

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 to amend its rules regarding site safety managers, site safety coordinators and construction superintendents.

- **When and where is the hearing?** DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11am on 6/27/22.
- Join through Internet:

To join the hearing via your browser either click on the following URL link or copy and paste it into your browser's address bar. Then follow the prompts.
<https://buildings.webex.com/buildings/j.php?MTID=mb1ceb8d8b3e18052b4d4c42f875245ba>

When prompted, enter the following meeting password: 10007

When joining the meeting choose either **“Use computer for audio”** or **“Call in”** for the audio portion of the public hearing. If you choose the **“Call in”** option, the information needed to connect (**phone number, Access Code and Attendee ID**) will automatically be presented to you immediately **after** you join the Webex meeting.

If you have low bandwidth or inconsistent Internet connection, we suggest you use the **“Call-in”** option for the hearing. This will reduce the possibility of dropped audio and stutters.

- Join via phone only:

To join the meeting only by phone, use the following information to connect:

Phone: 646-992-2010

Access code: 230 803 97513

Password (if requested): 10007

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 website 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 by emailing dobrules@buildings.nyc.gov by 6/21/22 and including your name and affiliation. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit comments by 6/27/22.

What if I 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 can tell us by email at dobrules@buildings.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us by 6/13/22.

This location has the following accessibility option(s) available: Simultaneous transcription for people who are hearing impaired, and audio only access for those who are visually impaired.

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/>. 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 and may be requested by email at dobrules@buildings.nyc.gov.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter and section BC 3301.13.17 of the New York City Building Code 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 DOB's rules? 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 2014 Construction Codes require a Department-registered Construction Superintendent to be designated for work subject to Building Code section 3301.13.3 on buildings up to 9 stories in height. The 2014 Codes further require either a Department-certified Site Safety Manager or Site Safety Coordinator to be designated for work subject to Building Code section 3310.1 on buildings 10 stories or greater in height.

The 2022 Construction Codes will require both a Construction Superintendent and either a Site Safety Manager or Coordinator to be designated for work subject to Building Code sections 3301.13.3 and 3310.1 on buildings 10 stories or greater in height.

The proposed amendments to rule 104-08 would remove the prohibition on a Site Safety Manager or Site Safety Coordinator also holding a Construction Superintendent registration. This will allow qualified individuals to register or certify as both a Construction Superintendent and as a Site Safety Manager or Site Safety Coordinator, giving an individual flexibility to determine which role they wish to assume at any given jobsite.

In anticipation of Site Safety Managers and Site Safety Coordinators seeking to obtain a Construction Superintendent registration so that they may serve as a Construction Superintendent at buildings 10 stories or greater in height, the proposed amendments to rule 3301-02 create a pathway for Site Safety Managers and Site Safety Coordinators to register as a Construction Superintendent.

The proposed rule also recognizes a “Certified Safety Professional” designation from the Board of Certified Safety Professionals as an acceptable pathway to registering as a Construction Superintendent. This certification is presently recognized as an acceptable pathway to be certified as a Site Safety Manager.

Lastly, the proposed rule revises outdated language concerning the courses required to be completed by an individual seeking a Construction Superintendent registration and recognizes the completion of Site Safety Supervisor Training required by Local Law 196 of 2017 as being an acceptable alternative.

The Department of Buildings’ authority for these rules is found in sections 643 and 1043 of the New York City Charter and section BC 3301.13.17 of the New York City Building Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) represent ellipses (i.e., unamended text).

Section 1. Paragraph (2) of subdivision (a) of section 104-08 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) 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].

§2. Paragraph (2) of subdivision (b) of section 104-08 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) 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. Paragraphs (1) and (2) of subdivision (b) of section 3301-02 of chapter 3300 of Title 1 of the Rules of the City of New York are re-numbered (2) and (3), respectively and a new paragraph (1) is added to read as follows:

(1) Holds a valid site safety manager or site safety coordinator certificate; or

§4. Subparagraphs (i) through (v) of paragraph (3) of subdivision (b) of section 3301-02 of chapter 3300 of Title 1 of the Rules of the City of New York, as re-numbered by section 3 of this rule, are amended to read as follows:

(i) Is a registered design professional and has satisfactorily completed, within one (1) year prior to the date of the application, [an 8-hour Site Safety Coordinator] a course in site safety that is at least 8 hours in length and approved by the department;

(ii) Holds a Certified Safety Professional (“CSP”) designation or a Construction Health and Safety Technician (“CHST”) designation from the Board of Certified Safety Professionals (“BCSP”) and has satisfactorily completed, within one (1) year prior to the date of the application, [an 8-hour Site Safety Coordinator] a course in site safety that is at least 8 hours in length and approved by the department;

(iii) Has five (5) years of experience, within ten (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, and has satisfactorily completed, within one (1) year prior to the date of the application, [an 8-hour Site Safety Coordinator] a course in site safety that is at least 8 hours in length and approved by the department. The enforcement must have included inspections of 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;

(iv) Has five (5) years of full-time field experience in the United States, within 10 years prior to the date of the application, working on buildings 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 and has satisfactorily completed, within one (1) year prior to the date of the application, [an 8-hour Site Safety Coordinator] a course in site safety that is at least 8 hours in length and approved by the department; or

(v) Has five (5) years of full-time experience in the United States, within ten (10) years prior to the date of the application, as verified by employer affidavit, working with plans in a relevant construction trade in furtherance of the construction, vertical or horizontal enlargement, or full demolition of a building or structure, and has satisfactorily completed, within one (1) year prior to the date of the application, a [40-hour Site Safety Manager] course in site safety that is at least 40 hours in length and approved by the department.

§5. Subdivision (c) of section 3301-02 of chapter 3300 of Title 1 of the rules of the City of New York is amended to read as follows:

(c) Credits. For purposes of paragraph (3) of subdivision (b) of this section, the following credits may be applied:

(1) Educational credit. [For purposes of paragraph (2) of this subdivision, each] Each year of full-time 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 work experience, up to a maximum of three years.

(2) Training credit. Possession of a valid Site Safety Training Supervisor Card will be accepted in lieu of providing proof that the applicant has completed the OSHA and site safety courses specified in paragraph (3) of subdivision (b) of this section.

**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: Rules regarding Site Safety Managers, Site Safety Coordinators and Construction Superintendents

REFERENCE NUMBER: 2022 RG 034

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: May 12, 2022

**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: Rules regarding Site Safety Managers, Site Safety Coordinators and Construction Superintendents

REFERENCE NUMBER: DOB-151

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

May 12, 2022
Date