


NEW YORK CITY DEPARTMENT OF BUILDINGS

NOTICE OF ADOPTION OF RULE



NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to Section 103-02 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding penalties incurred due to failure to file an affirmation of correction for elevators. This rule was first published on February 12, 2024, and a public hearing thereon was held on March 13, 2024.

Dated: 3/25/24
New York, New York



James S. Oddo
Commissioner

Statement of Basis and Purpose of Rule

The Department of Buildings (“the Department”) amends paragraph (3) of subdivision (h) and paragraph (3) of subdivision (i) of section 103-02 of subchapter C of chapter 100 of Title 1 of the Rules of the City of New York to allow building owners to have more time to adjust to the timelines and requirements to file elevator affirmations of correction that went into effect on January 15, 2022.

Local Law No. 126 of 2021 (“LL 126”) amended § 28-304.6 of the NYC Administrative Code (“AC § 28-304.6”), which sets forth the process and timeframe for required annual elevator category tests and periodic inspections, to shorten the filing window during which any defects found had to be corrected and an affirmation of correction could be accepted before it would be considered late. Prior to LL 126, which went into effect in January of 2022, defects had to be corrected within 120 days of the date of the test or inspection and an affirmation of correction stating that all found and reported defects were corrected had to be filed with the department within 60 days of correction of the defect. LL 126 shortened those timeframes to 90 days to correct the defects and 14 days after correction to file the affirmation of correction.

1 RCNY 103-02 (“Rule 103-02”) was amended to shorten the filing window for affirmations of correction to match the timeframes set forth in AC § 28-304.6, as well as to change the timeframe for the imposition of penalties for late filing of affirmations of correction and failure to file affirmations of correction. Prior to those rule amendments, which went into effect in January of 2022, owners had 12 months to file their inspection and test reports and their affirmations of correction before they were deemed to have failed to file. The 2022 amendment to Rule 103-02 shortened the timeframe from 12 months to 14 days after the correction is made for owners to file their affirmation of correction and avoid this penalty.

Rule 103-02 establishes two civil penalties for failing to file an affirmation of correction on time: one for an untimely filing of an affirmation of correction and one for failure to file an affirmation of correction. The penalty for untimely filing of an affirmation of correction is a monthly late penalty. The penalty for failure to file an affirmation of correction by a certain date is a one-time penalty.

As noted above, to allow building owners to have more time to adjust to the timelines and requirements to file elevator affirmations of correction that went into effect on January 15, 2022, Rule 103-02 is now amended to specify that penalties for failure to file an affirmation of correction will not be assessed for affirmations due with respect to defects identified during the 2022 and 2023 inspection and test cycles for owners who submitted affirmations of correction by April 14, 2023 for conditions discovered during the 2022 cycle or by April 14, 2024 for conditions discovered during the 2023 cycle. This is being done to give owners more time to adjust to the new filing and penalty timelines. Penalties for late filings will still apply. The existing timeframes for filing reports and affirmations of correction apply beginning with the 2024 inspection and test cycles.

The Department of Buildings’ authority for these rules is found in sections 643 and 1043 of the New York City Charter and Article 304 of Title 28 of the New York 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 (3) of subdivision (h) of section 103-02 of subchapter C of chapter 100 of Title 1 of the Rules of New York is amended to read as follows:

(3) Failure to file the affirmation of correction. An owner who fails to correct the defects within the applicable time after the test and to file the affirmation of correction by the date the affirmation was due, stating that all defects found and indicated on the test report have been corrected pursuant to Section 28-304.6.6 of the Administrative Code and subdivision (e) of this section, shall be liable for a civil penalty of one thousand dollars (\$1000.00) per elevator, except that this penalty will not be imposed for affirmations due with respect to defects identified during the 2022 and 2023 test cycles, provided that such affirmations were submitted by April 14, 2023 or April 14, 2024, respectively.

§2. Paragraph (3) of subdivision (i) of section 103-02 of subchapter C of chapter 100 of Title 1 of the Rules of New York is amended to read as follows:

(3) Failure to file the affirmation of correction. An owner who fails to correct the defects within the applicable time after the inspection and test and to file the affirmation of correction by the date the affirmation was due, stating that all defects found during the inspection and test and indicated on the report have been corrected pursuant to Section 28-304.6.6 of the Administrative Code and subdivision (e) of this section, shall be liable for a civil penalty of three thousand dollars (\$3000.00) per elevator, except that this penalty will not be imposed for affirmations due with respect to defects identified during the 2022 and 2023 inspection and test cycles, provided that such affirmations were submitted by April 14, 2023 or April 14, 2024, respectively.