

**REGULATORY IMPACT STATEMENT
(19 NYCRR Part 1229)**

1. STATUTORY AUTHORITY

Article 18 of the Executive Law (§370-383) establishes the State Fire Prevention and Building Code Council (“Code Council”) and authorizes such Code Council to formulate a code to be known as the Uniform Fire Prevention and Building Code (“Uniform Code”). The statutory authority for this rule is Executive Law §377(1), which authorizes the Code Council to formulate and amend the Uniform Code.

Effective March 22, 2022, Executive Law §378 was amended to provide that the Uniform Code shall address the following subject:

18. Standards requiring that grease traps or interceptors located in a place that may be accessible by the public, or located inside any food service establishment, or located in any other building that is open to the public, shall be designed and maintained to withstand expected loads and to prevent unauthorized access. Such standards shall also include requiring the installation of a warning sign or symbol, as determined by the council, on or in the vicinity of such grease traps or interceptors. Such standards shall apply to new and existing grease traps and interceptors. For the purposes of this subdivision, "food service establishment" shall have the same meaning as in part fourteen of title ten of the New York code of rules and regulations.

Chapter 753 of the Laws of 2021 and Chapter 47 of the Laws of 2022 provide that the amendments to Executive Law §378 shall be effective March 22, 2022; provided, however, that effective immediately, the addition, amendment, and/or repeal of any rules or regulations by the Secretary of State and/or by the Code Council necessary for the implementation of the amendments to Executive Law §378 on its effective date are authorized to be made and completed on or before such effective date. An emergency rule making was previously promulgated for such purpose and has been in effect since March 22, 2022.

This emergency rule making would further amend the Uniform Code to include provisions addressing new subdivision eighteen of Executive Law §378, as amended and effective March 22, 2022.

Consequently, it is the determination of the Department of State (“DOS”) and the Code Council that Executive Law §377 and §378, and Chapter 753 of the Laws of 2021 and Chapter 47 of the Laws of 2022, authorize the regulation.

This rule will amend the Uniform Code adding a new Part 1229 to Title 19 of the New York Codes, Rules and Regulations (“NYCRR”), which will contain specific provisions in relation to the installation, modification, use, and maintenance of grease interceptors, commonly referred to as grease traps, and amending section 1219.1 of Title 19 of the NYCRR to provide that new Part 1229 is part of the Uniform Code.

2. LEGISLATIVE OBJECTIVES

DOS and the Code Council interpret the legislative objectives of new subdivision eighteen of Executive Law §378 to include requiring that grease traps and interceptors located in a place that may be accessible by the public to be designed and maintained (1) to withstand expected loads, (2) to prevent unauthorized access, and (3) to have a warning sign or symbol installed on or in the vicinity of the grease trap or interceptor.

3. NEEDS AND BENEFITS

This rule will amend the Uniform Code to include certain safety provisions and requirements that shall apply to both new and existing grease traps and interceptors. This change is necessary to comply with the recent statutory amendment to Executive Law §378.

As noted by the Sponsor’s Memorandum in Support of Legislation (Bill No. A.7506 (2021); Bill No. A.8770 (2022)), grease interceptors that are not properly designed, installed, and maintained pose a significant

safety concern to the public. There are many types of grease interceptors that can be installed. For example, small in the floor or below the sink grease interceptors may be installed within the building immediately adjacent to the fixture(s) they serve. Larger below-grade exterior grease interceptors that serve multiple fixtures, or an entire building, are also installed and pose the greatest risk to the public as they typically have larger openings and are more accessible to the public. Generally speaking, the smaller interior grease interceptors would be required by the Uniform Code, while the larger below-grade exterior grease interceptors are typically required by the entity responsible for receiving the sanitary discharge from the building (public utility); and buildings may also be equipped with multiple grease interceptors, such as multiple small fixture-style grease interceptors in addition to a large exterior one.

The current version of the Uniform Code includes provisions for the design, installation, use, and maintenance of grease interceptors; however, as a result of this new legislation, the rule adds several new provisions and emphasizes some of the existing provisions. This rule will modify the Uniform Code, making the provisions expressly applicable to all new and existing grease traps and interceptors, regardless of whether they are required by the Uniform Code or the public utility.¹ The rule includes, but is not limited to, those grease interceptors located in a place that may be accessible by the public, or located inside any food service establishment as defined in 10 NYCRR Part 14, or located in any other building that is open to the public.

Specifically, the rule will require: (1) the installation of a warning sign or signs on or in the vicinity of all covers providing access to a grease interceptor; (2) all grease interceptors and their covers to be designed and maintained to withstand expected loads; and (3) all covers providing access to the grease interceptors be

¹ Chapter 47 of the Laws of 2022 also modifies section 2858 of title 3-A of article 9 of Public Authorities Law Chapter 43-A clarifying that although the public authority such as a sewer authority has the power to specify the manner in which exterior manhole covers containing grease traps or interceptors shall be regulated and inspected to prevent unauthorized access, any requirement by a public authority such as a sewer authority shall be in addition to the requirements set forth in the Uniform Code by this rule.

restricted or secured from those who are not authorized to access the grease interceptor, and be tight-fitting to prevent sliding, rotating, or flipping to expose the opening.

4. COST

For many existing facilities, the estimated costs to comply with this rule will be minimal and only include the purchase and installation of a warning sign, or possibly two, for each grease interceptor. These specified signs can be purchased from local sign shops or internet providers for approximately \$40 each for the larger 10" x 14" signs or approximately \$7 for the smaller 5" x 7" adhesive backed signs which are acceptable for certain smaller grease interceptors.² The larger sign could be mounted to a wall or a signpost, adding approximately \$5 to \$30 in material costs.³ The labor cost of installing the larger signs will vary from location to location, but is expected to take between 10 minutes for mounting the sign on existing walls or up to two hours to install the sign with an anchored signpost and can likely be accomplished by facility staff with no specialized tools or skills required. A smaller adhesive backed sign will take less than 5 minutes to install including surface preparation (cleaning) to attach an adhesive backed sign to a grease interceptor or adjacent wall.

Even though some below-grade exterior grease interceptors were installed prior to the Uniform Code requirement to be designed to meet expected loads, and in certain instances the public authority may have required the installation of an exterior grease interceptor, the public authority and the design professional associated with the project would more than likely have ensured that such exterior grease interceptors were designed and installed to withstand expected loads as a standard engineering practice of below grade structures

² Online retailer: 10" x 14" aluminum custom warning safety sign or 5" x 7" adhesive backed vinyl warning safety sign.

³ Simple wall installation including exterior grade screws or anchors (\$5), 4x4 pressure treated post (\$15), exterior grade screws or anchors (\$5), and several bags of concrete (\$10).

and in accordance with the applicable manufacturer's installation instructions. The owner of an existing grease interceptor may find it necessary, or be required at the discretion of the Authority Having Jurisdiction,⁴ to have their existing exterior grease interceptor evaluated by a design professional or other qualified individual to verify compliance with this rule.

Existing smaller interior below the sink style grease interceptor access covers may not have been required to be secured from unauthorized access by the Uniform Code in effect at the time of installation. Therefore, an additional cost to existing facilities would be to secure the covers of these types of grease interceptors. For some existing interceptors, this can be accomplished by adding two hasps and keyed alike padlocks or other devices requiring a tool to remove the covers, and is estimated to cost \$50 for materials and per lid.⁵

It is important to note that the current Uniform Code already requires grease interceptors to be maintained, secured, and designed to withstand expected loads; therefore, many of the provisions of this rule would not be considered a new cost. For new grease interceptors installed pursuant to the provisions of this rule, similar to the existing ones noted above, the addition of a sign at the costs noted above will be required and the smaller interior grease interceptors will now need to be secured as noted.

This rule will also emphasize the importance of maintaining these provisions. As a result, some facilities will correct issues that may have been previously overlooked. It is anticipated that the most common issue would be a missing, broken, improperly sized, or unsecured access cover. Exterior below-grade grease interceptors could be located in areas not subject to vehicular loading or in paved areas where vehicle loading is

⁴ Any city, town, village, county, state agency, or other governmental unit or agency responsible for administration and enforcement of either or both the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation Construction Code.

⁵ Must check with manufacturer to determine appropriate method to secure lid. Two hasp with fasteners (\$20), Two padlocks keyed alike (\$30).

possible. Depending on the location and expected loads, covers may be of either a plastic style or something more durable such as concrete risers with a cast iron frame and cover. A replacement plastic cover would cost approximately \$60 each.⁶ With each exterior below-grade grease interceptor typically having two or three access covers it is still anticipated that the installation of a new replacement cover with screws will be a negligible amount for an authorized facility staff or a service technician to secure the cover with screws while performing other routine maintenance, provided that the available lids are compatible with the risers. If a riser also needs to be replaced, the cost is estimated to be \$500 to \$600 for non-traffic loaded scenarios.⁷

For facilities with grease interceptors located in traffic locations, the covers are subject to higher loads and have an increased potential for damage due to snow plowing or other types of equipment, resulting in the need for maintenance and repair. New risers and cast-iron lids along with the excavation, backfill, and pavement patching will likely cost \$1,500 for a grease interceptor with two access openings.⁸ Another option allowed by the rule that facilities may choose is to fence or enclose the area with access openings. Fencing a 15 by 15-foot area with a 48-inch chain link fence with a 4-foot self-closing gate will cost \$3,200.⁹

The least common but most expensive situation is where the grease interceptor is determined to be incapable of supporting the expected loads and the grease interceptor must be replaced. The cost of materials and installation of two new 1,250-gallon gravity grease interceptors in series is expected to cost between \$15,000 and \$35,000.¹⁰ Many factors could impact the cost of installation that cannot be readily estimated for all scenarios such as site access, contaminated soils, pavement type, interceptor size, hazardous materials such

⁶ Plastic 24" screw down lid: Albany, NY area supplier(\$60), online supplier (\$70)

⁷ Albany, NY area installer: Plastic lid (\$60), 24" replacement riser (\$50 per foot), excavation and labor (\$300-\$400)

⁸ Albany, NY area supplier: cast iron lid and rim (\$400 each), Albany, NY area installer: excavation paving and labor (\$700)

⁹ Pricing to vary based on site access and geographic location. Albany, NY area fencing company provided a pricing of estimate of \$3,200 and an online retailer material only pricing of \$1,800, installation cost would need to be added.

¹⁰ Pricing will vary widely based on geographic location. DOS reached out to New York State providers and installers of grease interceptors and based the estimate off of the responses to a typical sized grease interceptor for a franchise-style restaurant.

as asbestos piping, the presence and relocating of other adjacent utilities, and many other site-specific requirements.

Grease interceptors regulated by this rule are regulated by the current version of the Uniform Code. Any entity with jurisdiction to administer and enforce the Uniform Code will already have in place a means to implement and continue to administer the provisions of the Uniform Code. The potential additional cost of implementing and continued administration of the provisions would be in the form of reviewing building permit applications, issuing building permits, performing construction inspections, and issuing close-out documents evidencing compliance, as necessary, for property owners to comply with any of the provisions. These potential costs to the entity with jurisdiction would, however, be typically charged to the permit applicant as part of a building permit fee.

The Department of State's Division of Building Standards and Codes will provide training on the amendments to the Uniform Code for all local government code enforcement personnel in the State at no cost to the municipalities. Code enforcement personnel employed by the cities, towns, villages, and counties that are required to administer and enforce the Uniform Code will need to receive training regarding the new and amended provisions of the Uniform Code. However, such code enforcement personnel are already required by regulation (19 NYCRR Part 1208) to receive 24 hours of annual in-service training, and it is anticipated that the training needed to familiarize code enforcement personnel with the amendments to the Uniform Code to be implemented by this rule will be accomplished within that annual in-service training.

Local governments can obtain a copy of 19 NYCRR Part 1229 on the DOS website at no cost.

5. LOCAL GOVERNMENT MANDATES

This rule will not impose any new program, service, duty, or responsibility upon any county, city, town, village, school district, fire district, or another special district.

6. PAPERWORK

This rule will not impose any additional reporting or record keeping requirements. No additional paperwork is anticipated.

7. DUPLICATION

The rule does not duplicate any existing Federal or State requirement.

8. ALTERNATIVES

This rule making is required by the recent statutory amendments to Executive Law §378; Chapter 753 of the Laws of 2021 and Chapter 47 of the Laws of 2022. Consequently, the alternative of not amending the Uniform Code to continue added provisions relating to grease interceptors was rejected.

A comment was received requesting that the warning sign be more specific to ensure the reader is aware the warning sign applies to grease interceptors. DOS reviewed several alternative signs and alternative text, but these were rejected in favor of a shorter message that would be concise with a readily understood message on a sign that was not overwhelmingly large. Additionally, the signs proposed in the rule are readily available and no special content license is needed to produce the sign.

One comment received suggested that the access covers in parking lots be marked to limit confusion with other underground infrastructure. After consideration of the anticipated maintenance requirement to replace the sign after snow removal or the added cost of specialized access cover that can incorporate and protect a sign, this

alternative was rejected, as only maintenance personnel should be accessing the infrastructure and should be able to identify the underground infrastructure.

Another comment received discussed the location of a sign for a grease interceptor that needed further specification. The proposed rule requires that “the warning is clearly visible and readable at all times by persons who are in the vicinity of the grease interceptor.” Several alternatives for the location of the sign were evaluated, such as specifying the height and a minimum distance from the access covers. However, these alternatives were rejected in favor of the more subjective requirements of “clearly visible and readable” to fit the multitude of scenarios.

The proposed rule requires the access cover to be designed and constructed for the “expected load.” One commentator suggested that the rule should require the access cover to “carry a minimal load based on at least adult human traffic or greater as needed” citing that there are times where an access cover may be in a location where one would not expect human traffic thereby allowing an access cover that may not support a person. This alternative was rejected because in some situations, such as a smaller under sink grease interceptor, being able to withstand pedestrian traffic may not be appropriate and a cover designed to do so may impede the removal of the cover to service the unit.

DOS received a comment that the definition for gravity grease interceptors within the regulation does not align with the definition for gravity interceptors in the reference standard, “Prefabricated Gravity Grease Interceptors (ANSI/CAN/IAPMO Z1001-2014).” The reference standard uses the minimum volume of 300 gallons (1136 liters). This alternative was accepted to align the rule with the reference standard and the rule text was modified accordingly.

Finally, DOS received comments that an annual inspection should be conducted of grease interceptors and the enforcement of the maintenance requirements be increased. Both of these should be classified as

administration and enforcement activities of the Uniform Code and are already appropriately addressed in 19 NYCRR Part 1203 and the local governments' local code enforcement programs, which requires annual fire safety and property maintenance inspections of all restaurants with an occupancy of 50 persons and greater. Generally, most other buildings with grease interceptors are required to have fire safety and property maintenance inspections at least once every three years.

9. FEDERAL STANDARDS

There are no federal standards that conflict with this rule.

10. COMPLIANCE SCHEDULE

This rule will become effective immediately upon filing. A prior, substantially similar version of this rule was adopted as an emergency rule on March 22, 2022. Therefore, regulated parties have already been complying with these requirements since March 22, 2022.

DOS previously notified interested parties throughout the State of a rule that is substantially similar to this emergency rule by means of a Notice of Emergency and Proposed Rule Making that appeared in the April 6, 2022, edition of the State Register, and the substantially similar rule was also posted on the DOS website and contained in Building New York, an e-bulletin sent by DOS to local governments, design professionals, and other persons and entities involved in the construction industry in all areas of the State.