

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on a proposed rule amendment relating to violation reclassification.

Date / Time: December 1, 2011/ 10am

Location: Department of Buildings
280 Broadway, 6th Floor Training Room
New York, NY 10007

Contact: Chantal Senatus
Assistant General Counsel
New York City Department of Buildings
280 Broadway, 7th floor
New York, NY 10007

Proposed Rule Amendment

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 sections 27-3021.2, 28-201.2 and 28-204.1 of the New York City Administrative Code, the Department of Buildings proposes to amend subdivisions (i) and (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York. Matter underlined is new; matter [in brackets] is deleted. The rule was not included in the agency's most recent regulatory agenda.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment to Ms. Senatus by mail or electronically through NYCRULES at www.nyc.gov/nycrules by December 1, 2011
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Ms. Senatus by November 9, 2011
- Written comments and a summary of oral comments received at the hearing will be available until January 2, 2012 between the hours of 9:00 a.m. and

5:00 p.m. at the Office of the Commissioner, Department of Buildings, 280 Broadway, 7th floor, New York, NY 10007.

Statement of Basis and Purpose

Statutory Authority

The following rule amendments are proposed pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter.

Pursuant to Local Law 39 of 2011, under Section 27-3021.2 of the New York City Administrative Code ("Administrative Code"), the Department may use any enforcement actions available to it under Chapter 2 of Title 28 of the Administrative Code for violations of the provisions of the New York City Electrical Code (Chapter 3 of Title 27 of the Administrative Code). The portion of Local Law 39 of 2011 amending Section 27-3021.2 will become effective March 1, 2012.

The Proposed Rule

The proposed rule amendments create violations for 35 different types of common Electrical Code conditions that Department of Building inspectors find in the field. These violations will discourage illegal work and provide incentives to electricians and others in the industry to comply with the standards and requirements of the Electrical Code. Currently Department of Building inspectors can only note that a condition must be corrected but cannot issue a violation to compel correction. This proposed rule will also bring the electrical trade in line with the plumbing, mechanical, and construction trades which are all currently subject to violations.

The Department assigned a classification to each violation based on its seriousness. Under subsection (b) of the Rule the classifications are:

- (1) Immediately Hazardous Violation (Class 1):** Where the condition poses an immediately hazardous threat that severely affects life, health, safety, property, or the public interest, so as to warrant immediate corrective action.
- (2) Major Violation (Class 2):** Where the condition poses a threat that affects life, health, safety, property, or the public interest but does not warrant immediate corrective action.
- (3) Lesser Violation (Class 3):** Where the condition is neither an immediately hazardous nor a major violation.

Where there is more than one severity classification for the same charge, the issuing officer will determine which severity level to charge based on the condition observed.

Specifically, the proposed amendments:

- Reference the Electrical Code and its provisions for the purposes of issuing ECB violations. The Electrical Code is contained in Chapter 3 of Title 27 of the NYC Administrative Code.

The administrative infractions are listed under their respective Administrative Code Section, 27-3XXX.

- Create a new subdivision of technical infractions

The technical infractions are listed under a new subdivision of “EC” infractions. In 2001, the Department first adopted the National Fire Protection Association’s NFPA 70 National Electrical Code (also known as the “National Electrical Code”) and then created NYC-specific amendments. Section 27-3025 of the NYC Administrative Code (also known as the “New York City amendments to the National Electrical Code”), together with the National Electrical Code, are also known as the “Electrical Code Technical Standards.”

- Create classifications and descriptions for the more common violations of the Electrical Code.

Section 1. Paragraph (2) of subdivision (i) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended and a new paragraph (8) is added, to read as follows:

(2) Chapter 1 of Title 27 of the NYC Administrative Code (also known as the “1968 Building Code”) and Chapter 3 of the same (also known as the “Electrical Code”). References to these chapters of title 27 of the NYC Administrative Code begin with “27-“ (for example, “27-371”). The citation “27-Misc.” refers to provisions of Title 27 that are not specifically designated elsewhere in the table.

(8) Electrical Code Technical Standards. References to sections of the National Fire Protection Association NFPA 70 National Electrical Code as adopted and/or amended by New York City begin with “EC” (for example, “EC 250.14”). The citation “EC-Misc” refers to provisions of the Electrical Code Technical Standards that are not specifically designated elsewhere in the table.

§ 2. Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to the NYC Electrical Code, as follows:

Section of Law	Classification	Violation Description
<u>27-3017</u>	<u>Class 1</u>	<u>Performed unlicensed electrical work.</u>
<u>27-3018(b)</u>	<u>Class 1</u>	<u>Electrical work without a permit.</u>
<u>27-3018(b)</u>	<u>Class 2</u>	<u>Electrical work without a permit.</u>
<u>27-3018(b)</u>	<u>Class 3</u>	<u>Electrical work without a permit.</u>
<u>27-3018(b)</u>	<u>Class 3</u>	<u>Failure to conspicuously post electrical work permit while work is in progress.</u>
<u>27-3018(b)</u>	<u>Class 1</u>	<u>Electrical work does not conform to approved submittal documents/amendments.</u>
<u>27-3018(b)</u>	<u>Class 2</u>	<u>Electrical work does not conform to approved submittal documents/amendments.</u>
<u>27-3018(b)</u>	<u>Class 3</u>	<u>Electrical work does not conform to approved submittal documents/amendments.</u>
<u>27-3018(i)</u>	<u>Class 2</u>	<u>Installed more than the authorized number of electric meters.</u>
<u>EC-Misc</u>	<u>Class 1</u>	<u>Miscellaneous violation of the Electrical Code Technical Standards.</u>
<u>EC-Misc</u>	<u>Class 2</u>	<u>Miscellaneous violation of the Electrical Code Technical Standards.</u>
<u>EC-Misc</u>	<u>Class 3</u>	<u>Miscellaneous violation of the Electrical Code Technical Standards.</u>
<u>EC 110.12</u>	<u>Class 3</u>	<u>Failure to close unused openings (knockouts) in outlet/panel box.</u>
<u>EC 110.14(A)</u>	<u>Class 2</u>	<u>Failure to properly connect conductors to terminals</u>
<u>EC 110.2(A)</u>	<u>Class 1</u>	<u>Unapproved/unsafe/unsuitable electrical equipment, apparatus, materials, devices, appliances or wiring in use</u>
<u>EC 110.2(A)</u>	<u>Class 2</u>	<u>Unapproved/unsafe/unsuitable electrical equipment, apparatus, materials, devices, appliances or wiring in use</u>

<u>EC 110.2(B)</u>	<u>Class 2</u>	<u>Constructed electrical installation without required commissioner's approval per section.</u>
<u>EC 110.2</u>	<u>Class 2</u>	<u>Failure to use approved conductors and/or equipment.</u>
<u>EC 110.2</u>	<u>Class 3</u>	<u>Failure to use approved conductors and/or equipment.</u>
<u>EC 110.25</u>	<u>Class 1</u>	<u>Electrical closet not dedicated to electrical distribution equipment only.</u>
<u>EC 110.25</u>	<u>Class 2</u>	<u>Electrical closet not dedicated to electrical distribution equipment only.</u>
<u>EC 110.25</u>	<u>Class 3</u>	<u>Electrical closet not dedicated to electrical distribution equipment only.</u>
<u>EC 110.26</u>	<u>Class 2</u>	<u>Failure to provide/maintain sufficient access/work space about electrical equipment.</u>
<u>EC 210.12(B)</u>	<u>Class 2</u>	<u>Failure to provide Arc-fault circuit interrupter (AFCI) protection in dwelling units.</u>
<u>EC 210.52(A)</u>	<u>Class 3</u>	<u>Failure to provide proper spacing between receptacle outlets.</u>
<u>EC 210.8</u>	<u>Class 2</u>	<u>Failure to install Ground-fault circuit interrupter (GFCI) protection as required.</u>
<u>EC 230.72(A)</u>	<u>Class 1</u>	<u>Failure to properly group/label disconnects.</u>
<u>EC 230.72(A)</u>	<u>Class 2</u>	<u>Failure to properly group/label disconnects.</u>
<u>EC 240.3</u>	<u>Class 1</u>	<u>Failure to provide adequate circuit overcurrent protection device per table</u>
<u>EC 240.3</u>	<u>Class 2</u>	<u>Failure to provide adequate circuit overcurrent protection device per table</u>
<u>EC 240.3</u>	<u>Class 3</u>	<u>Failure to provide adequate circuit overcurrent protection device per table</u>
<u>EC 240.4</u>	<u>Class 1</u>	<u>Failure to protect conductor(s) against overcurrent per EC.</u>
<u>EC 240.4</u>	<u>Class 2</u>	<u>Failure to protect conductor(s) against overcurrent per EC.</u>
<u>EC 240.21</u>	<u>Class 2</u>	<u>Tap conductors not in compliance with section.</u>
<u>EC 250.4</u>	<u>Class 1</u>	<u>Failure to ground electrical systems</u>
<u>EC 250.4</u>	<u>Class 1</u>	<u>Failure to properly bond electrical systems.</u>
<u>EC 250.4</u>	<u>Class 2</u>	<u>Failure to properly bond electrical systems.</u>

<u>EC 250.4</u>	<u>Class 3</u>	<u>Failure to properly bond electrical systems</u>
<u>EC 250.4</u>	<u>Class 2</u>	<u>Failure to provide adequate grounding of electrical systems.</u>
<u>EC 250.64</u>	<u>Class 1</u>	<u>Failure to install grounding electrode conductor in accordance with section.</u>
<u>EC 300.10</u>	<u>Class 2</u>	<u>Fail to provide effective electrical continuity for metal raceways/enclosures/cable armor.</u>
<u>EC 300.11</u>	<u>Class 2</u>	<u>Failure to secure/support raceways/cable assemblies/boxes/cabinets/fittings.</u>
<u>EC 314.23</u>	<u>Class 3</u>	<u>Failure to secure electrical device enclosure per section requirement</u>
<u>EC 314.25</u>	<u>Class 2</u>	<u>Failure to provide cover/faceplate/lampholder/luminaire canopy for electrical outlet.</u>
<u>EC 358.12</u>	<u>Class 2</u>	<u>Prohibited use of electrical metallic tubing (EMT).</u>
<u>EC 358.30</u>	<u>Class 2</u>	<u>Failure to properly secure/support electrical metallic tubing (EMT)</u>
<u>EC 408.4</u>	<u>Class 3</u>	<u>Failure to provide required circuit directory/identification.</u>
<u>EC 410.30</u>	<u>Class 2</u>	<u>Luminaires and Lampholders not installed in an approved manner.</u>
<u>EC 590.4(G)</u>	<u>Class 2</u>	<u>Improper splicing of temporary wiring</u>
<u>EC 590.4(J)</u>	<u>Class 1</u>	<u>Failure to provide proper support for temporary wiring.</u>
<u>EC 590.4(J)</u>	<u>Class 1</u>	<u>Failure to protect temporary wiring from improper contact per section.</u>

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

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

RULE TITLE: Amendment of Violation Classifications (Electrical Code)

REFERENCE NUMBER: 2011 RG 079

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: October 13, 2011

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526**

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

RULE TITLE: Amendment of Violation Classifications (Electrical Code)

REFERENCE NUMBER: DOB-21

RULEMAKING AGENCY: DOB

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) Provides a cure period for Class 3 Violations and some Class 2 Violations, and does not provide a cure period for Class 1 Violations and some Class 2 Violations because a cure period would run counter to the proposed rule's goal of preventing immediate risks to public safety.

/s/ Francisco Navarro
Mayor's Office of Operations

October 13, 2011
Date