Who conducts the interview this rule makes mandatory, and what qualifications must that person hold?

I am a New York State licensed professional engineer, License No. 107881, commenting in an individual capacity on proposed rule DOB-216 / 2026 RG 048. No allegation of misconduct by any individual is made or implied.

The existing rule provides that an applicant must demonstrate familiarity with the relevant codes and rules to the commissioner's satisfaction, "including satisfactory performance on any written or oral tests the commissioner may require." Sections 3, 4 and 5 of this proposal strike the word "including," strike the words "or oral," and substitute a requirement that the applicant demonstrate that familiarity "through an interview and satisfactory performance on any written tests the commissioner may require."

The Statement of Basis and Purpose describes this as clarifying that applicants must be interviewed in order to be approved. It is more than a clarification. Under the existing text, an oral examination is one tool the commissioner may use or decline to use. Under the proposed text, the interview is a mandatory precondition to registration, and under Section 3, subparagraph (c)(7)(v), it is a mandatory precondition to a currently approved QEWI keeping a credential already held. A discretionary tool has become a gate, and the oral test it replaces has been deleted from the rule.

The rule creates the gate and says nothing about how it operates. It does not state who conducts the interview, whether that person is an employee of the Department, whether that person is a New York State licensed professional engineer or registered architect, whether that person holds or has held the designation being evaluated, whether more than one person participates, or whether any part of the interview may be conducted, designed or scored by a person outside the Department.

It does not state what is evaluated. The substantive standard in the rule is familiarity with "the Construction Codes, laws and rules pertaining to facades and concepts specific to facade science." There is no published syllabus, reading list, reference set, scope statement, or passing standard for that body of material.

It does not state whether a record is made, whether the interview is recorded or transcribed, whether the applicant may obtain a copy, or how long any record is retained.

It does not state whether an unsuccessful applicant receives a written determination, whether that determination states reasons, or whether it identifies the deficiency.

It does not state whether reconsideration is available, whether a re-interview may be requested, after what interval, at what additional cost, or whether any administrative appeal exists.

It does not state when the interview will be offered, or obligate the Department to schedule one within any period after a complete application or renewal application is filed.

The consequence attached to this undefined process is not minor. Under subparagraph (c)(7)(v), failure to complete the interview by the applicable expiration date "will result in expiration of a qualified exterior wall inspector's registration," and under subparagraph (i) an unregistered person may not perform the examination at all. A currently approved QEWI can lose the ability to practice a regulated specialty on the basis of an unrecorded conversation, evaluated against unpublished criteria, by an unidentified evaluator, with no stated route to reconsideration and no obligation on the Department to have offered the appointment in the first place.

I want to state plainly why the qualification of the evaluator matters to me, and I want to state it without reference to any individual.

I hold a New York State professional engineering license. To obtain it I completed an accredited engineering degree, passed the Fundamentals of Engineering examination, accumulated supervised experience, passed the Principles and Practice examination, and became subject to the disciplinary jurisdiction of the State Education Department under Article 145 of the Education Law. I am asked, under this rule, to demonstrate technical competence to the satisfaction of a person whose own technical qualifications the rule does not specify at all. That asymmetry is the entire issue. If the Department's position is that the interviewer will always be a licensed design professional with relevant experience, then writing that into the rule costs the Department nothing and resolves this comment. If the Department's position is that the interviewer need not be a licensed design professional, the regulated community should know that before the rule is adopted.

I raise a second point about the same asymmetry, again without reference to any individual. In adjacent Departmental rulemakings, technical requirements are being drafted around specific software and specific proprietary data schemas, and the public arguments advanced for those requirements have in my experience come from parties with a commercial interest in the schema being selected. In one instance an internationally standardized open exchange format under ISO 16739 was characterized to me as merely a geometry engine by a principal of a firm selling a competing proprietary schema. I make no allegation about that person and I am not asking the Department to act on my account of a conversation. I raise it because it is the reason I believe evaluation criteria and evaluator qualifications must be published rather than left to case-by-case judgment. Where criteria are unpublished, the person applying them is unaccountable, and where the person applying them may have a commercial position, the applicant cannot even identify the conflict, let alone raise it.

The Department's own consultant recommended the opposite approach in this exact area. The FISP Recommendations Report makes eleven recommendations. Two concern QEWIs directly: Recommendation 9, to improve the Department's QEWI help desk system, and Recommendation 11, to develop and publish a QEWI Guide. The report recommends nothing resembling a registration fee, an interview gate, or a change to inspector experience requirements. Its QEWI-facing recommendations point toward published guidance and better support. This rule instead creates an unpublished evaluation with credential loss attached to non-completion, and charges for it. If the Department is acting on its consultant's advice in this area, the record does not show it. If it is departing from that advice, the departure should be explained.

PROPOSED TEXT AMENDMENT

Insert the following as a new subparagraph after subparagraph (iii) of paragraph (7) of subdivision (c), and the corresponding subparagraphs of paragraphs (10) and (11):

"Interview procedure. The Department must publish and maintain on its website the subject matter scope of the interview required by this paragraph, the criteria by which an applicant's performance is evaluated, and the qualifications required of an interviewer. The interview must be conducted by one or more employees of the Department, at least one of whom must be a registered design professional. The Department must offer an interview appointment within sixty days of receipt of a complete application or renewal application. A determination that an applicant has not satisfied the requirements of this paragraph must be issued in writing, must state the specific basis for the determination, and must inform the applicant of the opportunity for a subsequent interview. An applicant may request a subsequent interview no earlier than thirty days after such determination, and no additional registration fee may be charged for such subsequent interview. A registration will not expire for failure to complete an interview where the Department has not offered the registrant an interview appointment prior to the applicable expiration date."

RATIONALE

Every other competence gate this Department administers has published parameters. Publishing the scope costs the Department little and improves the quality of the applicants who appear. An applicant who knows the interview covers facade assembly types in the New York City building stock, report classification criteria, and the filing requirements of 1 RCNY 103-04 can prepare against that. An applicant who does not can only guess, and a guessing applicant consumes more of the staff time this rule is meant to conserve.

A written determination stating reasons is also what makes the disciplinary provisions of subparagraphs (viii) and (ix) reviewable at all. The Department has proposed to import a formal disciplinary framework into these registrations. That framework presupposes a record. This one should have one too.

8

Recommendations

8 Recommendations

The following recommendations are based on the evidence acquired during this study, including stakeholder feedback, historical records and available published testing data on façade material and system performance. The sum of this information is reflected in these recommendations, which are designed to adjust FISP to incorporate technology, better address the varied performance of different building typologies, and reduce the number of unnecessary sidewalk sheds.

Throughout the course of this engagement, several common themes emerged from our discussion with the stakeholders discussed throughout this report:

- FISP currently works well and contributes to a safer NYC.
- FISP currently treats all building façades equally, regardless of height, age, or construction materials and systems.
- Certain aspects of the FISP rules and administration can be improved to better address the diversity of façade construction types in NYC.
- Within the stakeholder community, inconsistencies exist in the interpretation of FISP.

Our recommended improvements to FISP focus primarily on the following objectives:

- Make sidewalk sheds rarer without compromising public safety.
- Make FISP more flexible and bespoke where appropriate.
- Clarify gray areas for both QEWIs and owners through education and rule changes.
- Streamline administrative bottlenecks to speed up the compliance process.

The recommendations are organized into two broad categories:

- Recommended Policy Changes to Rule or Law (Recommendations 1 through 8)
- Recommended Administrative Changes to DOB Procedure (Recommendations 9 through 11)

These recommendations fall into the following categories:

Five New Requirements/Provisions

- Amend the FISP definitions of UNSAFE and SWARMP for all buildings (Recommendation 1).
- Differentiate “administrative” UNSAFE from actual UNSAFE for all buildings (Recommendation 2).
- Change baseline inspection frequency from every five to every six years for all buildings (Recommendation 3).
- Create an “Enhanced Inspection” option for certain higher-risk façades (Recommendation 5).
- Create a “Reduced Hands-On” option for certain lower-risk façades (Recommendation 6).

One New Program that Owner/QEWI needs to apply for

- Create an “Abbreviated Filing” program for lower-risk façades (Recommendation 4).

Five Recommendations for Further Study and Administrative Changes

- Develop and conduct a pilot program for use of drones (Recommendation 7).

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- Create a legal alternative to property access agreements (Recommendation 8).
- Improve DOB QEWI help desk system (Recommendation 9).
- Improve presentation of "failure to maintain" violation notices (Recommendation 10).
- Develop and publish a "QEWI Guide" (Recommendation 11).

8.1 Recommended Policy Changes

Recommendation 1
Amend the FISP definitions of UNSAFE and SWARMP.

We propose modifying the definition of UNSAFE in RCNY §103-04 to reflect the severity of the condition rather than basing it on a failure or repair time frame. To make it more consistent with current industry practices, we propose the following definition:

UNSAFE: "A condition of a building wall, any appurtenances thereto or any part thereof identified at the time of inspection that is imminently hazardous to persons or property."

We also propose redefining the definition of SWARMP to include any conditions that require repair, regardless of the imposed repair time frame. In the current rule, conditions are classified as SWARMP only if they are deemed to become unsafe if not repaired within the next one to five years. We propose the following new definition for SWARMP:

SWARMP: "A condition of a building wall, any appurtenances thereto or any part thereof that requires repairs or maintenance to prevent deterioration into an Unsafe condition."

This proposed change to the definition of SWARMP would still require that specific repair time frames be assigned to conditions. The specified date does not necessarily represent when the condition will fail or become UNSAFE, but instead indicates when, based on the QEWI's professional judgment, the repair should be completed to avoid causing consequential deterioration of underlying materials in the façade assembly or to avoid allowing the condition to worsen and eventually become hazardous or unsafe. Therefore, SWARMP conditions must still be repaired within the cycle. However, with these revisions, a SWARMP condition may be identified as requiring repair in less than a year without automatically reclassifying the condition as UNSAFE.

To further enhance the process, we propose adding a requirement to the rule that if a SWARMP date passes without completion of the repair, an owner shall request their QEWI to reinspect the condition(s) and file a Subsequent report. In that report, the QEWI will describe the status of the condition(s) and specify the new repair completion time frame(s). Although this is currently permitted within the program, it is not a requirement and is not consistently done.

The current provision would remain that SWARMP conditions must be repaired within the cycle or be reclassified as UNSAFE. The reclassification would be due to the expiration of the deadline, as clarified in Recommendation 2.

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Recommendation 2

Differentiate conditions filed as UNSAFE due only to unrepaired SWARMP conditions from the prior cycle.

The goal of this recommendation is to reduce the number of sidewalk sheds by more clearly differentiating actual unsafe or hazardous conditions from SWARMP conditions that have been automatically reclassified as UNSAFE (commonly referred to as "Administrative UNSAFE") but are not deemed unsafe or hazardous.

When a new cycle begins, any unrepaired SWARMP conditions from the prior cycle will be evaluated by the QEWI to determine whether a sidewalk shed (or other means of public protection) is required.

Section 3 of the Initial report (TR6) form will be modified to include a checkbox for "UNSAFE (resulting only from unrepaired SWARMP)." This box must be checked if the UNSAFE classification results only from unrepaired SWARMP conditions from the prior report and no public protection is required. However, if the QEWI identifies any actual unsafe or hazardous conditions (either newly discovered conditions or those resulting from unrepaired SWARMP from the prior cycle), the "UNSAFE" box must be checked instead, and public protection installed. In addition, we propose adding two checkboxes on the FISP form for clarity: "Requires Pedestrian Protection" and "No Pedestrian Protection Required."

The benefit of the approach proposed in Recommendations 1 and 2 is that it allows more flexibility in assigning repair time frames to SWARMP conditions without automatically imposing an UNSAFE classification. This, in turn, may help reduce the number of unnecessary sidewalk sheds, potentially decreasing short-term costs as well as long-term repairs for owners.

Recommendation 3

Extend the baseline FISP filing frequency from every five years to every six years and change the required first filing for new buildings from five years to six years from the date of the first TCO or CO.

Since NYC's initial façade ordinance was enacted in 1980, the rules have evolved to incorporate more prescriptive inspection and investigation methodologies (including wall probes), enhanced repair requirements (including the stipulation of time frames) and increased enforcement and oversight by DOB. The current FISP rules impose a level of diligence that clearly exceeds what was anticipated when the five-year inspection interval was specified 45 years ago.

Under the changes proposed in this report, UNSAFE conditions will still require pedestrian protection to remain in place until they are repaired. And SWARMP conditions will continue to be tracked with repair time frames within the cycle, so for many buildings, work and inspection will be ongoing throughout the cycle.

Because certain materials and assemblies have inherently higher rates of deterioration than others, it is not possible to assign a single inspection interval that covers all possibilities. So the assignment of repair time frames by the QEWI in response to a building's specific conditions is an important part of the current bespoke approach that ensures a continual and sufficient level of ongoing inspections and is much less dependent on the FISP inspection interval. Slightly longer repair-by deadlines for less critical SWARMP conditions would also allow building owners more time to finance and phase repair projects.

In addition, the recommendation for Abbreviated Filing (Recommendation 4 below) accommodates buildings with slower rates of deterioration, and the recommendation for Enhanced Inspection and Filing (Recommendation 5 below) accommodates buildings with higher rates of deterioration. For the baseline FISP schedule, the published data reviewed doesn't demonstrate or suggest a significant degradation of materials or systems from five to six years. However, in our experience – and as confirmed in discussions with several QEWIs – allowing more than six years to pass between inspections increases the risk of overlooking meaningful changes in the conditions.

We also recommend that newly constructed buildings continue to conform to the same inspection interval and cadence as existing buildings. During this study, both QEWIs and private owners expressed opinions regarding inconsistencies in the quality of new construction. There was broad agreement that the first FISP examination should not be postponed or skipped, as the effects of latent construction defects commonly begin to appear during the first several years after construction. DOB reported that for Cycle 9, approximately half of new buildings were filed as SWARMP or UNSAFE in their first FISP report.

This recommendation is expected to result in modest cost savings to owners and slightly reduce DOB's administrative burden. Most importantly, public safety would not be compromised.

Note that in March 2025, the City Council passed a local law amending Section 28-302.2 of the Administrative Code to modify the current five-year FISP inspection interval to "between 6 to 12 years" and to modify the initial examination for a new building to "the eighth year following . . . the issuance of a temporary or final certificate of occupancy." The effective date for these changes is October 1, 2026.

Recommendation 4
Create an Abbreviated Filing program for certain qualifying buildings

The Abbreviated Filing (AF) program is intended for newer buildings (less than 40 years old) with well-maintained façades and permit eligible buildings to have a 12-year cycle for hands-on inspections if they complete visual-only inspections every three years. The QEWI, at their discretion, may require more frequent visual examinations. A regular "full filing" will be required a minimum of every other cycle, i.e., a building cannot be on the AF program for two cycles in a row.

To be eligible for the AF program, a building needs to meet all the following criteria:

a. The building's first Temporary Certificate of Occupancy (TCO) or Certificate of Occupancy (CO) was issued within 40 years of the cycle filing deadline. If a TCO or CO is not available, the owner shall submit another form of evidence of the building's age to DOB for review.

b. The current filing status is SAFE.

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c. The building has already undergone at least one FISP examination (“full filing”).

By completing an application in DOB NOW, the owner and QEWI may request participation in the AF program for an upcoming cycle. DOB will review applications and may reject a submission for any reason, including the building's condition, façade materials or history.

The AF visual-only examination will consist of the following:

a. Buildings under 10 stories tall may be inspected from the ground, setbacks or other vantage points using binoculars or telephoto lenses.

b. Buildings 10 stories or taller will be required to use drone technology that is at least equivalent to eye-level observations performed at a distance no greater than six feet.

If a visual-only examination determines that the façades remain SAFE, the QEWI will file the report and nothing further will be required until the next visual-only or hands-on examination.

If a visual-only examination identifies SWARMP condition(s), the QEWI will assign time frames for repairs within the current full cycle. A QEWI may require a hands-on examination at their discretion if they identify any conditions during the visual-only inspection that warrant further investigation.

If a visual-only examination identifies UNSAFE conditions, the building will be reclassified as UNSAFE. It will then be removed from the AF program and revert to full filing status for the next cycle. It will be an UNSAFE building (i.e., a FISP3 will be issued, public protection will be installed, etc.).

The filing window for the visual-only examination and report will be one year. If an owner fails to file the visual-only report within the filing window for either the third or sixth year, the building will be removed from the AF program for that cycle and will be required to perform a regular FISP examination in the next normal full-filing cycle. If an owner fails to file the visual-only report within the filing window for the ninth year, they will become ineligible to apply for the AF program during the next normal full-filing cycle. Civil penalties will also be assessed for failure to file within the required time frames.

The TR6 form will be modified to include a checkbox indicating an AF visual-only report. The report will be filed in DOB NOW and will be in a shorter and simpler format than a normal FISP report. Approximately 40% of FISP buildings constructed in the past 40 years will qualify for the AF program (or approximately 9% of the total universe of FISP buildings). It is expected to result in a net cost savings for participating owners but will increase the DOB's administrative burden because visual-only reports will be filed every three years for participating buildings.

Recommendation 5
Create an Enhanced Inspection option for certain higher-risk façades.

The Enhanced Inspection (EI) option is intended to target buildings with façade materials or assemblies, or maintenance history that point to patterns of chronic deterioration that need to be assessed more often than every six years because they are deemed to have an elevated risk.

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Implemented on a case-by-case basis, EI consists of a visual-only examination at the midpoint between (and in addition to) the regular six-year FISP cycle hands-on examinations. While such interim inspections are currently permitted, no specific provisions are cited in the rules. This recommendation will create a formal and consistent process. The EI option will be at the discretion of the DOB, based on site factors including but not limited to past FISP history, violation history, site-specific construction conditions and QEWI feedback. The TR6 form will be modified to include a checkbox identifying a building that has been proposed for EI.

The methodology for conducting the visual-only examination will be the same as that described in the Abbreviated Filing program above. If the visual-only examination reveals changes to the conditions of the façade that would require a change in classification (from SAFE to SWARMP or UNSAFE, or from SWARMP to UNSAFE), a Subsequent report must be filed with DOB, and all other normal procedures in the FISP rules must be followed. If no changes are observed in the conditions that would necessitate its reclassification, then no report needs to be filed with DOB. Regardless, a summary of the midpoint Enhanced Inspection findings will be included as part of the full inspection filing in the next cycle.

The EI option will potentially affect a small percentage of FISP buildings. The recommendation is expected to result in a modest increase in inspection costs for these owners and administrative burden for DOB. The benefit is that it will allow most buildings to have a longer cycle while directing the necessary monitoring of higher-risk buildings.

Recommendation 6

Create a Reduced Hands-On option that increases the 60-foot drop spacing requirement to 100 feet for certain buildings.

The Reduced Hands-On (RHO) option is intended for buildings for which the 60-foot spacing requirement would result in more effort than reasonably necessary to provide actionable data on the façade conditions. To qualify for this, a building must be short enough to be readily observable with binoculars from the street level and must entail a façade type that is repetitive and relatively unornamented.

To be eligible for reduced hands-on inspections, a building must meet all the following criteria:

a. The most recent regular full-filing status was SAFE OR SWARMP.

b. The building is no greater than 20 stories tall.

c. The façades are not constructed of terra cotta, natural stone, cast stone, precast concrete panels, cast-in-place concrete, EIFS or stucco.

d. The building does not contain balconies or exposed concrete “eyebrows.”

At least one drop per façade shall be performed. A “drop” in the context of this recommendation is defined as access that permits at least 15 feet of hands-on inspection, regardless of the method used.

This recommendation is expected to slightly decrease inspection costs for participating owners.

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Recommendation 7

Develop and conduct a pilot program to explore the potential use of drones to qualify buildings for further exemptions from FISP.

The goal of this DOB pilot program would be to perform real-world test cases that explore the potential for drones to further exempt certain buildings from FISP hands-on requirements beyond the exemption provided in the Abbreviated Filing program. The program will also include evaluating the current effectiveness of software tools (including photogrammetry and computer vision) for performing drone imagery analysis.

This pilot program is intended to build on the conclusions made in the 2021 DOB Study Using Drones to Conduct Façade Inspections. The results can inform the development of initial policies for drone use in connection with FISP.

DOB would select several test buildings of differing façade materials for this pilot program. Then a comprehensive 100% envelope drone inspection would be completed by one engineer, while another would oversee the traditional hands-on evaluation. It also may be possible to use existing drone imagery datasets to reduce the need to fly drones as part of this study.

The program would be designed to determine what percentage of critical conditions found during the hand-on inspection can be detected with a drone-based inspection. This will allow DOB to assess the capabilities of drone technology and camera resolution to determine if drone-based visual inspections are able to exceed the capabilities of hands-on human visual inspection.

The pilot study would also compare the difference in cost between the two approaches. We expect the study will be sponsored and funded by DOB or by a nonprofit technical standards organization or university.

Recommendation 8

Create a legal alternative for property access agreements.

While we recognize that this is not in DOB's purview, we recommend the creation of a streamlined, structured legal process for neighbor access agreements. This may include statutory license terms for access.

Currently, adjacent owners typically negotiate an access agreement with the neighboring property, andif they cannot come to terms within a certain amount of time, an owner can initiate a special proceeding under Section 881 of the New York State Real Property Actions & Proceedings law. Under these circumstances, sidewalk sheds may remain in place with no repair work occurring, wasting time, money, and resources.

The RPAPL 881 special proceeding is viewed as a measure of last resort and usually occurs only after attempts have been made to negotiate an access agreement. It can take time to obtain a court order to implement RPAPL 881, but there have been attempts to amend this law to make access simpler and faster. This recommendation would be consistent with these proposed amendments.

One appropriate model for may be the statutory license law in Massachusetts 266 MGL 120B , in which access to adjacent properties is permitted with requirements for notifying the neighboring owner, demonstration of refusal to grant access, local police department notification, a bond requirement and a limitation on material and tool storage on neighboring property.

8.2 Recommended Administrative Changes

Recommendation 9

Improve DOB's help-desk system for QEWI inquiries.

Currently, QEWIs must submit questions about a FISP filing to an email address (façades@buildings.nyc.gov). Sometimes the questions cannot reach the plan examiner who is currently reviewing the submission related to the question being asked.

The goal of this recommendation is to implementat of a more robust help-desk ticketing system that allows QEWIs to submit filing-specific questions which can be answered directly by the assigned examiner when needed. QEWIs will not need to directly access the assigned plan examiner for all questions, but the help-desk system could allow for internal DOB triage and elevation of questions when appropriate.

Separately, DOB should consider adopting commercially available knowledge hub (FAQ) software that can automatically provide answers by scanning document repositories such as the slide presentations posted to the DOB website. Certain software provides automated responses to general questions, offering answers from the knowledge hub before escalating more complex questions to human representatives.

Recommendation 10

Improve the presentation of "failure to maintain" façade violation notices.

"Failure-to-maintain" façade violation notices should clearly identify and communicate the exact location and nature of the condition. Owners are often unable to understand where the locations in question are, and QEWIs who have had notices forwarded to them also commented that they are typically difficult to understand and that sometimes the location of conditions is not clear. The simple goal of this recommendation is a quicker resolution of hazardous conditions.

Recommendation 11

Develop and publish a QEWI Guide.

Our QEWI and owner interviews revealed the need for a QEWI Guide, which would serve as a resource documenting consistent best practices and as a companion to the FISP rules. The guide may include:

- A summary of the rule changes implemented because of this study.
- Best practices for the classification of certain SWARMP vs. UNSAFE conditions in specific materials.
- Best practices for communicating "maintenance" conditions in the FISP report.
- Best practices for use of drones for façade inspections.

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- Approaches to public protection for various building configurations and FISP filing statuses.
- An FAQ section.

The guide should be viewed as a “living” document that can be supplemented by periodic updates. Its rollout is envisioned to be supported by webinars, presentations to stakeholder groups, and other forums for education and discussion.