

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) proposes to amend the rules regarding the classification of violations.

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 8/19/16. The hearing will be in the 3rd 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 comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.
- **Fax.** You can fax comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-393-2085. You can also sign up in the hearing room before the hearing begins on 8/19/16. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by 8/19/16.

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 or email at the addresses given above. You may also tell us by telephone at 212-393-2085. You must tell us by 8/5/16.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us>. A few days after the hearing, copies of all comments submitted online, copies of all written comments and a summary of oral comments concerning the proposed rule will be available to the public at the Office of the General Counsel.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter, and Section 28-201.2 of the Administrative Code of the City of New York, authorize DOB to make this proposed rule. This proposed rule was not included in

DOB's regulatory agenda for this Fiscal Year because it was 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

The proposed rule amends 1 RCNY §102-01 by adding five new infractions and updating two others. The addition of 1 RCNY § 3301-02, which went into effect on May 30, 2016, created the new violations. In addition, unrelated to 1 RCNY § 3301-02, the Department of Buildings seeks to clarify two existing violations by amending their sections of law and violation descriptions. These violations relate to:

- The failure to designate or have a Construction Superintendent, Site Safety Manager, or Site Safety Coordinator at the job site;
- The failure to conduct a site-specific safety orientation program for all workers;
- Construction Superintendents' failure to immediately notify the Department of conditions listed in § 3310.8.2.1 of the New York City Building Code;
- Construction Superintendents' failure to meet the required qualifications for registration as Construction Superintendents;
- Construction Superintendents' failure to perform their duties.

The Department of Buildings' authority for these rules is found in Section 643 and 1043(a) of the New York City Charter and section 28-201.2 of the Administrative Code of the City of New York.

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.

Subdivision (j) of section 102-01 of Title 1 of the Rules of the City of New York is amended by adding five new violations, in numerical order, relating to section 3301.3 of the New York City Building Code, section 3301-02 of Title 1 of the Rules of the City of New York, and section 28-401.20 of the New York City Administrative Code, and amending two existing violations relating to sections 3301.3, 3310.5, 3310.5.2, 3310.10 of the New York City Building Code to read as follows:

| Section of Code | Classification | Violation Description |
|-----------------|----------------|-----------------------|
|-----------------|----------------|-----------------------|

| | | |
|---|----------------|---|
| <u>BC 3301.3 & BC 3310.5 & [27-1009(d)] BC 3310.5.2</u> | Class 1 | Failure to <u>designate and/or</u> have Site Safety Manager or <u>Site Safety Coordinator</u> present at site as required |
| [28-110.1] <u>BC 3310.10</u> | Class 1 | Failure to conduct [workers'] <u>a site-specific safety orientation program for all workers.</u> [per site safety plan.] |
| <u>1 RCNY 3301-02(c)(7)</u> | <u>Class 1</u> | <u>Construction superintendent failed to immediately notify the department of conditions as required</u> |
| <u>28-401.20 & 1 RCNY 3301-02(g)</u> | Class 1 | <u>Licensee/registrant failed to fully and completely cooperate as per section</u> |
| <u>BC 3301.3 & 1 RCNY 3301-02(b), (c)</u> | Class 1 | <u>Failure to designate and/or have Construction Superintendent present at site as required</u> |
| <u>1 RCNY 3301-02(c)</u> | Class 1 | <u>Construction Superintendent failed to perform duties per rule</u> |
| <u>1 RCNY 3301-02(c)</u> | <u>Class 2</u> | <u>Construction Superintendent failed to perform duties per rule</u> |

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

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

RULE TITLE: Amendment of Violation Classifications (Construction Site Safety Superintendents)

REFERENCE NUMBER: DOB-82

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/ Francisco X. Navarro
Mayor's Office of Operations

June 22, 2016
Date

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

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

RULE TITLE: Amendment of Violation Classifications (Construction Site Safety Superintendents)

REFERENCE NUMBER: 2016 RG 046

RULEMAKING AGENCY: New York City 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: June 22, 2016