

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 and Titles 4-B and 4-C of Article 4 of the Real Property Tax Law of New York State, that the Department of Buildings hereby amends Sections 105-01 and 105-02 of Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York, relating to the requirements for the approval of a property tax abatement for the installation of a green roof and the requirements for the approval of a property tax abatement for the installation of a solar electric generating system.

This rule was first published on September 17, 2010, and a public hearing thereon was held on October 20, 2010.

Dated: 11/4/10
New York, New York


Robert D. LiMandri, P.E.
Commissioner First Deputy Comm.

Section 1. Paragraph (7) of Subdivision (c) of Section 105-01 of Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(7) Vegetation layer. The layer of a green roof required by Title [28] 4-B § 499-aaa(10)(g) that, in accordance with generally accepted horticultural practice and as certified by an architect, engineer, New York State licensed and registered landscape architect or a horticulturist with a degree or certificate from an accredited training institute, consists of live plants such as sedum or equally drought resistant and hardy plant species spaced in such a manner that such plants will cover at least eighty (80) percent of such layer by the end of the compliance period.

§ 2. Paragraph (5) of Subdivision (c) of Section 105-02 of Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(5) Placed in service. [

(i) For solar electric generating systems issued a letter of completion by the Department before the effective date of this subdivision, the later of (A) the date such system began generating electricity, (B) the date of the approval of the installation of the solar electric generating system by the Department's Electrical Division, and (C) the date of the installation of the utility company meter, if applicable.

(ii) For all other solar electric generating systems, the later of (A) the date such system began generating electricity and (B) the date of the Department's issuance of a letter of completion for an alteration application pursuant to subdivision (e)(5) of this section.] The latter of:

(i) The date of the utility company's (i.e. Con Ed, LIPA, etc.) final acceptance of interconnection; or

(ii) The date of the department's electrical division's sign-off, as evidenced in the department's Building Information System ("BIS").

§ 3. Paragraph (1) of Subdivision (f) of Section 105-02 of Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(1) Professional certification. An architect or engineer shall inspect the completed solar electric generating system installation and shall certify its compliance with the requirements of Title 4-C, including but not limited to Sections 499-aaaa(10) and 499-cccc. Such architect or engineer also shall

certify that the solar electric generating system was placed in service on or after August 5, 2008 and the date [of such placement into service] such system was placed in service.

§ 4. Paragraph (4) of Subdivision (f) of Section 105-02 of Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(4) Upon receipt and acceptance of the completed property tax abatement application form, the Department shall record its acceptance and shall notify the Department of Finance. However, the Department shall not notify the Department of Finance until all applicable fees for the solar installation have been paid.

§ 5. Paragraph (1) of Subdivision (h) of Section 105-02 of Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(1) Should the Department have reason to believe at any time during the compliance period that a condition described in Title 4-C § 499-eeee(1) exists, the Department shall inspect or otherwise investigate the condition. If the findings of such inspection or investigation indicate that a condition described in Title 4-C § 499-eeee(1) exists, the applicant for property tax abatement shall pay the inspection and investigation expenses of the Department. The Department shall notify the applicant for property tax abatement of any findings that indicate that a condition described in Title 4-[B] C § 499-eeee(1) exists and provide such applicant with an opportunity to dispute the findings.

STATEMENT OF BASIS AND PURPOSE

The foregoing amendments are promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043 of the New York City Charter.

In accordance with Titles 4-B and 4-C of Article 4 of the Real Property Tax Law, the original rule set forth the procedures required for an owner to obtain a property tax abatement for the installation of a green roof and/or a solar electric generating system, the certifications and other requirements, and the process for revocation of the property tax abatement.

This set of amendments makes corrections and clarifications to the original rule. Most notably, in Paragraph (5) of Subdivision (c) of Section 105-02, the definition of "Placed in service" is being revised for clarity and ease of administration and to delete a portion that pertained only to abatement applications received on or before March 15, 2009.