

## NEW YORK CITY DEPARTMENT OF BUILDINGS

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rules**

**What are we proposing?** The Department of Buildings (DOB) is proposing the following changes to Title 1 of the Rules of the City of New York: amendments to section 104-08, relating to the qualification of site safety managers and site safety coordinators.

**When and where is the Hearing?** DOB will hold a public hearing on the proposed rule. The public hearing will take place at 10am on 8/25/14. The hearing will be in the 3<sup>rd</sup> floor conference room at 280 Broadway.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the DOB through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [dobrules@buildings.nyc.gov](mailto:dobrules@buildings.nyc.gov).
- **Mail.** You can mail written comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7<sup>th</sup> floor, New York, NY 10007.
- **Fax.** You can fax written comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-393-2085. You can also sign up in the hearing room before the hearing begins on 8/25/14. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by 8/25/14.

**Do you need assistance to participate in the Hearing?** You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-393-2085. You must tell us by 8/18/14.

**Can I review the comments made on the proposed rules?** You can review online the comments made to the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, written comments and a

summary of oral comments received at the hearing will be available to the public at the Office of the General Counsel.

**What authorizes DOB to make this rule?** Sections 643 and 1043(a) of the City Charter and 28-402.2 and 28-403.2 of the Administrative Code authorize DOB to propose these amendments. These amendments were not included in DOB's regulatory agenda for this Fiscal Year because they were not contemplated when DOB published the agenda.

**Where can I find the DOB's rules?** The DOB's rules are in Title 1 of the Rules of the City of New York.

**What rules govern the rulemaking process?** DOB must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

## **Statement of Basis and Purpose of Proposed Rule**

The Department of Buildings (“Department”) is proposing to amend section 104-08 of Title 1 of the Rules of the City of New York (“Rules”).

The Department proposes to amend section 104-08 by updating the section to reflect changes made to the New York City Administrative Code (“Administrative Code”) effective October 1, 2014, and by clarifying the eighteen month on-the-job training program and OSHA course requirements.

The Department’s authority for these rules is found in sections 643 and 1043 of the New York City Charter, sections 28-402.2 and 28-403.2 of the 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. Section 104-08 of title 1 of the rules of the City of New York is amended to read as follows:

### **§104-08 Qualifications for site safety manager and site safety coordinator certificates.**

**(a) Site safety managers.** The Department of Buildings shall issue a site safety manager certificate to an individual who shall have satisfied the requirements of section 28-402.2 of the Administrative Code.

- (1) For purposes of satisfying the requirements of paragraph (5) of section 28-402.2 of the Administrative Code, equivalent education and construction experience shall consist of successful completion within two years [of] prior to application [for certification] of an OSHA 30-hour safety course and one of the following:
  - (i) Eight years of experience within 10 years prior to the date of the application as a building code enforcement official charged with enforcement of the provisions of the New York City Building Code. The enforcement must have included inspections of major buildings under construction or demolition and thus this basis for qualification excludes officials whose primary role is to perform inspections of occupied or vacant buildings; or

- (ii) Eight years of field experience working on buildings within 10 years prior to the date of the application as a safety official for a governmental entity or construction firm or as a safety manager or safety engineer for a safety consulting firm specializing in construction or demolition. The experience must have included 4 years relevant work on major buildings under construction or demolition; or
- (iii) Successful completion of a New York State Apprenticeship Program for Site Safety Manager approved by the Department; or
- (iv) Ten years of experience within 12 years prior to the date of the application working in a relevant construction trade with plans in furtherance of building construction or demolition, five years of which must have been on major buildings under construction or demolition and three of those five years must have been in an on-site supervisory position.
  - (A) For purposes of this [subdivision] subparagraph, each year of formal training or education in a program with emphasis on construction at a college, technical or trade school may be substituted for one year of construction work up to a maximum of three years.

[(v) ] Experience acquired pursuant to this [subdivision] paragraph must have been full-time experience acquired in the United States.

- (2) A holder of a site safety manager certificate may not simultaneously hold either an active site safety coordinator certificate or an active registration as a superintendent of construction.
- (3) [An]For the purposes of satisfying the requirements of paragraph (4) of section 28-402.2, an acceptable 18 month on-the-job training program shall consist of successful completion within two years prior to application of an OSHA 30-hour safety course [include] and the following:
  - (i) The buildings worked on must have been major buildings;
  - (ii) The work must have been site safety work performed under the direct [and continuing] supervision of a certified site safety manager. For purposes of this subdivision, direct [and continuing] supervision shall include daily training at the location specified in the monthly summaries in the presence of the supervising certified site safety manager;

- (iii) The [training program] trainee must have [been] worked on a paid and full-time basis [and paid];
- (iv) Dated and notarized summaries must have been completed by the certified supervising site safety manager at the end of every month. Such summaries must specify[ing] the location and the precise nature of the construction activity the trainee was engaged in at the location for the month covered;
- (v) [The program must cover all phases of construction and must specify precisely the activity in which the trainee was engaged for the month covered by each monthly summary, including but not limited to excavation, foundation work, plumbing, electrical, and mechanical;] The program must include at least four months of training in soil or foundation work, and at least four months of training in structural erection.
- (vi) The supervising certified site safety manager may supervise a maximum of [two] three trainees simultaneously;
- [(vii) Completion within two years of application for certification of an OSHA 30-hour safety course.]

**(b) Site Safety Coordinators.** The Department of Buildings shall issue a site safety coordinator certificate to an individual who shall have satisfied the requirements of section 28-403.2 of the Administrative Code.

- (1) For purposes of satisfying the requirements of paragraph (4) of section 28-403.2 of the Administrative Code, equivalent education and construction experience shall consist of successful completion within two years [of] prior to application [for certification] of an OSHA 30-hour safety course and one of the following:
  - (i) Five years of experience within 10 years prior to the date of the application as a building code enforcement official charged with enforcement of the provisions of the New York City Building Code. The enforcement must have included inspections of major buildings under construction or demolition and thus this basis for qualification excludes officials whose primary role is to perform inspections of occupied or vacant buildings; or
  - (ii) Five years of field experience working on buildings within 10 years prior to the date of the application as a safety official for a governmental entity or construction firm or as a safety manager or

safety engineer for a safety consulting firm specializing in construction. The experience must have included 2.5 years relevant work on major buildings under construction or demolition; or

(iii) Five years of experience within 10 years prior to the date of the application working in a relevant construction trade with plans in furtherance of building construction or demolition, three years of which must have been on major buildings under construction or demolition and two of those three years must have been in an on-site supervisory position.

(A) For purposes of this [subdivision] subparagraph, each year of formal training or education in a program with emphasis on construction at a college, technical or trade school may be substituted for one year of construction work up to a maximum of two years.

[(iv)] Experience acquired pursuant to this [rule] paragraph must have been full-time experience acquired in the United States.

(2) A holder of a site safety coordinator certificate may not simultaneously hold either an active site safety manager certificate or an active registration as a superintendent of construction.

(3) Applicants for a site safety coordinator certificate shall not be required to take an examination in order to qualify for the certificate.

(c) The term “major building” as used in this rule shall have the meaning given to it in Chapter 33 of the New York City Building Code.

**§2.** The effective date of these provisions shall be October 1, 2014.

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

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

**RULE TITLE:** Amendment of Site Safety Manager and Site Safety Coordinator Qualifications

**REFERENCE NUMBER:** 2014 RG 050

**RULEMAKING AGENCY:** Department of Buildings

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: July 16, 2014

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

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

**RULE TITLE:** Amendment of Site Safety Manager and Site Safety Coordinator Qualifications

**REFERENCE NUMBER:** DOB-58

**RULEMAKING AGENCY:** Department of Buildings

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Morgan Monaco  
Mayor's Office of Operations

7/16/2014  
Date