training under a licensed hoisting machine operator in order to obtain a license.

The proposed amendment addresses the use of mini cranes in the construction industry, which represent a new and evolving class of technology, but do not fit into the current licensing classifications of Article 405, which are predominately geared towards larger cranes.

The proposed amendment would sunset on January 1, 2022. In the meantime, the department will pursue legislation to create a new licensing class specifically for mini cranes. The department will also count experience obtained using a mini crane while the proposed exemption is in place towards qualification to obtain the mini crane license.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and article 405 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. Paragraph (1) of subdivision (i) of section 3319-01 of Chapter 3300 of Title 1 of the Rules of the City of New York is amended by adding a new exception number 7 to read as follows:

7. On or before January 1, 2022, operators of mobile cranes with telescoping or hydraulic booms, including jibs and any other extensions to the boom, not exceeding 50 feet (15.24 m) in length with a manufacturer’s rated capacity of 3 tons (2.72 t) or less, provided:

7.1. The work does not meet the definition of a critical pick as set forth in section 3302.1 of the Building Code;

7.2. The work is not related to steel erection; and

7.3. The operator holds a valid certification for the operation of the crane, acceptable to the commissioner, issued by the manufacturer of the crane for the specific make and model of crane to be operated; or

7.4. The operator holds a valid certification for the operation of a mini crane issued by an organization acceptable to the commissioner and accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI).

**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:** Exemption of Operators of Mobile Cranes  
of a Limited Size and Capacity from Licensing Requirements

**REFERENCE NUMBER:** 2017 RG 058

**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

June 30, 2017  
Date

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

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

**RULE TITLE: Exemption of Operators of Mobile Cranes of a Limited Size and Capacity  
from Licensing Requirements**

**REFERENCE NUMBER: DOB-93**

**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

June 30, 2017  
Date