

NEW YORK CITY DEPARTMENT OF BUILDINGS  
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 the requirements of Section 1043 of the New York City Charter, DOB is amending section 103-07 of Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York.

This rule was first published on October 4, 2024, and a public hearing was held on November 7, 2024. DOB received and considered written and oral comments from the public. No changes have been made to the rule.

Dated: 12-16-2024  
New York, New York

  
James S. Oddo  
Commissioner

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

The Department of Buildings (“DOB” or “Department”) is amending subdivision (n) of section 103-07 of subchapter C of chapter 100 of Title 1 of the Rules of the City of New York to add Energy Management Professional Certification offered by the Energy Management Association to the list of qualifications for energy auditors. DOB is also removing the provision that the Department will not accept new Energy Efficiency Report (“EER”) submissions until the building owner has paid outstanding penalties associated with failure to submit previous EERs. The removal of this provision does not remove the Department’s discretion to require satisfaction of all penalties, but allows the Department to support buildings working to achieve compliance rather than mandating the issuance of penalties. This approach allows for consistency in enforcement across DOB’s sustainability laws.

The Department’s authority for this rule is found in sections 643 and 1043(a) of the New York City Charter, and article 308 of chapter 3 of Title 28 of the New York City Administrative Code.

[Deleted material is in brackets.]

Section 1. Paragraph 1 of subdivision (c) of section 103-07 of subchapter C of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(1) The energy auditor performing or supervising the audit may not be on the staff of the building being audited. The energy auditor must be a registered design professional, and the energy auditor or an individual under the direct supervision of the energy auditor must be one of the following:

- (i) a Certified Energy Manager or Certified Energy Auditor, certified by the Association of Energy Engineers (AEE);
- (ii) a High-Performance Building Design Professional certified by ASHRAE;
- (iii) a Building Energy Assessment Professional certified by ASHRAE; [or]
- (iv) for audits of multifamily residential buildings only, a Multifamily Building Analyst, certified by the Building Performance Institute[.]; or
- (v) an Energy Management Professional certified by the Energy Management Association.

§ 2. Subdivision (n) of section 103-07 of subchapter C of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(n) *Violation and penalty.* Failure to submit an acceptable EER is a Major (Class 2) violation which may result in a penalty of \$3,000 in the first year and \$5,000 for each additional year until the EER is submitted to the department. [The department will not accept any outstanding EER submission if outstanding penalties are not paid in full.]