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BY ELECTRONIC SUBMISSION
New York City Department of Buildings
Office of the General Counsel
280 Broadway, 7th Floor
New York, New York 10007

Re: Proposed Amendment of Rules Relating to Hoisting Machine Operators

Dear Sir/Madam,

I am writing to express concerns regarding a Hoist Machine Operator rule amendment proposed by the New York City Department of Buildings (“Department”), particularly as it relates to the limited license that will be required to operate a mini-crane within the Department’s jurisdiction on and after November 7, 2024, and the adverse impacts the proposed amendment, if enacted, will have on the architectural and ornamental steel construction and hoisting industry.

Introduction

This comment is submitted on behalf of Allied Building Metal Industries, Inc. (“Allied”), an association of the leading union fabricators and erectors of structural steel and miscellaneous, architectural and ornamental metal products in the New York metropolitan area, and Allied’s member companies to challenge certain aspects of the Department’s proposed amendment to its rules regarding hoisting machine operator licenses, (codified at §§ 104-09 and 3319-01 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York [“Rules”]), which are intended to reflect the 2022 New York City Construction Code (“Code”) updates. Architectural and Ornamental Iron Workers Local 580, the iron worker local union who has been a valued and trusted industry partner to Allied throughout the past century and for whom the mini-crane has become an established tool of the trade for the setting of curtain wall, joins in this comment.

The proposed rule amendments, if implemented, would place obligations on Local 580 iron workers and, by extension, their employers, including Allied’s member companies, that are unduly burdensome, unnecessary and will cause significant economic harm. For these reasons, as well as the additional deficiencies set forth below, it is respectfully requested that the Department reconsider and modify its proposed rule amendments to reflect, rather than subvert, the practical realities of how mini-cranes are used in the setting of curtain wall every day on jobsites across its jurisdiction. In the meantime, the Department should relax its current deadline of November 7, 2024, to allow prospective licensees additional time, until at least November, 2025, to comply with the limited licensure requirements pertaining to mini-cranes.

Discussion

The 2022 Code updates brought mini-cranes, as well as articulating boom cranes and roto telehandlers, into the Department's crane-regulatory purview. The 2022 Code updates authorize the Department to create limited licenses for a number of different hoisting machines, including the mini-crane. Accordingly, the Department has proposed to amend its licensing rules to reflect changes made by the 2022 Code updates.

Section 6 of the Department's proposed amendment to subdivision (d) of § 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules is meant to account for the three new limited HMO license classifications that are being proposed to accommodate mini-cranes, articulating boom cranes and roto telehandlers. By its terms, subdivision (d) specifies the national certifications each classification of license is required to possess to obtain and maintain a license. The certifications must be acceptable to the Commissioner and be issued by a hoisting machine operator certification program that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute for the specific type of hoisting machine to be operated. Currently, the National Commission for the Certification of Crane Operators ("NCCCO") is the only accredited hoisting machine operator certification entity approved by the Department.

The Department's process of developing Code updates and proposed amendments to its own licensing rules to reflect the changes that would be wrought by the 2022 Code updates was well underway by summer 2021. At the time, no accredited certifications for mini-cranes were offered by NCCCO. Nonetheless, the Department reasonably believed that NCCCO would develop a mini-crane certification, as well as a training curriculum and testing regime, well in advance of the anticipated effective date of the new limited license rule the Department was in the process of developing for the operation of the mini-crane.

On or about November 7, 2021, the Code revision bill passed the New York City Council and became law; it would become effective one year later, on November 7, 2022. By the time the 2022 Code updates were being published in early 2022, the NCCCO still had not developed a mini-crane certification and it was becoming increasingly apparent that none was in the works or would be available by November 7, 2024, the anticipated effective date of the new limited hoisting machine operator license the Department was developing for mini-cranes.

The fact that NCCCO, the only accredited hoisting machine operator certification entity approved by the Department, did not offer a mini-crane certification was a major problem. The 2022 Code updates required that HMO licenses were to be based on possession of a valid certification. And the Rules further required such certification to be issued by an accredited hoisting machine operator certification program "*for the specific type of hoisting machine to be operated.*" Rather than abandon the NCCCO certification requirement altogether, the Department developed an imperfect workaround.

In or around April, 2022, the Department announced it had determined the NCCCO certification for the Telescopic Boom Crane—Fixed Cab ("TSS") was the closest available and most analogous certification to the mini-crane, and thus, the Department was considering whether to accept the TSS certification as a basis for the mini-crane limited license. At the same time, there was still the inconvenient plain language of the Rule to contend with, which required the certification to be issued "*for the specific type of hoisting machine to be operated.*" A telescopic boom crane—fixed cab is obviously not a mini-crane. By on or about January 4, 2023, the

Department had figured a way to bypass this onerous provision: it proposed that the practical exam for the TSS certification “*must*” be taken on a mini-crane.

The Department’s resourcefulness in attempting to salvage the TSS certification as a basis for the mini-crane limited license is commendable. Despite its efforts, though, there is no escaping this simple truth: a telescopic boom crane—fixed cab is *not* a mini-crane. Accordingly, we would respectfully request that the Department consider several important modifications to its proposed rule amendments as they relate to the mini-crane limited license.

First, we strongly urge the Department to maintain the *status quo* and continue to exempt operators of mini-cranes from any kind of limited licensure requirement where the work is not related to steel erection and the operator holds a valid certification for the operation of the mini-crane, acceptable to the Commissioner, issued by the manufacturer of the crane for the specific make and model of crane to be operated. In setting curtain wall, the iron worker does not utilize the fully array of functionality that the standard mini-crane can perform. Rather, the iron worker, while setting curtain wall, requires the mini-crane to perform an extremely narrow set of functions, that is, standing up the curtain wall panel from its horizontal, face-down position on the landing floor to a vertical position on the landing floor so that the panel can then be pushed out and set in place by the iron worker. During this simple maneuver, commonly known as “tripping the panel,” there is no change in elevations; rather, the panel itself comes off the floor a mere eight to twelve inches so that the iron worker can safely and efficiently push the panel out and set it in place as the mini-crane carries the weight. There is no discernible reason why the iron worker in this context should be subject to the type of extensive and wide-ranging certification testing that NCCCO demands, especially where the testing is based on a different machine, that is, the telescopic boom crane—fixed cab.

Alternatively, for the reasons stated above, it would be respectfully requested that the Department exempt operators of mini-cranes from any kind of limited licensure requirement, including the NCCCO certification, where the work is related solely and exclusively to the setting of curtain wall and the operator holds a valid certification for the operation of the mini-crane, acceptable to the Commissioner, issued by the manufacturer of the crane for the specific make and model of crane to be operated.

Alternatively, it would be respectfully requested that in lieu of an NCCCO telescopic boom crane—fixed cab certification, the Department allow the manufacturer certification to serve as a basis for the mini-crane limited license until such time, if ever, that NCCCO develops a certification *that is specific to the mini-crane*. In this regard, where the work is related solely and exclusively to the setting of curtain wall, it would be further suggested that the NCCCO written and practical certification exam should be narrowly tailored so that it only measures the operator’s proficiency in performing tasks using the mini-crane that are specific to the setting of curtain wall.

Alternatively, if the Department is not willing to relinquish the TSS certification as a basis for the mini-crane limited license, then we would respectfully propose that the Department rescind the requirement that the practical exam for the TSS certification “*must*” be given on a mini-crane and in its place, allow that such practical examination “may be given on a mini-crane or a telescopic boom crane—fixed cab at the applicant’s option.” As stated above, NCCCO does not offer a mini-crane certification. As a result, the numerous NCCCO accredited certification programs with whom we have spoken *do not have mini-cranes on-site*, and thus, would *require the applicant to arrange and pay for the mini-crane to be delivered to the test-site*. The transport and rental fees that would be incurred by the individual applicant or, in the case of Local 580, by the union on

behalf of its members, would constitute an economic hardship that far exceeds any purported benefit the certification is intended to convey on the recipient in this context.

Conclusion

Based on the foregoing, Allied, together with Local 580, respectfully request the Department revisit and revise its proposed rule amendment in the manner set forth above and, in the meantime, extend the deadline for operators to come into compliance with the amended licensure rules as they relate to the mini-crane at least until November, 2025.

Thank you for your attention to this matter and for your consideration of our proposals.

Very truly yours,

ALLIED BUILDING METAL INDUSTRIES, INC.

By: /s/ Steven N. Davi
Steven N. Davi,
Executive Director and General Counsel

cc: Peter Myers,
President, New York State Iron Workers District Council

Joseph Nolan,
Business Manager and Financial Secretary-Treasurer, Local 580

Richard Falasca,
Director of Education, Local 580

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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 hoisting machine operator licenses.

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 2/28/24.

- Join through Internet – Desktop app:

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 to either continue using the browser or download/open the Teams desktop app.

<http://tinyurl.com/BuildingsMachineOperators2024>

Enter your name when prompted and click the **“Join now”** button. If you don't have computer audio or prefer to phone in for audio, select **“Phone audio”** under **“Other join options”** then click the **“Join now”** button. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins. If you are using phone audio then follow the dial-in instructions when prompted.

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

- Join through Internet - Smartphone app:

To join using the Microsoft Teams app on your smartphone, click on the following URL link from your phone to automatically open the Teams app. Note that the Microsoft Teams app must already be installed on your smartphone. It is available for free both in the Apple Store and Google Play.

<http://tinyurl.com/BuildingsMachineOperators2024>

When prompted select **“Join meeting”**. Type your name and then select **“Join meeting”** again. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

Alternatively, open the Teams app and select **“Join a meeting”**. Signing in with an account is not required. Type your name, the following Meeting ID and Passcode, then select **“Join meeting”**.

Meeting ID: 227 996 308 852

Passcode: 4Ky8FW (Code is case sensitive)

- Join via phone only:

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

Phone: 646-893-7107

Phone Conference ID: 306 944 007#

You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

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 2/21/24 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 2/28/24.

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 2/14/24.

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 dobrates@buildings.nyc.gov.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter, Article 405 of Chapter 4 of Title 28 of the City Administrative Code, and Section 3316 of the New York City Building Code authorize DOB to make this proposed rule. This proposed rule was included in DOB’s regulatory agenda for this Fiscal Year.

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

Article 405 of Title 28 of the New York City Administrative Code sets out the requirement for a license to operate hoisting machines, including cranes and derricks. Section 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York (“RCNY”) establishes the qualification requirements to obtain a hoisting machine operator license. Section 104-23 of Subchapter D of Chapter 100 of Title 1 of the RCNY further establishes rules for hoisting machine operator learners and their supervision. Finally, section 3319-01 of Subchapter D of Chapter 100 of Title 1 of the RCNY sets forth certain rules for the design, construction, inspection, and operation of cranes and derricks, including additional licensing standards.

The 2022 New York City Construction Codes (“2022 Code updates”), enacted by Local Law 126 for the year 2021, created, among other things, new classes of limited hoisting machine operator licenses for articulating boom cranes and mini cranes. The 2022 Code updates also authorize the department to create additional limited licenses for other types of hoisting machines. For individuals applying for such new limited hoisting machine operator licenses, the department has a 2-year window, running from November 7, 2022, to November 6, 2024, to establish alternative pathways for licensure. Existing Class C-2 and C-3 hoisting machine operator licenses were also renamed boom truck limited license and a sign hanging crane limited license, respectively.

The proposed rule amendments will implement the new limited hoisting machine operator licenses for articulating boom cranes and mini cranes. They will further create a new limited hoisting machine operator license for telehandlers. Ancillary changes for Class A, B, and C hoisting machine operator licenses are also proposed. More specifically:

- Sections 1, 2, 3, 6, 7, and 8 propose amendments to 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York, which establishes training, certification,

medical fitness, and other qualifications needed to obtain a hoisting machine operator license, as follows:

- Section 2 of this amendment proposes to edit subparagraph (i) of paragraph (4) of subdivision (a) to clarify that applicants for a Class A hoisting machine operator license can credit experience obtained as a learner on smaller equipment in New York City towards a portion of their experience requirement. However, two-thirds of the experience required to obtain a Class A license must still have been obtained as a learner on larger equipment in New York City.
- Section 2 also proposes to rewrite subparagraph (ii) of paragraph (4) of subdivision (a), which currently defines the experience required to obtain a Class C hoisting machine operator license. The existing requirements allow for experience obtained in the United States, but outside of New York City, to be credited towards obtaining a Class C hoisting machine operator license. The proposed amendments account for the renamed boom truck limited license and a sign hanging crane limited license (formerly named Class C-2 and C-3, respectively) and the new limited hoisting machine operator licenses for articulating boom cranes, mini cranes, and telehandlers. The proposed amendments specify that only one year of experience in the United States outside of New York City can be credited to obtain a Class C or any limited hoisting machine operator license. An additional year of experience within New York City as a learner under the supervision of an existing New York City licensed hoisting machine operator is still mandated.
- Section 2 further proposes to add a new subparagraph (iii) of paragraph (4) of subdivision (a) to establish a temporary, alternative pathway to licensure for individuals currently operating articulating boom cranes, mini cranes, and telehandlers in New York City. This temporary, alternative pathway will sunset on November 7, 2024. Hoisting machine operator licensing applicants are typically required to serve as a learner under the supervision of an existing hoisting machine operator, as described above. However, because articulating boom cranes, mini cranes, and telehandlers presently do not require a licensed operator in New York City, subparagraph (iii) proposes to allow individuals to credit their non-licensed experience in New York City towards obtaining a limited hoisting machine operator license without the need for supervision by an existing licensee, provided the individual has obtained at least 1,500 hours of experience operating in New York City by November 6, 2024, and further provided that the individual has not been held liable for the unsafe operation of a crane or telehandler in New York City.
- Section 2 relatedly proposes to amend clause B of subparagraph (ii) to account for individuals who will have operated articulating boom cranes, mini cranes, and telehandlers in New York City without a license prior to November 7, 2024, but who will not have obtained the full 1,500 hours of experience to qualify under the temporary, alternative pathway in subparagraph (iii), described above, before it sunsets. For example, if an individual has obtained nine months of experience operating in New York City by November 6, 2024, the individual would only need

three months of further experience in New York City as a learner under the supervision of an existing hoisting machine operator, rather than the full year of additional experience under the supervision of an existing hoisting machine operator generally required by subparagraph (ii).

- Section 3 of this amendment modifies paragraph (5) of subdivision (a), which requires applicants for a Class A or C hoisting machine license to complete a prerequisite number of crane outrigger setups, to propose similar requirements for the new limited licenses.
- Section 5 of this amendment establishes the parameters of the new limited license for telehandlers within subdivision (c).
- Section 6 of this amendment edits subdivision (d) to account for the new limited licenses. This subdivision specifies the national certifications each classification of license is required to possess in order to obtain and maintain a license. Currently, the National Commission for the Certification of Crane Operators (NCCCO) is the only accredited hoisting machine operator certification entity approved by the department. And for ease of understanding, the certifications offered by the NCCCO are proposed to be specified by name. By contrast, only general categories are listed in the current rule. However, should another entity be approved by the department, the rule can be amended in the future to identify that entity and their certifications by name. Edits are also proposed to reflect NCCCO's elimination of a stand alone "boom truck" certification and NCCCO's combination of two "lattice boom" certifications into one.
- Section 8 of this amendment proposes to add a new subdivision (i) to specify that individuals may hold multiple limited hoisting machine operator licenses.
- Sections 4, 7, 9, and 10 propose amendments throughout sections 104-09 and 104-23 of Subchapter D of Chapter 100 of Title 1 of the RCNY to ensure updated cross references to the New York City Building Code, reflect renumbering and updated effective dates made by the 2022 Codes updates, reflect changes in terminology made by the 2022 Code updates, or remove references to the licensing "reinstatement" option, which was eliminated by the 2022 Code updates.
- Section 11 proposes amendments to section 104-23 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York, which establishes requirements for individuals who are learning to become a hoisting machine operator, as follows:
 - Language in subdivision (l) is added to memorialize the current interpretation that section 28-405.2 of the New York city administrative code prohibits a Class A hoisting machine operator from operating equipment with a boom length exceeding 300 ft in length, even if the individual is learning to become a Class B operator.

- Language in subdivision (l) is added to account for new limited hoisting machine operator licenses; the language reflects the same pattern established for Class A and Class C hoisting machine operator licenses and allows individuals who began as a learner for one class of license to switch and become a learner for a different class of license.
- Section 12 proposes amendments to paragraph (1) of subdivision (i) of section 3319-01 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York, which exempts certain machinery from requiring a licensed hoisting machine operator, as follows:
 - New exceptions 8 and 9 will delay implementation of the limited licenses for articulating boom cranes and telehandlers until November 7, 2024. This will provide time for qualified individuals to apply for the new licenses. Similarly, amendments to exception number 7 will delay implementation of the limited license for mini cranes until November 7, 2024. Exception number 5, which describes a subset of work typically performed by articulating boom cranes, is proposed to be amended to also sunset on November 7, 2024.
 - A new exception number 10 exempts fixed telehandlers from licensing after November 6, 2024. In the interim, however, fixed telehandlers are covered by proposed exception number 9. In lieu of licensing, beginning November 7, 2024, operators of fixed telehandlers, when the telehandler is configured to hoist or lift materials, are proposed to be required to possess an NCCCO certification for the operation of a telehandler.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter, and Article 405 of Chapter 4 of Title 28 of the City Administrative Code.

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. Paragraph (2) of subdivision (a) of section 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

- (2) **Physical fitness.** An applicant for a Hoisting Machine Operator license shall provide evidence on a form prescribed by the Commissioner that he or she meets the physical qualifications of section 5-3.1.2(a) of ASME B [30.5-2014] 30.5-2021, and has passed a physical exam and a substance abuse test to verify such physical qualification. Such evidence shall include the name, address and telephone number of the laboratory that performed the tests and consent to the release by such laboratory of the test results to the Department upon request of the Department.

§ 2. Paragraph (4) of subdivision (a) of section 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(4) **Experience qualifications.** In order to satisfy the experience qualifications as set forth in Section 28-405.3 of the New York city administrative code, the experience must have been obtained in accordance with the following:

(i) **Class A license applicants.** An applicant for a Class A Hoisting Machine Operator license must provide proof demonstrating that the three (3) years of experience required by Section 28-405.3 of the New York city administrative code was acquired operating hoisting machines in New York City in the presence of and under the direct supervision of a licensed Class A or Class B Hoisting Machine Operator in accordance with section 104-23 of these rules. The experience must have been obtained on hoisting machines of a type, size, and capacity authorized to be operated by a Class A licensed hoisting machine operator. [For applications submitted on or after July 1, 2019, at] At least two (2) years of the required three (3) years of experience must have been in the operation of mobile cranes with a manufacturer's rated capacity in excess of 50 tons (45.36 t) or in the operation of tower cranes, other than self-erecting tower cranes. The remaining year of experience can be on any type of crane or derrick authorized to be operated by a Class A HMO licensee; this includes but is not limited to cranes with a capacity under 50 tons (45.36 t).

(ii) **Class C and limited hoisting machine operator license applicants.** An applicant for a Class C or a Limited Hoisting Machine Operator license must provide proof demonstrating: [that the two (2) years of experience required by Section 28-405.3 of the New York city administrative code was acquired operating hoisting machines under the supervision of a Hoisting Machine Operator licensed by the Department or by another jurisdiction within the United States that regulates crane operators. The experience must have been obtained on hoisting machines of a type, size, and capacity authorized to be operated by the Class C Hoisting Machine Operator license sought; however, nothing in this section prohibits an individual from crediting experience obtained on Class A machinery in accordance with the provisions of section 104-23 of these rules towards obtaining the Class C license. At least one (1) year of the experience must have been undertaken in the City of New York or in an urban area of comparable density within the United States, as determined by the Commissioner, and, for applications for a Class C1 Hoisting Machine Operator license submitted on or after July 1, 2019, have been in the operation of wheel mounted cranes with a manufacturer's rated capacity in excess of 3 tons (2.72 t).]

(A) That at least one (1) year of the two (2) years of experience required by Section 28-405.3 of the New York city administrative code was acquired in New York City in the operation of hoisting machines as specified for each license in Table 1, and that such operation was in connection with building or infrastructure construction, alteration, or demolition work, or the installation or removal of temporary structures or temporary construction installations, or the delivery or

retrieval of materials, equipment, or other items to/from a building; but excluding work in industrial or commercial plants or yards;

(B) That all experience obtained in New York City was acquired operating mobile or tower cranes or rotating telehandlers in the presence of and under the direct supervision of a New York City licensed Hoisting Machine Operator in accordance with section 104-23 of these rules, except that for applicants for a Limited Hoisting Machine Operator license for an articulating boom crane, mini crane, or telehandler, experience earned prior to November 7, 2024, to satisfy clause (A) of this subparagraph need not comply with the provisions of this clause; and

(C) That experience obtained outside of New York City was acquired in the United States operating mobile or tower cranes or rotating telehandlers in the presence of and under the direct supervision of a hoisting machine operator licensed, registered, or certified in good standing to operate such equipment within the relevant jurisdiction. Applicants who are duly licensed, registered, or certified in good standing to operate the equipment in the relevant jurisdiction for which the experience is being credited may credit self-supervision toward this requirement.

Exception: Where the applicant already possesses a New York City Limited Hoisting Machine Operator license, such possession is deemed to satisfy one (1) year of the required two (2) years of experience. Such applicants need only comply with clauses (A) and (B) of this subparagraph.

Table 1: Specific experience requirements for HMO C and limited license applicants

<u>License Type</u>	<u>Required one (1) year of experience in NYC</u>
<u>Class C license</u>	<u>Wheel mounted cranes, other than telehandlers, with a telescoping boom, including jibs and any other extensions to the boom, not exceeding 200 feet (60.96 m) in length and with a manufacturer's rated capacity in excess of 3 tons (2.72 t).</u>
<u>Limited license for articulating boom cranes</u>	<u>An articulating boom crane, including jibs and any other extensions to the boom, not exceeding 200 feet (60.96 m) in length and with a manufacturer's rated capacity in excess of 1 ton (0.91 t) attached to a commercial truck chassis.</u>
<u>Limited license for boom trucks</u>	<u>Boom trucks with a telescoping boom, including jibs and any other extensions to the boom, not exceeding 200 feet (60.96 m) in length and with a manufacturer's rated capacity in excess of 3 tons (2.72 t).</u>

<u>Limited license for mini cranes</u>	<u>Mobile cranes, other than boom trucks or telehandlers, with a telescoping boom, including jibs and any other extensions to the boom, not exceeding 50 feet (15.240 m) in length and with a manufacturer's rated capacity of 3 tons (2.72 t) or less.</u>
<u>Limited license for sign hanging cranes</u>	<u>Boom trucks with a telescoping boom, including jibs and any other extensions to the boom, not exceeding 135 feet (41.148 m) in length and with a manufacturer's rated capacity of 3 tons (2.72 t) or less, used exclusively for the erection, maintenance, or removal of signs.</u>
<u>Limited license for telehandlers</u>	<u>Wheel mounted rotating telehandlers with a telescoping boom, including jibs and any other extensions to the boom, not exceeding 200 feet (60.96 m) in length and with a manufacturer's rated capacity in excess of 3 tons (2.72 t).</u>

(iii) Limited license alternate pathway. Individuals applying for a Limited Hoisting Machine Operator license for articulating boom cranes, mini cranes, or telehandlers on or before November 6, 2024, may, in lieu of the requirements set forth in subparagraph (ii) of this paragraph, provide proof in the form of an affidavit provided by the department and signed by the applicant and the applicant's employer or union, attesting that the applicant:

(A) for a limited license for articulating boom cranes has obtained 1,500 hours of experience on or after January 1, 2019, operating, in New York City, articulating boom cranes attached to a commercial truck chassis, with the operation performed in connection with building or infrastructure construction, alteration, or demolition work, or the installation or removal of temporary structures or temporary construction installations, or the delivery or retrieval of materials, equipment, or other items to/from a building; but excluding work in industrial or commercial plants or yards;

(B) for a limited license for mini cranes, has obtained 1,500 hours of experience on or after January 1, 2019, operating, in New York City, mobile cranes, other than boom trucks or telehandlers, with a telescoping boom, including jibs and any other extensions to the boom, not exceeding 50 feet (15.24 m) in length with a manufacturer's rated capacity of 3 tons (2.72 t) or less, with the operation performed in connection with building or infrastructure construction, alteration, or demolition work, or the installation or removal of temporary structures or temporary construction installations, or the delivery or retrieval of materials, equipment, or other items to/from a building; but excluding work in industrial or commercial plants or yards; or

(C) for a limited license for a telehandler, has obtained 1,500 hours of experience on or after January 1, 2019, operating, in New York City, rotating telehandlers, with the operation performed in connection with building or infrastructure construction, alteration, or demolition work, or the installation or removal of temporary structures or temporary construction installations, or the delivery or retrieval of materials, equipment, or other items to/from a building; but excluding work in industrial or commercial plants or yards.

Exception: The department may decline to issue a Limited Hoisting Machine Operator pursuant to this subparagraph to any individual who defaulted on or has been found liable for unsafe operation of a crane or telehandler after proceedings before the environmental control board or in an adjudication in criminal court, if such default or judgment occurred within the five (5) years preceding such application. The department may also delay a determination under this subparagraph for any applicant against whom there is an open violation for the unsafe operation of a crane or telehandler issued within the five (5) years preceding such application. Applicants subject to this exception may be asked by the department to submit proof, in addition to the affidavit described above, in support of their operating record.

§ 3. Paragraph (5) of subdivision (a) of section 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(5) **Outrigger setup.** For a Class A₂, [or] Class C₂, or Limited Hoisting Machine Operator license, the qualifying experience as specified in subparagraphs (i) and (ii) of paragraph (4) of this subdivision shall include outrigger placement incorporating at least one hundred (100) crane set-ups. In no case may qualifying set-ups be obtained on a crane that has a boom, including jibs and any other extensions to the boom, exceeding 200 feet (60.96 m) in length. Such set-ups must occur at a jobsite, crane yard, training center, or other location acceptable to the commissioner, and must be witnessed by a New York City licensed Hoisting Machine Operator. However, the witnessing licensee may only witness outrigger placement on equipment which their New York City license authorizes them to operate.

(i) **Class A license applicants.** For a Class A Hoisting Machine Operator license, at least 25 of the set-ups must have occurred on [machinery for which a Class A license is required] mobile cranes with a manufacturer's rated capacity in excess of 50 tons (45.36 t). Where an applicant for a Class A Hoisting Machine Operator license already possesses a Class C Hoisting Machine Operator license, the requirement for the remaining 75 set-ups [on non Class A machinery] is waived.

(ii) **Class C license applicants.** For a Class C Hoisting Machine Operator license, at least 25 of the set-ups must have occurred on the type of machinery specified Table 1 for the Class C license. Where an applicant for a Class C Hoisting Machine Operator license already possesses a Limited Hoisting Machine Operator license, the requirement for the remaining 75 set-ups is waived.

(iii) Limited license applicants. For a Limited Hoisting Machine Operator license, at least 25 of the set-ups must have occurred on the type of machinery specified Table 1 for the type of limited license sought. Where an applicant for a Limited Hoisting Machine Operator license already possesses a different Limited Hoisting Machine Operator license, the requirement for the remaining 75 set-ups is waived.

§ 4. Subdivision (b) of section 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(b) Fitness requirements for renewal [and reinstatement]. As a condition of license renewal [or reinstatement], a licensed or previously licensed Hoisting Machine Operator shall provide evidence of fitness to perform the work authorized to be performed by a holder of the license held or once held by the applicant. Such evidence shall consist of:

(1) Physical Fitness. Evidence on a form prescribed by the Commissioner that the licensee meets the physical qualifications of section 5-3.1.2(a) of ASME B [30.5-2014] 30.5-2021, and has passed a physical exam and a substance abuse test to verify such physical qualification. Such evidence shall include the name, address and telephone number of the laboratory that performed the tests and consent to the release by such laboratory of the test results to the Department upon request of the Department.

* * *

§ 5. Subdivision (c) of section 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(c) [Reserved.] Additional limited hosting machine operator licenses. The following additional Limited Hoisting Machine Operator licenses are hereby established.

(1) Limited license for telehandlers. Limited license to operate wheel mounted telehandlers (non-rotating (“fixed”) or rotating) with a telescoping boom, including jibs and any other extensions to the boom, not exceeding 200 feet (60.96 m) in length with a manufacturer’s rated capacity of 50 tons (45.36 t) or less.

§ 6. Subdivision (d) of section 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(d) Certifications for a hoisting machine operator license. Where a certification for the operation of a type of hoisting machine has been established by Table [1] 2 of this subdivision, no licensed hoisting machine operator may operate such type of machinery until the licensee possesses a certification for that type of hoisting machine and such certification has been listed on the hoisting machine operator’s license by the department.

Exception: The licensee is operating the hoisting machine as a learner in accordance with section 104-23 of these rules.

- (1) **Certifications to be acceptable and accredited.** The certification must be acceptable to the commissioner and be issued by a hoisting machine operator certification program that is accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) for the specific type of hoisting machine to be operated.
- (2) **Licensee to inform department of changes to certification.** The licensed hoisting machine operator must immediately notify the department if a certification identified in Table [1] 2 of this subdivision and held by the licensee is suspended, revoked, not renewed, or otherwise lapses. The licensed hoisting machine operator must provide a copy of re-certifications and new certifications identified in Table [1] 2 of this subdivision to the department within 30 days.
- (3) **Friction cranes or derricks.** No person who holds a Class A or Class C hoisting machine operator license may operate a friction crane or a friction derrick, or supervise the operation of a learner on a friction crane or a friction derrick, until the licensee has passed at least one of the practical certification exams listed in Table [1] 2 on a friction crane, and such authorization to operate a friction crane or a friction derrick has been listed on the hoisting machine operator’s license by the department. For a Hoisting Machine Operator Class B applicant, one of the practical certification exams must, in accordance with the requirements of Table [1] 2 of this subdivision, be on a friction crane. In addition, no person who holds a Limited Hoisting Machine Operator License may operate a friction crane or friction derrick, or supervise the operation of a learner on a friction crane or a friction derrick.
- (4) **Derricks.** No licensed hoisting machine operator may operate a derrick, or supervise the operation of a learner on a derrick, unless the licensee possesses a tower crane certification, and such certification has been listed on the hoisting machine operator’s license by the department.

[Table 1: Certifications by licensing class]

[Certification name]	[Hoisting machine operator licensing class]				
	[A]	B	C1	C2	C3]
[Fix cab telescopic boom mobile crane ¹	Required	Required	Required		
Swing cab telescopic boom mobile crane	Required	Required	Required		
Lattice boom truck crane ²	Required	Required			
Lattice boom crawler crane ²	Required	Required			

Articulating boom mobile crane ³	Additional	Additional	Additional		
Dedicated pile driver	Additional	Additional	Additional		
Boom truck ¹				Required ⁴	Required ⁴
Tower crane	Additional	Required]

Table 2: Certifications by licensing class¹

<u>Certification</u>	<u>Hoisting machine operator licensing class</u>		
	<u>A</u>	<u>B</u>	<u>C</u>
<u>NCCCO Telescopic Boom Crane - Fixed Cab</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>NCCCO Telescopic Boom Crane - Swing Cab</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>NCCCO Lattice Boom Crane²</u>	<u>Required</u>	<u>Required</u>	
<u>NCCCO Tower Crane</u>	<u>Additional</u>	<u>Required</u>	
<u>NCCCO Articulating Boom Crane</u> <u>- or -</u> <u>NCCCO Boom Crane w/Winch</u> <u>- or -</u> <u>NCCCO Articulating Boom Loader³</u>	<u>Additional</u>	<u>Additional</u>	<u>Additional</u>
<u>NCCCO Dedicated Pile Driver</u>	<u>Additional</u>	<u>Additional</u>	<u>Additional</u>
<u>NCCCO Rotating Telehandler⁴</u>	<u>Additional</u>	<u>Additional</u>	<u>Additional</u>

Table 2 (cont.): Certifications by licensing class¹

<u>Certification</u>	<u>Hoisting machine operator licensing class</u>				
	<u>Limited articulating boom crane</u>	<u>Limited boom truck</u>	<u>Limited mini crane</u>	<u>Limited sign hanger</u>	<u>Limited telehandler</u>
<u>NCCCO Telescopic Boom Crane - Fixed Cab</u>		<u>Required⁵</u>	<u>Required⁶</u>	<u>Required⁵</u>	
<u>NCCCO Telescopic Boom</u>					

<u>Crane - Swing Cab</u>					
<u>NCCCO Lattice Boom Crane²</u>					
<u>NCCCO Tower Crane</u>					
<u>NCCCO Articulating Boom Crane - or - NCCCO Boom Crane w/Winch - or - NCCCO Articulating Boom Loader³</u>	<u>Required</u>	<u>Additional</u>	<u>Additional</u>	<u>Additional</u>	
<u>NCCCO Dedicated Pile Driver</u>					
<u>NCCCO Rotating Telehandler⁴</u>		<u>Additional</u>			<u>Required</u>

Legend to Table [1] 2:

- “NCCCO” means “National Commission for the Certification of Crane Operators.”
- “Required” means must possess.
- “Additional” means not mandated, but required if licensee intends to operate listed type of hoisting machinery.
- Blank indicates not authorized for the class of license[, except where otherwise indicated by footnote 1].

Footnotes to Table [1] 2:

- ¹ [Individuals who hold a “Fix cab telescopic boom mobile crane” certification can also operate “boom trucks” and do not need a separate certification.] Individuals may only operate equipment within the scope of their license, even if a certification authorizes operation of a broader class of equipment.
- ² For a Hoisting Machine Operator Class B applicant, the practical certification exam for [either] the lattice boom [truck] crane [or the lattice boom crawler crane] must be on a friction crane.
- ³ [The certification exam must include a component on the operation of an articulating boom crane with a winch.] Individuals are not permitted to operate machinery exceeding the scope of their certification, even if such machinery is within the scope of their license.
- ⁴ Individuals who hold a “Rotating Telehandler” certification are authorized to operate a non-rotating (“fixed”) telehandler and need not separately hold a “Fixed Telehandler” certification.

⁵ Licensees who prior to the effective date of this [section] subdivision hold a certification for a [“Fix cab telescopic boom mobile crane”] “Boom truck” must provide a certification for [“Boom truck”] “NCCCO Telescopic Boom Crane - Fixed Cab” upon renewal [or reinstatement] of their license.

⁶ The practical exam must be on a mobile crane with a telescoping boom, including jibs and any other extensions to the boom, not exceeding 50 feet (15.24 m) in length with a manufacturer’s rated capacity of 3 tons (2.72 t) or less, and not otherwise meeting the definition of a boom truck or telehandler.

§ 7. Subdivision (e) of section 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(e) Additional requirements. The provisions of this rule shall be in addition to the qualification[,] and renewal [and reinstatement] requirements prescribed by articles 401 and 405 of title 28 of the Administrative Code.

§ 8. Section 104-09 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new subdivision (i) to read as follows:

(i) Multiple limited licenses. An individual may possess multiple Limited Hoisting Machine Operator licenses.

§ 9. The definition of “hoisting machine” in subdivision (b) of section 104-23 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

Hoisting machine. See Section [3302.1] 202 of the New York city building code.

* * *

§ 10. Paragraph (6) of subdivision (c) of section 104-23 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(6) Meet the physical qualifications of section 5-3.1.2(a) of ASME B [30.5-2014] 30.5-2021, as verified by passing a physical exam and a substance abuse test.

§ 11. Subdivision (l) of section 104-23 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(l) Type, size, and capacity of hoisting machine operated by learner to be within scope of license sought. The learner may only operate hoisting machinery that is authorized by the scope of the license sought. Only a person who possesses a Class A hoisting machine operator license may operate as a learner on hoisting machinery that is authorized to be operated only by a Class B hoisting machine operator; except that only individuals who hold a Class B hoisting machine operator license with the appropriate rating may operate in New York City hoisting machinery that requires a rating in accordance with Section 28-

405.2 of the New York city administrative code. Nothing in this section prohibits an individual who began training to obtain a Class C hoisting machine operator license from pursuing a Class A hoisting machine operator license instead and from operating Class A machinery as a trainee in accordance with the provisions of this section. Nothing in this section prohibits an individual who began training to obtain a limited hoisting machine operator license from pursuing a Class C or Class A hoisting machine operator license and from operating Class C or Class A machinery as a trainee in accordance with the provisions of this section.

§ 12. Paragraph (1) of subdivision (i) of section 3319-01 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(i) Personnel.

(1) Operators. Operators of cranes and derricks must be licensed in accordance with Article 405 of Title 28 of the Administrative Code.

Exceptions:

- Operators exempted by Article 405 of chapter 4 of Title 28 of the Administrative Code.
- 2. Operators of equipment exempted by [Section 3319] Sections 3316.1 or 3319.1 of the New York City Building Code.
- 3. Learners in the presence of and under the direct supervision of a licensed operator in accordance with section 104-23 of these rules.
- 4. Operators of cranes described in exceptions 3 and 4 of Section 3319.3 of the New York City Building Code, provided the crane is used in connection with the installation or maintenance of street lighting or public utility overhead power distribution systems.
- 5. [Operators] On or before November 6, 2024, operators of a mobile crane that has a boom length of 135 feet (41.15 m) or less, and that is utilized at the site to exclusively to:
 - 5.1. Install, adjust, maintain, repair, or remove a sidewalk shed; or
 - 5.2. Install or dismantle the initial level of a single or dual cab hoist, provided:
 - 5.2.1. Such installation or dismantling is limited to the hoist cars, counterweights, and initial mast sections needed for the car;
 - 5.2.2. Car or motor components to be hoisted are equipped with lifting lugs; and

- 5.2.3. No object is hoisted more than 20 feet (6.1 m) above the bed of the delivery truck during such installation or dismantling operation.
6. Operators of dedicated pile drivers, provided that[, beginning January 1, 2019,] such operator possesses a valid certification for the operation of the pile driver issued by an organization acceptable to the commissioner and accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI).
7. On or before [January 1, 2022] November 6, 2024, operators of mobile cranes with telescoping or hydraulic booms, including jibs and any other extensions to the boom, not exceeding 50 feet (15.24 m) in length with a manufacturer's rated capacity of 3 tons (2.72 t) or less, provided:
- 7.1. The work does not meet the definition of a critical pick as set forth in section 3302.1 of the Building Code;
- 7.2. The work is not related to steel erection; and
- 7.3. The operator holds a valid certification for the operation of the crane, acceptable to the commissioner, issued by the manufacturer of the crane for the specific make and model of crane to be operated; or
- 7.4. The operator holds a valid certification for the operation of a mini crane issued by an organization acceptable to the commissioner and accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI).
8. On or before November 6, 2024, operators of articulating boom cranes that do not have an integral hoisting mechanism, and that are used exclusively for loading and unloading of trucks or trailers, provided that the length of boom does not exceed 135 feet (41.15 m) and that any material transported thereon shall not be raised more than 100 feet (30.48 m) in the unloading process.
9. On or before November 6, 2024, operators of telehandlers, provided the telehandler is not equipped with a hoisting mechanism.
10. Operators of wheel mounted non-rotating ("fixed") telehandlers with a telescoping boom, including jibs and any other extensions to the boom, not exceeding 200 feet (60.96 m) in length and with a manufacturer's rated capacity of 50 tons (45.36 t) or less, not equipped with a hoisting mechanism, provided that where the telehandler is configured with a hook, jib, fork, cradle, concrete bucket, hopper, debris box/bucket, or a vacuum or magnetic lifting attachment, the operator possesses a certification from the National Commission for the Certification of Crane Operators ("NCCCO") for the operation of a telehandler.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
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NEW YORK, NY 10007
212-788-1400**

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

RULE TITLE: Amendment of Rules Relating to Hoisting Machine Operators

REFERENCE NUMBER: DOB-170

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:

- Is understandable and written in plain language for the discrete regulated community or communities;
- 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/ Caleb Seamon
Mayor's Office of Operations

November 24, 2023
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 Rules Relating to Hoisting Machine Operators

REFERENCE NUMBER: 2023 RG 62

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:

- is drafted so as to accomplish the purpose of the authorizing provisions of law;
- is not in conflict with other applicable rules;
- to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- 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
Senior Counsel

Date: November 21, 2023