

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 amend the rule regarding timeframes for filing elevator inspection reports and certificates of correction.

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 3/19/14. 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 written comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail written 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 written comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.
- **By 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 3/19/14. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by 3/19/14.

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 3/12/14.

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, written comments and a summary of oral comments received at the hearing 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 sections 28-304.6.4, 28-304.6.5 and 28-304.6.6 of the 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 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 of Proposed Rule

On December 30, 2013, Local Law 141 was signed by the Mayor. Local Law 141 amends the Administrative Code of the City of New York, the New York City Plumbing Code, the New York City Building Code, the New York City Mechanical Code and the New York City Fuel Gas Code to bring these codes up to date with the 2009 editions of the International Building, Mechanical, Fuel Gas and Plumbing Codes. Certain provisions of that local law went into effect immediately. Among them were sections 28-304.6.4, 28-304.6.5 and 28-304.6.6 of the Administrative Code, which deal with elevator inspections and tests.

These provisions changed the timeframe for filing inspection and testing reports as well as certificates of correction. This change was made to increase industry compliance by providing a more practical and adequate amount of time to correct defects and file a report. Rule 103-02 is being amended to reflect the new provisions enacted by Local Law 141.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and sections 28-304.6.4, 28-304.6.5 and 28-304.6.6 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 (3) of subdivision (c) of section 103-02 of the rules of the city of New York is amended to read as follows:

(3) Filing deadline. For category 1, 3, and 5 periodic elevator inspection and test reports, [forty-five (45) calendar] sixty (60) days from the date of the inspection and test.

§2. Subdivision (e) of section 103-02 of the rules of the city of New York is amended to read as follows:

(e) Correction of defects and affirmation of correction filing requirements. In accordance with Section 28-304.6.6 of the Administrative Code, all defects found [and reported] on a category 1 periodic inspection and test [reports] shall be corrected within [forty five (45) business] one hundred twenty (120) days of the [filing of the report] inspection and test conducted by an approved elevator inspection agency or owner, with the exception of all hazardous conditions, which shall be corrected immediately. Within [fifteen (15) business days following such forty five (45) day period] sixty (60) days of the date of correction, an affirmation of correction stating that all found and reported defects have been corrected shall be filed by same with the department on such forms and in such a manner as prescribed by the commissioner. Failure to comply with this subdivision shall be deemed a major violation.

§3. Paragraphs (3) and (4) of subdivision (h) of section 103-02 of the rules of the city of New York is amended to read as follows:

(3) Failure to file the affirmation of correction. An owner who fails to correct the defects within the applicable time after the inspection and test and to file the [elevator] affirmation of correction within twelve (12) months from the date the affirmation was due, stating that all category 1 defects found [and reported] on the inspection and test report have been corrected pursuant to Section 28-304.6.6 of the Administrative Code and subdivision (e) of this section, shall be liable for a civil penalty of one thousand dollars (\$1000.00) per elevator.

(4) Untimely filing of the affirmation of correction. An owner who fails to correct the defects within the applicable time after the inspection and test and to file such affirmation within sixty (60) business days from the [filing of such report] date of correction in accordance with subdivision (e) of this section, shall be liable for a civil penalty of fifty dollars (\$50.00) per month, per elevator, commencing on the day following the date the affirmation was due and ending on the date of submission of the affirmation. The total penalty shall not exceed six hundred dollars (\$600.00) per elevator.

§4. Paragraphs (3) and (4) of subdivision (i) of section 103-02 of the rules of the city of New York are amended to read as follows:

(3) Failure to file the affirmation of correction. An owner who fails to correct the defects within the applicable time after the inspection and test and to file the [elevator] affirmation of correction within twelve (12) months from the date the affirmation was due, stating that all category 1 defects found [and reported] on the inspection and test report have been corrected pursuant to Section 28-304.6.6 of the Administrative Code and

subdivision (e) of this section, shall be liable for a civil penalty of three thousand dollars (\$3000.00) per elevator.

(4) Untimely filing of the affirmation of correction. An owner who fails to correct the defects within the applicable time after the inspection and test and to file such affirmation within sixty (60) business days from the [filing of such report]date of correction in accordance with subdivision (e) of this section, shall be liable for a civil penalty of one hundred and fifty dollars (\$150.00) per month, per elevator, commencing on the day following the date the affirmation was due and ending on the date of submission of the affirmation. The total penalty shall not exceed one thousand eight hundred dollars (\$1800.00) per elevator.

**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: Filing of Elevator Inspection Reports and Certificates of Correction

REFERENCE NUMBER: DOB-48

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/ Ruby B. Choi
Mayor's Office of Operations

2/4/2014
Date

**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: Filing of Elevator Inspection Reports and Certificates of Correction

REFERENCE NUMBER: 2014 RG 003

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: February 4, 2014