

DRAFT

Part 1240 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is repealed.

Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended by adding new Part 1240 to read as follows:

PART 1240. STATE ENERGY CONSERVATION CONSTRUCTION CODE.

Section 1240.1 State Energy Conservation Construction Code.

This Part and the publications incorporated by reference in this Part constitute the State Energy Conservation Construction Code (the “New York State Energy Code”) promulgated pursuant to Article 11 of the Energy Law.

Section 1240.2. Definitions.

For the purposes of this Part, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

(a) **2010 BCNYS.** The term “2010 BCNYS” means the publication entitled “Building Code of New York State,” publication date August 2010, published by the International Code Council, Inc.

(b) **2010 ECCCNYS.** The term “2010 ECCCNYS” means the publication entitled “Energy Conservation Construction Code of New York State,” publication date August 2010, published by the International Code Council, Inc.

(c) **2012 IECC.** The term “2012 IECC” means the publication entitled the publication entitled “2012 International Energy Conservation Code,” publication date May, 2011, published by the International Code Council, Inc.

(d) **2013 SUPPLEMENT.** The term “2013 Supplement” means the publication entitled “2013 Supplement to the New York State Energy Conservation Construction Code,” publication date June __, 2013, published by the New York State Department of State.

(e) **ASHRAE 90.1-2010.** The term “ASHRAE 90.1-2010” means the publication entitled Energy Standard for Buildings Except Low-Rise Residential Buildings, standard reference number 90.1-2010, publication date 2010, published by American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. ASHRAE 90.1-2010 is referred to in the 2012 IECC and in ASHRAE 90.1-2010 itself as “ANSI/ASHRAE/IESNA 90-1” and/or “ANSI/ASHRAE/IES 90.1-2010” and, accordingly, in this Part 1240, references to “ANSI/ASHRAE/IESNA 90-1” or “ANSI/ASHRAE/IES 90.1-2010” shall also be deemed to be references to ASHRAE 90.1-2010.

(f) **Building.** The term “building” means any structure used or intended for supporting or sheltering any use or occupancy or for affording shelter to persons, animals or property, together with (A) any equipment, mechanical systems, service water heating systems, and electric power and lighting systems located in such structure, and (B) any mechanical systems, service water heating systems, and electric power and lighting systems located on the site where such structure is located and supporting such structure.

(g) **Building system.** The term “building system” means a combination of central or terminal equipment or components or controls, accessories, interconnecting means, and terminal devices by which energy is transformed so as to perform a specific function, such as heating, ventilation and air conditioning, service water heating or illumination.

(h) Chapter C2, Chapter C3, Chapter C4, and Chapter C5. The terms “Chapter C2,” “Chapter C3,” “Chapter C4,” and “Chapter C5” shall mean Chapter 2 [CE], Chapter 3 [CE], Chapter 4 [CE], and Chapter 5 [CE], respectively, in the “Commercial Provisions” of the 2012 IECC.

(i) Commercial building. The term “commercial building” includes any building that is not a residential building (as defined in subdivision (n) of this section).

(j) Dwelling unit. The term “dwelling unit” means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(k) Energy code. The term “energy code” means the State Energy Conservation Construction Code.

(l) Grade plane. The term “grade plane” means a reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet (1829 mm) from the building, between the building and a point 6 feet (1829 mm) from the building.

(m) Historic building. The term “historic building” means an existing building or structure that: (1) is listed in the New York State Register of Historic Places, either individually or as a contributing building to a historic district; or (2) is listed in the National Register of Historic Places, either individually or as a contributing building to a historic district; or (3) has been determined to be eligible for listing in either the New York State or National Register of Historic Places, either individually or as a contributing building to a historic district, by the New York State Commissioner of Parks, Recreation and Historic Preservation; or (4) has been determined to be eligible for listing in the National Register of

Historic Places, either individually or as a contributing building to a historic district, by the U.S. Secretary of the Interior.

(n) Residential building. The term “residential building” includes:

- (1) detached one-family dwellings having not more than three stories above grade plane;
- (2) detached two-family dwellings having not more than three stories above grade plane;
- (3) buildings that (i) consist of three or more attached townhouse units and (ii) have not more than three stories above grade plane;
- (4) buildings that (i) are classified in accordance with Chapter 3 of the 2010 BCNYS in Group R-2, R-3 or R-4 and (ii) have not more than three stories above grade plane;
- (5) factory manufactured homes (as defined in section 372(8) of the Executive Law); and
- (6) mobile homes (as defined in section 372(13) of the Executive Law).

(o) Townhouse unit. The term “townhouse unit” means a single-family dwelling unit constructed in a group of three or more attached units in which each unit (i) extends from the foundation to roof and (ii) has open space on at least two sides.

Section 1240.3. New York State Residential Energy Code.

(a) 2010 ECCCNY and 2013 Supplement. Except as otherwise provided in section 1240.5 of this Part, the construction of all new residential buildings; all additions to, alterations of, and/or renovations of existing residential buildings; and all additions to, alterations of, and/or renovations of building systems in existing residential buildings shall comply with the requirements of Chapters 1, 2, 3, 4, and 6 of the publication entitled Energy Conservation Construction Code of New York State, publication date August 2010, published by the International Code Council, Inc. (the “2010 ECCCNY”), as Chapters 1, 2, 3, 4, and 6 of the 2010 ECCCNY is amended by Chapter 1 of the

publication entitled 2013 Supplement to the New York State Energy Conservation Construction Code, publication date June __, 2013, published by the New York State Department of State (the “2013 Supplement”). The Chapters 1, 2, 3, 4, and 6 of the 2010 ECCCNY, and the 2013 Supplement, are incorporated herein by reference. Copies of the 2010 ECCCNY may be obtained from the publisher at the following address:

International Code Council, Inc.
500 New Jersey Avenue, NW, 6th Floor
Washington, DC 20001

Copies of the 2013 Supplement may be obtained from the publisher at the following address:

New York State Department of State
Division of Code Enforcement and Administration
One Commerce Plaza, 99 Washington Avenue
Suite ____
Albany, New York 12231-0001

The 2010 ECCCNY and the 2013 Supplement are available for public inspection and copying at:

New York State Department of State
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001.

For the purposes of interpreting the provisions of the 2010 ECCCNY, the definitions contained in or referred to in Chapter 2 of the 2010 ECCCNY (as amended in the manner specified in Chapter 1 of the 2013 Supplement) shall apply.

(b) Referenced standards. Except as otherwise provided in section 1240.5 of this Part, the construction of all new residential buildings; all additions to, alterations of, and/or renovations of

existing residential buildings; and all additions to, alterations of, and/or renovations of building systems in existing residential buildings shall comply with the requirements of those codes and standards that are denoted in Chapter 6 of the 2010 ECCCNY S as incorporated by reference into 19 NYCRR Part 1240, to the extent of the respective references to such standards in the 2010 ECCCNY S and subject to the provisions of section 107.2 of the 2010 ECCCNY S (as amended by the 2013 Supplement). Such codes and standards are incorporated herein by reference. The titles, standard reference numbers, and publication dates of such codes and standards, and the names and addresses of the publishers from whom copies of such codes and standards may be obtained, are set forth in Chapter 6 of the 2010 ECCCNY S, and that information is incorporated herein by reference. Such codes and standards are available for public inspection and copying at the office of the New York State Department of State specified in subdivision (a) of this section. (In Chapter 6 of the 2010 ECCCNY S, the publication date of each standard is part of the standard reference number of such standard. In those cases where the standard reference number ends in a dash followed by two digits, the publication date is represented by those two digits. For example, the standard reference number of the standard entitled “Performance Rating of Room Fan-Coils” published by the Air Conditioning, Heating and Refrigeration Institute is 440-05, indicating a publication date of 2005, and the standard reference number of the standard entitled “Method for Measuring Floor Area in Office Buildings” published by the American National Standards Institute is Z65—96, indicating a publication date of 1996.)

Section 1240.4. New York State Commercial Energy Code.

(a) 2010 ECCCNY S (Chapter 1), 2012 IECC, and 2013 Supplement. Except as otherwise provided in section 1240.5 of this Part, the construction of all new commercial buildings; all additions to, alterations of, and/or renovations of existing commercial buildings; and all additions to, alterations

of, and/or renovations of building systems in existing commercial buildings shall comply with the requirements of:

(1) Chapter 1 of the publication entitled Energy Conservation Construction Code of New York State, publication date August 2010, published by the International Code Council, Inc. (the “2010 ECCCNYSS”), as Chapter 1 of the 2010 ECCCNYSS is amended by Chapter 1 of the publication entitled 2013 Supplement to the New York State Energy Conservation Construction Code, publication date June __, 2013, published by the New York State Department of State (the “2013 Supplement”); and

(2) Chapters C2, C3, and C4 of the “Commercial Provisions” of the publication entitled the 2012 International Energy Conservation Code, publication date: May, 2011, published by the International Code Council, Inc. (the “2012 IECC”), as said Chapters C2, C3, and C4 are amended by Chapter 2 of the 2013 Supplement.

Chapter 1 of the 2010 ECCCNYSS; Chapters C2, C3, and C4 of the “Commercial Provisions” of the 2012 IECC; and the 2013 Supplement are incorporated herein by reference. Copies of the 2010 ECCCNYSS and the 2012 IECC may be obtained from the publisher at the following address:

International Code Council, Inc.
500 New Jersey Avenue, NW, 6th Floor
Washington, DC 20001

Copies of the 2013 Supplement may be obtained from the publisher at the following address:

New York State Department of State
Division of Code Enforcement and Administration
One Commerce Plaza, 99 Washington Avenue
Suite ____
Albany, New York 12231-0001

The 2010 ECCCNY, the 2012 IECC, and the 2013 Supplement are available for public inspection and copying at:

New York State Department of State
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001.

For the purposes of interpreting the provisions of Chapter C4 of the “Commercial Provisions” of the 2012 IECC, the definitions contained in or referred to in Chapter C2 of the “Commercial Provisions” of the 2012 IECC (as amended in the manner specified in Chapter 2 of the 2013 Supplement) and the “General Provisions” in Chapter C3 of the “Commercial Provisions” of the 2012 IECC shall apply.

(b) ASHRAE 90.1-2010. To the extent provided in the “Commercial Provisions” portion of the 2012 IECC, compliance with the requirements of the publication entitled Energy Standard for Buildings Except Low-Rise Residential Buildings, standard reference number 90.1-2010, publication date 2010, published by American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (said publication being referred to in the 2012 IECC as “ANSI/ASHRAE/IESNA 90.1-2010,” said publication being hereinafter referred to as “ASHRAE 90.1-2010”) shall be permitted in lieu of compliance with specified sections of the 2012 IECC. ASHRAE 90.1-2010 is incorporated herein by reference. Copies of ASHRAE 90.1-2010 may be obtained from the publisher at the following address:

American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.
1791 Tullie Circle, NE
Atlanta, GA 30329-2305

ASHRAE 90.1-2010 is available for public inspection and copying at the office of the New York State Department of State specified in subdivision (a) of this section.

However, for the purposes of applying ASHRAE 90.1-2010 in this State, ASHRAE 90.1-2010 shall be deemed to be amended in the manner specified in Chapter 3 of the 2013 Supplement.

(c) Referenced standards. Except as otherwise provided in section 1240.5 of this Part, the construction of all new commercial buildings; all additions to, alterations of, and/or renovations of existing commercial buildings; and all additions to, alterations of, and/or renovations of building systems in existing commercial buildings, shall comply with the requirements of the code and standards described Chapter 4 of the 2013 Supplement. The codes and standards described in Chapter 4 of the 2013 Supplement shall be considered to be part of the requirements of Chapters C2, C3, and C4 of the “Commercial Provisions” of the 2012 IECC to the prescribed extent or each reference to such codes and standards in Chapters C2, C3, and C4 of the “Commercial Provisions” of the 2012 IECC (subject, however, to the provisions of sections C106.1.1, C106.1.2, and C106.2 in Chapter C1 in the “Commercial Provisions” of the 2012 IECC). The codes and standards described in Chapter 4 of the 2013 Supplement are incorporated herein by reference. The titles, standard reference numbers, and publication dates of such codes and standards, and the names and addresses of the publishers from whom copies of such codes and standards may be obtained, are set forth in Chapter 4 of the 2013 Supplement, and that information is incorporated herein by reference. Such codes and standards are available for public inspection and copying at the office of the New York State Department of State specified in subdivision (a) of this section.

Section 1240.5. Exceptions.

(1) Historic buildings. The New York State Energy Code shall not apply to the alteration or renovation of an historic building.

(2) Certain alterations. The New York State Energy Code shall not apply to the following alterations of existing buildings, provided that the alteration will not increase the energy usage of the building:

- (a) storm windows installed over existing fenestration;
- (b) glass only replacements in an existing sash and frame;
- (c) existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation;
- (d) construction where the existing roof, wall or floor cavity is not exposed;
- (e) reroofing for roofs where neither the sheathing nor the insulation is exposed; roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing;
- (f) replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door, provided, however, that an existing vestibule that separates such conditioned space from the exterior shall not be removed;
- (g) alterations that replace less than fifty percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power; and
- (h) alterations that replace only the bulb and ballast within the existing luminaires in a space provided that the alteration does not increase the installed interior lighting power.