

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 its rules regarding elevator agency licenses. DOB is also proposing to add a new section regarding elevator agency directors, inspectors, technicians and helpers.

Due to the current health emergency, the public hearing for this rule is being scheduled as a virtual hearing, which may be accessed according to the information given below in this Notice.

When and where is the hearing? DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11am on 2/11/22.

- Join through Internet:

To join the hearing via your browser either click on the following URL link or copy and paste it into your browser's address bar. Then follow the prompts.

<https://buildings.webex.com/buildings/j.php?MTID=mfcd35167446510fc80bb7d5ce8bb9d90>

When prompted, enter the following meeting password: 10007

When joining the meeting choose either **“Use computer for audio”** or **“Call in”** for the audio portion of the public hearing. If you choose the “Call in” option, the information needed to connect (**phone number, Access Code and Attendee ID**) will automatically be presented to you immediately **after** you join the Webex meeting.

If you have low bandwidth or inconsistent Internet connection, we suggest you use the “Call-in” option for the hearing. This will reduce the possibility of dropped audio and stutters.

- Join via phone only:

To join the meeting only by phone, use the following information to connect:

Phone: 646-992-2010
Access code: 230 072 29065
Password (if requested): 10007

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.

- **Mail.** You can mail 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 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 by emailing dobrules@buildings.nyc.gov by 2/4/22 and including your name and affiliation. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit comments by 2/11/22.

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 can tell us by email at dobrules@buildings.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us by 1/28/22.

This location has the following accessibility option(s) available: Simultaneous transcription for people who are hearing impaired, and audio only access for those who are visually impaired.

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/>. 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 and may be requested by email at dobrules@buildings.nyc.gov.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter and 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 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

Elevator licensing provisions are found in Articles 401, 421, 422, 425 and 426 of Title 28 of the Administrative Code. Chapters 750 of 2019 and 55 of 2020 of the laws of the State of New York amended some terminology in Articles 401, 421 and 422, and added new Articles 425 and 426 to Chapter 4 of Title 28 of the New York City Administrative Code, creating three new license types:

- elevator agency technician,
- restricted elevator agency technician, and
- elevator agency helper.

On November 7, 2021, Local Law 126 for the year 2021 lapsed into law and further amended Article 425 in relation to the term of elevator technician licenses and the requirement of a New York State elevator mechanic license in addition to the city technician license.

These rules are being amended to reflect the changes made by those laws. Specifically, the amendments:

- Remove fees that no longer apply and add new fees to cover license card processing for the newly created license types.
- Add language regarding the term of the elevator agency technician and restricted elevator agency technician licenses.
- Add a new section regarding the requirement of state elevator licenses in addition to the city licenses issued pursuant to Articles 421, 422, 425 and 426 of the Administrative Code.
- Add elevator agency technician and restricted elevator agency technician licenses to Section 104-26 of Title 1 of the Rules of the City of New York, which relates to the deactivation of licenses.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and 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. Subparagraph (v) of paragraph (2) of subdivision (a) of section 101-02 of subchapter A of chapter 100 of Title 1 of the rules of the City of New York is amended to read as follows:

(v) Inspection. The Applicant inspects and tests such work on behalf of the owner and in the presence of an independent approved elevator [inspection] agency not affiliated with the Applicant, which witnesses the test (“witnessing agency”) with following conditions:

§2. Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by deleting the entries for private elevator inspector certification and private elevator inspection agency certification, amending the elevator inspector license entry and adding entries for elevator agency technician license card processing, restricted elevator agency technician license card processing and elevator agency helper card following the entry for elevator agency inspector license as follows:

[Private elevator inspector certification.]	[Initial: \$50]	[Renewal: \$75 triennially]	[Late-renewal: \$50]	[Reissuance: \$50]
[Private elevator inspection agency certification.]	[Initial: \$100]	[Renewal: \$150 triennially]	[Late-renewal: \$50]	[Reissuance: \$50]
Elevator agency director/co-director license.	Initial: \$100	Renewal: \$150	Late-renewal: \$50	Reissuance: \$50
Elevator <u>agency</u> inspector license.	Initial: \$50	Renewal: \$75	Late-renewal: \$50	Reissuance: \$50
<u>Elevator agency technician license card processing.</u>	<u>Initial: \$50</u>	<u>Renewal: \$50</u>	<u>Late-renewal: \$50</u>	<u>Reissuance: \$50</u>
<u>Restricted elevator agency technician license card processing.</u>	<u>Initial: \$50</u>	<u>Renewal: \$50</u>	<u>Late-renewal: \$50</u>	<u>Reissuance: \$50</u>
<u>Elevator agency helper card.</u>	<u>Initial: \$50</u>			<u>Reissuance: \$50</u>

§3. Subparagraphs (vii) and (viii) of paragraph (1) of subdivision (c) of section 104-01 of subchapter D of chapter 100 of Title 1 of the rules of the City of New York are amended to read as follows:

- (vii) [Private] Elevator [Inspection] Agency Director
- (viii) [Private] Elevator [Inspection] Agency Inspector

§4. Paragraph (1) of subdivision (a) of section 104-02 of subchapter D of chapter 100 of Title 1 of the rules of the City of New York is amended to read as follows:

- (1) Elevator [Inspection] Agency Director

§5. Subdivision (i) of section 104-03 of subchapter D of chapter 100 of Title 1 of the rules of the City of New York is re-lettered (j) and a new subdivision (i) is added to read as follows:

(i) The term of an elevator agency technician license or a restricted elevator agency technician license issued in accordance with the provisions of article 425 of Title 28 of the Administrative Code shall be two (2) years, measured from the date the license is originally issued.

§6. Subchapter D of chapter 100 of Title 1 of the rules of the City of New York is amended by adding a new section 104-13 to read as follows:

104-13 Elevator agency directors, elevator agency inspectors, elevator agency technicians and restricted elevator agency technicians and elevator helpers.

(a) New York State elevator license required. In addition to the licenses issued pursuant to Articles 421, 422, 425 and Article 426 of Title 28 of the Administrative Code, the applicable license issued by the New York State Department of Labor pursuant to Article 33 of the state labor law is required in order to perform elevator work as defined in Section 28-401.3 of the Administrative Code.

(b) Permit applications. No application for an elevator work permit shall be accepted by the Department unless the applicant possesses a valid New York state license, as described in subdivision (a).

(c) Permit expiration. Elevator work permits expire upon the expiration or revocation of the required state license during the term of the permit.

(d) Inspection and test reports. No required elevator inspection or test reports shall be accepted by the Department unless the elevator agency inspector possesses a valid New York state license, as described in subdivision (a).

(e) Qualifications. Elevator agency technicians, restricted elevator agency technicians and elevator helpers must meet all applicable qualifications and license requirements in Chapter 4 of Title 28 of the Administrative Code.

§7. Subdivision (a) of section 104-26 of subchapter D of chapter 100 of Title 1 of the rules of the City of New York is amended to read as follows:

(a) Applicability. This section applies to Master Plumbers, Master Fire Suppression Piping Contractors, High Pressure Boiler Operating Engineers, Welders, Riggers, Sign Hangers, Oil Burners, Site Safety Managers, Hoist Machine Operators, [Private] Elevator [Inspection] Agency Inspectors, [and Private] Elevator [Inspection] Agency Directors, Elevator Agency Technicians and Restricted Elevator Agency Technicians.

**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: Amendment of Elevator Safety and Elevator Inspection Rules

REFERENCE NUMBER: DOB-146

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

December 27, 2021
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: Amendment of Elevator Safety and Elevator Inspection Rules

REFERENCE NUMBER: 2021 RG 088

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: December 27, 2021