New York State Environmental Quality Review Act (SEQR)
Final Public Scoping Document

for

Generic Environmental Impact Statement
(GEIS)

on

Proposed Amendment of the
New York State Uniform Fire Prevention and Building Code
(19 NYCRR Parts 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228 and 1229)
and the State Energy Conservation Construction Code
(19 NYCRR Part 1240)

Lead Agency
New York State Fire Prevention and Building Code Council

September 2024

I. Overview

New York State Executive Law §377 and New York State Energy Law §11-103 authorize the State Fire Prevention and Building Code Council (Code Council), from time-to-time to review and amend the New York State Uniform Fire Prevention and Building Code (Uniform Code) and the New York State Energy Conservation Construction Code (Energy Code), or adopt new codes. The Code Council is currently in the process of updating the Uniform Code and the Energy Code from the 2020 versions of the Uniform Code and Energy Code.

Article 8 of the Environmental Conservation Law, State Environmental Quality Review Act (SEQR), and the implementing regulations under 6 NYCRR Part 617, establish a process to comprehensively and holistically consider potential environmental impacts of discretionary actions that are directly undertaken, funded, or approved by local governments, state agencies, and public corporations. SEQR establishes the requirements and processes for the development of environmental impact statements which are required where an action may have a potentially significant impact on the environment. A generic environmental impact statement (GEIS) is a type of environmental impact statement that is used to consider broad-based actions or related groups of actions that agencies may approve, fund, or directly undertake.

The first step in preparing the draft GEIS is for the New York State Department of State (DOS), on behalf of the Code Council, to prepare a "scope" or outline of its proposals. The scope refers to the outline of what the draft environmental impact statement will contain. The process of creating an outline is called "scoping" to develop a written outline or "scope" of topics and analyses of potential environmental impacts of an action that will be addressed in the draft GEIS and how they will be studied. The job of scoping is to narrow issues that will be addressed in the draft environmental impact statement to ensure that it will be a concise, accurate, and complete document that is adequate for public review.

DOS published a draft scope which appeared in the August 7, 2024 edition of the Environmental Notice Bulletin (ENB) and provided a 30-day period for the public to review and provide written comments, or until September 6, 2024. Release of the draft scope ensured an opportunity for public input. A response to those comments is included below. This final scope will serve as the outline of the GEIS.

II. Description of the Action & Environmental Setting

The New York State Department of State (DOS) proposes to repeal and replace the regulations that implement the Uniform Code set forth in 19 NYCRR Parts 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228 and 1229 and the Energy Code set forth in 19 NYCRR Part 1240. The Uniform Code applies to all buildings and structures in New York State except for those located within the City of New York. The Energy Code applies to all buildings and structures in New York State, including the City of New York. The principal purpose of the amendments is to update the Uniform Code and the Energy Code to incorporate revisions to New York State laws and the International Code Council's (ICC) Model Codes since the 2020 rulemakings. The changes being proposed are significant in nature, in that both the codes changes from ICC's

2021 and 2024 Model Codes are being incorporated. Additionally, several significant New York legislative bills impacting the Uniform Code and Energy Code were passed and signed by the Governor in 2020 through 2024.

DOS has not identified any significant adverse environmental impacts from the proposed amendments. However, DOS has chosen to use a GEIS as the means to discuss the objectives and the rationale for the proposed regulations, present alternative measures which are under consideration, and provide the maximum opportunity for public participation.

III. Summary of Proposed Amendments to the Uniform Code (19 NYCRR Parts 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229) and the Energy Code (19 NYCRR Part 1240)

Uniform Code
(19 NYCRR Parts 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228 and 1229)

- Department of Environmental Conservation (DEC) flood provisions;
- A2L refrigerant provisions;
- Residential sprinklers;
- Energy Storage System (ESS) Inter-Agency Fire Safety Working Group recommendations;
- Mass timber;
- Updated reference and coordination with ICC A117.1 to the 2017 version:
  - Accessibility provisions for electric vehicle (EV) chargers;
  - Wheelchair clear area dimension and turning radius increases;
  - Revised and added requirements for accessible water closets, grab bars, flush controls, dispensers, roll in showers, clearances; and
  - Assisted toileting and bathing facility provisions.
- Adult changing station provisions:
  - Locations where adult changing stations are required to be installed; and
  - Accessibility provisions.
- Powered micro-mobility devices:
  - Charging and storage locations; and
  - Addressing hazards associated with charging through:
    - Listings,
    - Separation requirements, and
    - Use of detection systems.
- Lithium batteries:
  - Storage requirements; and
  - Collection requirements.
- Shipping container construction;
- Temporary use of buildings in emergencies;
- Occupiable roofs provisions:
  - Egress,
  - Accessibility,
  - Additions, or
  - Alterations.

- Inflatable amusement devices; and
- Coordinating pool and hot tub provisions with industry standards and ICC's International Swimming Pool and Spa Code.

Energy Code
(19 NYCRR Part 1240)

- Fossil-fuel equipment and building systems prohibition in new buildings (with corresponding provisions set forth in the Uniform Code);
- Renewable energy (solar) with not less than 0.75 W/ft2 for commercial buildings;
- Documentation and mitigation of energy loss associated with thermal bridges in commercial buildings;
- More restrictive building thermal envelope requirements;
- Eight Counties that were previously in Climate Zone 6 are now in Climate Zone 5: Allegany, Broome, Cattaraugus, Schoharie, Schuyler, Steuben, Tompkins, and Wyoming;
- Additional efficiency credits for new buildings and existing buildings following the prescriptive compliance path;
- Energy recovery ventilation (ERV) required for residential buildings in Climate Zone 6;
- Limits on the use of electric resistance space heating in residential buildings;
- Increased minimum efficiency requirements for gas-fired water heaters, hot-water boilers; air conditioning, and refrigeration equipment as mandated by federal standards;
- Increased equipment efficiency for elevators and escalators; and
- Separate electric metering for low-rise multi-family buildings.

Uniform Code List

Objective and Rationale: DOS proposes to repeal and replace the Uniform Code to ensure the code continues to provide a basic minimum level of protection to all people of the State of New York, excluding the City of New York, from hazards of fire and inadequate building construction.

A second reason to update the Uniform Code is to incorporate the revisions to New York State laws since the 2020 Uniform Code update. Section 378 of the Executive Law was amended to require that the Uniform Code prohibit the installation of fossil-fuel equipment and building systems in certain new buildings (see Energy Code amendment below); and address future physical climate risks due to sea level rise, storm surges, and flooding. Section 24 of Chapter 374 of the Laws of 2022 ("Advanced Building Codes, Appliance and Equipment Efficiency Standards Act of 2022") states that a building code may not prohibit the use of a substance allowed pursuant to the United States Environmental Protection Agency's significant new alternatives policy to implement 42 U.S.C. 767lk, provided that such substance the refrigeration or air condition system or other equipment or products utilizing such substance are designed, installed, and used in accordance with nationally recognized published standards that protect building occupant safety and reduce fire risks.

In addition, the Uniform Code is being updated to incorporate recommendations from various work groups and State agencies such as adding residential sprinklers for one- and two-family dwellings and townhouses pursuant to the State Fire Administrator's recommendation to the Code Council at the June 2023 Code Council meeting and including proposed recommendations from

the Inter-Agency Fire Safety Working Group relating to Energy Storage Systems created by the Governor in July 2023.

Another reason for updating the Uniform Code is to incorporate both the ICC's 2021 and 2024 Model Codes. The 2021 and 2024 Model Codes address new technology such as powered micro-mobility devices, lithium batteries, and energy storage systems. The Model Codes also add new requirements for the use of mass timber, adult changing stations, shipping container construction, occupiable roofs, and inflatable amusement devices.

Energy Code List

Objective and Rationale: DOS proposes to repeal and replace the Energy Code to ensure the code continues to protect the health, safety, and security of the people of the State of New York and ensure a continuing supply of energy for future generations through economically reasonable energy conservation techniques used in the design and construction of buildings in the State.

A second reason for updating the Energy Code is to encourage energy conservation and clean energy features in buildings and structures. Energy conservation and clean energy features will lower buildings greenhouse gas emissions and result in energy savings for building owners. Additionally, proposed revisions to the code will permit buildings to better adapt to extreme cold and heat.

The updated Energy Code will comply with the fossil-fuel equipment and building systems prohibition in new buildings in accordance with Part RR of Chapter 56 of the Laws of 2023, codified in section 11-104(6)(b) of the Energy Law. Such chapter prohibits the installation of fossil-fuel equipment and building systems, with some exceptions, in:

- new buildings not more than seven stories above grade plane height or any commercial or industrial building with one hundred thousand square feet or less in conditioned floor area, for which a substantially complete building permit application is submitted on or after December 31, 2025; or
- new buildings for which a substantially complete building permit application is submitted after December 31, 2028.

However, the prohibition does not apply to the future replacement of fossil-fuel equipment and building systems in buildings existing prior to the effective date of the prohibition.

The updated Energy Code will comply with provisions of Chapter 374 of the Laws of 2022, including but not limited to for the Code Council to use its best efforts to adopt provisions for residential buildings that achieve energy savings greater than energy savings achieved by the then most recently published International Energy Conservation Code (IECC) and to adopt provisions for commercial buildings that achieve energy savings greater than energy savings achieved by the then most recently published ASHRAE 90.1.

The updated Energy Code will help New York State rapidly decarbonize its built environment to support the greenhouse gas emission reduction mandates under the CLCPA.

IV. **Potentially Significant Impacts**

The draft GEIS will discuss potentially significant adverse impacts on the environment relevant to the proposed changes to the Uniform Code and Energy Code such as impacts involving the use and conservation of energy.

The draft GEIS will assess significance indicators set out in 6 NYCRR Section 617.7.

V. **Alternatives**

The draft GEIS will discuss alternatives to the proposed changes to the Uniform Code and Energy Code, including the no action alternative. The goal of analyzing alternatives in a GEIS is to investigate means to avoid or reduce potentially adverse environmental impacts identified in the environmental impact statement.

The alternatives discussion may overlap or be consolidated with the discussion of avoidance, minimalization, and mitigation measures since the purpose of an alternative is to avoid or minimize impacts. The "no action" alternative must always be discussed to provide a baseline for evaluation of impacts and comparisons of other impacts of alternatives. The substance of the no action discussion should be a description of the likely circumstances if no governmental action is taken.

The alternatives also include considering maintaining the ICC Model Code language, making modifications to the ICC Model Code language, or adopting New York State specific language.

VI. **Description of Proposals**

In accordance with subdivision 1 of section 377 of the Executive Law, the Code Council may from time to time amend provisions of the Uniform Code and shall periodically review the entire code to assure that it effectuates the purposes of the New York Uniform Fire Prevention and Building Code Act (the Act) and the specific objectives and standards as set forth in the Act. The updated code will incorporate the revisions to New York State laws since the 2020 Uniform Code update, including a ban on fossil-fuel equipment in new buildings and to encourage additional energy conservation and clean energy features in buildings.

The draft GEIS will provide a detailed description of the proposed changes to the Uniform Code and Energy Code identified in Section II of this draft Scope.

<u>Uniform Code</u>

1. Department of Environmental Conservation (DEC) flood provisions.
   A. Description of Proposal:
      a. Include recommendations from consultation with DEC for the inclusion of provisions for 18-inches of sea level rise, extending the current freeboard elevation to the 500-year floodplain, and other improvements to existing language for buildings built in flood hazard areas [Executive Law §378(1-a)].
   B. Potentially significant impacts:
      a. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.

C. Alternatives:
    a. No action alternative.
    b. Increase sea level rise requirements above 18 inches.
    c. Decrease sea level rise requirements below 18 inches.

2. A2L refrigerant provisions.
    A. Description of Proposal:
        a. Added language to include the use of A2L refrigerants allowed pursuant to the United States Environmental Protection Agency's significant new alternatives policy to implement 42 U.S.C. 767lk, provided that such substance and the refrigeration or air conditioning system or other equipment or products utilizing such substance are designed, installed, and used in accordance with nationally recognized published standards that protect building occupant safety and reduce fire risks [§24 of Chapter 374 of the Laws of 2022].
    B. Potentially significant impacts:
        a. Contribute to the reduction of greenhouse gas emissions.
        b. A major change in the use or quantity of energy.
    C. Alternatives:
        a. No action alternative.

3. Residential sprinklers.
    A. Description of Proposal:
        a. Include the ICC language, with some specific NYS modifications for existing buildings, requiring the installation of automatic fire sprinklers systems in dwellings regulated by the Residential Code.
    B. Potentially significant impacts:
        a. Place a demand on water supply.
    C. Alternatives:
        a. No action alternative.
        b. Limit sprinkler system installations to certain housing types.
        c. Limit sprinkler system installations to specific locations within the dwellings.

4. Energy Storage System (ESS) Inter-Agency Fire Safety Working Group recommendations.
    A. Description of Proposal:
        a. Include provisions as recommended by the Working Group for items such as, but not limited to, adoption of the 2024 International Fire Code language for ESS, adoption of the 2023 version of NFPA 855, and requiring peer review for all ESS installations.
    B. Potentially significant impacts:
        a. A major change in the use or the quantity of energy.
    C. Alternatives:
        a. No action alternative.

5. Mass timber.
    A. Description of Proposal:

a. Expand the use of mass timber per the 2024 International Code Council language to allow for taller wood buildings.

B. Potentially significant impacts:
   a. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.

C. Alternatives:
   a. No action alternative.
   b. Limit the height or locations.

6. Updated reference and coordination with ICC A117.1 to the 2017 version.
   A. Description of Proposal:
      a. Add accessibility provisions for electric vehicle (EV) chargers; increase wheelchair area dimension and turning radius; revised and added requirements for accessible water closets, grab bars, flush controls, dispensers, roll in showers, clearances; and assisted toileting and bathing facility provisions.
   B. Potentially significant impacts:
      a. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
   C. Alternatives:
      a. No action alternative.

7. Adult changing station provisions.
   A. Description of Proposal:
      a. Locations where adult changing stations are required to be installed and accessibility provisions.
   B. Potentially significant impacts:
      a. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
   C. Alternatives:
      a. No action alternative.

8. Powered micro-mobility devices.
   A. Description of Proposal:
      a. Charging and storage locations and addressing hazards associated with charging through listings, separation requirements, and use of detection systems.
   B. Potentially significant impacts:
      a. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
   C. Alternatives:
      a. No action alternative.

9. Lithium batteries.

A. Description of Proposal:
    a. Add storage requirements and collection requirements for lithium batteries.
B. Potentially significant impacts:
    a. The creation of a material conflict with a community's current plans or goals as officially approved or adopted.
C. Alternatives:
    a. No action alternative.

10. Shipping container construction.
    A. Description of Proposal:
        a. Add language to better regulate the use of shipping containers when constructing buildings.
    B. Potentially significant impacts:
        a. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
    C. Alternatives:
        a. No action alternative.

11. Temporary use of buildings in emergencies.
    A. Description of Proposal:
        a. Add a new appendix that details provisions on the temporary safe and proper use of a building for emergency purposes.
    B. Potentially significant impacts:
        a. The encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action.
        b. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
    C. Alternatives:
        a. No action alternative.
        b. Limit the approved locations.

12. Occupiable roofs provisions.
    A. Description of Proposal:
        a. Add language to address the egress, accessibility, additions, or alterations for occupiable roofs.
    B. Potentially significant impacts:
        a. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
    C. Alternatives
        a. No action alternative.

13. Inflatable amusement devices.

A. Description of Proposal:
    a. Include the ICC language for requiring an operating permit and provisions relating to proper flame-resistant materials, anchoring, support, and installation of inflatable amusement devices.
B. Potentially significant impacts:
    a. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
    b. The encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action.
C. Alternatives:
    a. No action alternative.

14. Coordinating pool and hot tub provisions with industry standards and ICC's International Swimming Pool and Spa Code.
    A. Description of Proposal:
        a. Coordination to include subjects such as barrier exceptions for hot tubs, modified provisions for suction outlets, alignment with Virginia Graeme Baker Pool and Spa Safety Act (VGBA) requirements, fencing mesh sizing, alarms for second story windows, and pool latch type and locations.
    B. Potentially significant impacts:
        a. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
    C. Alternatives:
        a. No action alternative.

Energy Code

1. Fossil-fuel equipment and building systems prohibition in new buildings (with corresponding provisions set forth in the Uniform Code)
    A. Description of Proposal:
        a. Prohibits the installation of fossil-fuel equipment and building systems, with some exceptions, in: (a) new buildings not more than seven stories above grade plane height or any commercial or industrial building with one hundred thousand square feet or less in conditioned floor area, for which a substantially complete building permit application is submitted on or after December 31, 2025: or (b) new buildings for which a substantially complete building permit application is submitted after December 31, 2028. However, the prohibition does not apply to the future replacement of fossil-fuel equipment and building systems in buildings existing prior to the effective date of the prohibition. [Energy Law §11-104(6)(b),(7)]
    B. Potentially significant impacts:
        a. Change in the type of energy used in buildings from fossil fuel to electricity.
        b. Greenhouse gas emissions reduction and improved outdoor air quality because buildings will rely on cleaner sources of energy in synergy with increasingly cleaner grid.

c. Improved indoor air quality by removing pollutants associated with burning fossil fuels indoors.
d. Impact of the regulation on the use of thermal energy networks (TENs).
e. Impact on the resiliency and reliability of the electric grid.

C. Alternatives:
a. No action alternative.

2. Renewable energy (solar) for commercial buildings
A. Description of Proposal:
a. New minimum prescriptive requirement for on-site renewable electricity generation systems with a power rating of not less than 0.75 watts per square foot;
b. Optional compliance path through power purchase agreements for small buildings, buildings with limited roof space, and other situations where PV installations would be impractical.
B. Potentially significant impacts:
a. Change in the type of energy used in buildings from fossil fuel or electricity to renewable energy sources.
b. Improve air quality because buildings will rely on cleaner sources of energy such as solar.
c. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character.
C. Alternatives:
a. No action alternative.
b. Increase minimum requirement above 0.75 watts per square foot.
c. Reduce minimum requirement below 0.75 watts per square foot.
d. Provide a blanket exception for some buildings instead of the optional compliance path through power purchase agreements.
e. Allow thermal energy networks (TENs) as an alternative means for compliance.

3. Thermal bridge mitigation and documentation of energy loss associated with thermal bridges in commercial buildings
A. Description of Proposal:
a. Documentation and mitigation of energy losses associated with structural and physical interruptions in the building thermal envelope of commercial buildings. Reduction of heat transfer through building elements by utilization of materials and methods which reduce thermal conductivity.
b. Prescriptive and performance provisions for mitigating thermal bridge losses in above-grade walls, balconies, floor decks, parapets, structural members penetrating thermal envelope; and for vertical fenestration.
B. Potentially significant impacts:
a. A major change in the use or quantity of energy.
C. Alternatives:
a. No action alternative.

b. Require documentation only, as an interim measure to provide for market adjustment, without an energy efficiency advantage.

4. More restrictive building thermal envelope requirements
   A. Description of Proposal:
      a. Increased energy efficiency for assembly U-Factors, R-Values, and Fenestration efficiency.
      b. New mandatory air leakage testing requirements for certain commercial buildings consistent with the provisions of residential buildings.
   B. Potentially significant impacts:
      a. A major change in the use or quantity of energy.
      b. Improved indoor air quality.
      c. Reduction in required size of heating and air conditioning equipment.
   C. Alternatives:
      a. No action alternative.
      b. Increase minimum stringency required.
      c. Decrease minimum stringency required.
      d. Different thermal envelope requirement based upon building type.

5. Eight Counties that were previously in Climate Zone 6 are now in Climate Zone 5
   A. Description of the Proposal:
      a. Based on recent climate data recording consistently higher temperatures, Climate Zone designations have been corrected and the following counties that were previously in Climate Zone 6 are now in Climate Zone 5: Allegany, Broome, Cattaraugus, Schoharie, Schuyler, Steuben, Tompkins, and Wyoming.
   B. Potentially significant impacts:
      a. A major change in the use or quantity of energy.
   C. Alternatives:
      a. No action alternative - Retain current designations out of alignment with recent climate data.

6. Additional efficiency credits for new buildings and existing buildings following the prescriptive compliance path
   A. Description of Proposal:
      a. Additional efficiency credits for new buildings and existing buildings chosen from a list of options:
         i. new commercial buildings must earn a minimum number of credits, based on climate zone, occupancy, and size, with 15% of the required credits applying to additions and substantial alterations; and
         ii. new residential buildings must earn a minimum of 10 or 15 credits, depending on size, additions must earn a minimum of 5 credits, and alterations that are substantial improvements (e.g. 50 percent of market value) must earn 3 credits.
   B. Potentially significant impacts:
      a. A major change in the use or quantity of energy.
   D. Alternatives:
      a. No action alternative.

b. Increase number of credits required.
c. Decrease number of credits required.
d. Require credits for new construction only.
e. Require credits only for commercial buildings or only for residential buildings.

7. Energy recovery ventilation (ERV) required for residential buildings in Climate Zone 6
   A. Description of Proposal:
      a. A heat recovery or energy recovery ventilation system in residential buildings is required for dwelling units in Climate Zone 6.
   B. Potentially significant impacts:
      a. A major change in the use or quantity of energy.
      b. Improved air quality.
   C. Alternatives
      a. No action alternative.
      b. Expand the requirement to residential buildings in all NYS Climate Zones.

8. Limits on the use of electric resistance space heating
   A. Description of Proposal:
      a. Limits on the use of electric resistance space heating to 2.0 kW for detached one- and two-family dwellings and townhouses three stories or less in height.
      b. Limits on the use of electric resistance space heating for commercial buildings based on size and occupancy.
   B. Potentially significant impacts:
      a. A major change in the use or quantity of energy by limiting the use of an inefficient source of heat.
   C. Alternatives:
      a. No action alternative.
      b. Increase the limit on the use of electric resistance space heating.
      c. Decrease the limit on the use of electric resistance space heating.

9. Increased minimum efficiency requirements for gas-fired water heaters, hot-water boilers, air conditioning, and refrigeration equipment as mandated by federal standards
   A. Description of Proposal:
      a. Increased minimum efficiency for federally preempted equipment under Energy Policy and Conservation Act:
         i. Adds minimum thermal efficiencies and maximum water return temperature for gas hot-water boilers with a system input capacity between 1 and 10 million Btu/h with exceptions.
         ii. New efficiency requirements for gas-fired water heaters that have an input capacity over 1,000,000 Btu/hr.
         iii. New minimum standards for combustion air positive shut-off, fan motor, and oxygen concentration control for some boiler systems based on input capacity and nameplate rating.
   B. Potentially significant impacts:
      a. A major change in the use or quantity of energy.
   C. Alternatives:

a. No action alternative.
b. Stricter efficiency requirements.

10. Increased equipment efficiency for elevators and escalators
    A. Description of Proposal:
        a. Increased equipment efficiency for elevators and conveying systems in commercial buildings.
    B. Potentially significant impacts:
        a. A change in the use or quantity of energy.
    C. Alternatives:
        a. No action alternative.

11. Separate electric metering for low-rise multi-family buildings
    A. Description of Proposal:
        a. Separate electric metering for all dwelling units in multi-family buildings three stories or less, consistent with existing requirements for multi-family buildings four stories or more.
    B. Potentially significant impacts:
        a. A major change in the use or quantity of energy.
    C. Alternatives:
        a. No action alternative.
        b. Require individual tenant monitoring only without separate billing.

Response to Public Comments

The New York State Department of State (DOS) published a draft public scoping document for a Generic Environmental Impact Statement (GEIS) on proposals to repeal and replace the regulations that implement the New York State Uniform Fire Prevention and Building Code (Uniform Code) set forth in 19 NYCRR Parts 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228 and 1229 and the New York State Energy Conservation Construction Code (Energy Code) set forth in 19 NYCRR Part 1240 in August 2024. DOS provided a 30-day period for the public to review and provide written comments. The comment period was between August 7, 2024, and September 6, 2024. The following is a summary of comments and responses to those comments.

The public comments were focused on three provisions: (1) the fossil-fuel equipment and building systems prohibition in new buildings, (2) renewable energy (solar) for commercial buildings and (3) more restrictive building thermal envelope requirements.

Commenter Summary

1. Cornell University
2. Constantine Kontogiannis, Odyssey Energy Solutions, LLC.

Draft Public Scope Comments and Responses

Potential Significant Impacts

Comment 1 (Commenter 1): The GEIS should include as potentially significant impacts:

- The GHG impacts of disallowing continued connection to district thermal energy networks.
- Impact on electrical distribution infrastructure and readiness of energy supply, especially when coupled with the electrification of transportation.
- GHG impacts from shifting peaking demands from summer to winter as a result of the electrification of space conditioning (specifically during winter night/early morning periods) when solar generation is negligible.

Response 1: These potentially significant impacts will be considered as part of the overall discussion on potential significant impacts.

Comment 2 (Commenter 1): The GEIS should include as potentially significant impacts the impact of requiring inefficient, small-scale rooftop solar versus the utilization of high efficiency ground-mount systems, from which the energy produced can be allocated to individual buildings.

Response 2: The proposed requirement for renewable electricity generation systems with a power rating of not less than 0.75 watts per square foot stipulates "on-site renewable power generation." It is not limited to solar PV systems and it is not limited to rooftop installation. However, an alternate path is afforded due to roof area or building site limitations. See section C405.15 of ECCCNYS in the Notice of Rule in Development found on the Department of State's website at: https://dos.ny.gov/system/files/documents/2024/07/2024-07-26-proposed-changes-to-the-2020-ecccnys_com_final_draft.pdf.

Alternatives

Comment 3 (Commenter 1): The GEIS should include as an alternative a system to credit the addition or allocation of renewable energy (solar) assets that are part of a district system which serves the subject building in lieu of rooftop solar.

Response 3: This alternative will be considered as part of the overall discussion on potential alternatives.

Comment 4 (Commenter 1): The GEIS should include as an alternative different thermal envelope requirement based upon building type.

Response 4: This alternative will be considered as part of the overall discussion on potential alternatives.

Comment 5: (Commenter 2): The proposed action of fossil-fuel equipment and building systems prohibition in new buildings is premature and prohibition dates should be delayed.

Response 5: *Article 11 of the Energy Law and Article 18 of the Executive Law, as amended by Part RR of Chapter 56 of the Laws of 2023, statutorily prohibits fossil-fuel equipment and building systems in new buildings based on a certain timeline set forth in law. See Energy Law §11-104 and Executive Law §378(19).*

Comment 6 (Commenter 2): Limit the 0.75 W/SF requirement (or PPA alternative) to structures with flat membrane roofs or sloped standing seam roofs over 5,000 SF.

Response 6: The proposed requirement for renewable electricity generation systems with a power rating of not less than 0.75 watts per square foot stipulates on-site renewable power generation. It is not limited to solar PV systems and it is not limited to roof installation. However, an alternate path is afforded due to roof area or building site limitations. See section C405.15 of ECCCNYS in the Notice of Rule in Development found on the Department of State's website at: https://dos.ny.gov/system/files/documents/2024/07/2024-07-26-proposed-changes-to-the-2020-ecccnys_com_final_draft.pdf.

Other Comments

Comments were received in response to the Notice of Rule in Development for the Uniform Code that were environmental in nature. Since the comments did not concern provisions within the Draft Scope, they will be assessed as part of the Notice of Rule in Development for the Uniform Code. Such comments concerned expanding the provisions of the Uniform Code to regulate mobile fueling operations on waterbodies and the effects of open burning and indoor and outdoor solid fuel burning appliances on neighboring property.