

**NOTICE OF ADOPTION OF RULE**

**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 amendments to its rules regarding construction superintendents, site safety and concrete safety managers. This rule was first published on September 29, 2022, and a public hearing thereon was held on October 31, 2022.

Dated: 1/18/2023  
New York, New York

  
Kazimir Vilenchik, P.E.  
Acting Commissioner

## Statement of Basis and Purpose of Rule

The New York City Building Code (BC) requires a Department-registered Construction Superintendent (CS) to be designated for work subject to BC §3301.13.3 on buildings up to 9 stories in height. BC §3310.5 requires either a Department-certified Site Safety Manager (SSM) or Site Safety Coordinator (SSC) to be designated for work subject to Building Code §3310.1 on buildings 10 stories or greater in height. There is also a requirement in BC §3310.9.1 that a Concrete Safety Manager (CSM) be designated by the concrete contractor at those sites where the concrete portion of the project involves the pouring of a minimum of 2,000 cubic yards of concrete.

These amendments are in response to two comments received in conjunction with the June 27, 2022 hearing concerning amendments to 1 RCNY 104-08 and 3301-02 regarding Site Safety Managers, Site Safety Coordinators and Construction Superintendents, which amendments were adopted effective August 14, 2022.

Specifically, the comments suggested that the Department

- 1) create a process to allow a Concrete Safety Manager to register as a Construction Superintendent, and
- 2) make clear that the duties of a Construction Superintendent are too numerous for a Construction Superintendent to simultaneously serve in other Building Code mandated safety oversight roles at a construction job.

These changes were not made to the prior rule amendments as there existed a need to implement the prior rule amendments expeditiously.

Currently, Concrete Safety Managers are allowed to hold a Site Safety Manager or a Site Safety Coordinator registration. The proposed amendments will allow a Concrete Safety Manager to hold a Construction Superintendent registration as well.

The amendments will prohibit a SSM or SSC from being designated, acting, or serving as the primary or alternate CS at the job for which they are the primary or alternate SSM or SSC. The amendments will also prohibit a primary SSM or SSC from serving as the primary CS for any other job.

The amendments will also prohibit a CSM from simultaneously serving as an SSM, an SSC, or CS on the same job for which they are serving as the CSM.

The Department of Buildings' authority for this proposed rule is found in sections 643 and 1043 of the New York City Charter and sections 3301.13.7, 3301.13.17, 3310.8, and 3310.9.1 of the New York City Building Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (\*\*\*) indicate unamended text.

Section 1. Paragraph (1) of subdivision (b) 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:

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(1) Holds a valid site safety manager or site safety coordinator certificate, or a valid registration as a concrete safety manager; or

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§2. Section 3310-01 of chapter 3300 of Title 1 of the Rules of the City of New York is amended by adding a new subdivision (l), to read as follows:

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(l) Limitation on serving as a construction superintendent. No person designated as the primary site safety manager or site safety coordinator for a job, or acting as the alternate site safety manager or site safety coordinator for a job, may be designated, act, or serve as the primary or alternate construction superintendent for that job. No person designated as the primary site safety manager or coordinator for a job may serve as the primary construction superintendent for any other job.

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§3. Paragraph (2) of subdivision (f) of section 3310-02 of chapter 3300 of Title 1 of the Rules of the City of New York is amended to read as follows:

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(2) A concrete safety manager may also [be registered] hold a certification as a site safety manager or a site safety coordinator [but cannot serve as both], and a registration as a construction superintendent. No person who is serving as a concrete safety manager [and either] for a job may serve as a site safety manager [or a], site safety coordinator, or construction superintendent simultaneously on the same job [site].