



Promulgation Details for 1 RCNY 104-23

This rule became effective on January, 5, 2018.

Since such date, one or more amendments have been made to this rule. Each rule amendment has its own effective date and Statement of Basis and Purpose.

Below you will find one or more rule amendments (the most recent appearing at the top), followed by the original rule.

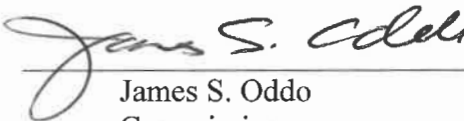
The effective date of each amendment and the original rule can be found at the top of each "NOTICE OF ADOPTION OF RULE."

This rule has an effective date of 07-25-24

**NEW YORK CITY DEPARTMENT OF BUILDINGS
NOTICE OF ADOPTION**

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 its rules regarding hoisting machine operator licenses. This rule was first published on January 26, 2024, and a public hearing thereon was held on February 28, 2024.

Dated: 6/17/24
New York, New York


James S. Oddo
Commissioner

Statement of Basis and Purpose of 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 rule makes amendments implementing the new limited hoisting machine operator licenses for articulating boom cranes and mini cranes. It further creates a new limited hoisting machine operator license for telehandlers. Ancillary changes for Class A, B, and C hoisting machine operator licenses are also made. More specifically:

- Sections 1, 2, 3, 6, 7, and 8 amend section 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 rule edits 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 rewrites 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 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 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 adds a new subparagraph (iii) to 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) allows 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 amends clause B of subparagraph (ii) to account for individuals who 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 impose 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 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 also 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 adds a new subdivision (i) to specify that individuals may hold multiple limited hoisting machine operator licenses.
- Sections 4, 7, 9, and 10 include 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 amends 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 amends 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 delay implementation of the limited licenses for articulating boom cranes and telehandlers until November 7, 2024. This provides time for qualified individuals to apply for the new licenses. Similarly, amendments to exception number 7 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 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

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 required to possess an NCCCO certification for the operation of a telehandler.

However, following the public hearing, several edits were made based upon comments received:

- Section 2 was revised so that terminology used in subparagraph (i) of paragraph (4) of subdivision (a) of section 104-09 matches similar language used in clauses (B) and (C) of subparagraph (ii) of paragraph (4) of subdivision (a) concerning experience obtained on “mobile or tower cranes or rotating telehandlers,” with the additional reference to “derrick” retained to reflect the larger scope of the Class A hoisting machine operator license.
- Section 2 was also revised to clarify how applicants who apply for a license for an articulating boom crane, mini crane, or rotating telehandler can credit experience obtained operating in New York City prior to November 7, 2024 not under the supervision of a licensed operator. Specifically, the language previously proposed for clause (B) of subparagraph (ii) of paragraph (4) of subdivision (a) regarding such experience was relocated and expanded to become a new exception number 2. As amended, the new exception provides that articulating boom cranes, mini cranes, and rotating telehandlers will not require a licensed operator until November 7, 2024. The previous language recognized that applicants who apply for a license for an articulating boom crane, mini crane, or rotating telehandler after November 6, 2024, and wish to credit experience obtained operating in New York City prior to November 7, 2024, would not have needed to operate under the supervision of a licensed operator. The exception retains this concept and provides additional detail on how an applicant and the department would credit the experience. The additional detail mirrors language previously proposed in the rule for applications submitted before November 7, 2024.
- Section 2 was also revised to clarify that any applicant who “submit[s] an application” pursuant to subparagraph (iii) of paragraph (4) of subdivision (a) will vest their application under the alternate pathway described therein.
- Section 3 was amended to clarify that under paragraph (5) of subdivision (a), a crane with a boom over 200 feet in length can be used to satisfy the outrigger setup requirement if the boom is fully retracted or stowed. Applicants for a Class A, C, or limited hoisting machine operator license must perform at least 100 outrigger setups on a crane. However, such individuals are not authorized to operate a crane with over 200 feet of boom. Ensuring the boom is fully retracted or stowed will prevent such individuals from operating the crane while still making the crane available for outrigger placement training, enabling more opportunities for applicants to conduct the 100 outrigger setups.
- Section 6 was amended to delete the previously proposed footnote number 6 in Table 2. The NCCCO does not restrict testing for their Telescopic Boom Crane - Fixed Cab certification to mini cranes in the manner contemplated by the footnote. By deleting the previously proposed footnote, it will bring the New York City certification requirement for mini cranes into alignment with the national practice.

- Section 12 was amended to clarify that operators of equipment exempted from paragraph (1) of subdivision (i) of section 3319-01 pursuant to exception number 2 include operators of rotating telehandlers configured as excavating, earth-moving, or drill equipment, demolition grapplers, or aerial work platforms.
- Section 12 was also amended to clarify that under the new exception number 10 to paragraph (1) of subdivision (i) of section 3319-01, the proposed operator certification requirement for the operation of a fixed telehandler is only applicable when the fixed telehandler is configured with a hook, jib, or similar means to lift a suspended load. This reflects Occupational Safety and Health Administration (OSHA) requirements which treat a fixed telehandler equipped with a fork or cradle as similar to a forklift and not subject to crane operator certification requirements.
- Section 12 was further amended to add two new exceptions to paragraph (1) of subdivision (i) of section 3319-01:
 - A new exception number 11 was added to clarify that the scope of the new mini crane hoisting machine operator license does not apply to public water or sewer work.
 - A new exception number 12 was added to address industry concerns that the department will not be able to process an adequate number of applications in the few months remaining before the November 7, 2024 deadline, established by Local Law 126 for the year 2021, for applications for certain limited hoisting machine operator licenses under the alternate pathway set forth in section two of this rule. Accordingly, this exception ensures adequate processing time by allowing individuals currently operating articulating boom cranes, mini cranes, and rotating telehandlers to submit an application for a license by November 6, 2024 to continue operating such equipment on and after November 7, 2024, until a decision on their application is reached.

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 mobile or tower crane, derrick, or rotating telehandler 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 or 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; 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.

Exceptions:

1. 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.
2. Applicants for a Limited Hoisting Machine Operator license for an articulating boom crane, mini crane, or telehandler may credit experience earned in New York City operating an articulating boom crane, mini crane, or rotating telehandler neither in the presence nor under the direct supervision of a New York City licensed Hoisting Machine Operator, provided, however, that such experience was earned prior to November 7, 2024 and no more than three (3) years prior to the date of application for licensure, and provided further that such operation was 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 or from a building, but excluding work in industrial or commercial plants or yards. Such experience will be credited as satisfying the provisions of clause (A) of this subparagraph at a rate of 125 hours of operator experience equaling one month of experience.

Where the operator has in excess of 1,500 hours of qualifying experience, the remainder of the experience will be credited towards satisfying the second year of experience required by section 28-405.3 of the New York city administrative code at a rate of 125 hours of operator experience equaling one month of experience. Proof of such experience shall be documented in the form of an affidavit provided by the department and signed by the applicant and the applicant’s employer or union. However, the department may decline to credit such experience 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 exception 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.

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 who submit an application 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 or 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 or 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 or 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 A, [or] Class C, 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 shall 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, unless the boom and all its attachments are fully retracted or stowed according to the manufacturer's specifications. 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 hoisting 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> - or - <u>NCCCO Boom Crane w/Winch</u> - or - <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>Required</u>	<u>Required⁵</u>	
<u>NCCCO Telescopic Boom Crane - Swing Cab</u>					
<u>NCCCO Lattice Boom Crane²</u>					

<u>NCCCO Tower Crane</u>					
<u>NCCCO Articulating Boom Crane</u> - or - <u>NCCCO Boom Crane w/Winch</u> - or - <u>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.

§ 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 chapter 4 of Title 28 of the Administrative Code.

Exceptions:

1. 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. This includes but is not limited to rotating telehandlers when configured as excavating or earth-moving equipment, drilling equipment, demolition grapplers, or aerial work platforms, provided all the conditions and restrictions in the applicable exemption are met. A rotating telehandler equipped with forks is not considered to be a powered industrial truck (forklift).
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, and not equipped with a hoisting mechanism. However, where such telehandler is configured with a hook, jib, concrete bucket, or a vacuum or magnetic lifting attachment, or otherwise moves a suspended load, the operator must possess on and after November 7, 2024 a certification from the National Commission for the Certification of Crane Operators ("NCCCO") for the operation of such telehandler.
11. Operators of mobile cranes described in exception number 3 of Section 3319.3 of the New York City Building Code, where such operators are employees of the New

York City Department of Environmental Protection (“DEP”) performing work in connection with DEP’s installation, maintenance, or removal of water or sewer infrastructure, and maintenance of stormwater infrastructure and coastal protection systems.

12. Operators who submitted an application for a Limited Hoisting Machine Operator license for an articulating boom crane, mini crane, or telehandler on or before November 6, 2024, may continue to operate equipment within the scope of the application until their application is processed and a decision made by the department to approve or deny such application.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department 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 sections 104-09 and 104-23 of Subchapter D of Chapter 1 and sections 3316-01 and 3319-01 of Chapter 3300 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding technical cleanup amendments to rules governing the licensing of hoisting machine operators and the rules governing cranes and derricks, adding language on peer review of cranes and amending the rule regarding rigging operations.

This rule was published in the City Record on March 2, 2020 and a virtual public hearing was held on June 4, 2020.

Dated: June 16, 2020
New York, New York



Melanie E. La Rocca
Commissioner

Statement of Basis and Purpose of Rule

The amendments:

- Make technical cleanups to rules governing the licensing of hoisting machine operators, as follows:
 - Sections 1 and 4 of the amendments correct a logical inconsistency in sections 104-09 and 104-23 of chapter 100 of Title 1 of the Rules of the City of New York. The amendments prevent a misinterpretation that would prohibit some applying credits obtained on larger machinery towards obtaining more limited licenses.
 - Article 405 of Title 28 of the New York City Administrative Code does not establish pre-requisite licensing in order to obtain a Class A or a Class C Hoisting Machine Operator license.
 - Only people applying for a Class B Hoisting Machine Operator license must first be licensed as a Class A Hoisting Machine Operator.
 - Individuals who originally intended to get a Class A license but ultimately choose to apply for a Class C license have previously been allowed to credit experience obtained on larger Class A machinery in applying for the more limited Class C license.
 - Similarly, individuals who originally intended to obtain a Class C license but ultimately choose to train on larger Class A machinery and apply for a Class A license have not been required to first obtain a Class C license.
 - Sections 2 and 3 of the amendments remove a distinction between a certification for a tower crane and a self-erecting tower crane. This amendment mirrors current national crane certifications, which do not distinguish between tower cranes and self-erecting tower cranes.
- Include additional rigging best practices (Sections 5 and 6).
- Make technical cleanups to rules governing cranes and derricks, as follows:
 - Section 8 of the amendments require additional engineering information to be submitted to the department for tower crane prototype review; these values were inadvertently left out of the current rules.
 - Section 9 corrects terminology related to a “phase” or “jump.”
 - Section 10 clarifies that a licensed master or tower crane rigger can witness a tower crane load test.
 - Section 12 clarifies that cranes or derricks that are used under the supervision of a master rigger must maintain the same jobsite logs as a crane that requires a certificate of on-site inspection.
 - Section 13 clarifies the title and scope of a particular section of the rule.

- Codify requirements contained in Buildings Bulletin 2019-005 regarding peer review for cranes and derricks in Sections 7 and 11. The department requires certain cranes or derricks with complex or out of the ordinary loading, load paths, configurations, operations, or site conditions, or whose setup requires coordination among city agencies to be subject to a peer review. During a peer review, an independent New York State professional engineer reviews the application submitted by the crane or derrick notice engineer and provides an additional verification that the crane or derrick design indicated on the submitted crane or derrick notice application is in general conformance with New York City Codes, rules, and regulations for cranes and derricks. This rule provides uniform requirements for crane and derrick peer reviewers and crane and derrick peer reviews.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter, section 28-104.7.11 of Chapter 1 and Article 405 of Chapter 4 of the City Administrative Code and sections BC 3316 and BC 3319 of the New York City Building Code.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Subparagraph (ii) of 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:

- (ii) Class C license applicants. An applicant for a Class C 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).

§2. Paragraph (4) of 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:

- (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 [(not self-erecting)], and such certification has been listed on the hoisting machine operator's license by the department.

§3. Table 1 of 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 delete the row entitled "Self-erecting tower crane" and to delete footnotes 3 and 4, renumber footnote 5 as footnote 3, and renumber footnote 6 as footnote 4.

§4. 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. 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.

§5. Subdivision (d) of section 3316-01 of chapter 3300 of Title 1 of the Rules of the City of New York is amended to add a new paragraph (6) to read as follows:

- (6) Trimming and balancing loads.** Loads must be securely slung and balanced before they are set in motion. Loads must be trimmed to prevent the dislodgment of any part during raising, lowering, swinging, or transit.

§6. Subdivision (d) of section 3316-01 of chapter 3300 of Title 1 of the Rules of the City of New York is amended to add a new paragraph (7) to read as follows:

- (7) Load suspended beneath another load ("Christmas treeing") prohibited.** No load may be suspended directly beneath an existing load.

§7. Subdivision (b) of section 3319-01 of chapter 3300 of Title 1 of the Rules of the City of New York is amended by adding new definitions, in alphabetical order, as follows:

- INDEPENDENT (peer reviewer).** A person who does not engage in any activities that may conflict with their objective judgement or integrity, including but not limited to having a financial and/or other interest in the design, construction, installation, manufacturer, or maintenance of the crane or derrick they are reviewing.

QUALIFIED (peer reviewer). A New York State professional engineer who has the education, training, and experience required for the design of structures of a similar complexity and size as the crane or derrick notice application to be peer reviewed and to perform a complete review of the means, methods, and design proposed by the crane or derrick notice engineer.

§8. Clause (C) of subparagraph (iv) of paragraph (5) of subdivision (d) of section 3319-01 of chapter 3300 of Title 1 of the Rules of the City of New York is amended to read as follows:

(C) Contain the following information from the manufacturer for the given in-service, out-of-service, and, where applicable, full, unreduced, design wind speed at the center of the tower:

1. The maximum moment;
2. The slewing moment; and
3. Corresponding vertical loads at the foundation.]

1. Wind load base shear.
2. Wind load overturning moment at the base.
3. Vertical loads at the base.
4. Overturning moment at the base center due to vertical loads.
5. Maximum tower and boom displacements due to wind.
6. The slewing moment.

§9. Subparagraph (ii) of paragraph (7) of subdivision (g) of section 3319-01 of chapter 3300 of Title 1 of the Rules of the City of New York is amended to read as follows:

(ii) **Continued validity of the certificate of on-site inspection for a phase or jump.** Where a crane or derrick project includes multiple phases or jumps, the continued validity of the certificate of on-site inspection is contingent upon the crane or derrick passing the inspection and tests required by subparagraphs (i) and (ii) of paragraph (8) below for each phase or jump. Upon successful passage of such inspections and tests, and submittal of the inspection report in accordance with subparagraph (iv) of paragraph (8) below, the certificate of on-site inspection is deemed to cover such phase or jump.

Exception: A phase does not include the relocation of a mobile crane to another location at the site, provided such relocation is indicated on the approved crane or derrick notice plans, and provided such relocation does not require the crane to be assembled or disassembled.

§10. Item number 5 of clause (D) of subparagraph (i) of paragraph (8) of subdivision (g) of section 3319-01 of chapter 3300 of Title 1 of the Rules of the City of New York is amended to read as follows:

5. [For] A licensed master or tower crane rigger, or, for a derrick, a licensed master rigger[,] or a master rigging foreman.

§11. Subdivision (g) of section 3319-01 of chapter 3300 of Title 1 of the Rules of the City of New York is amended by adding a new paragraph (13) to read as follows:

(13) Peer review. Peer reviews for crane or derrick notice applications must be in accordance with the requirements of subparagraphs (i) through (xiii) below.

(i) Peer review required. A crane or derrick notice application is subject to a peer review when the crane or derrick notice application proposes any one of the following:

(A) The use of a mobile crane with a boom, including jibs and any other extensions to the boom, equal to or greater than 300 feet (91.44 m) in length.

(B) The use of a mobile crane in a configuration where the manufacturer requires, at a wind speed of 20 mph (32.19 kph) or less (sustained or gust):

1. The boom or boom/jib combination to be laid down;

2. The boom or boom/jib combination to be placed in a jackknife position; or

3. Other special protective measures to be implemented.

(C) The placement of a mobile crane with a maximum manufacturer rated capacity in excess of 10 tons (9.07 metric tons) on any elevation of a building above grade.

In addition, where other out of the ordinary or complex loading, load paths, configurations, operations, or site conditions exist, or where the crane application requires coordination among city agencies, the commissioner may require peer review.

(ii) Peer reviewer. The peer review must be performed by a qualified and independent New York State professional engineer who has been retained by or on behalf of the equipment user.

(A) Peer reviewer to be acceptable to crane or derrick notice engineer. The peer reviewer's qualifications must be acceptable to the crane or derrick notice engineer.

(B) Department reserves right to reject peer reviewer. The department reserves the right to reject a peer reviewer on the grounds of lack of qualification or independence.

- (iii) Responsibility of crane or derrick notice engineer.** The crane or derrick notice engineer retains sole responsibility for the crane or derrick design indicated on the submitted crane or derrick notice application. The activities and reports of the peer reviewer do not relieve the crane or derrick notice engineer of any responsibility for the crane or derrick design indicated on the submitted crane or derrick application.
- (iv) Standard of care for of peer reviewer.** The standard of care to which the peer reviewer must be held in the performance of the peer review and report must be equal to the level of skill and care required to prepare and submit the crane or derrick notice application.
- (v) Scope of the peer review.** The peer reviewer must perform an independent review and analysis of the crane or derrick design indicated on the submitted crane or derrick notice application to confirm the design is in general conformance with New York City Codes, rules, and regulations for cranes and derricks. The review and analysis to determine general conformance shall include but not be limited to the following:
- (A)** Confirm that drawings are complete, existing conditions and base building construction loading have been accurately represented on the drawings, and that any structures including, but not limited to, vaults, adjacent buildings, overhead wires, transit structures, and utilities are accurately represented on the drawings.
 - (B)** Confirm that approved load charts have been included and maximum picks represented correctly.
 - (C)** Where applicable, review the project's geotechnical report design recommendations and inspection reports to determine that appropriate design criteria for dunnage or foundations has been utilized. If no design criteria have been specified on the crane or derrick notice application design drawings, the peer reviewer must state any assumptions or criteria utilized in the analysis of the crane or derrick notice application design.
 - (D)** Confirm the assembly/disassembly plan is complete, specific to the configurations shown in the crane or derrick notice application, and able to be fully implemented based upon site conditions.
 - (E)** Confirm the wind action plan is complete, specific to the configurations shown in the crane or derrick notice application, and able to be fully implemented based upon site conditions.
 - (F)** Where applicable, confirm that complete pre-operational test procedures, including load test procedures, are included.

- (G) Confirm that the crane or derrick has a complete load path into the base building structure or ground.
 - (H) Perform independent calculations for all structural members, connections and systems included in the load path determined in item vii above and verify the foundation and structural elements' ability to support the crane or derrick loads.
 - (I) Other items required by the commissioner.
- (vi) Design criteria and assumptions not shown.** If the design criteria and design assumptions are not shown on the crane or derrick notice application drawings or in the computations, the crane or derrick notice engineer must provide a statement of these criteria and assumptions to the peer reviewer. In addition, the crane or derrick notice engineer must provide other information and/or calculations if requested by the peer reviewer.
- (vii) Peer review report.** The peer reviewer must submit a report to the department stating his or her opinion regarding the design of the crane or derrick proposed in the crane or derrick notice application and detailing whether or not the crane or derrick design indicated on the submitted crane or derrick notice application is in general conformance with New York City Codes, rules, and regulations for cranes and derricks. The determination of general conformance shall be based upon the review and analysis performed in accordance with subparagraph (v) of this paragraph.
- (A) Report contents.** The peer review report must, at a minimum, contain the following information:
1. Confirmation that the crane or derrick notice application:

 - A. Complies with each of the items listed in subparagraph (v) of this paragraph.
 - B. All design loads and their combinations are adequate and compliant with New York City codes, rules, and regulations for cranes and derricks and specific project conditions.
 - C. The crane and its supporting elements can safely sustain the design loads.
 2. In the introduction to the peer review report, the peer reviewer must list his or her qualifications and include a statement that he or she is independent from the crane or derrick notice engineer.
 3. All calculations, specific conclusions and results of verification calculations performed by the peer reviewer.

4. A listing of all drawings and reports used in verification (including revision numbers and dates). Where the peer reviewer relied upon reports or data prepared by others, including but not limited reports by specialty consultants (e.g. geotechnical reports), or reports prepared by the crane or derrick manufacturer, the reliance must be disclosed in the peer review report. Such reports or data must be maintained by the peer reviewer for a minimum of six years after the date of project completion, and must be provided to the department upon request.

(B) Conclusions. The peer review report must provide a clear conclusion either:

1. Accepting that the crane or derrick design indicated on the submitted crane or derrick notice application is in general conformance with New York City Codes, rules, and regulations for cranes and derricks; or
2. Rejecting the design.

(C) Positive statements to be unequivocal. Positive evaluations with conclusions that contain exceptions will not be accepted by the department.

(D) Basis of report. The peer review report must be based on and reference only the set of documents submitted to the department with the crane or derrick notice application; all drawings and the latest revision dates must be clearly enumerated in the peer review report.

(E) Changes to be enumerated. Peer review reports must enumerate the changes, if any, made by the crane or derrick notice engineer as a result of discussions following an initial structural peer review evaluation.

(F) Cover statement. The peer review report must include a cover letter provided by the department and completed by the peer reviewer.

(G) Signed and sealed. The peer review report and cover statement must be signed and sealed by the peer reviewer.

(vii) Copy to be provided to equipment user. The peer reviewer must provide a copy of submitted peer review reports and cover statements to the equipment user.

(ix) Phased submission. If the crane or derrick notice application is to be submitted in phases, the peer review and report must be phased. The crane or derrick notice engineer must provide the peer reviewer with

sufficient information to make a peer review of the phased submission. The phased peer review report submission must cover the documents submitted for that phase, and must be without any exclusion that would make the review incomplete.

- (x) Log of discussions.** The peer reviewer must keep a log of any discussions with the crane or derrick notice engineer. The log must be made available to the commissioner upon request.
- (xi) Modifications to the design.** Amendments to the crane or derrick notice application that include changes that substantially modify the basis of the peer review evaluation will not be approved by the department until an amended peer review report and cover statement is submitted to the department by the peer reviewer. The report must provide a statement of acceptance that the design indicated in the amended crane or derrick notice application is in general conformance with New York City codes, rules, and regulations for cranes and derricks. It is the responsibility of the crane or derrick notice engineer to clearly identify on the plans the changes that are substantial and to notify the peer reviewer of any such changes.
- (xii) Disputes.** When a dispute arises between the crane or derrick notice engineer and the peer reviewer regarding compliance with New York City Codes, rules, or regulations for cranes and derricks, and which cannot be resolved by the parties, the dispute must be reported to the department in the form of a letter from the crane or derrick notice engineer.
- (xiii) Changes in designated peer reviewer.** The peer reviewer cannot be changed without the express consent of the department. The current peer reviewer must submit a written request for withdrawal to the department detailing the reason for the withdrawal request and a report of the peer review findings to date.

§12. Subdivision (h) of section 3319-01 of chapter 3300 of Title 1 of the Rules of the City of New York is amended to read as follows:

(h) Crane or derrick log. For a crane or derrick that requires a certificate of on-site inspection, or that is used under the direct and continuing supervision of a licensed master rigger, the equipment user must maintain, for the duration of the job, a crane or derrick log. The log may be maintained in an electronic format acceptable to the commissioner. The log must, at a minimum, contain the following information:

§13. Clause (A) of subparagraph (i) of paragraph (1) of subdivision (k) of section 3319-01 of chapter 3300 of Title 1 of the Rules of the City of New York is amended to read as follows:

- (A) [Mobile cranes, other than an articulating boom crane, and dedicated pile drivers.] Mobile cranes and dedicated pile**


drivers, other than articulating boom cranes. [For a mobile crane, other than an articulating boom crane, and for dedicated pile drivers] For mobile cranes and dedicated pile drivers, other than articulating boom cranes:

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department 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 new Section 104-23 in Chapter 100 and the amendment to Section 3319-01 of Chapter 3300 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding the training of individuals learning to become a hoisting machine operator.

This rule was first published on October 18, 2017 and a public hearing thereon was held on November 17, 2017

Dated: 11.28.17
New York, New York



Rick D. Chandler, P.E.
Commissioner

Statement of Basis and Purpose of Rule

This rule proposes to establish criteria governing the training of individuals learning to become a hoisting machine operator by adopting requirements of the United States Department of Labor Occupational Safety and Health Administration (OSHA) contained in 29 CFR 1926.1427(f) and making modifications for New York City. The purpose of this rule is to ensure protection of the general public.

The New York City specific modifications include:

- Establishing basic knowledge requirements for learners
- Requiring the supervising licensee to be present in or near the cab or operator's station when the learner is operating a tower crane
- Prohibiting a learner from operating a hoisting machine when the supervising licensee is on break
- Clarifying that the supervising licensee is responsible for performing New York City mandated inspections and maintain New York City mandated logs
- Prohibiting a learner from performing multiple-lift rigging operations, critical picks, or any operation related to the erection, climbing, jumping, or dismantling of a tower crane
- Clarifying the scope of equipment that can be operated and supervised based on the license type being sought and the license held by the supervising licensee

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 New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new Section 104-23, to read as follows:

§104-23 Hoisting machine operator learners and supervision of learners.

(a) Applicability. The operation of hoisting machines by a learner must be in accordance with the requirements of this section.

(b) Definitions. For the purposes of this section, the following terms have the following meanings:

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

Hoisting machine operator. An individual licensed as a hoisting machine operator in accordance with Article 405 of Chapter 4 of Title 28 of the New York city administrative code.

Learner. An individual learning to become a hoisting machine operator.

Supervising licensee. The hoisting machine operator who is supervising the learner.

(c) Basic requirements for learners. Learners must, at a minimum:

(1) Be at least 18 years of age;

(2) Hold a valid driver's license;

(3) Be able to communicate in the language of the supervising licensee;

(4) Be able to read plans and load charts;

(5) Be familiar with the controls, operating characteristics, and emergency procedures of the hoisting machine to be operated; and

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

(d) Supervision by licensee. The learner must be in the presence of and under the direct supervision of a licensed hoisting machine operator during all times the learner is operating the hoisting machine, as follows:

(1) The supervising licensee and the learner must be in direct communication with each other, either verbally or by hand signals, at all times; and

(2) For hoisting machines other than tower cranes, the supervising licensee and the learner must be in the direct line of sight of each other at all times. For a tower crane, the supervising licensee must be present in or near the crane cab or operators station.

(e) Breaks. The learner may not operate the hoisting machine when the supervising licensee is on a break. The hoisting operation must stop and the hoisting machine must be properly secured before the supervising licensee goes on break.

(f) Responsibility of supervising licensee. The supervising licensee must:

(1) Ensure the learner safely operates the hoisting machine in accordance with all department regulations, manufacturer specifications, and approved permits or certificates; and

(2) Perform the frequent inspection and the parking/securing inspection for the crane or derrick in accordance with subdivision (k) of section 3319-01 of these rules and maintain the log for the crane or derrick in accordance with subdivision (h) of section 3319-01 of these rules.

(g) **Authority to stop operation.** The supervising licensee has the authority to issue orders to the learner, order the learner to stop operation, and, if necessary, prohibit the learner from operating the hoisting machine.

(h) **Attention to monitoring.** While supervising the learner, the supervising licensee may not perform any tasks that detract from his or her ability to monitor the learner.

(i) **Tasks within learners ability.** The tasks performed by the learner while operating the hoisting machine must be within the learner's ability.

(j) **Restrictions on learners operation.** The learner may not operate a hoisting machine in any of the following circumstances:

(1) If any part of the hoisting machine, load line, or load (including rigging and lifting accessories), if operated up to the hoisting machine's maximum working radius in the work zone as established by clause (A) of subparagraph (ii) of paragraph (3) of subdivision (s) of section 3319-01 of these rules, could get within 20 feet of a power line that is up to 350 kV, or within 50 feet of a power line that is over 350 kV;

(2) If the hoisting machine is used to hoist personnel;

(3) In multiple-equipment lifts;

(4) If the hoisting machine is used over a shaft, cofferdam, or in a tank farm;

(5) In multiple-lift rigging operations;

(6) If the pick is a critical pick as defined in Section 3302.1 of the New York city building code; or

(7) If the operation is related to the erection, climbing, jumping, or dismantling of a tower crane.

(k) **Type, size, and capacity of hoisting machine supervised is within scope of license.** Licensed hoisting machine operators may only supervise the operation of a learner on hoisting machinery that is authorized to be operated by the licensee, and where a certification for the operation of a type of hoisting machine has been established in rules promulgated by the

commissioner, the licensee possesses the certification for that type of hoisting machine, and such certification has been listed on the hoisting machine operator's license by the department.

(1) 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.

§2. Exception number 3 to Paragraph (1) of Subdivision (i) of Section 3319-01 of Title 1 of the Rules of the City of New York is hereby amended to read as follows:

3. Learners in the presence of and under the direct supervision of a licensed operator[.] in accordance with section 104-23 of these rules.