

NEW YORK CITY DEPARTMENT OF BUILDINGS

Notice of Opportunity to Comment on Proposed Rule

What are we proposing? The Department of Buildings (DOB) is proposing to repeal rules which are now addressed in Title 28 of the New York City Administrative Code, including the New York City Construction Codes, or are obsolete.

When and where is the hearing? DOB will not hold a public hearing on the proposed rule on the grounds that a hearing would serve no public purpose.

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.

Is there a deadline to submit comments? Yes, you must submit comments by 8/15/22.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rule by going to the website at <http://rules.cityofnewyork.us/>.

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

The purpose of the proposed rule is to repeal rules which are now addressed in Title 28 of the New York City Administrative Code, including the New York City Construction Codes, or are obsolete. The rules being repealed, and the reasoning for each such repeal, are as follows:

- Methods of conveyance of concrete by pumping (1 RCNY §5-01)
 - These requirements are now in the New York City Building Code ("BC") §1905.3, and §1905.6.1 through §1905.6.5.5, and Article 116 of Title 28 of the Administrative Code. ("AC").

- Certification of completion of work for elevators, escalators and other devices (1 RCNY §11-05)
 - This language has been updated and is now in 1 RCNY §103-02. Also see AC §28-116.4.1 and Article 304 of Title 28 of the AC.
- Design of composite construction with metal decks or lightweight concrete (1 RCNY §15-06)
 - These requirements are now in BC Chapter 19.
- Methods for controlled inspection of the stability and integrity of existing structures during construction (1 RCNY §16-01)
 - These requirements are now in BC §1704.20.
- Acceptance of testing laboratories and testing services (1 RCNY §17-01)
 - Updated qualifications are now in 1 RCNY §101-07.
- Standards for non-mercury gauges used for testing gas piping (1 RCNY §20-03)
 - These requirements are now in Fuel and Gas Code (“FGC”) §§406.4.1 through 406.4.4.
- Caution sign tape required on elevators being serviced (1 RCNY §27-02)
 - This requirement is now in BC §3011.
- Installation of automatic wet-pipe sprinklers in fireproof multiple dwellings converted to business use (1 RCNY §29-05)
 - These requirements are now in BC §901.9.
- Ventilation of garage spaces below grade (1 RCNY §38-01)
 - These requirements are now in BC §§406.4.2 and 406.6.3 and Mechanical Code (“MC”) §§404.1 and 404.2.
- Examination and approval of applications for installation and maintenance of gas-fueled water and space heaters in occupied spaces (1 RCNY §40-11)
 - Filing requirements are now in Article 104 of Title 28 of the AC and FGC §106.
- Installation and maintenance of gas-fueled water and space heaters in occupied spaces (1 RCNY §40-12)
 - Filing requirements are now in Article 104 of Title 28 of the AC.
- Commencement of work on the installation of any gas appliance (1 RCNY §40-13)
 - Permit requirements are now in Article 105 of Title 28 of the AC and FGC §105.
- Inspection of gas-fueled space and water heaters (1 RCNY §40-14)
 - These requirements are now in FGC §§107.1 and 107.4.
- Required approvals of certain gas-fueled space and water heaters (1 RCNY §40-15)
 - Approval requirements are now in Article 104 of Title 28 of the AC. Compliance with FGC §§ 402, 622, 624 and Chapter 5 is also required.

- Use of gas-fueled water heaters in lieu of central heating or hot water in certain buildings (1 RCNY §40-21)
 - AC §28-101.4.3 requires the application of current FGC, MC and Plumbing Code (“PC”) provisions to equipment installed in accordance with prior codes.
- Required approvals of certain gas-fueled space and water heaters (1 RCNY §40-31)
 - Approval requirements are now in Article 104 of Title 28 of the AC. AC §28-101.4.3 requires the application of current FGC, MC and PC provisions to equipment installed in accordance with prior codes.
- Prohibited types of gas-fueled water heaters (1 RCNY §40-32)
 - FGC no longer prohibits such installations; standards are in FGC §624.
- Capacity of gas-fueled heaters (1 RCNY §40-34)
 - AC §28-101.4.3 requires compliance with the Energy Conservation Code (“ECC”). Provisions regarding hot water systems are in ECC §§502.1.1.3 and 503.1.3, and §§C403.5, 404.2, 406.6, 502.2.4 and 503.5.
- Automatic gas shut off devices (1 RCNY §40-35)
 - These requirements are now in FGC §§303.3.1 and 409.5.
- Sizes of gas piping (1 RCNY §40-36)
 - AC §28-101.4.3 requires the application of current FGC provisions to equipment installed in accordance with prior codes. FGC §§402 and 411 address pipe sizes.
- Equipment and vent piping clearances from combustible materials (1 RCNY §40-38)
 - These requirements are now in FGC §§503.10 and 611.3.
- Venting of gas appliances (1 RCNY §40-39)
 - AC §28-101.4.3 requires the application of current FGC provisions to equipment installed in accordance with prior codes. FGC §102.4.2 has additional requirements for prior code buildings. FGC Chapter 5 contains venting requirements.
- Gas-fueled space heaters installed prior to December 18, 1957 (1 RCNY §40-40)
 - AC §28-101.4.3 requires the application of current FGC provisions to equipment installed in accordance with prior codes. FGC §§620 and 622, 624 and Chapter 5 address venting of the heaters.
- Gas-fueled water heaters installed prior to December 18, 1957 (1 RCNY §40-41)
 - AC §28-101.4.3 requires the application of current FGC provisions to equipment installed in accordance with prior codes. FGC §624 and Chapter 5 address venting of the heaters.
- Maintenance of gas-fueled space and water-heaters (1 RCNY §40-42)
 - These requirements are now in FGC §102.3 and 102.3.1.
- Existing gas-fueled space and water-heaters in ineligible locations (1 RCNY §40-43)
 - AC §28-101.4.3 requires the application of current FGC, MC and PC provisions to equipment installed in accordance with prior codes.

- Variations for specific installations (1 RCNY §40-45)
 - Variation language is now in AC §28-103.3.
- Microfilming of application folders and associated documentation for temporary and final Certificates of Occupancy and Letters of Completion (1 RCNY §45-01)
 - Microfilming is no longer a requirement.
- Persons authorized to perform inspections, tests, certifications, and other functions on behalf of the Department (1 RCNY §46-01)
 - These requirements are now in AC §§28-114 and 28-115; see also BC chapter 17.

The Department of Buildings' authority for this proposed rule is found in sections 643 and 1043 of the New York City Charter.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

“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. Section 5-01 of Title 1 of the Rules of the City of New York, relating to methods of conveyance of concrete by pumping, is REPEALED.

§ 2. Section 11-05 of Title 1 of the Rules of the City of New York, relating to certification of completion of work for elevators, escalators and other devices, is REPEALED.

§3. Section 15-06 of Title 1 of the Rules of the City of New York, relating to design of composite construction with metal decks or lightweight concrete, is REPEALED.

§4. Section 16-01 of Title 1 of the Rules of the City of New York, relating to methods for controlled inspection of the stability and integrity of existing structures during construction, is REPEALED.

§5. Section 17-01 of Title 1 of the Rules of the City of New York, relating to acceptance of testing laboratories and testing services, is REPEALED.

§6. Section 20-03 of Title 1 of the Rules of the City of New York, relating to standards for non-mercury gauges used for testing gas piping, is REPEALED.

§7. Section 27-02 of Title 1 of the Rules of the City of New York, relating to caution sign tape required on elevators being serviced, is REPEALED.

§8. Section 29-05 of Title 1 of the Rules of the City of New York, relating to installation of automatic wet-pipe sprinklers in fireproof multiple dwellings converted to business use, is REPEALED.

§9. Section 38-01 of Title 1 of the Rules of the City of New York, relating to ventilation of garage spaces below grade, is REPEALED.

§10. Section 40-11 of Title 1 of the Rules of the City of New York, relating to applications and plans for installation of gas-fueled space or water heaters, is REPEALED.

§11. Section 40-12 of Title 1 of the Rules of the City of New York, relating to examination and approval of applications for installation and maintenance of gas-fueled water and space heaters in occupied spaces, is REPEALED.

§12. Section 40-13 of Title 1 of the Rules of the City of New York, relating to commencement of work on the installation of any gas appliance, is REPEALED.

§13. Section 40-14 of Title 1 of the Rules of the City of New York, relating to the inspection of gas-fueled space and water heaters, is REPEALED.

§14. Section 40-15 of Title 1 of the Rules of the City of New York, relating to the issuing of approvals for installation of gas-fueled space and water heaters, is REPEALED.

§15. Section 40-21 of Title 1 of the Rules of the City of New York, relating to the use of gas-fueled water heaters in lieu of central heating or hot water in certain buildings, is REPEALED.

§16. Section 40-31 of Title 1 of the Rules of the City of New York, relating to required approvals of certain gas-fueled space and water heaters, is REPEALED.

§17. Section 40-32 of Title 1 of the Rules of the City of New York, relating to prohibited types of gas-fueled water heaters, is REPEALED.

§18. Section 40-34 of Title 1 of the Rules of the City of New York, relating to capacity of gas-fueled heaters, is REPEALED.

§19. Section 40-35 of Title 1 of the Rules of the City of New York, relating to automatic gas shut off devices, is REPEALED.

§20. Section 40-36 of Title 1 of the Rules of the City of New York, relating to the size of gas piping, is REPEALED.

§21. Section 40-38 of Title 1 of the Rules of the City of New York, relating to equipment and vent outlet piping clearances from combustible materials, is REPEALED.

§22. Section 40-39 of Title 1 of the Rules of the City of New York, relating to venting of gas appliances, is REPEALED.

§23. Section 40-40 of Title 1 of the Rules of the City of New York, relating to gas-fueled space heaters installed prior to December 18, 1957, is REPEALED.

§24. Section 40-41 of Title 1 of the Rules of the City of New York, relating to gas-fueled water heaters installed prior to December 18, 1957, is REPEALED.

§25. Section 40-42 of Title 1 of the Rules of the City of New York, relating to maintenance of gas-fueled space and water-heaters, is REPEALED.

§26. Section 40-43 of Title 1 of the Rules of the City of New York, relating to existing gas-fueled space and water-heaters in ineligible locations, is REPEALED.

§27. Section 40-45 of Title 1 of the Rules of the City of New York, relating to allowing variations of rule provisions for specific installations, is REPEALED.

§28. Section 45-01 of Title 1 of the Rules of the City of New York, relating to microfilming of application folders and associated documentation for Temporary and Final Certificates of Occupancy and Letters of Completion, is REPEALED.

§29. Section 46-01 of Title 1 of the Rules of the City of New York, relating to persons authorized to perform inspections, tests, certifications, and other functions on behalf of the Department, is REPEALED.

NEW YORK, NY 10007
212-356-4028

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

RULE TITLE: Repeal of Superseded Rules

REFERENCE NUMBER: 2022 RG 017

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

Date: June 30, 2022

**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: Repeal of Superseded Rules

REFERENCE NUMBER: DOB-148

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

June 30, 2022
Date