

## 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 rules 1 RCNY 5000-01, 1 RCNY 5000-02, and 1 RCNY 101-07. The proposed amendments to 1 RCNY 5000-01, the rule implementing the New York City Energy Conservation Code, are needed to conform to proposed changes in the New York City Energy Conservation Code that are necessitated by updates to the New York State Energy Code, which went into effect on May 12, 2020. The proposed amendment to 1 RCNY 5000-02 is intended to specify that it applies only to the 2016 New York City Energy Conservation Code Appendix CA amendments to ASHRAE 90.1-2013. The proposed amendments to 1 RCNY 101-07 are intended to clarify both the documentation required for the approval of progress inspection reports and the requirements for approved agencies performing commissioning activities.

Due to the current health emergency, the public hearing for this rule is being scheduled as a virtual hearing, which may be accessed according to the information given below in this Notice.

- **When and where is the hearing?** DOB will hold a public hearing on the proposed rule online. The public hearing will take place from 1:00 pm to 3:00 pm on 7/1/20.

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=md93df750dd225ae0346b8e464a9362de>

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: 477 878 099  
Password (if requested): 10007

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

- **Website.** You can submit comments to DOB through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [dobrules@buildings.nyc.gov](mailto:dobrules@buildings.nyc.gov).
- **Comments cannot be submitted by mail or fax at this time because the DOB office is temporarily closed.**
- **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](mailto:dobrules@buildings.nyc.gov) by 6/24/20 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 7/1/20.

**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](mailto:dobrules@buildings.nyc.gov). Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us by 6/24/20.

This location has the following accessibility option(s) available: Simultaneous transcription and an ASL interpreter 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 rule?** You can review the comments made online on the proposed rule by going to the website at <http://rules.cityofnewyork.us/>.

**What authorizes DOB to make this rule?** Sections 643 and 1043(a) of the City Charter authorize DOB to make this proposed rule. Local Law 48 of 2020 amended the New York City Energy Conservation Code and went into effect on May 12, 2020. This rule is being proposed in coordination with Local Law 48 of 2020. 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

New York City Council's Local Law 48 of 2020 (LL 48) was enacted on March 29, 2020, and went into effect on May 12, 2020. LL 48 updates the New York City Energy Conservation Code ("City Energy Code") to comply with the requirements of the State Energy Law and the 2020 updates to the New York State Energy Conservation Construction Code ("State Energy Code").

This proposal amends 1 RCNY 5000-01, 5000-02 and 101-07 to conform to the City Energy Conservation Code and to implement code requirements.

This proposal amends the referenced rules as follows:

### 1 RCNY 5000-01

- adds and removes progress inspections to correspond to City Energy Code requirements that come into effect with Local Law 48 of 2020, including two new required progress inspections related to electric vehicle equipment-ready requirements and expanded air sealing and insulation testing.
- clarifies which versions of REScheck and COMcheck may be used to demonstrate compliance with the City Energy Code.
- clarifies the requirements for submitting supporting documentation.

### 1 RCNY 5000-02

- clarifies that 1 RCNY 5000-02 only applies to the 2016 NYCECC Appendix CA, which are the NYC amendments to ASHRAE 90.1-2013.

### 1 RCNY 101-07

- provides a definition for a qualified commissioning agent.
- clarifies the required documentation for progress inspection reports.
- clarifies that progress inspectors are not required to revise approved construction documents where the performance value of a given space or system is more efficient than the performance value on the approved construction documents.
- clarifies the requirements for approved agencies performing commissioning in accordance with the City Energy Code.

The proposed rule also includes plain language revisions.

References in this proposed rule to the Administrative Code or the New York City Energy Conservation Code mean the Administrative Code of the City of New York or the New York City Energy Conservation Code, respectively, as amended by Local Law 48.

The Department of Buildings' authority for this rule is found in sections 643 and 1043 of the New York City Charter. Section 5 of Local Law 48 authorizes DOB to promulgate rules implementing the changes to the City Energy Code. Section 3 of Local Law 48 repeals and replaces section 28-1001.2 of the Administrative Code, and includes authority for DOB to issue this proposed rule.

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.

## Proposed Rule Amendment

Section 1. Subdivision (b) of section 5000-01 of Chapter 5000 of title 1 of the rules of the city of New York is amended to read as follows:

(b) *References.* See 2020 New York City Energy Conservation Code (Administrative Code Sections 28-1001.1 et seq.); 2020 New York State Energy Conservation Construction Code (19 NYCRR part 1240); Administrative Code Section 28-104.7.9, Sections BC107.13 and BC110.3.5, Mechanical Code, and Fuel Gas Code; 1 RCNY §101-07 (“Approved Agencies”).

§2. Subdivision (c) of section 5000-01 of Chapter 5000 of title 1 of the rules of the city of New York is amended to read as follows:

(c) *Definitions.* For the purposes of this chapter, the following terms [shall have the following meanings]mean:

**ABOVE-GRADE WALL.** An above-grade wall as defined in the Energy Code. This definition differs in the residential provisions and the commercial provisions of the Energy Code.

**ADDITION.** An addition as defined in the Energy Code.

**APPROVED PROGRESS INSPECTION AGENCY.** An approved progress inspection agency as described in subparagraph (iii) of paragraph (3) of subdivision (c) of section 101-07 of the rules of the Department.

**ASHRAE 90.1.** [American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., Standard 90.1-2013 as defined in the New York State Energy Conservation Construction Code and amended by Appendix CA of the Energy Code] ASHRAE 90.1-2016 (as amended) as defined in the Energy Code.

**COMMERCIAL BUILDING.** A commercial building as defined in the Energy Code.

**DESIGN APPLICANT.** An applicant of record who develops, signs and seals the construction drawings. The design applicant may be someone other than the registered design professional who prepares, signs and seals the energy analysis.

**ENERGY CODE.** The New York City Energy Conservation Code (“ECC”), as defined in Chapter 10 of Title 28 of the Administrative Code.

**GRADE PLANE.** A grade plane as defined in the Energy Code. This definition differs from the Building Code definition of Grade Plane.

**HISTORIC BUILDING.** An historic building as [described] defined in the Energy Code.

**PROJECT.** A project as defined in the Energy Code.

**REGISTERED DESIGN PROFESSIONAL.** A registered design professional as defined in the Energy Code.

**RESIDENTIAL BUILDING.** A residential building as defined in the Energy Code.

**STORY.** A story as defined in the Energy Code. This definition differs from the Building Code definition of Story.

**STORY ABOVE GRADE PLANE.** A story above grade plane as defined in the Energy Code. This definition differs from the Building Code definition of Story Above Grade Plane.

**SUSTAINABLE ROOFING ZONE.** A sustainable roofing zone as defined in Chapter 15 of the Building Code. Note that this is a Building Code requirement and not an Energy Code requirement.

**THERMAL BRIDGE.** A thermal bridge as defined in the Energy Code.

§3. Subdivision (d) of section 5000-01 of Chapter 5000 of title 1 of the rules of the city of New York is amended to read as follows:

(d) *Applicability.*

(1) *Applicable version and edition of Energy Code.* Applications must comply with the Energy Code version and edition in effect when the application is filed, continuing through construction and sign-off of the application by the Department.

(2) Residential building projects. All applications related to a single residential building project must follow ECC Chapters R2 through R6.

~~(2)~~(3) Commercial building projects. All applications related to a single commercial building project must follow either ECC Chapters C2 through C6 or ASHRAE 90.1 in its entirety [ and as modified by ECC Appendix CA].

(i) *ECC Compliance Path.* Vertical fenestration is allowed up to 30% of the gross above-grade wall area, prescriptively. Commercial buildings with vertical fenestration exceeding 30% of the above-grade wall must provide daylighting controls in required daylight zones in accordance with ECC provisions to a maximum fenestration area of 40% of the gross above-grade wall area. Alternatively, commercial buildings with vertical fenestration exceeding the prescriptive requirements for maximum vertical fenestration area may show compliance using the Component Alternative Method in Section C402.1.5, through the use of COMcheck.

(ii) *ASHRAE 90.1 Compliance Path.* Vertical fenestration is allowed up to 40% of the gross wall area, prescriptively. If the vertical fenestration exceeds 40% of the gross wall area, the design team must use energy modeling in accordance with Section 11 of ASHRAE 90.1 (“Energy Cost Budget Method”) or Appendix G of ASHRAE 90.1 (“Performance Rating Method”) and as provided in subparagraph (iv) of paragraph (1) of subdivision (f) of this section or Section 5.6 of ASHRAE 90.1 (“Building Envelope Trade-off Option”).

(iii) Additional requirements in Section 11 and Appendix G. For new buildings 25,000 square feet and greater in area, and which follow Section 11 or Appendix

G, additional requirements must be satisfied to demonstrate compliance with Section 5.2.3. The building envelope must comply with either Section 5.5 of ASHRAE 90.1 (“Prescriptive Building Envelope”) or the applicant must calculate an envelope performance factor in accordance with Appendix C of ASHRAE 90.1 that meets certain thresholds dependent on the occupancy of the building.

[(3)](4) *Identification of related applications.* Applicants must indicate in the application form all applications related to the project or, if an application has not yet been filed, the name of the applicant or the applicant’s firm and discipline for any anticipated related applications.

§4. Paragraph (2) of subdivision (e) of section 5000-01 of Chapter 5000 of title 1 of the rules of the city of New York is amended to read as follows:

(2) *Exemption.* Only applications that consist entirely of work exempt from the Energy Code may indicate exemption in the professional statement. The application must state one of the following bases for exemption:

(i) *Historic building.* Any alteration to an historic building is exempt. Any addition to an historic building is not exempt, and must meet the requirements of the ECC for new construction.

(ii) *Envelope of low-energy building.* All the proposed work is related to the envelope system of a low-energy, [ or] unconditioned building, or equipment building as described in ECC Chapter C4 or ECC Chapter R4.

(iii) *Categories of work not affecting energy use.* Temporary structures (as described in sections 28-111 and BC 3103) are exempt from compliance with the Energy Code. In addition, the following work types are exempt: fire alarm, fire suppression in a range hood, standpipe, sprinkler, fuel storage, construction equipment, curb cut, fire protection plan, sidewalk shed, supported scaffold, fence, place of assembly, temporary place of assembly, earthwork, support of excavation, builder’s pavement plan, protection means and methods, suspended scaffold, subdivision, full demolition, and cranes. Other work types are not exempt.

- [(A) FA (fire alarm)
- (B) FP (fire suppression in a range hood)
- (C) SD (standpipe)
- (D) SP (sprinklers)
- (E) FS (fuel storage)
- (F) EQ (construction equipment)
- (G) CC (curb cut)
- (H) OT/BPP (builder’s pavement plan)
- (I) OT/FPP (fire protection plan)]

(iv) *Post-approval amendment.* A post-approval amendment for a job that was exempt under a prior edition of the Energy Code.

§5. Subdivision (f) of section 5000-01 of Chapter 5000 of title 1 of the rules of the city of New York is amended to read as follows:

(f) *Energy analysis.* An energy analysis is required for every project that is not entirely exempt. The energy analysis [shall]must identify the compliance path followed, demonstrate how the project design complies with the Energy Code and, for commercial projects, indicate whether the project is designed in accordance with ECC Chapters C2 through C6 or with ASHRAE 90.1.

(1) *Accepted formats for energy analysis.* [One of the]Tabular analysis along with COMcheck or REScheck may be used for different disciplines in the same application, as long as the compliance paths are identical. The following formats may be used to present the energy analysis:

(i) *Tabular analysis.* For new buildings, additions and/or alterations to existing residential or commercial buildings for which either ECC Chapters R2 through R6, ECC Chapters C2 through C6 or ASHRAE 90.1 has been used, and the applicant is complying prescriptively, the applicant may [create] include a table entitled “Energy Analysis” as described in figure 1.

Such table [shall]must compare the proposed values of each Energy Code regulated item in the scope of work with the respective prescriptive values required by the Energy Code. The items [shall]must be organized by discipline, including Envelope Systems, Mechanical and Service Water Heating Systems, Lighting and Electrical Systems, Additional Efficiency Options, and Commissioning as applicable.

For commercial building additions and/or alterations involving lighting, the applicant may choose to utilize the Lighting Application Worksheet from COMcheck for the lighting part of the analysis in lieu of including lighting in the tabular analysis; however, the supporting documentation index must provide a breakdown of each lighting fixture to clarify the location per room type or floor. See subparagraph (iii) of this paragraph and Figure 2 in subdivision (g) of this section.

Figure 1: Sample tabular energy analysis:

<b>ENERGY ANALYSIS</b>			
Code chapter and/or standard used for design Climate Zone 4A			
<b>Item Description</b>	<b>[Proposed Design Value]Code Prescriptive Value &amp; Citation</b>	<b>[Code Prescriptive Value &amp; Citation] Proposed Design Value</b>	<b><u>Supporting Documentation</u></b>
(List all elements of the scope of work in the detail that they are addressed by the energy code.)	[(List the value used in the design.)] <u>List the prescriptive value required by the Energy Code and provide the citation for such value.</u>	[(List the prescriptive value required by the Energy Code and provide the citation for such value.)] <u>List the value used in the design.</u>	<u>Indicate where in the drawing set the information is to be found.</u>

(ii) *REScheck Software Program*. The REScheck software program available from the United States Department of Energy website may be used for residential buildings as follows:

(A) *New buildings*. REScheck may be used for new residential buildings.

(B) *Additions*. REScheck may be used for additions [only where a whole-building analysis, including the existing building and the addition, is performed]. Only the new portions of the building shall be input into the software.

(C) *Alterations and repairs*. REScheck may be used for alterations and repairs [only where a whole-building analysis, including the existing-to-remain and altered envelope and mechanical systems, is performed]. Only the components being altered shall be input into the software.

(D) *REScheck version*.

[1. Only the New York City version of the REScheck form is permitted.]

[2.]1. For applications filed on or after [October 3, 2016] May 12, 2020, the report must specify the [2016] 2020 New York City Energy Conservation Code.

[3.]2. For applications filed before [October 3, 2016] May 12, 2020, the report must specify the edition of REScheck that matches the edition of the [Energy Conservation Construction Code of New York State] New York City Energy Conservation Code in effect when the application was filed. If a New York City-specific version is no longer supported, the report must specify the applicable IECC version of the software.

(iii) *COMcheck Software Program*. The COMcheck software program available from the United States Department of Energy website may be used for commercial buildings as follows:

(A) *New buildings*. COMcheck may be used for new commercial buildings.

(B) *Additions*. COMcheck may be used for additions [only as follows:

1. Where a whole-building analysis, including the existing building and the addition, is performed; or

2. Where the COMcheck report states “addition” as the project type].

Only the new portions of the building shall be input into the software.

(C) *Alterations and repairs*. COMcheck may be used for alterations and repairs [only as follows:

1. Where a whole-building analysis, including the existing-to-remain and altered parts of the building, is performed; or

2. Where the COMcheck report states “alteration” as the project type].

Only the components being altered shall be input into the software.

(D) *COMcheck version*.

1. [Only the New York City version of the COMcheck form is permitted when following the New York City Energy Conservation Code. Only the 90.1 (2013) Standard version of the COMcheck form is permitted when following ASHRAE 90.1, provided that a

New York City version of COMcheck for ASHRAE is unavailable.] For applications filed on or after May 12, 2020, the report must specify the edition of COMcheck that matches the edition of the New York City Energy Conservation Code or ASHRAE 90.1 in effect when the application was filed.

2. For applications filed [on or after October 3, 2016,] before May 12, 2020, the report must specify the edition of COMcheck that matches the edition of the New York City Energy Conservation Code [or New York City amended ASHRAE 90.1.] in effect when the application was filed. [In the event that] if a New York City-specific version is no longer supported, the report must specify the applicable IECC or ASHRAE 90.1 version of the software, as determined by the Department.

(iv) *Energy modeling [based on DOE2].* For new commercial buildings and additions or alterations to commercial buildings, where [trade-offs among disciplines and/or] the performance path [are] is used in accordance with ASHRAE 90.1 section 11 or Appendix G, an energy modeling program developed by the United States Department of Energy, including DOE2 or updates of DOE2, shall be used; such updates include DOE2.1E, VisualDOE, EnergyPlus and eQuest.

Other energy modeling programs must be approved by the Secretary of State of New York State and the commissioner. The commissioner may at his or her discretion require the energy modeling report to be submitted to the Department.

All applications must provide a Supporting Documentation Index indicating the mandatory measures, an energy modeling form, and energy modeling reports.

*Additional envelope requirements for buildings 25,000 square feet and greater.* Additionally, for applications 25,000 square feet and greater, a ComCheck Envelope Compliance Certificate, using ASHRAE 90.1, must be submitted along with the energy modeling reporting to ensure compliance with additional envelope provisions.

(v) *Alternative formats.* Formats other than those listed in subparagraphs (i) through (iv) of this paragraph, including, but not limited to, the home energy software programs described in section ECC 101.5.1, may be used for a project only if they are approved in advance by both the Secretary of State of New York State and the commissioner.

(2) *Mixed-occupancy buildings three stories or fewer.* In accordance with section ECC 101.4.1, buildings three stories or fewer above grade plane with mixed residential and non-residential occupancies must comply with the respective requirements of Chapters R2 through R6 and Chapters C2 through C6 or ASHRAE 90.1, and must have separate energy analyses, except that a tabular analysis format or energy modeling may be used to show both the residential and non-residential requirements.

(3) *Build-outs of tenant space prior to issuance of new building certificate of occupancy.* The energy analysis for any alteration application for a build-out of a new building tenant space before the final certificate of occupancy is issued must be consistent with the

[energy analysis] compliance path for the new building. Such energy analysis for the new building must be provided upon request.

(4) *Professional responsibility for energy analysis.* The energy analysis [shall]must be signed and sealed by registered design professional(s).

(i) *Election.* The project team must elect one of the following methods for performing the energy analysis:

(A) *Responsibility by discipline.* Where each system of the energy analysis – envelope, mechanical/service water heating and lighting/power – meets the prescriptive requirements of the Energy Code individually, different registered design professionals may sign and seal their respective parts of the energy analysis report and include them as follows:

1. If all such systems are filed with the Department under the same application number, each registered design professional may include his or her part of the energy analysis in his or her respective parts of the project construction drawings.

2. If such systems are filed with the Department under different application numbers, [all] each part[s] of the energy analysis [shall be filed in the initial application for the project] in the related applications must utilize the same compliance path; except that in the case of foundation and earthwork permits issued pursuant to section 28-104.2.5, the energy analysis for the new building project must be submitted with subsequent construction documents. Refer also to paragraph (5) of this subdivision.

(B) *Lead professional.* Where energy modeling (whole-building analysis) is performed for the energy analysis [or where the project design uses tradeoffs among disciplines such that one or more systems of the energy analysis –] and the envelope, mechanical/service water heating and lighting/power [– could] do not meet the prescriptive [or performance] requirements of the Energy Code on [its]their own, a lead professional must be identified who must sign and seal the entire energy analysis for all systems involved.

The energy modeling program must be based on [the DOE2] energy modeling software in accordance with subparagraph (iv) of paragraph (1) of this subdivision. The energy analysis must be presented in the construction drawings for one application only. The lead professional must be a registered design professional and need not be a design applicant.

(ii) *Registered design professional other than a design applicant.* A registered design professional other than a design applicant may prepare, sign and seal the energy analysis, either as lead professional or for individual discipline(s) in accordance with subparagraph (i) of this paragraph. [Such registered design professional shall file a PW1 form as a subsequent filing and indicate “Energy” or “Electrical” as applicable in Section 6D, OT – Other.]

(5) *Foundation and earthwork permits.* When phased or partial approval is requested by the applicant for the purpose of issuance of a foundation and earthwork permit in accordance with §28-104.2.5 of the Administrative Code, a tabular analysis must be filed showing the foundation insulation requirements of the ECC. Refer also to subclause 2 of clause (A) of subparagraph (i) of paragraph (4) of this subdivision.

§6. Subdivision (g) of section 5000-01 of Chapter 5000 of title 1 of the rules of the city of New York is amended to read as follows:

(g) *Supporting documentation.* The construction drawings submitted for approval [shall] must provide all energy design elements and [shall] must match or exceed the energy efficiency of each value in each part of the energy analysis – envelope, mechanical/service water heating and lighting/power. The supporting documentation [shall] must be listed in a table that serves as an indexing guide to the construction document set. Such table [shall] must list the proposed values of each Energy Code-regulated item in the scope of work with the respective location in the drawing set. Such table is not required if the location of the supporting documentation is included in a column [added to] as shown in the Tabular Analysis described in figure 1.

**Figure 2: Sample Supporting Documentation Index:**

<b>SUPPORTING DOCUMENTATION INDEX</b>		
Code chapter and/or standard used for design Climate Zone 4A		
<b>Code Section</b>	<b>Item Description</b>	<b>Supporting Documentation Location</b>
[(List specific code section)]	[(List all elements of the scope of work in the detail that they are addressed by the energy code.)]	[(List the drawing page number and/or section title.)]

[In addition, other mandatory Energy Code requirements shall be provided as described in paragraphs 1 through 5 of this subdivision.]

For additions, the construction documents must clearly show in the supporting documentation, the new construction as it relates to existing conditions. For alterations, the construction documents must clearly show in the supporting documentation those physical portions of the systems that are being brought up to code and those that are not being altered.

Further, supporting documentation [shall] must provide all information necessary for a progress inspector to verify during construction that the building has been built in accordance with the approved construction documents to meet the requirements of the Energy Code.

[For additions and alterations, the applicant must clearly show those physical portions of the systems that are being brought up to code and those that are not being upgraded.]

In addition, other mandatory Energy Code requirements must be provided as described in paragraphs (1) through (7) of this subdivision. This is not an exhaustive list.

(1) *Envelope.* Building wall sections and details [shall] must be provided for each unique type of roof/ceiling, wall, and either the foundation, slab-on-grade, basement or cellar assembly. Such building wall sections shall show each layer of the assembly, including, but not limited to, insulation, moisture control and air barriers. If continuous insulation is indicated, it must be fully continuous, uninterrupted by framing, slab edges, shelf angles, or any other continuous breaks in the insulation. The insulation in each case [shall] must be labeled and [shall] must be equal to or greater than the R values, and an assembly in each case [shall] must be equal to or less than the assembly U-factors, in the energy analysis.

(i) Fenestration. Door, window and skylight schedules [shall]must include columns for U-factor, VT and SHGC values for each fenestration assembly type, and such values [shall]must be equal to or less than those in the energy analysis. For commercial buildings, the building elevation must indicate a demarcation line at 95 feet. Fenestration located below 95 feet must be clearly identified on construction documents. For any portion of a fenestration assembly that is above 95 feet, the entire fenestration assembly may comply with the U-factor requirements for fenestration 95 feet and above. Mandatory requirements to prevent air leakage shall be detailed.

(ii) Spandrel assemblies. Spandrel assemblies are considered opaque walls. The U-factor for the proposed design must be that which is defined in the Energy Code, according to the frame type, spandrel assembly, and rated R-value of insulation between framing members. If a spandrel assembly is not described within the Energy Code, or contains insulation values outside of the range of rated R-values, the designer will be required to provide simulation of the wall assembly, using software such as THERM.

(iii) Thermal bridging. Construction documents must include information on clear field, point, and linear thermal bridges. Clear field thermal bridges, such as brick ties, cladding, studs, must be de-rated using Appendix A of ASHRAE 90.1. If the assembly is not identified in Appendix A of 90.1, such as Z-girts, then these assemblies must be noted in the drawings, accompanied by supporting documentation indicating the de-rated value. Individual point thermal bridges, such as structural beam penetration through insulation, larger than 12in<sup>2</sup> in commercial buildings and larger than 8in<sup>2</sup> in residential buildings must be identified on the construction documents. Linear thermal bridges specifically identified in the ECC, such as shelf angles, slab edges, balconies, parapets, window interfaces, must be identified both on elevation plans and in a tabular format as shown in figure 3. Each linear thermal bridge type must have a relevant detail showing the cross-section through the thermal bridge.

**Figure 3: Sample Linear Thermal Bridge Documentation**

<u>Linear Thermal Bridge Type</u>	<u>Total Length</u>	<u>Detail Location</u>	<u>Ψ-value</u>
List all applicable thermal bridges that are identified in Table C402.6, R402.6 or 90.1 Table 5.4.4	List aggregate length of each type of thermal bridge.	List the drawing page number and/or section title.	List unmitigated Ψ-value directly from Table C402.6, R402.6 or 90.1 Table 5.4.4. Alternatively, provide Ψ-value with supporting documentation and/or calculations, if differing from

			<u>default value above.</u>
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(2) *Mechanical/service water heating.* Mechanical system design criteria, and mechanical and service water heating system and equipment types, sizes and efficiencies shall be provided with coordinated naming convention between the mechanical schedule and the energy analysis. For commercial buildings, the total installed space cooling capacity, the total installed space heating capacity, and the total installed service hot water capacity must be listed on the drawings. For all new construction, the ventilation system design must be included in the construction documents in accordance with the requirements in the ECC.

Space heating and cooling equipment, energy recovery equipment, economizers, ventilation equipment, service water heating equipment, and mandatory requirements including control systems, duct sealing and duct and piping insulation [shall] must be shown on the construction drawings and [shall] must be equal to or greater than the energy efficiency requirements established in the energy analysis, the Energy Code and/or this section, as applicable. A narrative [shall] must be provided for each mandatory control system describing its function and operation and specifying proper setpoints of equipment and controls.

For new buildings, the construction documents must indicate the method of compliance for the supply of heated water and clearly show the service water heating distribution system meeting the specified requirements. Sloped drain water heat recovery units that comply with IAPMO PS 92 and are tested and labeled in accordance with IAPMO 346, are deemed to comply.

(3) *Electrical.* The applicant must provide supporting documents for lighting, power and controls on either electrical drawings or drawings of other disciplines as appropriate. Such documents must:

- support the energy analysis;
- satisfy mandatory requirements of the Energy Code, such as controls, transformers, metering, voltage drop, elevator, commercial kitchen equipment, and electric motor requirements; and
- support progress inspections required by this section.

The drawings must be numbered with an “E,” “EN” or other discipline designator and must be signed and sealed by a registered design professional. If the registered design professional is an electrical engineer, the engineer must file [a PW1 form as an initial or subsequent filing and indicate either “Electrical” or “Energy” in Section 6D, OT – Other.] in a form and manner prescribed by the commissioner.

(i) *Interior and exterior lighting.* Supporting documentation for lighting must be as follows:

(A) *Commercial buildings, except within dwelling units.* The applicant [shall] must provide reflected ceiling plans, floor plans and/or electrical drawings with lighting layouts for each floor or space in the project, and for exterior lighting as applicable. Control devices and zones shall be indicated on drawings.

The lighting fixtures [shall]must be described and keyed to the lighting plans, including type designation, brief description, locations, lamp type, ballast/transformer type, watts per lamp, quantity of lamps per fixture, and system input watts per fixture, such that the drawings support the energy analysis.

[In addition, mandatory lighting and power] Lighting controls [shall]must be shown and described on a schedule, and a narrative provided describing their function and operation.

[Control devices and zones shall be indicated on drawings.]

(B) *Dwelling units in residential and commercial buildings.* In homes and dwelling units, the applicant must indicate on floor plans what fixtures are to be installed with high-efficacy lamps, and where the separate meter for each dwelling unit is located.

(ii) *Exterior lighting zones.* Exterior lighting zones as set forth in ECC [Table C405.5.2(1)] Table C405.4.2(1) correspond with the following zoning districts in the New York City Zoning Resolution:

- Lighting zone 1: Park land.
- Lighting zone 2: All R districts, R districts with C overlays and MX districts.
- Lighting zone 3: M districts, except MX; C districts, except C5, C6 and C overlays on R districts.
- Lighting zone 4: C5 and C6 districts.

(iii) *Electrical motors and controls.* Electrical motor horsepower and controls must be shown on the drawings and described.

(iv) [*Electrical submetering*]Metering. Projects requiring electrical submetering and/or monitoring must clearly indicate on the drawings that submetering and/or monitoring will be provided in accordance with the Energy Code. Projects requiring whole building fuel use metering must clearly indicate on the drawings that whole building fuel use metering will be provided in accordance with the Energy Code.

(v) *Automatic receptacle controls.* For applications using ASHRAE 90.1, [50 percent of the] certain receptacles must be automatically controlled and clearly shown on the drawings in accordance with ASHRAE 90.1.

(vi) *Electric vehicle service equipment capable.* New residential buildings with parking areas must indicate on the construction documents the method of compliance for the future installation of electric vehicle service equipment in accordance with the Energy Code and the Building Code, as applicable.

(vii) *Elevators and escalators.* For applications with elevators, the construction documents must provide the efficiency class and usage category. For new building applications with elevator shafts rising 75 feet or more must provide documentation showing compliance with regenerative drives, as applicable. For

applications with escalator installations must provide documentation showing compliance with regenerative drives, as applicable.

(viii) Commercial kitchen equipment. For applications with certain commercial kitchen equipment, the construction documents must provide the type of equipment, the minimum performance value, and the design specification value in accordance with the ECC.

(4) Permanent certificate in residential buildings. For residential buildings and commercial R-3 buildings, the construction documents must indicate the following in accordance with Section ECC R401.3:

(i) New buildings. For new buildings, a permanent certificate must be installed indoors and in accordance with Sections ECC R401.3, except that it may be posted near the electrical distribution panel at eye level and in plain sight.

(ii) Additions and alterations. For additions and alterations affecting information on an existing permanent certificate, such permanent certificate must be updated, initialed where changed and reposted such that the values on the posted permanent certificate remain current. For additions and alterations where a permanent certificate was not previously required, a new permanent certificate must be provided with the values applicable to the scope of work and posted on a permanent certificate that complies with the new building requirements.

[(4) Mandatory](5) Other mandatory requirements. The construction documents [shall]must comply with all mandatory requirements of the Energy Code.

(i) For residential buildings, references for such requirements are listed throughout Chapters R2 through [R5]R6.

(ii) For commercial buildings complying with the provisions of ECC Chapters C2 through [C5]C6, references for such requirements are [listed]set forth throughout Chapters C2 through [C5]\_C6; for commercial buildings complying with ASHRAE 90.1, such requirements are set forth throughout the [referenced] standard.

(iii) Commissioning [statement.]documentation requirements. The construction documents for each commercial building must show the following:

(A) Professional statement. Every application filed by a registered design professional for approval of construction documents for a new building or alteration under the commercial provisions of ECC or ASHRAE 90.1 [shall]must include a statement of either compliance with or exemption from the commissioning requirements of the Energy Code, as described in ECC C408.] The total installed space cooling capacity, the total installed space heating capacity and the total installed service hot water capacity must be listed on the drawings, as well as all the building systems that require commissioning, as applicable. For alteration applications, the total connected load of the HVAC distribution equipment that is within the scope of work must be listed on the drawings.

(B) Commissioning Plan. The commissioning plan requirements may be described in the construction documents, or the construction documents may refer to specifications. The specifications may be requested by the department.

(C) Equipment specifications. The construction documents must show the location of all equipment requiring commissioning, along with the performance data for each piece of equipment.

(D) Operating and maintenance manual. A statement that the owner shall receive an operating and maintenance manual for the HVAC equipment requiring commissioning within 90 days of the date of receipt of the Certificate of Occupancy or letter of completion.

(E) Balancing report. A statement that the owner shall receive a systems balancing report for the HVAC equipment requiring commissioning within 90 days of the date of receipt of the Certificate of Occupancy or letter of completion.

(iv) Air leakage and air barrier testing statement. [Every application filed by a registered design professional for approval of construction documents for a new building under the residential provisions of the ECC must include a statement of compliance with the testing requirements of the Energy Code as described in ECC R402.4.1.2 or R402.4.1.3. Every application filed by a registered design professional for approval of construction documents for a new building under the commercial provisions of the ECC must include a statement of either compliance with or exemption from the air barrier testing requirements of the Energy Code as described in ECC C402.5.1.3. Applications indicating compliance with the air barrier testing requirements under the commercial provisions must be tested in accordance with ASTM E 779 at a pressure differential of 0.3 inch water gauge (75 Pa) or an equivalent method approved by the code official and deemed to comply with the air leakage requirements when the tested air leakage rate of the building thermal envelope is not greater than 0.4 cfm/ft<sup>2</sup>. Air barrier testing, when required, must be performed by a third-party independent of the contractor and acceptable to the department.] The construction documents for each new building or additions greater than 10,000 square feet in area must provide information relating to the air barrier testing compliance with the Energy Code. A continuous air barrier location be shown on the elevation and section drawings and in each envelope assembly detail.

(A) Residential buildings. New buildings required to comply with the residential provisions of the Energy Code, must include a statement of compliance with the air leakage rate testing requirements of the Energy Code.

(B) Commercial buildings. New buildings or additions, required to comply with the commercial provisions of the Energy Code, must indicate compliance with one of the following three air barrier requirements:

1. Visual inspection. Only commercial buildings less than 10,000 square feet may comply with visual inspection. The continuous air barrier for the opaque envelope must indicate compliance with the material or assemblies in the Energy Code.

2. Whole building air barrier testing. Buildings 10,000 square feet and greater, but less than 50,000 square feet and 75 feet in height or less must include a statement of compliance with the air

leakage rate testing requirements of the Energy Code. For buildings not required to comply with testing, and instead choose to comply voluntarily with whole building air barrier testing must include a statement of compliance with the air leakage rate testing requirements of the Energy Code.

3. *Air barrier continuity plan.* Buildings 10,000 square feet and greater but less than 50,000 square feet, which are greater than 75 feet in height, and for buildings greater than 50,000 square feet must include a statement of compliance with the Air Barrier Continuity Plan requirements of the Energy Code. The construction documents must indicate each unique air barrier joint or seam to be tested along with the recommended method of testing.

[(5) *Permanent certificate in residential buildings.* For residential buildings, the construction documents shall indicate the following in accordance with Section ECC R401.3:

(i) *New buildings.* For new buildings regulated under ECC Chapter R4, a permanent certificate shall be required to be installed indoors and in accordance with Sections ECC R401.3 and RB103.8, except that it may be posted near the electrical distribution panel at eye level and in plain sight.

(ii) *Additions and alterations.* For additions and alterations affecting information on an existing permanent certificate, such permanent certificate shall be updated, initialed where changed and reposted such that the values on the posted permanent certificate remain current.]

(6) *Deferred submittals.* Drawings showing design intent and performance criteria matching those in the energy analysis may be submitted as supporting documentation provided that, in accordance with Section 28-104.2.6 of the Administrative Code, the applicant lists such deferred submittals in the construction drawings and submits them for approval prior to installation or construction. If required, the energy analysis must be updated when deferred submittals are provided for approval.

(7) *Required progress inspections.* Supporting documentation [shall also] must set forth all applicable required progress inspections in accordance with the Energy Code, 1 RCNY §101-07 and this section.

(i) Applicant's instructions regarding required progress inspections. Progress inspections required to be performed during construction for any new building, addition or alteration project [shall] must be identified by the design applicant according to the scope of work and listed and described in the approved construction drawings as required progress inspections.

The description [shall set forth] must show the standard of construction and the inspection criteria as appropriate for the scope of work in accordance with Table I or Table II of subdivision (h) of this section, as applicable; simple reference to the citations provided, without such description, is not sufficient.

The applicant [shall] must include the instruction that, in accordance with [Section BC 110.9] Chapter 1 of the Building Code and ECC 104.2.3, where an inspection

or test fails, the construction [shall]must be corrected and must be made available for reinspection and/or retesting by the progress inspector until it complies.

For additions and alterations, the applicant must clearly indicate what portions of the altered systems [should]must be inspected and/or tested, and what inspection and/or testing may be outside the scope of the work.

(ii) Construction scheduling instructions. The drawings [shall]must state that, in accordance with Article 116 of Title 28 and Section BC 110, construction [shall]must be scheduled to allow required progress inspections to take place, and that roofs, ceilings, exterior walls, interior walls, floors, foundations, basements and any other construction shall not be covered or enclosed until required progress inspections are completed or the progress inspector indicates that such covering or enclosure may proceed, at each stage of construction, as applicable.

(iii) Commercial building reference standards and citations. Progress inspection reference standards and citations [shall]must conform to the respective requirements of ECC Chapters C2 through C5 or ASHRAE 90.1 as used for design, in accordance with the following:

(A) When ECC Chapters C2 through C5 have been used for the project design, as reflected in the energy analysis, the applicant [shall]must list on the drawings the respective references and citations for ECC for the progress inspection.

(B) When ASHRAE 90.1 has been used for the project design, as reflected in the energy analysis, the applicant [shall]must list on the drawings the respective references and citations for ASHRAE 90.1 for the progress inspection.

§7. Paragraph (1) and Table I of subdivision (h) of section 5000-01 of Chapter 5000 of title 1 of the rules of the city of New York are amended to read as follows:

(1) *Residential buildings.* The progress inspections and tests described in Table I [shall]must be performed for buildings regulated by ECC Chapters ~~R4~~R2 through R6. For heating, cooling and/or service hot water systems in multiple dwellings, including where such systems serve a single dwelling unit, the applicant [shall]must list inspections, tests and citations from Table II, in accordance with Section ECC R403.8.

**TABLE I – PROGRESS INSPECTIONS FOR ENERGY CODE COMPLIANCE – RESIDENTIAL BUILDINGS**

Inspection/Test	Frequency (minimum)	Reference Standard (See ECC Chapter R6) or Other Criteria	ECC or Other Citation
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IA	Envelope Inspections			
IA1	<b>Protection of exposed foundation insulation:</b> Insulation [shall] <u>must</u> be visually inspected to verify proper protection where applied to the exterior of basement or cellar walls, crawl-space walls and/or the perimeter of slab-on-grade floors.	Prior to backfill	Approved construction documents	R303.2.1
IA2	<b>Insulation placement and R-values:</b> Installed insulation for each component of the conditioned space envelope and at junctions between components, <u>including thermal bridges and heated slab insulation</u> , [shall] <u>must</u> be visually inspected to ensure that the R-values are marked, that such R-values conform to the R-values identified in the construction documents and that the insulation is properly installed. Certifications for unmarked insulation [shall] <u>must</u> be similarly visually inspected.	As required to verify continuous enclosure while walls, ceilings and floors are open	Approved construction documents	R303.1, [R303.1.1,] [R303.1.2,] <u>R303.2</u> , [R402.1,] <u>R402.1.2</u> R402.2, Table R402.4.1.1, R402.4.4, R402.6
IA3	<b>Fenestration and door U-factor and product ratings:</b> U-factors, SHGC and VT values of installed fenestration [shall] <u>must</u> be verified by visual inspection for conformance with the U-factors, SHGC and VT values identified in the construction drawings, either by verifying the manufacturer's NFRC labels or, where not labeled, using the ratings in ECC Tables R303.1.3(1), [and] (2), <u>and (3)</u> .	As required during installation	Approved construction drawings; NFRC 100, <u>NFRC 200</u> , <u>ANSI/DASMA 105</u>	R303.1, R303.1.3, R402.1, R402.3, R402.5
IA4	<b>Fenestration air leakage:</b> Windows, skylights and sliding glass doors, except site-built windows, skylights and doors, [shall] <u>must</u> be visually inspected to verify that installed assemblies are listed and labeled to the referenced standard.	As required during installation	NFRC 400, AAMA/WDMA /CSA 101/I.S.2/A44 0	R402.4.3
IA5	<b>Fenestration areas:</b> Dimensions of windows, doors and skylights [shall] <u>must</u> be verified by visual inspection.	Prior to final construction inspection	Approved construction documents	R402.3
IA6	<b>Air [sealing and insulation] barrier – visual inspection:</b> Openings and penetrations in the building envelope, including site-built fenestration and doors, [shall] <u>must</u> be visually inspected to verify that they are properly sealed, in accordance with Table R402.4.1.1.	As required during envelope construction	Approved construction documents; ASTM E283;	R402.4.1, R402.4.4, R402.4.5, R402.4.6
IA7	<b>Air [sealing and insulation] barrier – testing:</b> Testing [shall] <u>must</u> be performed	Prior to final construction	ASTM E779; ASTM 1827;	R402.4.1.2, <u>R402.4.1.3</u>

	in accordance with section ECC R402.4.1.2 or R402.4.1.3 and shall be accepted if the building meets the requirements detailed in such section. Test results [shall] <u>must</u> be retained in accordance with the provisions of Title 28 of the Administrative Code. Testing must be performed by a third-party independent of the contractor and acceptable to the department.	inspection	ANSI/BOMA Z65.1; <u>RESNET/ICC 380</u> ; Approved construction documents	
<b>IB</b>	<b>Mechanical and Plumbing Inspections</b>			
IB1	<b>Fireplaces:</b> Provision of combustion air and tight-fitting fireplace doors [shall] <u>must</u> be verified by visual inspection.	Prior to final construction inspection	Approved construction documents; UL 127[, UL 907, ANSI Z21.60 (see also MC 904), ANSI Z21.50]	R402.4.2[;], BC 2111; MC Chapters 7, 8, 9; FGC Chapter 6
IB2	<b>[Shutoff dampers]<u>Ventilation and air distribution system:</u></b> <u>Ventilation system must be verified to comply with the ERV/HRV requirements or balanced ventilation system.</u>  <u>Whole-house ventilation fan efficacy must be verified by visual inspection.</u>  Not less than 20% of installed automatic or gravity dampers, and a minimum of one of each type, [shall] <u>must</u> be visually inspected and physically tested for proper operation.	Prior to final construction inspection	Approved construction documents; <u>HVI Standard 916</u> ; <u>ANSI/ACCA 9Qlvp-2016</u>	R403.6, R403.8, C403, C404
IB3	<b>HVAC and service water heating equipment:</b> Heating and cooling equipment [shall] <u>must</u> be verified by visual inspection for proper sizing. Pool heaters and covers shall be verified by visual inspection.	Prior to final plumbing and construction inspection	ACCA Manuals J and S; Approved construction documents, including energy analysis	[R403] <u>R403.7</u> , <u>R403.8</u> , <u>R403.10</u> , <u>R403.11</u> , <u>R403.12</u> , C403, C404

IB4	<p><b>HVAC and service water heating system controls:</b> System controls [shall]must be inspected to verify that each dwelling is provided with at least one individual programmable thermostat with capabilities as described in ECC R403.1.1, and that such controls are set and operate as specified in ECC R403.1.1. Controls for supplementary electric-resistance heat pumps [shall]must be inspected to verify that such controls prevent supplemental heat operation when the heat pump compressor can meet the heating load.</p> <p><u>Controls for whole-house mechanical ventilation (balanced ventilation option) shall enable manual override.</u></p> <p>Controls for snow- and ice-melting systems and pools [shall]must be inspected for proper operation. Not less than 20% or one of each control type, whichever is more, [shall]must be inspected.</p> <p>Controls for turning off circulating hot water pumps when not in use [shall]must be inspected for an automatic or manual switch.</p>	Prior to final electrical and construction inspection	Approved construction documents, including control system narratives	[R403,] <u>R403.1,</u> <u>R403.2,</u> <u>R403.5,</u> C403, C404
IB5	<p><b>HVAC and service water piping design and insulation [and sealing]:</b> Installed [duct and] piping insulation [shall]must be visually inspected to verify correct insulation placement and values. [Ducts, air handlers, filter boxes and building cavities used as ducts shall be visually inspected for proper sealing.]</p> <p><u>Service hot water distribution systems must be inspected to verify the supply of heated water.</u></p>	Prior to closing ceilings and walls and prior to final construction inspection	Approved construction documents; NYC Mechanical Code	[R403.3] R403.4, R403.5, R403.8, C403, C404; [MC 603.9] <u>MC 1204</u>
IB6	<p><b>Duct leakage testing, insulation and design:</b> <u>All ductwork and air handlers must be inspected to verify that the system is entirely within conditioned space.</u></p> <p><u>Ducts must be verified by visual inspection for proper sizing.</u></p> <p><u>Ducts, air handlers, filter boxes and building cavities used as ducts must be</u></p>	Prior to closing ceilings and walls and prior to final construction inspection	Approved construction documents; <u>ASHRAE 193;</u> <u>ASHRAE Manual D</u>	[R403.3.3, R403.3.4,] <u>R403.3,</u> [R403.8,] C403; <u>MC603.9</u>

	<u>visually inspected for proper sealing.</u>  [Where the]For alterations, where the air handler and/or some ductwork is in unconditioned space, duct-leakage testing [shall]must be performed either after rough-in or post-construction to ensure compliance with ECC R403.3.3 and R403.3.4. Not less than 20% of such ductwork [shall]must be tested.			
<b>IC</b>	<b>Electrical Power and Lighting Systems</b>			
IC1	<b>[Electrical energy consumption]Metering:</b> The presence and operation of individual meters [shall]must be verified by visual inspection for all dwelling units.	Prior to final electrical and construction inspection	Approved construction documents	R404.2
IC2	<b>Interior lighting power:</b> Lamps in permanently installed lighting fixtures [shall]must be visually inspected to verify compliance with high-efficacy requirements.	Prior to final electrical and construction inspection	Approved construction documents	R404.1
<b>ID</b>	<b>Other</b>			
ID1	<b>Maintenance information:</b> Maintenance manuals for equipment and systems requiring preventive maintenance [shall]must be reviewed for applicability to installed equipment and systems before such manuals are provided to the owner. Labels required for such equipment or systems [shall]must be inspected for accuracy and completeness.	Prior to sign-off or issuance of Certificate of Occupancy	Approved construction documents	R303.3
ID2	<b>Permanent certificate:</b> The installed permanent certificate [shall]must be visually inspected for location, completeness and accuracy.	Prior to final plumbing, electrical and/or construction inspection as applicable	Approved construction documents	R401.3, [RB103.8;]  1RCNY 5000-01(g)[(5)](4)
ID3	<b>[Solar-ready]Electric vehicle service equipment requirements:</b> [Solar-ready zone area]Electric vehicle outlet or conduit and electrical service reserved space must be visually inspected to verify compliance. Location [shall]must be noted on the permanent certificate.	Prior to final construction inspection	Approved construction documents	[RB103.3, RB103.7, RB103.8] <u>R404.3</u>

§8. Table II of subdivision (h) of section 5000-01 of Chapter 5000 of title 1 of the rules of the city of New York is amended to read as follows:

**TABLE II – PROGRESS INSPECTIONS FOR ENERGY CODE  
COMPLIANCE – COMMERCIAL BUILDINGS**

	<b>Inspection/Test</b>	<b>Periodic (minimum)</b>	<b>Reference Standard (See ECC Chapter C6) or Other Criteria</b>	<b>ECC or Other Citation</b>
<b>IIA</b>	<b>Envelope Inspections</b>			
IIA1	<b>Protection of exposed foundation insulation:</b> Insulation [shall] <u>must</u> be visually inspected to verify proper protection where applied to the exterior of basement or cellar walls, crawl-space walls and/or the perimeter of slab-on-grade floors.	As required during foundation work and prior to backfill	Approved construction documents, <u>ASTM C272</u>	C303.2.1; ASHRAE 90.1 – [5.8.1.7] <u>5.8.1, 5.9</u>
IIA2	<b>Insulation placement and R-values:</b> Installed insulation for each component of the conditioned space envelope and at junctions between components, <u>including thermal bridges and heated slab insulation</u> , [shall] <u>must</u> be visually inspected to ensure that the R-values are marked, that such R-values conform to the R-values identified in the construction documents and that the insulation is properly installed. Certifications for unmarked insulation [shall] <u>also</u> be [similarly] visually inspected.	As required to verify continuous enclosure while walls, ceilings and floors are open	Approved construction documents	C303.1, [C303.1.1,] [C303.1.2,] <u>C303.2</u> , C402.1, C402.2, [C402.5.3,] <u>C402.6</u> , <u>C406</u> ; ASHRAE 90.1 –5.5, 5.6, [5.8.1] <u>5.8, 5.9</u> , 11 or Appendix G <sub>1</sub> , <u>Appendix I</u>
IIA3	<b>Fenestration and door U-factor and product ratings:</b> U-factors, SHGC and VT values of installed fenestration [shall] <u>must</u> be visually inspected for conformance with the U-factors, SHGC and VT values identified in the construction drawings by verifying the manufacturer's NFRC labels or, where not labeled, using the ratings in ECC Tables C303.1.3(1), (2) and (3).	As required during installation	Approved construction documents; NFRC 100, NFRC 200, <u>NFRC 300</u> , <u>ANSI/DASMA 105</u> , <u>ASTM E972</u>	C303.1, C303.1.3, <u>C402.1.4</u> , C402.4, <u>C406</u> ; ASHRAE 90.1 – <u>5.4.2</u> , 5.5, 5.6, 5.8.2, <u>5.9</u> , 11 or Appendix G <sub>1</sub> , <u>Appendix I</u>
IIA4	<b>Fenestration air leakage:</b> Windows and [sliding or swinging] door assemblies, except site-built windows and/or doors, [shall] <u>must</u> be visually inspected to verify that installed assemblies are listed and labeled by the manufacturer to the referenced standard.	As required during installation; prior to final construction inspection	NFRC 400, AAMA/WDMA/CSA 101/I.S.2/A440; ASTM E283; ANSI/DASMA 105	C402.5.2, <u>C402.5.6</u> ; ASHRAE 90.1 –5.4.3.2, <u>5.4.3.3</u> , [5.8.2.2] <u>5.8.2, 5.9</u>

	For curtain wall, storefront glazing, commercial entrance doors and revolving doors, the testing reports [shall] <u>must</u> be reviewed to verify that the installed assembly complies with the standard cited in the approved plans. <u>Weatherseals at loading docks must be visually verified.</u>			
IIA5	<b>Fenestration areas:</b> Dimensions of windows, doors and skylights [shall] <u>must</u> be verified by visual inspection.	Prior to final construction inspection	Approved construction documents	C402.4; ASHRAE 90.1 – <u>5.4</u> , [5.5.4.2,] <u>5.5.4</u> , <u>5.6</u> , <u>5.9</u> 11 or Appendix G
IIA6	<b>Air [sealing and insulation –]barrier visual inspection:</b> Openings and penetrations in the building envelope, including site-built fenestration and doors, [shall] <u>must</u> be visually inspected to verify that a continuous air barrier around the envelope forms an air-tight enclosure. The progress inspector [shall] <u>must</u> visually inspect to verify that materials and/or assemblies have been tested and meet the requirements of the respective standards, or must observe the testing of the building and/or assemblies and verify that the building and/or assemblies meet the requirements of the standard, in accordance with the standard(s) cited in the approved plans.	As required during construction	Approved construction documents; ASTM E2178, ASTM E2357, ASTM E1677, ASTM E779, ASTM E283.	C402.5; ASHRAE 90.1 – 5.4.3.1, <u>5.4.3.5</u> , <u>5.9</u>
IIA7	<b>Air [sealing and insulation]barrier testing:</b> Testing [must] <u>must</u> be performed in accordance with section ECC [C402.5.1.3] <u>C402.5.1.3.1</u> or ASHRAE 90.1 section [5.4.3.5] <u>5.4.3.1.3</u> , and shall be accepted if the building [and/or its air-barrier assemblies] <u>meets</u> the requirements detailed in such section. <u>Test results shall be retained in accordance with the provisions of Title 28 of the Administrative Code.</u> Testing must be performed by a third-party independent of the contractor and acceptable to the department.	As required during construction, or prior to final construction inspection	Approved construction documents; ASTM E 779, <u>ANSI/BOMA Z65.1</u> , <u>ASTM E3158</u> , <u>RESNET/ICC 380</u>	<u>C402.5</u> , <u>C402.5.1.3</u> , <u>C406</u> ; ASHRAE 90.1 – [5.4.3.5] <u>5.4.3.1.3</u> , <u>5.9</u> , <u>Appendix I</u>

IIA8	<p><b>[Loading dock weatherseals:</b> Weatherseals at loading docks shall be visually verified.]</p> <p><b><u>Air barrier continuity plan testing:</u></b> Each unique air barrier joint or seam must be tested or inspected for compliance. Documentation includes the method of test performed on each unique air barrier joint or seam and the results of the test. If an air barrier joint or seam has a deficiency, the deficiency must be noted, and retested until it complies with the testing requirements. Test results must be retained in accordance with the provisions of Title 28 of the Administrative Code.</p> <p>Testing must be performed by a third-party independent of the contractor and acceptable to the department.</p>	[Prior to final construction inspection]As required during construction	Approved construction documents; <u>ASTM E779</u> , <u>ASTM E1186</u> , <u>ASTM E2813</u> , <u>ASTM E3158</u>	[C402.5.6; ASHRAE 90.1 – 5.4.3.3] <u>C402.5.1.3</u> ; <u>ASHRAE 90.1 – 5.4.3.1.3</u> , <u>5.9</u>
IIA9	<p><b>Vestibules:</b> Required entrance vestibules [shall]must be visually inspected for proper operation.</p>	Prior to final construction inspection	Approved construction documents	C402.5.7; ASHRAE 90.1 – 5.4.3.4
<b>IIB Mechanical and Service Water Heating Inspections</b>				
IIB1	<p><b>Fireplaces:</b> Provision of combustion air and tight-fitting fireplace doors [shall]must be verified by visual inspection.</p>	Prior to final construction inspection	Approved construction documents; [ANSI Z21.60 (see also MC 904), ANSI Z21.50]UL 127	[C402.2.7;] <u>C402.2.8</u> ; BC 2111; MC Chapters 7, 8, 9; FGC Chapter 6
IIB2	<p><b>Shutoff dampers:</b> Dampers for stair and elevator shaft vents and other outdoor air intakes and exhaust openings integral to the building envelope [shall]must be visually inspected to verify that such dampers, except where permitted to be gravity dampers, comply with approved construction drawings.</p> <p>Manufacturer's literature [shall]must be reviewed to verify that the product has been tested and found to meet the standard.</p>	As required during installation	Approved construction documents; AMCA 500D	[C403.2.4.3;] <u>C402.5.5</u> , <u>C403.7.7</u> ; ASHRAE 90.1 – 6.4.3.4

IIB3	<p><b>HVAC-R, commercial kitchen equipment, and service water heating equipment:</b> Equipment sizing, efficiencies, pipe sizing and other performance factors of all major equipment units, as determined by the applicant of record, and no less than 15% of minor equipment units, [shall] <u>must</u> be verified by visual inspection and, where necessary, review of manufacturer's data.</p> <p>Pool heaters and covers [shall] <u>must</u> be verified by visual inspection.</p>	Prior to final plumbing and construction inspection	Approved construction documents, ASHRAE 183, ASHRAE HVAC Systems and Equipment Handbook	<u>C403.1,</u> <u>C403.2,</u> <u>C403.3,</u> <u>C403.7.5,</u> <u>C404.2,</u> <u>C404.5,</u> <u>C404.9,</u> <u>C405.10,</u> <u>[C406.2;]</u> <u>C406;</u> <u>ASHRAE 90.1</u> <u>– 6.3, [6.4.1,</u> <u>6.4.2, 6.4.5,</u> <u>6.4.6,] 6.4,</u> <u>[6.5.11,</u> <u>6.8,] 6.5, 6.7,</u> <u>7.4, 7.5, 7.8,</u> <u>10.4.6,</u> <u>Appendix I</u>
IIB4	<p><b>HVAC-R and service water heating system controls:</b> No less than 20% of each type of required controls [shall] <u>must</u> be verified by visual inspection and tested for functionality and proper operation. Such controls [shall] <u>must</u> include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Thermostatic</li> <li>• Off-hour</li> <li>• Zones</li> <li>• Freeze protection/Snow- and ice-melt system</li> <li>• Ventilation System and Fan Controls</li> <li>• Energy recovery systems</li> <li>• Kitchen/lab exhaust systems</li> <li>• Fan systems serving single and multiple zones</li> <li>• Outdoor heating systems</li> <li>• HVAC control in hotel/motel guest rooms</li> <li>• Air/Water Economizers &amp; controls</li> <li>• Hydronic systems</li> <li>• Heat rejection systems</li> <li>• Hot gas bypass limitation</li> <li>• Refrigeration systems</li> <li>• Door switches</li> <li>• Computer room systems</li> <li>• Service water heating systems</li> </ul>	After installation and prior to final electrical and construction inspection, except that for controls with seasonally dependent functionality, such testing [shall] <u>must</u> be performed before sign-off for issuance of a Final Certificate of Occupancy	Approved construction documents, including control system narratives; ASHRAE Guideline 1: The HVAC Commissioning Process where applicable	<u>[C403.2,</u> <u>C403.3,</u> <u>C403.4,</u> <u>C403.5,]</u> <u>C403,</u> <u>[C404.6,</u> <u>C404.7,</u> <u>C404.9;]</u> <u>C404, C406;</u> <u>ASHRAE 90.1</u> <u>– 6.3, 6.4,</u> <u>6.5, 6.6,</u> <u>[7.4.4, 7.4.5]</u> <u>7.4, 7.5,</u> <u>Appendix I</u>

	<ul style="list-style-type: none"> <li>Pool heater and time switches</li> </ul> <p>Controls with seasonally dependent functionality: Controls whose complete operation cannot be demonstrated due to prevailing weather conditions typical of the season during which progress inspections will be performed shall be permitted to be signed off for the purpose of a Temporary Certificate of Occupancy with only a visual inspection, provided, however, that the progress inspector [shall] <u>must</u> perform a supplemental inspection where the controls are visually inspected and tested for functionality and proper operation during the next immediate season thereafter.</p> <p>The owner [shall] <u>must</u> provide full access to the progress inspector within two weeks of the progress inspector's request for such access to perform the progress inspection.</p> <p>For such supplemental inspections, the Department [shall] <u>must</u> be notified by the approved progress inspection agency of any unresolved deficiencies in the installed work within 180 days of such supplemental inspection.</p>			
IIB5	<p><b>HVAC-R and service water piping design and insulation [and sealing]:</b>  Installed [duct and] piping insulation [shall] <u>must</u> be visually inspected to verify proper insulation placement and values.</p> <p><u>Service hot water distribution systems must be inspected to verify the supply of heated water.</u></p> <p>[Joints, longitudinal and transverse seams and connections in ductwork shall be visually inspected for proper sealing.]</p>	After installation and prior to closing shafts, ceilings and walls	Approved construction documents; [SMACNA Duct Construction Standards, Metal and Flexible]	[C403.2.9, C403.2.10,] <u>C403.11</u> , C404.4, <u>C404.5</u> ; MC 603.9; ASHRAE 90.1 – 6.3, 6.4.4, 6.8.2, 6.8.3; 7.4.3
IIB6	<p><b>Duct leakage testing, insulation and design:</b> For duct systems designed to operate at static pressures in excess of 3 inches w.g. (747 Pa), representative</p>	After installation and sealing and prior to closing shafts, ceilings	Approved construction documents; SMACNA	[C403.2.9.1.3] <u>C403.11</u> ; ASHRAE 90.1 –

	<p>sections, as determined by the progress inspector, totaling at least 25% of the duct area, [per ECC C403.2.9.1.3 or ASHRAE 90.1 6.4.4.2.2, shall] <u>must</u> be tested to verify that actual air leakage is below allowable amounts.</p> <p>Installed duct insulation <u>must</u> be visually inspected to verify proper insulation placement and values.</p> <p><u>Joints, longitudinal and transverse seams and connections in ductwork must be visually inspected for proper sealing.</u></p>	and walls	HVAC Air Duct Leakage Test Manual; <u>SMACNA Duct Construction Standards, Metal and Flexible</u>	6.4.4.2.2
<b>IIC</b>	<b>Electrical Power and Lighting Systems</b>			
IIC1	<p><b>[Electrical energy consumption] Metering:</b> The presence and operation of all required meters for monitoring total electrical energy usage and/or total fuel use, system energy usage, tenant energy usage, or electrical energy usage in the building, in individual dwelling units, or in tenant spaces [shall]<u>must</u> be verified by visual inspection.</p>	Prior to final electrical and construction inspection	Approved construction documents	[C405.6;] <u>C405.5, C405.12;</u> ASHRAE 90.1 – 8.4.3, 8.4.5, <u>8.4.6, 10.4.5</u>
IIC2	<p><b>Lighting in dwelling units:</b> Lamps in permanently installed lighting fixtures [shall]<u>must</u> be visually inspected to verify compliance with high-efficacy requirements.</p>	Prior to final electrical and construction inspection	Approved construction documents	C405.1; ASHRAE 90.1 – 9.1.1
IIC3	<p><b>Interior lighting power:</b> Installed lighting [shall]<u>must</u> be verified for compliance with the lighting power allowance by visual inspection of fixtures, lamps, ballasts and transformers.</p>	Prior to final electrical and construction inspection	Approved construction documents	[C405.4.2, C405.9.1, C406.3;] <u>C405.3, C406;</u> ASHRAE 90.1 –9.1, 9.2, 9.5, 9.6, <u>9.7;</u> 1RCNY §101-07(c)(3)(v)(C) 4, Appendix I
IIC4	<p><b>Exterior lighting power:</b> Installed lighting [shall]<u>must</u> be verified for compliance with source efficacy and/or the lighting power allowance by visual inspection of fixtures, lamps, ballasts and relevant transformers.</p>	Prior to final electrical and construction inspection	Approved construction documents	[C405.6;] <u>C405.4;</u> ASHRAE 90.1 –9.4.2; 1RCNY §101-07(c)(3)(v)(C) 4

IIC5	<p><b>Lighting controls:</b> Each type of required lighting controls, including:</p> <ul style="list-style-type: none"> <li>• occupant sensors</li> <li>• manual interior lighting controls</li> <li>• light-reduction controls</li> <li>• automatic lighting shut-off</li> <li>• daylight zone controls</li> <li>• sleeping unit controls</li> <li>• exterior lighting controls</li> <li>• <u>egress illumination controls</u></li> </ul> <p>[shall]<u>must</u> be verified by visual inspection and tested for functionality and proper operation.</p>	Prior to final electrical and construction inspection	Approved construction documents, including control system narratives	[C402.4.2.1,] C405.2, <u>C406</u> ; ASHRAE 90.1 – 9.4.1, 9.4.3, <u>9.7, Appendix I</u>
IIC6	<p><b>Electric motors and elevators[(including but not limited to fan motors)]:</b> Where required by the construction documents for energy code compliance, motor listing or labels [shall] be visually inspected to verify that they comply with the respective energy requirements in the construction documents.</p> <p><u>Elevators and escalators must be inspected for compliance with regenerative drive requirements.</u></p>	Prior to final electrical and construction inspection	Approved construction documents	[C403.2.12, C405.8;] <u>C403.8, C405.6, C405.7, C405.8, C405.9</u> ; ASHRAE 90.1 – <u>8.4.4, 10.4, 10.8</u>
IID	<b>Other</b>			
IID1	<p><b>Maintenance information:</b> Maintenance manuals for mechanical, service hot water and electrical equipment and systems requiring preventive maintenance [shall]<u>must</u> be reviewed for applicability to installed equipment and systems before such manuals are provided to the owner. Labels required for such equipment or systems [shall]<u>must</u> be inspected for accuracy and completeness.</p>	Prior to sign-off or issuance of Final Certificate of Occupancy	Approved construction documents, including electrical drawings where applicable; ASHRAE Guideline 4: Preparation of Operating and Maintenance Documentation for Building Systems	[C303.3,] <u>C408.1.1, C408.2.5.2, C408.3.2</u> ; ASHRAE 90.1 – 4.2.2.3, 6.7.2.2, <u>6.7.2.3.5.2, 8.7.2, 9.7.2.2, 9.4.3.2.2</u>

§9. The introductory paragraph of section 5000-02 of Chapter 5000 of title 1 of the rules of the city of New York is amended to read as follows:

**§ 5000-02 Amendment to ASHRAE 90.1 Relating to Lighting Controls and Modeling Requirements.**

Pursuant to Section 28-103.19 of the Administrative Code of the City of New York, ASHRAE 90.1, as modified by Section ECC CA102.1 of the 2016 New York City Energy Conservation Code, [appendix CA of Section 28-1001.2.2 of such code,] is hereby amended to read as follows:

§10. Paragraphs (10) through (16) of subdivision (a) of section 101-07 of Subchapter A of Chapter 100 of title 1 of the rules of the city of New York are renumbered (11) through (17) and subdivision (a) is amended by adding a new paragraph (10) to read as follows:

(10) *Qualified commissioning agent.* An individual with at least 3 years of relevant experience.

§11. Clause (C) of subparagraph (v) of paragraph (3) of subdivision (c) of section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(C) *Energy code verifications.* Progress inspectors for Energy Code compliance shall perform inspections in accordance with the following:

1. *Reports.* The progress inspector is required to compile all documentation, as required in paragraph (3) of subdivision (b) of this section, into a report. The report must also include, but shall not be limited to:

i. *Identification of the Energy Code Progress Inspections performed;*

ii. *A list of the approved construction documents referenced for each inspection performed;*

iii. *Identification of any inspections performed where the built conditions observed were not in compliance with the energy code as documented in the approved construction documentation;*

iv. *Identification of any inspections performed where non-compliant built conditions, documented in accordance with Item iii above, were corrected and made in compliance with the energy code as documented in the approved construction documentation;*

v. *Photographic documentation.* Each report must include a dated photo sufficient to identify the building, a dated photo of the progress inspector and/or his or her employees performing physical inspections, and a dated photo for each inspection performed. All photographs must be date-stamped, clearly legible, labeled indicating the related inspection, and include enough visible evidence to support the determinations contained in the report, including but not limited to scale reference demonstrating insulation depths, insulation installer certificate.

vi. Signed and sealed by the Progress Inspection Agency with a statement of approval such as “To the best of my knowledge, belief, and professional judgement, all work performed substantially conforms to the latest relevant approved construction documents and has been performed in accordance with applicable provisions of the New York City Energy Conservation Code and other designed rules and regulations.”

[1.] 2. Sampling. Unless noted otherwise in the Inspection/Test columns of Tables I and II of 1 RCNY §5000-01 (h), required inspections or tests [shall]must be performed on not less than 15% of each relevant construction item in the scope of work as listed in the applicable table, and on not less than one of each type where applicable. Selection of such sample construction shall be at the sole discretion of the progress inspector. Nothing in this item shall prevent the progress inspector from determining that, in his or her professional judgment, more than 15% of a given type of construction item [shall]must be inspected.

[2.] 3. Phased inspection for temporary certificates of occupancy. Prior to issuance of a temporary certificate of occupancy for less than the total scope of work, [inspection shall be required for ]all work serving the portion of the building for which the temporary certificate of occupancy is to be issued must be inspected. Where a practical difficulty for some inspections is demonstrated to the commissioner, the commissioner may grant a waiver of those inspections for a specified time or until final inspection for the final certificate of occupancy.

[3.] 4. Phased inspection of controls. Notwithstanding item [2] 3 of this clause, where inspection of the HVAC and lighting controls for central head-end systems and communication networks depends upon completion of installation of all related end devices and components located in the building, such inspection of such controls for head-end systems and communication networks [shall]must be completed prior to issuance of a final certificate of occupancy.

[4.] 5. [Lighting] Installed value more efficient than approved energy analysis. Where the progress inspector verifies that, for any given space or system, the [lighting power density is less] installed performance value is more efficient than the [lighting power density for such space] performance value on the approved construction documents, the progress inspector may approve such space without the need for revised construction documents to be submitted to and approved by the Department. [For the purposes of this item, a space shall mean an area within the

building separated by floor-to-ceiling partitions from all other spaces within the building.]

§12. Subdivision (c) of section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new paragraph (9) to read as follows:

(9) Commissioning approved agencies. An agency shall be deemed an approved agency for performing commissioning in accordance with the Energy Conservation Code, where such agency complies with the following:

(i) Responsibility of owner. It shall be the responsibility of the owner to retain an approved agency to perform commissioning for a new building or alteration.

(ii) Obligation to avoid conflict of interest. A commissioning approved agency must not engage in any activities that may conflict with their objection judgment and integrity, including, but not limited to, having a financial and/or other interest in the construction, installation, manufacture or maintenance of structures or components that they inspect.

(iii) Agency qualifications. Commissioning and related testing pursuant to section C408 of the Energy Conservation Code shall be performed by or under the direct supervision of a qualified commissioning agent.

(iv) A qualified commissioning agency must maintain records of inspections and tests for at least 6 years and must make such records available to the department upon request.

(v) A qualified commissioning agency must maintain insurance coverage as set forth in paragraph (7) of subdivision (b) above.

(vi) All commissioning and test reports must be presented in a form acceptable to the department and must bear the name of the commissioning agency and the name of the qualified commissioning agent who supervised each inspection or test.

**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:** Implementation of amendments to energy conservation code

**REFERENCE NUMBER:** 2020 RG 043

**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 15, 2020

**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: Implementation of amendments to energy conservation code**

**REFERENCE NUMBER: DOB-127**

**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 13, 2020  
Date