

## 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 1 RCNY 104-09 to add ratings for class B licensed hoisting machine operators.

**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 11/20/17. The hearing will be in the 3<sup>rd</sup> 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 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 11/20/17. You can speak for up to three minutes.

**Is there a deadline to submit comments?** Yes, you must submit comments by 11/20/17.

**What if I 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. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by 11/6/17.

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

**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 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 laws 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**

This proposed amendment to 1 RCNY 104-09 adds a new subdivision (h) to implement the requirement of Local Law 80 of 2017 for Class B hoisting machine operators (HMOs) to earn a rating. Under the current code, Class B HMOs are authorized to operate cranes of unlimited boom length. Local Law 80 of 2017 limits Class B HMOs to the operation of cranes of boom lengths up to 300 feet unless they have earned a rating to operate longer booms. The local law requires ratings to be issued for specific makes and models of cranes upon the completion of a practical exam, simulator training or other appropriate means as specified in the rule.

The Department of Buildings' authority for these rules is found in sections 643 and 1043(a) 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 104-09 of Title 1 of the Rules of the City of New York is amended by adding a new subdivision (h) to read as follows:

(h) Ratings for class B licensed hoisting machine operators. In addition to satisfying the requirements as set forth in subdivisions (a) through (g) of this section, Class B Licensed Hoisting Machine Operators must possess one or more ratings when required by Section 28-405.2 of the Administrative Code.

(1) Prerequisites to obtain rating. To apply for a rating the Class B Licensed Hoisting Machine Operator must demonstrate to the satisfaction of the Commissioner that he or she has successfully completed, for the make and model of hoisting machine for which the rating is sought, the following:

(i) A course of at least 8 hours in length that meets the following requirements:

(A) The course must be conducted by the manufacturer of the hoisting machine, an entity authorized by the manufacturer of the hoisting machine, a registered New York State Department of Labor apprenticeship training program, an educational institution or school chartered by the New York State Department of Education, or an entity acceptable to the Commissioner.

(B) The course must be presented by an instructor who has been trained by the manufacturer of the hoisting machine.

(C) The course must, at a minimum, include instruction on the following topics:

1. The controls of the hoisting machine, including differences in controls based on operation mode;
2. The computer systems of the hoisting machine, including setup of the computer to match the configuration of the hoisting machine;
3. Operational aids and safety devices of the hoisting machine;
4. Wind and weather restrictions for the hoisting machine, including differences based on configuration, with emphasis on requirements when set up in configurations with a boom or boom/jib combination greater than 300 feet (91.44 m) in length; and
5. The procedures to boom-up, jackknife, and laydown the boom or boom/jib combination of the hoisting machine, including differences based on configuration, with emphasis on requirements when set up in configurations with a boom or boom/jib combination greater than 300 feet (91.44 m) in length.

(D) Instruction on makes and models of hoisting machines deemed by the Commissioner to be substantially equivalent may be included in the course.

(ii) A practical exam that meets the following requirements:

(A) The practical exam must be witnessed by a Class B Licensed Hoisting Machine Operator who must attest to the department that the hoisting machine operator who took the exam successfully passed the exam.

(B) The practical exam must be visually recorded. The record must be made available to the department upon request and must be maintained for a period of three (3) years by the entity that conducted the course required by subparagraph (i) of this paragraph, or, where such entity does not conduct the exam, by the Class B Licensed Hoisting Machine Operator who witnessed the exam.

(C) The exam must be conducted on one of the following:

1. On the hoisting machine configured with a boom or boom/jib combination greater than 300 feet (91.44 m) in length, and with the hoisting machine set back from all areas accessible to the public; or
2. On a simulator acceptable to the Commissioner. At a minimum, the simulator must be capable of recreating the controls and operating characteristics of the hoisting machine. During the exam, the simulator must recreate the hoisting machine in a configuration with a boom or boom/jib combination greater than 300 feet (91.44 m) in length.

(D) The practical exam must assess the candidate on the following:

1. Knowledge of the hoisting machine's controls, including operational modes where the controls may be reversed; and
2. For a crane with a luffing jib, ability to raise, jackknife, and laydown the boom with the luffing jib attached; or
3. For a crane with a telescoping boom, ability to extend or retract the boom with an attached jib.

(2) Substantially equivalent hoisting machines. A hoisting machine operator who already possesses a rating may, in lieu of satisfying the requirements of paragraph (1) of this subdivision, receive additional ratings if the commissioner deems the additional makes and models of hoisting machines to be substantially equivalent to a hoisting machine for which the hoisting machine operator already possesses a rating. For a hoisting machine to be deemed substantially equivalent, it must, at a minimum, be manufactured by the same manufacturer and possess the same carrier type.

(3) Renewal of ratings. Beginning July 1, 2019, ratings must be renewed at the same time the underlying hoisting machine operator license is renewed. A rating will be considered to be renewed if the licensee demonstrates to the satisfaction of the Commissioner that he or she has successfully complied, during the preceding term of the license, with paragraph (1) of this subdivision, or as applicable, with paragraph (2) of this subdivision.



**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:** Rating for Class B Hoisting Machine Operators

**REFERENCE NUMBER:** 2017 RG 070

**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 16, 2017

**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: Rating for Class B Hoisting Machine Operators**

**REFERENCE NUMBER: DOB-98**

**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

October 16, 2017  
Date