



**NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE  
AND  
NEW YORK STATE ENERGY CONSERVATION CONSTRUCTION CODE**

**CODE CHANGE PROPOSAL: 2007**

**Submitter**

**Name:** \_\_\_\_\_ **Representing:** \_\_\_\_\_

**Submitted on Behalf of:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Proposal**

**Amend the \_\_\_\_\_ Code of New York State by:**

revising as follows  adding new text as follows  delete and substitute as follows  delete without substitution

section  table  figure \_\_\_\_\_

If this proposal has been submitted to ICC, provide proposal number and ICC action.

Show the proposed NEW, REVISED or DELETED text as follows: ~~line through text to be deleted~~: Underline text to be added.

Check here if additional pages are attached.

An electronic version of this proposal has been submitted.

**The following required documentation is attached:**

Regulatory Impact Statement (SAPA §202-a).

Regulatory flexibility analysis for small business (SAPA §202-b).

Rural area flexibility analysis (SAPA §202-bb).

Date received: \_\_\_\_\_

Log No.: \_\_\_\_\_

G Job impact statement (SAPA §201-a).

**Introduction:**

1. It is the intention of the Code Council to review the Uniform Fire Prevention and Building Code (Uniform Code) and the Energy Conservation Construction Code (Energy Code), to determine whether these codes should be amended at this time. In undertaking this review, the Code Council will examine the 2006 editions of the codes published by the International Code Council, and the Codes of New York State, which were based in part on the 2003 editions of the codes published by the International Code Council.
2. As part of the amendment process, the Code Council invites proposals from the public for amendments to the Uniform Code and the Energy Code. All proposals submitted on or before the deadline established by the Code Council will be reviewed by the Council and/or technical subcommittees established by the Council for this purpose.
3. In evaluating public proposals, the Code Council and/or its technical subcommittees will consider the following factors:
  - a. consistency with governing statutes;
  - b. consistency with public policy;
  - c. technical merit;
  - d. technical substantiation of need; and
  - e. completeness of proposal, including Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, and Job Impact Statement.
4. Where the Code Council determines that public proposals are complete and have substantial merit, it may incorporate such proposals into a rule making action to amend the Uniform Code and/or the Energy Code.
5. Where the Code Council determines that public proposals are incomplete and/or are deficient with regard to merit, proponents have the right to submit comments at such time as public hearing(s) are held on any proposed amendments to the Uniform Code and/or the Energy Code.

**Instructions:**

1. The submission shall include a completed proposal form and all required documentation.
2. An original form, bearing the signature of the proponent, shall be submitted to the Division of Code Enforcement and Administration, NYS Department of State, 41 State Street, Albany, NY 12231. Proponents are encouraged to submit information using electronic media; information may be sent to [info@dos.state.ny.us](mailto:info@dos.state.ny.us). When technical information is submitted electronically, the form need only identify the section, figure or table proposed to be amended, but must include a signature.
3. Where a proposal is submitted on behalf more than one individual, firm or organization, an attachment identifying all proponents shall be attached to the proposal. For each supporting proponent, there shall be provided the name of a representative, address, and telephone number. Where available, an e-mail address should also be provided.
4. Required information to be attached to a proposal consists of analyses and statements required for proposed rules by the State Administrative Procedures Act (SAPA). Relevant provisions of SAPA are attached to this application, for the use of proponents.
5. If the proposal is to amend the Energy Code, the proponent shall provide an analysis demonstrating that

the amended code will conform with provisions of Article 11 of the Energy Law, including minimum standards and providing a payback period not to exceed ten (10) years [§11-103(2)] .

### **SAPA §202-a, Regulatory Impact.**

3. Each regulatory impact statement shall contain:

(a) Statutory authority. A statement analyzing the statutory authority for the rule, including but not limited to the agency's interpretation of the legislative objectives of such authority;

(b) Needs and benefits. A statement setting forth the purpose of, necessity for, and benefits derived from the rule, a citation for and summary, not to exceed five hundred words, of each scientific or statistical study, report or analysis that served as the basis for the rule, an explanation of how it was used to determine the necessity for and benefits derived from the rule, and the name of the person that produced each study, report or analysis;

(c) Costs. A statement detailing the projected costs of the rule, which shall indicate:

(i) the costs for the implementation of, and continuing compliance with, the rule to regulated persons;

(ii) the costs for the implementation of, and continued administration of, the rule to the agency and to the state and its local governments; and

(iii) the information, including the source or sources of such information, and methodology upon which the cost analysis is based; or

(iv) where an agency finds that it cannot fully provide a statement of such costs, a statement setting forth its best estimate, which shall indicate the information and methodology upon which such best estimate is based and the reason or reasons why a complete cost statement cannot be provided;

(d) Paperwork. A statement describing the need for any reporting requirements, including forms and other paperwork, which would be required as a result of the rule;

(e) Local government mandates. A statement describing any program, service, duty or responsibility imposed by the rule upon any county, city, town, village, school district, fire district or other special district;

(f) Duplication. A statement identifying relevant rules and other legal requirements of the state and federal governments, including those which may duplicate, overlap or conflict with the rule. If the statement indicates that the rule would duplicate, overlap or conflict with any other relevant rule or legal requirement, the statement should also identify all efforts which the agency has or will undertake to resolve, or minimize the impact of, such duplication, overlap or conflict on regulated persons, including, but not limited to, seeking waivers of or exemptions from such other rules or legal requirements, seeking amendment of such other rules or legal requirements, or entering into a memorandum of understanding or other agreement concerning such other rules or legal requirements;

(g) Alternative approaches. A statement indicating whether any significant alternatives to the rule were considered by the agency, including a discussion of such alternatives and the reasons why they were not incorporated into the rule;

(h) Federal standards. A statement identifying whether the rule exceeds any minimum standards of the federal government for the same or similar subject areas and, if so, an explanation of why the rule exceeds such standards; and

(i) Compliance schedule. A statement indicating the estimated period of time necessary to enable regulated persons to achieve compliance with the rule.

### **SAPA §202-b, Regulatory flexibility for small business.**

2. In proposing a rule for adoption or in adopting a rule on an emergency basis, the agency shall issue a regulatory flexibility analysis regarding the rule being proposed for adoption or the emergency rule being adopted. A copy of such analysis and any finding, and reasons for such finding, pursuant to subdivision three of this section, shall be submitted to the governor, the temporary president of the senate, the speaker of the

assembly, the office of business permits and regulatory assistance and the administrative regulations review commission at the time such analysis is submitted to the secretary of state for publication and, upon written request, a copy shall be sent to any other person. Each regulatory flexibility analysis shall contain:

- (a) a description of the types and an estimate of the number of small businesses and local governments to which the rule will apply;
- (b) a description of (i) the reporting, recordkeeping and other compliance requirements of the rule, and (ii) the kinds of professional services that a small business or local government is likely to need in order to comply with such requirements;
- (c) an estimate of the initial capital costs and an estimate of the annual cost of complying with the rule, with an indication of any likely variation in such costs for small businesses or local governments of different types and of differing sizes;
- (d) an assessment of the economic and technological feasibility of compliance with such rule by small businesses and local governments;
- (e) an indication of how the rule is designed to minimize any adverse economic impact of such rule on small businesses and local governments, including information regarding whether the approaches suggested in subdivision one of this section or other similar approaches were considered; and
- (f) a statement indicating how the agency complied with subdivision six of this section.

### **SAPA §202-bb, Rural area flexibility analysis.**

3. In proposing a rule for adoption or in adopting a rule on an emergency basis, the agency shall issue a rural area flexibility analysis regarding the rule being proposed for adoption or the emergency rule being adopted. A copy of such analysis and any finding, and reasons for such finding, pursuant to this section, shall be submitted to the governor, the temporary president of the senate, the speaker of the assembly, the office for regulatory and management assistance and the administrative regulations review commission at the time such analysis is submitted to the secretary of state for publication and, upon written request, a copy shall be sent to any other person. Each rural area flexibility analysis shall contain:

- (a) A description of the types and an estimate of the number of rural areas to which the rule will apply;
- (b) A description of (i) the reporting, recordkeeping and other compliance requirements of the rule, and (ii) the kinds of professional services that are likely to be needed in a rural area in order to comply with such requirements;
- (c) An estimate of the initial capital costs and an estimate of the annual cost of complying with the rule, with an indication of any likely variation in such costs for different types of public and private entities in rural areas;
- (d) An indication of how the rule is designed to minimize any adverse impact of such rule on rural areas, including information regarding whether the approaches suggested in subdivision two of this section or other similar approaches were considered; and
- (e) A statement indicating how the agency complied with subdivision seven of this section.

### **SAPA §201-a, Job impact.**

2. Before proposing a rule for adoption or adopting a rule on an emergency basis, an agency shall evaluate the potential impact of the rule on jobs and employment opportunities.

- (a) When it is apparent from the nature and purpose of the rule that it will not have a substantial adverse impact on jobs and employment opportunities, the agency shall include in the notice of proposed rule making or the notice of emergency adoption a statement that the agency has determined that the rule will not have a substantial adverse impact on jobs and employment opportunities; provided, however, that, where appropriate, such statement shall indicate that the agency has determined the rule will have a positive impact on jobs and employment opportunities, or will have no impact on jobs and employment opportunities. Except where it is

evident from the subject matter of the rule that the rule could only have a positive impact or no impact on jobs and employment opportunities, the agency shall include in the statement prepared pursuant to this paragraph a summary of the information and methodology underlying its determination.

(b) When it is apparent from the nature and purpose of the rule that it may have a substantial adverse impact on jobs or employment opportunities, the agency shall issue a job impact statement which contains information on:

- (i) the nature of the impact the rule will have on jobs and employment opportunities;
- (ii) the categories of jobs or employment opportunities affected by the rule;
- (iii) the approximate number of jobs or employment opportunities affected in each category;
- (iv) any region of the state where the rule would have a disproportionate adverse impact on jobs or employment opportunities; and
- (v) any measures which the agency has taken to minimize any unnecessary adverse impacts on existing jobs and to promote the development of new employment opportunities.