

STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
HTTPS://DOS.NY.GOV

KATHY HOCHUL
GOVERNOR

WALTER T. MOSLEY
SECRETARY OF STATE

Minutes of the NYS Fire Prevention and Building Code Council meeting on Friday, June 28, 2024, commencing at 10:00 a.m. and held by videoconference at:

- ❖ 99 Washington Avenue, Albany, NY, Conference Room 505;
- ❖ 123 Williams Street, NYC, NY, Conference Room 231; and
- ❖ 295 Main Street, Buffalo, New York, in Conference Room 803.

Council members and designees present:

Matthew Tebo, Presiding (Albany)	Joseph Toomey (Albany)
James Cable (Albany)	Robert Hughes (Albany)
Dominic Marinelli (Buffalo)	William Tuyn (Buffalo)
Vincent Rapacciuolo (Albany)	Michael Sabatino (NYC)
Keith Wen (NYC)	Shawn Hamlin (Albany)
Michael Weber (Albany)	Timothy DeRuyscher (Albany)

Staff present: John Addario, Panagiota Hyde, Kevin Duerr-Clark, Emma Gonzalez-Laders, China Clarke, Chad Sievers, Jeanne Rice, Stephen Van Hoose, Gregory Benton, Christopher Jensen, Daniel Carroll, David, Gonzalez, Anna Binau, Amalia Talty, and Ben Kosinski.

Agenda Item 1. Welcome.

Chairperson Tebo opened and welcomed everyone to the meeting and asked Kevin Duerr-Clark to call roll. Kevin Duerr-Clark read the attendance roll. Chairperson Tebo noted that quorum was established with twelve (12) members in locations opened to the public, and zero remote. Chairperson Tebo then announced that there is a new Secretary of State, Walter Mosley, and a new Code Development Unit staff member, Stephen Van Hoose. Kevin Duerr-Clark reviewed the public comment procedures, noting that there are 35 commentors signed up, and stating that each commentor will be given 3 minutes to speak. Chairperson Tebo then gave an overview of the agenda. Chairperson Tebo addressed the public commentors concerning the “Electrification” Notice of Rule in Development explaining the process and requesting that Public Comments concerning the rule be submitted in writing. Chairperson Tebo announced a schedule change that the next meeting was going to be on July 26th. Chairperson Tebo revealed that the remainder of the codes would be released at that time and mentioned that additional meetings would likely be rescheduled. Chairperson Tebo concluded Agenda item 1 by asking if there were any changes to the agenda, hearing none, moved on to agenda item 2.

Agenda Item 2. Draft Minutes – March 22, 2024

Chairperson Tebo asked if there were any changes to be made to the minutes of the March 22, 2024, meeting, hearing none. Chairperson Tebo motioned to approve the minutes which was

seconded by Joe Toomey. The motion was unanimously approved by voice vote. Timothy DeRuyscher abstained as he was not present at the March 22, 2024, meeting.

Agenda Item 3. Division Update

Panagiota Hyde went over Part V of Chapter 56 of the Laws of 2024 explaining that the law adds a new section 373-b to the Executive Law which requires the Code Council to conduct a study on single stairway, single exit multiunit residential buildings from 3 to 6 stories. The study must be completed by July 1, 2026 and the Code Council must consider the study and amend the Uniform Code if necessary. Panagiota Hyde explained that the Department of State has prepared a scope for a draft study to be conducted by consultants.

Timothy DeRuyscher asked if this study was specific to residential units only. Chairperson Tebo and Panagiota Hyde clarified that the law applied to residential buildings only.

John Addario provided an explanation of scope of the study which includes but is not limited to the following items:

- Prior building code requirements related to the forementioned buildings.
- Current building codes that allow for single stairwell egress including New York City and Seattle, Wash.
- Future model code proposals that allow for single stairwell egress
- Feasibility of the design and installation of single stairwell buildings
- Mitigating factors
- Fire risk
- Fire mitigating factors
- Local Fire Department response, operations, and capabilities
- Cost savings

Shawn Hamlin asked for the background of this legislation and David Gonzalez noted that although this legislation was part of the budget bill, the language came from a proposed bill that included a sponsor's memo with justification indicating that single exit, single stair multi-residential unit buildings allowed in NYC and other jurisdictions allow for affordability while still maintaining safety.

Timothy DeRuyscher noted that approximately 15 years ago he was involved in a project that included reviewing data that allowed a similar situation for existing buildings and mentioned that information could be helpful to the current study tasked to the Code Council. Timothy DeRuyscher expressed his concern of approving these provisions when they were not successful in the ICC process and now another process is being attempted. Chad Sievers requested that he provide any information to DOS and if he could provide a specific timeframe that would narrow our research on our end.

Michael Weber discussed that these provisions may not only apply to new development but also with buildings that have been repurposed or assist with the redevelopment of residential buildings that have fallen in disrepair.

John Addario also mentioned the following items:

- Staff is working with NYSERDA on the final recommendations from the New York State Inter Agency Energy Storage System (ESS) Fire Safety Working Group and incorporating the recommendations into the Uniform Code.
- Extreme Heat Action Plan released today and staff has started to review.
- ICC hearings held this Fall for the group A codes. John noted that we have 10 code change proposals in group A.

Agenda Item 4. Uniform Code and Energy Code – Code Development

Kevin Duerr-Clark provided an update to the status of the code development process for the Uniform Code and Energy Code. Kevin Duerr-Clark stated the following:

The Energy Code Unit and the Code Development Unit have been working diligently to develop final draft changes for the Uniform Code and Energy Code. Prior to the March meeting, we released version 3.0 documents of the five smaller Uniform Code books and provided a brief summary of the changes included in those books. Following the March meeting and the release of the final published 2024 International Code Council model codes, staff has been working to review and integrate the final ICC language into the NYS documents. This includes a thorough review of the published documents, the code change proposals the published documents are based on, and any posted errata, to do a side-by-side comparison with the NYS documents. Also, while the 2024 International Energy Code has not yet been published, staff has received a preliminary copy, which will allow us to more seamlessly overlay the NYS specific changes for the energy code.

Over the last several months, staff has worked with:

1. DEC for improvements to flood plain language,
2. multiple accessibility advocacy groups for updates to evacuation notices for high rise buildings,
3. the ESS workgroup, including NYSERDA, their consultants, and other state agencies for improvements to code language for Energy Storage Systems,
4. the State Education Department for code impacts on NYS schools,
5. the NYS troopers for NYS school lockdown procedures and requirements,
6. MTA for updates to the rail stations provisions, and
7. evaluated hundreds of code change proposals from the public and code users.

Once complete, these version 3.0 documents will be shared with the Code Council and the public, at which time we will formally begin our informal rule in development process seeking input from the public prior to commencing the formal State Administrative Procedure Act (SAPA) process.

Additionally, DOS staff has worked to create the draft regulations for the implementation of the prohibition on the installation and use of fossil-fuel equipment and building systems in certain new structures and buildings. A formal NRD was published on the rule making portion of the Divisions website for these draft regulations on 06/24/2024 and those documents were shared in the code council member's packet.

Panagiota Hyde then provided an overview of the documents. Panagiota Hyde stated the following:

Executive Law § 378 (19) and Energy Law §11-104(6), (7), and (8), as amended by Part RR of Chapter 56 of the Laws of 2023, establish requirements to be added to the Uniform Code and Energy Code in relation to prohibiting the installation and use of fossil-fuel equipment and building systems in certain new structures and buildings. The proposed amendments to Parts 1229 and 1240 are anticipated to be part of the larger update to the Uniform Code and Energy Code currently being undertaken by the Code Council and will not be a separate interim rule making.

This language is proposed to be placed in Title 19 of the NYCRR instead of within the code books for several reasons:

1. First, technically, the Uniform Code and Energy Code are not the “code books” themselves but found within Title 19 of the NYCRR. The Uniform Code is set forth within Parts 1219 through 1229, and the publications incorporated by reference therein, and the Energy Code is set forth within Part 1240, and the publications incorporated by reference therein. Code users should always start with Title 19 and therefore placing the language within Title 19 was preferable.
2. Second, for transparency, the language is proposed to be clearly set forth and not buried within the code books so that there is no confusion as to when and how the requirements are applicable.
3. Finally, it is anticipated that after the updated versions of the Uniform Code and Energy are adopted, the Department intends to prepare guidance such as a Technical Bulletin or Code Outreach Program for code users to ensure familiarity with these provisions.

The proposed rule would implement the requirements for prohibiting the installation and use of fossil-fuel equipment and building systems in certain new structures and buildings as required by Executive Law § 378 and Energy Law §11-104. Specifically, Part 1229 would implement the requirements into the Uniform Code and Part 1240 would implement the requirements into the Energy Code.

In drafting this language, the Department worked collaboratively with other State agencies and authorities including the Department of Agriculture and Markets, the Department of Public Service, and NYSERDA. The Department welcomes any comments or suggested revisions to improve the draft language or alternatives to the draft language for consideration. Code Council members are encouraged to submit any comments as soon as possible, particularly within the next couple months, so that the Department can revise the language as necessary to stay on target with our timeline to update the Uniform Code and Energy Code.

Agenda Item 5. Public Comment Period

Chairperson Tebo gave the public an opportunity to address the Code Council which included in-person and online commentors. 46 public commentors presented, with eleven (11) present in person. Comment topics predominantly included the following:

- Support of electrification or decarbonization of buildings and building systems;
- Request for enhanced energy efficiencies and reduced pollution;
- Concerns and opposition over the transition of electrification due to high cost, reduced reliability, and available technologies;
- Support for certain technologies that may be disallowed by the proposed rule; and
- Proposed modifications or request for clarifications of the proposed rule.

Below is the list of speakers and/or organization they represented, presented in the order they spoke.

- Lisa Marshall
- Michael Hernandez
- Senator Robert Jackson
- Isaac Silverman
- Daniel Morissey
- Gary Pendergrass
- Gabriel Recchio
- Timothy Walmeier
- Brandon McGuire
- Assembly Member Pat Fahy
- Cliff Fonstein
- Anshul Gupta
- Neil Jimenez – Legislative Director for Assembly Member Tapia
- John Rath
- Erin Sherman
- Kevin Beckett
- Jay Best
- Michael Trunzo
- Melissa Carlson
- Bob Shea
- Rocco Lacertosa
- Elizabeth Moran
- Robert O'Brien
- Chris Ochoa
- Sara Schultz
- Randal Nicklas
- Bill Nowak
- Heather Voorman
- Ken Pokalsky
- Mike Fazio
- Lance Marino
- Avni Pravin
- Luke Michaels
- Nicole Abene
- Jed Prickett

- Thomas Wright
- Thomas Kacandes
- Andrew Foster
- Paul Kiesler
- Josh Cohen
- Brian LaMorte
- Steve McDaniel
- George Povall
- Matthew Kozlowski
- Brian Smith
- Betsy Parrington

Agenda Item 6. Future Meetings

Chairperson Tebo noted that there is going to be a meeting on July 26, 2024. The September 27, 2024, meeting will likely be canceled, and the December 6, 2024, meeting will likely be moved to an earlier October or November date.

Agenda Item 7. Other Business

Chairperson Tebo thanked Emma Gonzalez-Laders and the Energy Code Services Unit as well as Kevin Duerr-Clark and the Code Development Unit, John Addario, Brian Tollisen, Panagiota Hyde and the legal team, and the Code Council members for all their hard work.

Agenda Item 8. Adjourn

Chairperson Tebo motioned to adjourn the meeting.

The meeting adjourned at approximately 1:22pm.