


**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 new Section 104-23 in Chapter 100 and the amendment to Section 3319-01 of Chapter 3300 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding the training of individuals learning to become a hoisting machine operator.

This rule was first published on October 18, 2017 and a public hearing thereon was held on November 17, 2017

Dated: 11.28.17  
New York, New York

  
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Rick D. Chandler, P.E.  
Commissioner

### **Statement of Basis and Purpose of Rule**

This rule proposes to establish criteria governing the training of individuals learning to become a hoisting machine operator by adopting requirements of the United States Department of Labor Occupational Safety and Health Administration (OSHA) contained in 29 CFR 1926.1427(f) and making modifications for New York City. The purpose of this rule is to ensure protection of the general public.

The New York City specific modifications include:

- Establishing basic knowledge requirements for learners
- Requiring the supervising licensee to be present in or near the cab or operator's station when the learner is operating a tower crane
- Prohibiting a learner from operating a hoisting machine when the supervising licensee is on break
- Clarifying that the supervising licensee is responsible for performing New York City mandated inspections and maintain New York City mandated logs
- Prohibiting a learner from performing multiple-lift rigging operations, critical picks, or any operation related to the erection, climbing, jumping, or dismantling of a tower crane
- Clarifying the scope of equipment that can be operated and supervised based on the license type being sought and the license held by the supervising licensee

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. Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new Section 104-23, to read as follows:

#### **§104-23 Hoisting machine operator learners and supervision of learners.**

**(a) Applicability.** The operation of hoisting machines by a learner must be in accordance with the requirements of this section.

**(b) Definitions.** For the purposes of this section, the following terms have the following meanings:

Hoisting machine. See Section 3302.1 of the New York city building code.

Hoisting machine operator. An individual licensed as a hoisting machine operator in accordance with Article 405 of Chapter 4 of Title 28 of the New York city administrative code.

Learner. An individual learning to become a hoisting machine operator.

Supervising licensee. The hoisting machine operator who is supervising the learner.

**(c) Basic requirements for learners.** Learners must, at a minimum:

- (1) Be at least 18 years of age;
- (2) Hold a valid driver's license;
- (3) Be able to communicate in the language of the supervising licensee;
- (4) Be able to read plans and load charts;
- (5) Be familiar with the controls, operating characteristics, and emergency procedures of the hoisting machine to be operated; and
- (6) Meet the physical qualifications of section 5-3.1.2(a) of ASME B 30.5-2014, as verified by passing a physical exam and a substance abuse test.

**(d) Supervision by licensee.** The learner must be in the presence of and under the direct supervision of a licensed hoisting machine operator during all times the learner is operating the hoisting machine, as follows:

- (1) The supervising licensee and the learner must be in direct communication with each other, either verbally or by hand signals, at all times; and
- (2) For hoisting machines other than tower cranes, the supervising licensee and the learner must be in the direct line of sight of each other at all times. For a tower crane, the supervising licensee must be present in or near the crane cab or operators station.

**(e) Breaks.** The learner may not operate the hoisting machine when the supervising licensee is on a break. The hoisting operation must stop and the hoisting machine must be properly secured before the supervising licensee goes on break.

**(f) Responsibility of supervising licensee.** The supervising licensee must:

(1) Ensure the learner safely operates the hoisting machine in accordance with all department regulations, manufacturer specifications, and approved permits or certificates; and

(2) Perform the frequent inspection and the parking/securing inspection for the crane or derrick in accordance with subdivision (k) of section 3319-01 of these rules and maintain the log for the crane or derrick in accordance with subdivision (h) of section 3319-01 of these rules.

(g) **Authority to stop operation.** The supervising licensee has the authority to issue orders to the learner, order the learner to stop operation, and, if necessary, prohibit the learner from operating the hoisting machine.

(h) **Attention to monitoring.** While supervising the learner, the supervising licensee may not perform any tasks that detract from his or her ability to monitor the learner.

(i) **Tasks within learners ability.** The tasks performed by the learner while operating the hoisting machine must be within the learner's ability.

(j) **Restrictions on learners operation.** The learner may not operate a hoisting machine in any of the following circumstances:

(1) If any part of the hoisting machine, load line, or load (including rigging and lifting accessories), if operated up to the hoisting machine's maximum working radius in the work zone as established by clause (A) of subparagraph (ii) of paragraph (3) of subdivision (s) of section 3319-01 of these rules, could get within 20 feet of a power line that is up to 350 kV, or within 50 feet of a power line that is over 350 kV;

(2) If the hoisting machine is used to hoist personnel;

(3) In multiple-equipment lifts;

(4) If the hoisting machine is used over a shaft, cofferdam, or in a tank farm;

(5) In multiple-lift rigging operations;

(6) If the pick is a critical pick as defined in Section 3302.1 of the New York city building code; or

(7) If the operation is related to the erection, climbing, jumping, or dismantling of a tower crane.

(k) **Type, size, and capacity of hoisting machine supervised is within scope of license.** Licensed hoisting machine operators may only supervise the operation of a learner on hoisting machinery that is authorized to be operated by the licensee, and where a certification for the operation of a type of hoisting machine has been established in rules promulgated by the

commissioner, the licensee possesses the certification for that type of hoisting machine, and such certification has been listed on the hoisting machine operator's license by the department.

**(l) Type, size, and capacity of hoisting machine operated by learner to be within scope of license sought. The learner may only operate hoisting machinery that is authorized by the scope of the license sought. Only a person who possesses a Class A hoisting machine operator license may operate as a learner on hoisting machinery that is authorized to be operated only by a Class B hoisting machine operator.**

§2. Exception number 3 to Paragraph (1) of Subdivision (i) of Section 3319-01 of Title 1 of the Rules of the City of New York is hereby amended to read as follows:

3. Learners in the presence of and under the direct supervision of a licensed operator[.] in accordance with section 104-23 of these rules.

