

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

Draft minutes of the NYS Fire Prevention and Building Code Council meeting on Friday, July 26, 2024, commencing at 10:05 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)
James Cable (Albany)
Vincent Rapacciuolo (Albany)
Timothy DeRuyscher (Albany)
Joseph Toomey (Albany)
Joseph DeStefano (Albany)

Robert Hughes (Albany)
Dominic Marinelli (Buffalo)
Joseph Palozzola (NYC)
Keith Wen (NYC)
Michael Sabatino (NYC)

Staff present: John Addario, Kevin Duerr-Clark, Emma Gonzalez-Laders, China Clarke, Chad Sievers, Jeanne Rice, Gregory Benton, Christopher Jensen, Daniel Carroll, David Gonzalez, Anna Binau, 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, noted that quorum was established with eleven (11) members in locations open to the public, with Bill Tuyn, Patrick Dolan, and Shawn Hamlin not in attendance. Chairperson Tebo noted that he did not have any announcements to make, and asked Kevin Duerr-Clark to review the meeting conduct procedures. Kevin Duerr-Clark reviewed the procedures, noting that there were 6 commentors signed up to speak, and stating that each commentor will be given 3 minutes to speak. Chairperson Tebo announced that Panagiota Hyde was not in attendance, and stated that David Gonzalez, Deputy Counsel to the Secretary of State, was in attendance, as well as Ben Kosinski, Energy Code Counsel.

Chairperson Tebo asked Kevin Duerr-Clark if there were any agenda changes and was informed there were none. Chairperson Tebo then reviewed the meeting agenda. Chairperson Tebo noted that the Notice of Rule in Development (NRD) was posted the day prior to the meeting, stated that members were not expected to have reviewed all the documents, and stated that public comment on the NRD would be open for at least 60 days, until the end of September. Chairperson Tebo stated that Kevin Duerr-Clark would provide an overview on major changes in the Uniform Code, and Emma Gonzalez-Laders would provide an overview of major changes to the Energy Code. Chairperson Tebo stated that the goal date for releasing the Notice of Proposed Rule-making was November or December and noted that the earliest possible opportunity to adopt the new code would be at the 2025 March Code Council meeting.



**Department
of State**

Chairperson Tebo noted that the State Environmental Quality Review (SEQR) process was also underway, and that votes on that subject would be held at today's meeting.

Chairperson Tebo stated that upcoming meeting dates were tentative and might be moved as needed based on availability of members as well as the development of the SAPA and SEQR processes.

Agenda Item 2. Draft Minutes – June 28, 2024

Chairperson Tebo asked if there were any changes to be made to the minutes of the June 28, 2024, meeting, and hearing none, asked for a motion. Timothy DeRuyscher motioned to approve the minutes, which was seconded by Joe Toomey. The motion was unanimously approved by voice vote. Mayor Joseph DeStefano abstained, as he was not present at the June 28, 2024, meeting.

Agenda Item 3. Division Update

First, John Addario spoke about the Governor's Inter-Agency Fire Safety Working Group for Energy Storage Systems, which had released the final recommendations in the week leading up to this meeting, stating that a link to that final document was included in the package sent to Code Council members. John Addario stated that Division staff have been working extremely hard to incorporate the changes and develop the code language, and all of the recommendations were reflected in the NRD documents released prior to this meeting.

Second, John Addario provided a summary of the Single-Exit Study for the Code Council. John Addario stated that the Division continues to work on the draft RFP to obtain a consultant to perform the study, and thanked Timothy DeRuyscher for spending the time to locate some of the documents and research papers that were done as part of the code development process a few years ago.

Third, John Addario mentioned that FrameMaker files were received from ICC, including all 9 code books and ASHRAE 90.1-20-22, and stated that staff will begin modifying the FrameMaker files to create the New York Specific code books. John Addario also noted that the format of the printed books will change from a two-column page format to a single column, similar to what you see in the online version, to stay consistent with the ICC format for the 2024 ICC model codes.

Lastly, John Addario spoke about the ICC Hearings being held this fall, from October 21 - 31, 2024. John Addario noted that staff currently have about 15 active proposed changes to the group A codes, and that staff were able to submit public comments on about 10 proposals by the deadline for the October hearing. John Addario reiterated that the October Hearing was for the Group A codes (IBC, IFBC, IFGC, IMC, IPC, IRC-M) which are proposals to the 2024 ICC model codes to create the 2027 ICC model codes.

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

Kevin Duerr-Clark provided an overview of the process and timeline of development of the Uniform Code to date, noting the following points:

- March 2022 meeting: Summary of notable changes to 2021 ICC model code books presented to Code Council. Code Council decided to base the next version of the Uniform Code and Energy Code on the 2024 ICC model code.
- Staff undertook detailed review of the 2021 ICC model code changes and participated in the 2024 ICC code development process.
- March 2023 meeting: The Code Council was presented with the first draft version of NRD documents, which included proposed changes based on the preliminary approved changes from the ICC 2024 code development cycle.
- June and September 2023 meetings: Version 2 NRD documents were provided to the Code Council, including both preliminary 2024 ICC code changes as well as 2021 ICC code changes, since the 2020 NYS codes were based on the 2018 ICC model codes.
- Staff worked to incorporate NYS specific amendments necessary based on state and Code Council policies and initiatives, new and historic statutory requirements, and actual published 2024 ICC model code language.
- March 2024 meeting: Version 3 documents of the 5 smaller books: Plumbing, Mechanical, Fuel Gas, Property Maintenance, and Existing Building; which included NYS specific amendments as well as 2024 and 2021 ICC code changes.
- July 2024 meeting: Final draft NRD documents prepared for Uniform Code and Energy Code books and NRD documents posted to the Division's website.

Kevin Duerr-Clark stressed that the NRD documents include only the proposed changes to the 2020 version of the Energy Code and Uniform Code and are not intended to be all of the code language, stating that if language is not shown as being modified in these documents, it should be anticipated that the language is to remain the same in the proposed 2024 versions of the code books. Kevin Duerr-Clark stated the NRD was posted with a deadline of September 24, 2024 to receive comments, which is around 60 days, and noted that this NRD is inclusive of the already released electrification language.

Kevin Duerr-Clark then presented a summary of major changes to note for the Uniform Code books, including the Building Code, Residential Code, Fire Code, Existing Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, and Property Maintenance Code. See attached for a document containing the summarized changes.

Emma Gonzalez-Laders presented the Energy Code NRD document, stating that it is the culmination of a multi-version process developed in parallel with the International Energy Conservation Code (or IECC) 2024 update (which had a publication date still pending at the time of this meeting). Emma Gonzalez-Laders provided an overview of the timeline and development of the Energy Code document to date, noting the following points:

- March 2023 meeting: The Code Council was presented with a version 1.0 document containing code changes made as a result to the revisions to Article 11 of the NYS Energy Law made on July 5, 2022 and known as the Advanced Building Codes Act. These changes mainly included modifications to the treatment of historic structures, developed in consultation with the State Historic Preservation Office, the consolidation of exceptions; and the addition of GHG emissions reduction to the scope statement.
- June 2023 meeting: The Code Council was presented with a version 2.0 document that contained modifications based on the 2021 International Energy Conservation Code

update and proposed changes received by the DBSC since the adoption of the 2020 Energy Conservation Code of New York State.

- June 2024 meeting: The Code Council was presented with the provisions for fossil-fuel prohibition, which are codified in Article 11 of the State Energy Law and Section 378 of the Executive Law and will be set forth expressly in Part 1240 of Title 19. An NRD document for those proposed changes was published on the Division's website.

Emma Gonzalez-Laders stated that the final NRD draft document, presented at this meeting, contains the balance of changes to the Energy Code for consideration by the Code Council and the public. Emma Gonzalez-Laders noted that the Energy Code NRD document is separated into 3 parts: the Residential and Commercial provisions of the IECC and ASHRAE 90.1; and noted that a "quick reference guide" at the beginning of each part gives a brief synopsis of the section numbers, topics, nature, and origin or reason for each change. Emma Gonzalez-Laders then presented a list of 11 changes which, in addition to the fossil-fuel prohibition provisions presented at the June 2024 meeting, constitute the most notable changes to the energy code, including new topics in the model codes, energy efficiency improvements which are part of a typical code update cycle, and NY-specific amendments, including provisions of NYStretch 2020 in collaboration with NYSERDA, to achieve energy savings greater than the most recently published IECC for residential buildings and ASHRAE 90.1 for commercial buildings - in compliance with the NYS Energy Law and the Climate Action Council Scoping Plan of December 2022, developed as a result of the Climate Leadership and Community Protection Act or CLCPA. See attached for a document containing the summarized changes.

Agenda Item 5. Uniform Code and Energy Code – SEQR

Ben Kosinski stated that members were given State Environmental Quality Review Act (SEQR) documents in their meeting info packet, then provided an overview of the SEQR process, including the following points:

- DOS concluded a review is required under SEQR for the proposed updates to the Uniform Code and Energy Code.
 - Such review must examine the environmental impacts along with the social and economic considerations for actions during their discretionary review.
 - Under SEQR, 'environment' does not just pertain to natural resources, but also includes how people use and relate to their surroundings, including, but not limited to, land, air, water, minerals, noise, resources of agricultural, archeological, historic, or aesthetic significance, existing community or neighborhood character, and human health.
- Agencies must follow the multi-step SEQR Decision Process, which requires them to assess the environmental significance of all actions they have the power to approve, fund or directly assume.
- The multi-step SEQR Decision Process includes, but is not limited to, Classifying the Action, Completing the Correct Environmental Assessment Form, Coordinating Review, Determining Significance, and Scoping the draft Environmental Impact Statement.
- A draft Generic Environmental Impact Statement (GEIS) may be used to assess the impacts of an entire program having wide application or restricting the range of future alternative policies that will affect a wide range of resources or geographic areas.

- The rule makings to update the Uniform Code and Energy Code would not fall under the Type II list under 19 NYCRR Part 1263; therefore, they would be appropriately classified as unlisted actions.
- The Lead Agency is the involved agency which is responsible for determining whether an Environmental Impact Statement will be required, and if so, for its preparation and filing.
- The Department has concluded the upcoming rule making, which includes several proposed changes to the Uniform Code and Energy Code, including flood provisions for seacoast residents and solar requirements for commercial buildings, could have a potential impact to the environment and a draft GEIS should be prepared. The draft GEIS will be used to analyze reasonable alternatives to the proposed actions and to identify ways to avoid or reduce adverse impacts.
- The Department, through the SEQR process, will establish a clear and transparent record of the Department's decision-making process as it relates to environmental impacts and strongly encourages public participation.
- For the purposes of the rule makings to update the Uniform Code and Energy Code, the Department recommends that the Code Council:
 - Designate the Code Council as the Lead Agency for the purpose of environmental review under SEQR and for the Department of State to act administratively on behalf of the Code Council to file, post, and publish any supporting documents.
 - Requests the Department to file positive declarations for the Short Environmental Assessment Forms for both the Uniform Code and Energy Code update rule makings, as submitted to the Code Council prior to the meeting.
 - Requests the Department to publish on the Department's website as well as in the Environmental Notice Bulletin the Draft Scope and Draft Notice of Intent to Prepare Draft Generic Environmental Impact for Proposed Amendments of the Uniform Code and Energy Code and to receive public comments to the Draft Scope until September 6, 2024.

Ben Kosinski stated that, as part of the SEQR process, the Department has drafted the Notice of Intent and draft Scope to obtain public comments before preparing the draft GEIS. The draft GEIS will be issued along with the Notice of Proposed Rule Makings for both the Uniform Code and Energy Code updates and public comments will be received again. With respect to the SEQR timing with SAPA, the public comment period will run concurrently. The Code Council will need to accept the final GEIS prior to filing the Notices of Adoption for the rule makings.

Chairperson Tebo stated that several motions related to SEQR would be read by Ben Kosinski but moved by Chairperson Tebo. Ben Kosinski read the first motion, stating:

- That the Code Council, in regard to Agenda Item 5, designate the Code Council as lead agency for compliance with Article 8 of the Environment Conservation Law and have the Department of State act administratively on behalf of the Code Council to file, post and publish any supporting documents.

Joe Toomey seconded the motion, and Chairperson Tebo asked for any discussion or comments on the motion. Hearing none, Chairperson Tebo instructed Kevin Duerr-Clark to call the vote by roll. The motion passed unanimously.

Chairperson Tebo moved, with Ben Kosinski reading, the second motion:

- That the Code Council find and determine that the proposed action in Agenda Item 5 may result in a significant environmental impact, potentially have a significant adverse effect on any significant fish or wildlife habitat, scenic resource of statewide significance, important agricultural land, or area included in an approved local waterfront revitalization program; and
- That Kevin Duerr-Clark be authorized to sign and deliver, on behalf of the Code Council and the Department of State:
 - With respect to the Uniform Code update, the State Environmental Quality Review Act Short Environmental Assessment form, indicating that “no, or small impact may occur” in response to questions 1 and 4 through 11 and indicating “moderate or large impact may occur” in response to question 2, relating to change in the use or intensity of use of land and question 3, relating to the impairment of character or quality of the existing community in Part 2 of the form, and determining, in part 3 of the form, some of the code regulating projects in the Uniform Code may result in significant adverse impacts upon the environment.
 - With respect to the Energy Code update, the State Environmental Quality Review Act Short Environmental Assessment form, indicating that “no, or small impact may occur” in response to questions 1 and 4 through 11 and indicating “moderate or large impact may occur” in response to questions 2 relating to change in the use or intensity of use of land and question 3 relating to the impairment of character or quality of the existing community in part 2 of the form, and determining, in part 3 of the form, some of the code regulating projects in the Energy Code may result in significant adverse impacts upon the environment.

Robert Hughes seconded the motion, and Chairperson Tebo asked for any discussion or comments on the motion. Hearing none, Chairperson Tebo instructed Kevin Duerr-Clark to call the vote by roll. The motion passed unanimously.

Chairperson Tebo moved, with Ben Kosinski reading, the third motion:

- That the documents titled Draft Scope and Draft Notice of Intent to Prepare a Draft Generic Environmental Impact Statement for Proposed Amendments of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code be published on the New York State Department of State website as well as in the Environmental notice bulletin for compliance with Article 8 of the Environment Conservation Law, and
- That the Department of State shall receive public comments to the draft scope through September 6th, 2024.

Mayor Joseph DeStefano seconded the motion, and Chairperson Tebo asked for any discussion or comments on the motion. Hearing none, Chairperson Tebo instructed Kevin Duerr-Clark to call the vote by roll. The motion passed unanimously.

Chairperson Tebo stated that public comments will be received, and that, should the draft scope need to be modified, the tentative September meeting may need to be held specifically to deal with SEQR business. Chairperson Tebo stated that this closed Agenda Item 5 and moved on to Agenda Item 6.

Agenda Item 6. Public Comment Period

Chairperson Tebo gave the public an opportunity to address the Code Council which included in-person and online commentators. Six (6) public commentators presented, all attending remotely. Comment topics predominantly included the following:

- Support of electrification or decarbonization of buildings and building systems.
- Support for adoption of all Mass Timber provisions.
- Introduction to new Region 2 FEMA coordinator and overview of FEMA programs and available assistance.
- Thanks to DBSC staff for NRD documents, and statements of intent to review and provide comments. Recognition of the importance of Staff being involved with the ICC code development process.
- One comment stated that there were 2,054 pages of content to review and that completing a review by September 6th could be difficult, stating that this timeframe provides only 44 days for review.
 - Chairperson Tebo clarified that the NRD comment period would be open until the end of September and that the Notice of Proposed Rulemaking would not be released until November or December, providing over 150 days to review. Following the Notice of Proposed Rule-Making anticipated for November or December, SAPA requires a minimum 60-day public comment period as well prior to adoption, providing ample time to review the proposed changes.

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

- Bill Nowak
- Matthew Hunter, AWC
- Benjamin Olaniyan, FEMA
- Steve McDaniels
- Dottie Mazzarella, ICC
- Michael Foley, FEMA

Agenda Item 7. Future Meetings

Chairperson Tebo noted that the September 27, 2024, meeting may need to be held, though the date may change, and noted that this meeting would be limited in scope to SEQR-related business.

Chairperson Tebo also noted that the December 6, 2024, meeting may also be moved to another date as needed.

Agenda Item 8. Other Business

Chairperson Tebo thanked Division staff and Code Council members for all their hard work, noting that the NRD documents had over 2000 pages, and it was a very big task. Chairperson Tebo welcomed the public to send any and all comments in writing to DBSC, noting that having the comments in writing is a huge help to staff.

Agenda Item 8. Adjourn

Chairperson Tebo motioned to adjourn the meeting.

The meeting adjourned at approximately 11:13 am.

DRAFT