

**Proposed Amendment to the
New York State Uniform Fire Prevention and Building Code**

The Department of State has filed a Notice of Proposed Rule Making for a proposed rule which, if adopted by the State Fire Prevention and Building Code Council, would amend the New York State Uniform Fire Prevention and Building Code (the Uniform Code). The proposed rule would also make corresponding changes to regulations relating to placement of signs on buildings that utilize truss-type construction (19 NYCRR Parts 1264 and 1265).

The Notice of Proposed Rule Making will appear in the April 5, 2017 edition of the *State Register*.

The **Text** of the proposed rule and the **Regulatory Impact Statement** for the proposed rule are as follows:

RULE TEXT

1. Subdivisions (b) and (c) of section 1220.1 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(b) For the purposes of applying the 2015 IRC in New York State, the 2015 IRC shall be deemed amended in the manner specified in the publication entitled [2016] 2017 Uniform Code Supplement, publication date March, [2016] 2017, published by New York State Department of State. Said publication (hereinafter referred to as the “[2016] 2017 Supplement”) is incorporated herein by reference. Copies of the [2016] 2017 Supplement may be obtained and are available for inspection and copying at:

New York State Department of State of New York

One Commerce Plaza, 99 Washington Avenue

Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the [2016] 2017 Supplement as incorporated by reference into 19 NYCRR Part 1220. Such standards are incorporated by reference into this Part. Such standards are identified in the [2016] 2017

Supplement, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the [2016] 2017 Supplement. Such 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.

2. Subdivisions (b) and (c) of section 1221.1 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(b) For the purposes of applying the 2015 IBC in New York State, the 2015 IBC shall be deemed amended in the manner specified in the publication entitled [2016] 2017 Uniform Code Supplement, publication date March [2016] 2017, published by the New York State Department of State. Said publication (hereinafter referred to as the “[2016] 2017 Supplement”) is incorporated herein by reference. Copies of the [2016] 2017 Supplement may be obtained and are available for inspection and copying at:

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(c) Referenced standards. Certain published standards are denoted in the [2016] 2017 Supplement as incorporated by reference into 19 NYCRR Part 1221. Such standards are incorporated by reference into this Part. Such standards are identified in the [2016] 2017 Supplement, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the [2016] 2017 Supplement. Such 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.

3. Subdivisions (b) and (c) of section 1222.1 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(b) For the purposes of applying the 2015 IPC in New York State, the 2015 IPC shall be deemed amended in the manner specified in the publication entitled [2016] 2017 Uniform Code Supplement, publication date March [2016] 2017, published by the New York State Department of State. Said publication (hereinafter referred to as the “[2016] 2017 Supplement”) is incorporated herein by reference. Copies of the [2016] 2017 Supplement may be obtained and are available for inspection and copying at:

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Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the [2016] 2017 Supplement as incorporated by reference into 19 NYCRR Part 1222. Such standards are incorporated by reference into this Part. Such standards are identified in the [2016] 2017 Supplement, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the [2016] 2017 Supplement. Such 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.

4. Subdivisions (b) and (c) of section 1223.1 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(b) For the purposes of applying the 2015 IMC in New York State, the 2015 IMC shall be deemed amended in the manner specified in the publication entitled [2016] 2017 Uniform Code Supplement, publication date March [2016] 2017, published by the New York State Department of State. Said publication (hereinafter referred to as the “[2016] 2017 Supplement”) is incorporated herein by reference. Copies of the [2016] 2017 Supplement may be obtained and are available for inspection and copying at:

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Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the [2016] 2017 Supplement as incorporated by reference into 19 NYCRR Part 1223. Such standards are incorporated by reference into this Part. Such standards are identified in the [2016] 2017 Supplement, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the [2016] 2017 Supplement. Such 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.

5. Subdivisions (b) and (c) of section 1224.1 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(b) For the purposes of applying the 2015 IFGC in New York State, the 2015 IFGC shall be deemed amended in the manner specified in the publication entitled [2016] 2017 Uniform Code Supplement, publication date March [2016] 2017, published by the New York State Department of State. Said publication (hereinafter referred to as the “[2016] 2017 Supplement”)

is incorporated herein by reference. Copies of the [2016] 2017 Supplement may be obtained and are available for inspection and copying at:

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Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the [2016] 2017 Supplement as incorporated by reference into 19 NYCRR Part 1224. Such standards are incorporated by reference into this Part. Such standards are identified in the [2016] 2017 Supplement, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the [2016] 2017 Supplement. Such 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.

6. Subdivisions (b) and (c) of section 1225.1 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(b) For the purposes of applying the 2015 IFC in New York State, the 2015 IFC shall be deemed amended in the manner specified in the publication entitled [2016] 2017 Uniform Code Supplement, publication date March [2016] 2017, published by the New York State Department of State. Said publication (hereinafter referred to as the “[2016] 2017 Supplement”) is incorporated herein by reference. Copies of the [2016] 2017 Supplement may be obtained and are available for inspection and copying at:

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Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the [2016] 2017 Supplement as incorporated by reference into 19 NYCRR Part 1225. Such standards are incorporated by reference into this Part. Such standards are identified in the [2016] 2017 Supplement, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the [2016] 2017 Supplement. Such 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.

7. Subdivisions (b) and (c) of section 1226.1 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(b) For the purposes of applying the 2015 IPMC in New York State, the 2015 IPMC shall be deemed amended in the manner specified in the publication entitled [2016] 2017 Uniform Code Supplement, publication date March [2016] 2017, published by the New York State Department of State. Said publication (hereinafter referred to as the “[2016] 2017 Supplement”) is incorporated herein by reference. Copies of the [2016] 2017 Supplement may be obtained and are available for inspection and copying at:

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One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001

(c) Referenced standards. Certain published standards are denoted in the [2016] 2017 Supplement as incorporated by reference into 19 NYCRR Part 1226. Such standards are incorporated by reference into this Part. Such standards are identified in the [2016] 2017 Supplement, and the names and addresses of the publishers of such standards from which copies

of such standards may be obtained are specified in the [2016] 2017 Supplement. Such 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.

8. Subdivision (d) of section 1226.1 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is repealed in its entirety.

9. Subdivisions (b) and (c) of section 1227.1 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(b) For the purposes of applying the 2015 IEBC in New York State, the 2015 IEBC shall be deemed amended in the manner specified in the publication entitled [2016] 2017 Uniform Code Supplement, publication date March [2016] 2017, published by the New York State Department of State. Said publication (hereinafter referred to as the “[2016] 2017 Supplement”) is incorporated herein by reference. Copies of the [2016] 2017 Supplement may be obtained and are available for inspection and copying at:

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(c) Referenced standards. Certain published standards are denoted in the [2016] 2017 Supplement as incorporated by reference into 19 NYCRR Part 1227. Such standards are incorporated by reference into this Part. Such standards are identified in the [2016] 2017 Supplement, and the names and addresses of the publishers of such standards from which copies of such standards may be obtained are specified in the [2016] 2017 Supplement. Such 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.

10. Subdivision (s) of section 1228.4 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(s) Uniform Code Supplement. The publication entitled [2016] 2017 Uniform Code Supplement published by the New York State Department of State.

11. Subdivision (e) of section 1228.17 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(e) [2016] 2017 Uniform Code Supplement, publication date: March, [2016] 2017, published by the New York State Department of State.

Copies of the 2015 IBC, 2015 IEBC, 2015 IFC and 2015 IPC 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 [2016] 2017 Uniform Code Supplement may be obtained from the New York State Department of State at the following address:

New York State Department of State

One Commerce Plaza, 99 Washington Avenue

Albany, NY 12231-0001

All publications incorporated by reference into this Part are available for public inspection

and copying at:

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

12. Subdivisions (b) and (e) of section 1264.4 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

(b) Signs shall be affixed where a building or a portion thereof is classified as Group A, B, E, F, H, I, M or S occupancy, and in hotels and motels classified as Group R-1 or R-2 occupancy, in accordance with the provisions for the classification of buildings set forth in chapter 3 of the 2015 International Building Code, as amended by the [2016] 2017 Uniform Code Supplement (said publications being incorporated by reference in Part 1221 of this Title).

(e) Signs identifying the existence of truss construction shall contain the roman alphanumeric designation of the construction type of the building, in accordance with the provisions for the classification of types of construction set forth in section 602 of the 2015 International Building Code, as amended by the [2016] 2017 Uniform Code Supplement (said publications being incorporated by reference in Part 1221 of this Title), and an alphabetic designation for the structural components that are of truss construction, as follows:

“F” shall mean floor framing, including girders and beams

“R” shall mean roof framing

“FR” shall mean floor and roof framing

The construction type designation shall be placed at the 12 o'clock position over the structural component designation, which shall be placed at the six o'clock position.

13. Subdivisions (c) and (h) of section 1265.3 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York are amended to read as follows:

(c) IBC. The term IBC shall mean the 2015 International Building Code, as amended by the [2016] 2017 Uniform Code Supplement (said publications being incorporated by reference in Part 1221 of this Title).

(h) IRC. The term IRC shall mean the 2015 International Residential Code, as amended by the [2016] 2017 Uniform Code Supplement (said publications being incorporated by reference in Part 1220 of this Title).

End of rule text

REGULATORY IMPACT STATEMENT

1. STATUTORY AUTHORITY

Article 18 of the Executive Law (§370-383) establishes the State Fire Prevention and Building Code Council (hereinafter “Code Council”) and authorizes such council to formulate a code to be known as the Uniform Fire Prevention and Building Code (hereinafter “Uniform Code”).

Executive Law §377 provides that the Uniform Code shall provide reasonably uniform standards and requirements for construction and construction materials for public and private buildings, including

factory manufactured homes, consonant with accepted standards of engineering and fire prevention practices.

Executive Law §378 provides that the Uniform Code shall address the following subjects:

1. Standards for the construction of all buildings or classes of buildings, or the installation of equipment therein, including standards for materials to be used in connection therewith, and standards for safety and sanitary conditions;

2. Standards for the condition, occupancy, maintenance, conservation, rehabilitation and renewal of certain existing buildings, structures and premises and for the safeguarding of life and property therein and thereabout from the hazards of fire, explosion or release of toxic gases arising from the storage, handling or use of combustible or hazardous substances, materials or devices;

3. Standards for passenger elevators;

4. Standards for areas of public assembly;

5. Standards requiring the posting of certain notices in hotels, motels and lodging houses;

6. Standards for installation of carbon monoxide detectors and commercial and residential buildings;

7. Standards for installation of single station smoke detecting alarm devices;

8. Standards for inspections of solid fuel burning heating appliances, chimneys and flues;

9. Standards for the use of lead in water supply systems constructed or portions added on or after January first, nineteen hundred eighty-six;

10. Standards for the construction of water supply systems which shall prohibit the use of asbestos cement pipe to convey potable water for any new or modified construction on or after January first, nineteen hundred ninety-two;

11. Standards for hotels, motels and lodging houses requiring (in addition to any other requirement) portable smoke-detecting alarm devices for the deaf and hearing impaired of audible and visual design;

12. Standards requiring the posting of certain notices in certain buildings housing senior citizens;

13. Standards for assistive listening systems for new construction commenced after January first, nineteen hundred ninety-one requiring the installation of assistive listening systems at all places of public assembly;

14. Standards for buildings shall authorize the installation of potable water heaters for all domestic uses, including space heating;

15. Standards for fire safety for bed and breakfast dwellings;

16. Standards for hospice residences;

17. Standards for the abandonment or removal of heating oil storage tanks and related piping in connection with the conversion of liquid fuel burning appliance to alternative fuel; and

18. Standards for gates required to be provided in a swimming pool enclosure.

19. Standards for pool alarms for new or modified swimming pools;

20. Standards for hot tubs or spa safety covers

21. Requirements for pool enclosures to be replaced by permanent enclosures within 90 days of the issuing of the building permit or commencement of the pool installation.

22. Standards for temporary swimming pool enclosures used during the installation or construction of swimming pools.

Executive Law §377(1) provides that the Code Council shall periodically review the entire Uniform Code to assure that it effectuates the purposes of Article 18 of the Executive Law and the specific objectives and standards set forth in such article. Executive Law §377(1) also provides that the Code Council may from time to time amend particular provisions of the Uniform Code.

The current version of the Uniform Code is based on international codes developed and published by the International Code Council (hereinafter “ICC”). This rule making would amend the current text of the Uniform Code which is based upon the 2015 editions of eight (8) individual model codes developed and published by the ICC, as modified by the 2016 Uniform Code Supplement. The amendments consist of appropriate modifications listed in the 2017 Uniform Code Supplement to accommodate statutory requirements and to address concerns specific to New York State.

This rulemaking makes technical and editorial corrections to the Uniform Code that are necessary for proper application of the code. This rulemaking also supplements the existing Uniform Code by adding and modifying provisions that address the categories of standards listed in Executive Law §378 that are not addressed by any of the ICC codes or the 2016 Uniform Code Supplement. Consequently, it is the determination of the Department of State and the Code Council that Executive Law §377, the statutory authority for this particular rule making, authorizes the proposed regulation.

19 NYCRR Part 1264 implements Executive Law §382-a. Executive Law §382-a provides that the Code Council shall promulgate rules and regulations it deems necessary to carry into effect the provision of this section 382-a. 19 NYCRR Part 1265 implements Executive Law 382-b. Executive Law 382-b provides that the Code Council shall promulgate rules and regulations it deems necessary to carry into effect the provisions of this section 382-b. Parts 1264 and 1265 currently include references to the 2016 Uniform Code Supplement. This rule will amend Parts 1264 and 1265 by changing the existing references to the 2016 Uniform Code Supplement to references to the 2017 Uniform Code Supplement.

2. LEGISLATIVE OBJECTIVES

Executive Law §371(2) states that it shall be the public policy of the State of New York to provide for promulgation of a Uniform Code addressing building construction and fire prevention in order to provide a basic minimum level of protection to all people of the State from the hazards of fire and

inadequate building construction. The Code Council is assigned the task of formulating the Uniform Fire Prevention and Building Code.

Executive Law §377 not only empowers the Code Council to amend provisions of the Uniform Code, it also directs the Code Council to periodically review the entire Uniform Code to assure that it effectuates the purposes, objectives and standards set forth in Article 18 of the Executive Law. Further, Executive Law §371(2)(b)(4) provides that it is the policy of the State of New York to require new and existing buildings to keep pace with advances in technology concerning fire prevention and building construction.

In Executive Law §377(2), the Legislature has set forth the objectives to be achieved in the formulation and maintenance of the Uniform Code. Specifically, the statute directs that the Uniform Code:

(1) provide reasonably uniform standards and requirements for construction and construction materials for public and private buildings, including factory manufactured homes, consonant with accepted standards of engineering and fire prevention practices;

(2) formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;

(3) permit to the fullest extent feasible, use of modern technical methods, devices and improvements which tend to reduce the cost of construction without substantially affecting reasonable requirements for the health, safety and security of the occupants or users of buildings;

(4) encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material, and techniques; and

(5) eliminate restrictive, obsolete, conflicting and unnecessary building regulations and requirements which tend to increase unnecessarily construction costs or retard unnecessarily the use of

new materials, or provide unwarranted preferential treatment to types or classes of material or products or methods of construction.

Upon review of the current text of the Uniform Code, the Code Council has concluded that it would further the purposes, objectives and standards of Article 18 to adopt this rule text, which would amend the current Uniform Code text by the modifications set forth in the 2017 Uniform Code Supplement to accommodate statutory requirements and to address concerns specific to New York State.

The regular updating of practices, methods and techniques used for building construction and fire prevention in New York should make New York more competitive in attracting new businesses and jobs to the State.

3. NEEDS AND BENEFITS GENERAL

The purpose of this rule making is to amend and add provisions for the Uniform Code. This change is necessary for New York State to remain competitive with the rest of the nation in matters involving building construction and to provide an adequate level of building safety to its residents.

While the new version of the Uniform Code to be implemented by this rule making is still based primarily on the 2015 edition of the International Codes, the proposed rule includes a 2017 Uniform Code Supplement that modifies ICC model codes to make the Uniform Code more appropriate to New York State's statutory requirements and special conditions.

Approximately 4,000 code enforcement officials in about 1,600 municipalities will be affected by a new version of the Uniform Code (the City of New York will not be affected by this rule because the 2014 NYC Construction Codes is in effect in the City of New York).¹

¹ For 2014 NYC Contractions Code *See*:
http://www.nyc.gov/html/dob/html/codes_and_reference_materials/2014_construction_code.shtml

Generally, Chapter 1 of the 2016 Uniform Code Supplement has been amended to add “Section 108 – Building Permits, Applications for Building Permits, Construction Inspections, Stop Work Orders, Certificates of Occupancy, and Operating Permits” to provide assurance that each Authority Having Jurisdiction will be able to use at least the basic code enforcement provisions described in 19 NYCRR Part 1203 when it enforces the Uniform Code and to make such enforcement-related requirements part of the Uniform Code; and to add “Section 109 – Inspection of Solid Fuel Burning Heating Appliances, Chimneys and Flues” pursuant to Executive Law §378(5-c). In addition, selected provisions in the remaining chapters are deemed amended so as to include provisions that are essential to compliance with applicable New York statutes and special building conditions such as amending the following:

- the “dwelling unit” and “story above grade plane” definitions in Section R202 of the 2015 IRC;
- the automatic fire sprinkler systems provision in Section R313 of the 2015 IRC;
- the manufactured housing used as dwellings provision in Appendix E of the 2015 IRC;
- the maximum flow rates and consumption for plumbing fixtures and fixture fittings provision in Table P2903.2 of the 2015 IRC and Table 604.4 in the 2015 IPC;
- the portable smoke alarm in lodging houses provision in Section R314 of the 2015 IRC, Section 907 of the 2015 IBC, and Section 907 of the 2015 IFC;
- the lodging house evacuation notices provision in Section R314 of the 2015 IRC, Section 403 in the 2015 IFC, and Section 705 of the 2015 IPMC; and
- the off-street parking lots provision in Section 302 of the 2015 IPMC.

Reference Standards are secondary materials such as codes and standards that are specifically referred to within the ICC Codes. New York State incorporates certain Reference Standards that are needed to make the Uniform Code operate as a complete regulatory document. Certain Reference Standards contained in the ICC model codes have not been included in the proposed revision to New

York's Uniform Code because: (1) they are outdated and cannot be readily obtained or (2) they define issues (e.g., the process by which test furnaces burn building materials) that are not necessary for a code regulating the construction and maintenance of buildings and structures.

This rule making is necessary to conform the Reference Standards within the New York Uniform Code to national standards and to keep building practices in New York consistent with national practice. Parties working in or otherwise interested in a given field (e.g., fire extinguishers), typically use the most current edition of a Reference Standard to manufacture, install and use the product. Therefore, it is necessary for the Uniform Code to be current with the latest editions of Reference Standards to avoid the use of conflicting documents or requirements in the field.

The Uniform Code currently contains the following eight ICC model codes incorporated by reference: the 2015 International Building Code (2015 IBC), the 2015 International Residential Code (2015 IRC), the 2015 International Fire Code (2015 IFC), the 2015 International Plumbing Code (2015 IPC), the 2015 International Mechanical Code (2015 IMC), the International Fuel Gas Code (2015 IFGC), the International Property Maintenance Code (2015 IPMC) and the 2015 International Existing Building Code (2015 IEBC). Portions of these model codes have been amended by the 2016 Uniform Code Supplement (Supplement), also incorporated by reference. This proposal will:

1. Amend the current text of the Uniform Code that is found in the 2015 ICC model codes, as amended by the 2016 Uniform Code Supplement, and
2. Incorporate by reference the same 2015 ICC model codes as amended by the 2017 Uniform Code Supplement.

The amendments are necessary to coordinate with statutory requirements and special initiatives undertaken in New York. For the purposes of this Regulatory Impact Statement, each component will be addressed separately highlighting only major changes to the existing Uniform Code with respect to "Needs and Benefits", "Costs" and "Alternatives".

Chapter 1 of 2017 Uniform Code Supplement

2015 IRC, IBC, IPC, IMC, IFGC, IFC, IPMC, IEBC

Building permits, applications for building permits, construction inspections, stop work orders, certificates of occupancy, and operating permits

Section 108: Chapter 1 of 2017 Uniform Code Supplement, applicable to all code books

Needs and Benefits:

Executive Law § 381(1) requires the Secretary of State to promulgate regulations establishing minimum standards for enforcing the Uniform Code (the “Minimum Standards”). The regulations establishing the Minimum Standards are set forth in 19 NYCRR Parts 1201 to 1209. In general, the Minimum Standards require each Authority Having Jurisdiction (AHJ)² to establish a code enforcement program that includes the features described in 19 NYCRR Part 1203 (“Part 1203”), including features that:

1. require a person who wishes to perform work that must comply with the Uniform Code to obtain a building permit;
2. require permit applications to include certain information and documentation;
3. require construction inspections at certain points during construction;
4. require the AHJ to issue a stop work order under certain circumstances;
5. require a building owner to obtain a certificate of occupancy before using or occupying a new constructed building, a newly renovated building, of a building undergoing a change of occupancy, and

² Authority Having Jurisdiction (AHJ) means the governmental unit or agency responsible for administration and enforcement of the Uniform Code.

6. require a building owner to obtain an operating permit before conducting certain activities or using certain categories of buildings.

Under this proposed code change, a code enforcement program that includes the features required by Part 1203 and satisfies all requirements of Part 1203 is referred to as a “Part 1203-Compliant Code Enforcement Program.”

Currently, approximately 1,500 different AHJs are responsible for administering and enforcing the Uniform Code in the State. The Department of State (DOS) anticipates that in at least some cases, the AHJ is acting under a code enforcement program that does not have all of the features required by Part 1203.

This rule will provide that regulated parties (e.g., building owners) who construct or renovate a building, change the use or occupancy of a building, or engage in any other activity subject to the provisions of a Part 1203-Compliant Code Enforcement Program will be required to comply with the stricter of the AHJ’s actual code enforcement program or a Part 1203-Compliant Code Enforcement Program. This will assure that each AHJ will be able to use at least the basic code enforcement provisions described in Part 1203 when it enforces the Uniform Code.

The DOS also anticipates that in at least some cases, the AHJ’s code enforcement program does not include penalties for a person or entity who violates requirements of the code enforcement program. For example, the AHJ’s code enforcement program may require an owner to obtain a building permit before commencing a construction or renovation project, but may not specify a penalty for commencing a project without such a permit. This rule will make the enforcement-related requirements described in the rule part of the Uniform Code. This will assure that each AHJ will be able to impose the penalties prescribed in Executive Law § 382 if a person or entity fails to comply with any of those requirements, which will facilitate effective and meaningful enforcement of the Uniform Code.

Cost:

In a case where the AHJ's code enforcement program is, at least, a Part 1203-Compliant Code Enforcement Program, this rule will not result in any new compliance costs. In a case where the AHJ's code enforcement program is not fully compliant with Part 1203, this rule will result in the same compliance costs that would be imposed if the AHJ were in full compliance with the requirements of Part 1203, and did have a Part 1203-Compliant Code Enforcement Program. Specifically, this rule will provide that:

1. no person or entity may commence, perform or continue any work that must conform with the Uniform Code and/or the Energy Code unless such person or entity has applied to the AHJ for a building permit and the AHJ has issued a building permit authorizing such work;
2. no category of work may be excepted from the building permit requirement unless such exception is authorized by Part 1203;
3. applications for building permits must include the information and documentation required by the stricter of AHJ's Code Enforcement Program or a Part 1203-Compliant Code Enforcement Program, and that construction documents (drawings and/or specifications) must define the scope of the proposed work and satisfy the requirements of the stricter of the AHJ's Code Enforcement Program or a Part 1203-Compliant Code Enforcement Program;
4. any person or entity performing work for which a building permit has been issued must keep work accessible and exposed until the work has been inspected and accepted by the AHJ, or its authorized agent, at each element of the construction process that is applicable to the work and specified in the stricter of the AHJ's Code Enforcement Program or a Part 1203-Compliant Code Enforcement Program;
5. no person or entity shall commence, perform or continue any work that must conform

with the Uniform Code and/or Energy Code if the AHJ has issued a Stop Work Order with respect to such work;

6. where the stricter of the AHJ's Code Enforcement Program or a Part 1203-Compliant Code Enforcement Program requires a Certificate of Occupancy for permission to use or occupy a building or structure, or any portion thereof, no person or entity shall use or occupy such building or structure, or such portion thereof, unless the AHJ has issued such Certificate of Occupancy; and
7. where the stricter of AHJ's Code Enforcement Program or a Part 1203-Compliant Code Enforcement Program requires an operating permit to conduct an activity or to use a category of building, no person or entity shall conduct such activity or use such category of building without obtaining an operating permit from the AHJ.

This rule imposes no fees. However, the AHJ is authorized by existing statute (Executive Law §§ 376(5) and 381(2) and the Minimum Standards) to charge fees. Any such fees are imposed by the AHJ, and not directly by this rule.

DOS anticipates that most costs associated with compliance with this rule will be incurred at the time of initial compliance, and that there will be little or no on-going costs of compliance, except in the case of operating permits. In these instances, the regulated party may incur periodic renewal fees when the permit is renewed, and fees for inspections incidental to such periodic renewals. Any such fees are imposed by the AHJ, and not directly by this rule.

State agencies (including the DOS), counties, and local governments that enforce the Uniform Code will be required to enforce the provisions added to the Uniform Code by this rule. However, governmental units and agencies that enforce the Uniform Code are already required by existing law (the Minimum Standards) to establish code enforcement programs that include,

inter alia, the features described in this rule. Therefore, this rule imposes no new obligation and no new costs on DOS, the State, any county, or any local government.

Alternatives:

An alternative to this proposal is to continue to rely on AHJ's to administer and enforce the Uniform Code as they see fit. There are many instances where this would be an effective alternative, as in those jurisdictions where the AHJ's enforcement program meets and exceeds the minimum standards of Part 1203. However, not all enforcement programs meet the minimum standards. In these situations, the public may be at risk because of a substandard code enforcement program. In the interest of public safety, this alternative was rejected in favor of a more comprehensive approach to code enforcement. DOS will consider other alternatives that are received during the public comment period.

Inspection of Solid Fuel Burning Heating Appliances, Chimneys and Flues

Section 109: Chapter 1 of 2017 Uniform Code Supplement, applicable to all code books

Needs and Benefits:

New Section 109 of Chapter 1 of the 2017 Uniform Code Supplement explicitly and separately states the requirements of the Executive Law §378(5-c), outlining the need for each Authority Having Jurisdiction (AHJ) to require a building permit and a certificate of compliance for installation of any solid fuel burning heating appliance, chimney or flue in any dwelling used as a residence. While permits, inspection and compliance are otherwise required in the Executive Law in these codes, provisions for Inspection of Solid Fuel Burning Heating Appliances, Chimneys and Flues are accentuated due to the potential for fire if this equipment malfunctions. The purpose of Section 109 is to enhance safety and to ensure compliance with specific provisions of Executive Law §378(5-c). In addition to specifying provisions that would otherwise be required by Section 107.1 of the Uniform Code, Section 109 clarifies specific

provisions of Executive Law §378(5-c), which are not listed elsewhere in the Uniform Code, including the following statutory requirements:

- (1) a temporary 30-day certificate allowing use of a Solid Fuel Burning Heating Appliance, Chimney and Flue in the event of an accidental fire, and limiting the liability of providing such a temporary certificate;
- (2) limiting the fine for violation of these specific provisions to \$250; and
- (3) providing that when a delay while securing a building permit could reasonably be expected to cause irreparable damage to the property or serious personal injury to a person, work may commence before obtaining a building permit provided application therefor is filed within three business days after work starts.

If these were not listed separately, an AHJ might waive the need for a permit, per Part 1203.3(a)(1)(x) thru (xii); might issue a temporary certificate of occupancy per 1203.3(d)(3) or 1202.3(c) without being aware that there is a 30-day limit for a temporary compliance certificate in Executive Law §378(5-c); might not be aware of the fine limit, and might not be aware that a permit must be applied for within three days of work was done without delay to prevent harm as outlined in item 3 above.

Cost:

Section 109 does not add any cost, as it does not add any requirement; it enhances safety by listing specific requirements of Executive Law §378(5-c), and emphasizes requirements that already exist in Section 107.1 of the 2016 Uniform Code Supplement chapter one. The existing Section 107.1 charges each AHJ to establish a code enforcement program to satisfy all requirements of 19 NYCRR Part 1203, including a requirement for building permits, inspections and certificates for work which must conform to the Uniform Code.

The new provisions limit a temporary certificate to 30 days. No new construction provisions are added; the time limit may result in some increase in construction cost due to inclement weather or

contractor availability. If the equipment continues to appear in safe condition, an additional temporary permit could be issued. This could result in additional permit fees to the user, and some minimal increase in the time to process permits. However, the requirement is already in effect.

No other change in cost is anticipated.

Alternatives:

Any alternative to this proposal would result in the Uniform Code failing to comply with a statutory requirement of the Executive Law. For these reasons, the Department of State rejected all such alternatives.

Chapter 2 of the 2017 Uniform Code Supplement

2015 IRC

Automatic Fire Sprinkler Systems

2015 IRC Section: R202, as amended by the 2017 Uniform Code Supplement

R313, as amended by the 2017 Uniform Code Supplement

Needs and Benefits:

This proposal addresses the need for automatic fire sprinkler systems in one- and two-family dwellings and townhouses. The requirements of this code change proposal are applicable to buildings regulated under the 2015 International Residential Code (IRC).

Prior to the March 2016 update to the Uniform Fire Prevention and Building Code (Uniform Code), the State Fire Prevention and Building Code Council (Code Council) voted to retain the sprinkler provisions

for one- and two-family dwellings and townhouses that existed at that time. These provisions, which were housed in the 2010 Residential Code of New York State (2010 RCNYS), were to be restated in the 2016 Uniform Code Supplement. Specifically, these provisions required all buildings having a height of three *stories above grade* to be equipped throughout with an automatic sprinkler system.

According to the 2010 RCNYS, a *story above grade* is defined as: *any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is:*

1. *More than 6 feet (1829 mm) above grade plane.*
2. *More than 6 feet (1829 mm) above the finished ground level for more than 50 percent of the total building perimeter.*
3. *More than 12 feet (3658 mm) above the finished ground level at any point.*

When New York State updated the Uniform Code in 2016, it incorporated by reference the 2015 IRC, which replaced the 2010 RCNYS. Unfortunately, the 2015 IRC did not contain the term *story above grade*, but rather *story above grade plane*. The slight change in terminology also had a slightly different meaning: *any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is either of the following:*

1. *More than 6 feet (1829 mm) above grade plane.*
2. *More than 12 feet (3658 mm) above the finished ground level at any point.*

The major difference between the two terms is that the 2010 RCNYS definition contained additional criteria for determining whether or not a floor level is considered a *story above grade [plane]*. Specifically, the 2010 RCNYS definition included the following additional requirement: “more than 6 feet (1829 mm) above the finished ground level for more than 50 percent of the total building perimeter.” This additional requirement could be a deciding factor for when an automatic sprinkler system is required. In order to comply with the decision of the Code Council and retain the same level of safety that was

afforded by the 2010 RCNYS, the *story above grade plane* definition that appears in the 2015 IRC must be amended to include the additional requirement that is found in the *story above grade* definition found in the 2010 RCNYS.

In addition to slightly different terminology that occurs between the 2010 RCNYS and 2015 IRC, the 2015 IRC also contains terms that did not exist in the 2010 RCNYS. An example of which is the term *habitable attic*. According to its definition, this occupiable space is not considered a *story*. Because *habitable attics* are not considered a *story*, they are not considered a triggering condition for when an automatic sprinkler system is required.

Under the 2010 RCNYS, a new dwelling with two *stories* and an *attic* containing occupiable space is a triggering condition for a sprinkler system. In this case, the dwelling is essentially no different than a three story building for the purposes of determining sprinkler requirements. Under the Uniform Code currently in affect, a dwelling with two *stories* and a *habitable attic* (which contains occupiable space) is not equivalent to a three story building, since *habitable attics* are not considered a *story* by definition. In this example, a dwelling that would require sprinklers under the 2010 RCNYS would not require sprinklers under the current code. This unexpected reduction in safety requirements was not the intent of the Code Council during the 2016 Uniform Code update.

To correct this discrepancy, the triggers for when an automatic sprinkler system is required in one- and two-family dwellings and townhouses must be amended to account for *habitable attics*. This will be achieved by adding the following as triggering conditions:

1. two stories above grade plane and a habitable attic, or
2. three stories above grade plane and a habitable attic.

This proposed code change is needed to carry forth the safety provisions that the Code Council had intended during the 2016 update to the Uniform Code. The code change will not increase the level of safety beyond that which existed under the 2010 RCNYS. The public will benefit from this code change

through an increased level of safety in all dwellings that contain *habitable attics* that located above the second or third *story above grade plane*.

Cost:

On December 12, 2007, the Code Council requested that the New York State Department of State, Office of Fire Prevention and Control, and the Codes Division establish a committee on residential sprinklers. The purpose of the committee was to gather facts and data regarding the installation of residential sprinkler systems in one- and two-family homes and to report their findings to the Code Council. The committee presented the information in a report to the Council, titled “New York State Residential Sprinkler Committee Report”, dated June 16, 2009.

Appendix A of the report presented several cost estimates for the installation of sprinkler systems in new “sample” homes, taking into consideration both private and public water supplies. A summary of findings from Table A.3 of the report is presented below. The figures presented in the estimate are based on the data available at the time that the Report was prepared and design requirements in affect at that time.

Cost Estimate¹ for a Residential Sprinkler System				
Type of Home & Geographic Location	Municipal Water		Private Well	
	Cost⁴	\$/SFT⁵	Cost⁴	\$/SFT⁵
Andover Home ²				
Capital Region	\$9,000	\$4.79	\$15,320	\$8.15
Plattsburg	\$9,940	\$5.29	\$16,410	\$8.73
Rochester	\$10,100	\$5.37	\$16,600	\$8.83
Colonial Home ³				
Capital Region	\$12,700	\$4.49	\$20,940	\$7.40
Plattsburg	\$14,000	\$4.95	\$22,600	\$7.99
Rochester	\$14,200	\$5.02	\$23,065	\$8.15

¹: New York State Residential Sprinkler Committee Report, June 16, 2009, Table A.3 summary.

²: 3,312 sft sprinklered space, 1,880 sft conditioned space, single story with cathedral ceiling and a basement.

³: 4,662 sft sprinklered space, 2,830 sft conditioned space, unfinished attic storage, two-story foyer with cathedral ceiling , a second story loft living space, and a

⁴: Cost as presented in the Committee's Report.

⁵: Square foot costs = Total cost ÷ area of conditioned space

The Fire Protection Research Foundation, sponsored by NFPA, prepared a more recent report addressing sprinkler cost. The purpose of the report, titled “Home Fire Sprinkler Cost Assessment” (September 2013), was to “*gain a better understanding of how increasingly widespread adoption of sprinkler ordinances impacts system cost*”. The report examined fifty-one homes in seventeen communities across the country, three of which were located in Greenburgh, NY³. For the purpose of the study, the Greenburgh homes that were examined had basements, living space that ranged from 3,000 sft to 6,000 sft, municipal water supply, and sprinklered space that ranged from 4,500 sft to 8,500 sft. The cost analysis of the Greenburgh homes is presented in the table below.

³ Greenburgh adopted a residential fire sprinkler ordinance in 1994, and amended it in 2011.

Home Fire Sprinkler Cost Assessment¹			
Home Designation	Sprinklered Space sft	Total Cost²	Square Foot Cost³ \$/sft
House 3	4,500	\$8,000	\$1.78
House 2	6,000	\$11,000	\$1.83
House 1	8,500	\$21,000	\$2.47

¹Home Fire Sprinkler Cost Assessment - 2013 (September 2013) report prepared by The Fire Protection Research Foundation. Table 16 summary.

²Cost as presented in the Fire Protection Research Foundation's report.

³Square foot cost = Total cost ÷ area of sprinklered space

The cost of a residential sprinkler system is ultimately dependent upon the size of the home, floor plan, location, type of water supply (well vs. public), as well as other factors. The above estimates therefore appear to be a reasonable starting point for the purposes of estimating the cost of a residential sprinkler system.

Alternatives:

An alternative to this proposal is leave the code language as it currently exists. This alternative does not address the occupiable space that exists in *habitable attics*, which, by definition, are not considered a *story*. This alternative would also exclude criteria determining when a floor area is considered a *story above grade plane*. Adding stories to a building increases evacuation time and decreases safety during a fire. For these reasons, this alternative was rejected.

Appendix E (Manufactured Housing Used as Dwellings)

2015 IRC Section: Appendix E, as amended by the 2017 Uniform Code Supplement

Needs and Benefits:

The U.S. Department of Housing and Urban Development's (HUD) Manufactured Home Construction and Safety Standards (24 CFR Part 3280) establishes federal standards for the design,

construction, and installation of manufactured homes to assure their quality, durability, safety, and affordability. Backed by federal mandate, HUD's standards preempt state and local laws that do not conform to the federal requirements. HUD's standards are applicable to all manufactured homes produced after June 15th, 1976⁴.

HUD's Model Manufactured Home Installation Standards (24 CFR Part 3285) establish the minimum standards for installation of manufactured homes⁵. States are permitted to operate a manufactured home installation program provided that the installation requirements of such program are at least as restrictive as the comparable requirements found in HUD's minimum standards. In the absence of an approved State program, HUD assumes administration and enforcement responsibilities. New York's manufactured home installation requirements are found in Appendix E of the 2015 International Residential Code (IRC), as modified by the 2016 Uniform Code Supplement (Supplement).

The provisions of Appendix E, applicable to manufactured homes used as a single dwelling unit, apply to the following categories of work:

1. Construction, alteration and repair of any foundation system which is necessary to provide for the installation of a manufactured home unit.
2. Construction, installation, addition, alteration, repair or maintenance of the building service equipment which is necessary for connecting manufactured homes to water, fuel, or power supplies and sewage systems.
3. Alterations, additions or repairs to existing manufactured homes.

In a June 30th, 2016 letter addressed to the Division of Building Standards and Codes, HUD stated that New York's manufactured home installation standards (Appendix E) must be revised to be at least as

⁴ <https://portal.hud.gov/hudportal/HUD?src=/hudprograms/mhcss>

⁵ https://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/rmra/mhs/smhi

restrictive as the standards contained in 24 CFR Part 3285. Failure to comply with 24 CFR 3286.804 will result in New York surrendering its Manufactured Housing Program to the federal government.

A few of the more significant modifications to Appendix E include:

- Ensuring that building additions and accessory structures are not structurally supported by the manufactured home,
- Definitions for the terms, “*Design Approval Primary Inspection Agency (DAPIA)*,” *HUD*, *Installation Instructions*, and *Manufacturer’s Certification Label*,
- Modifications to the installation requirements, including provisions for installation instructions, footings and foundations, site drainage, and under-floor clearances, and
- Updated reference standards (28 CFR Part 3285, Model Manufactured Home Installation Standards and NFPA 225-2013, Model Manufactured Home Installation Standard).

There are several benefits to updating Appendix E. One primary benefit to occupants of manufactured homes installed under the proposed regulations is that they would be safer. For example, the building anchorage requirements contained in 24 CFR Part 3285, Subpart E are necessary to ensure that buildings are adequately protected against the overturning and sliding effects caused by moderate to high winds.

In addition to increased safety, maintenance concerns would be reduced under the proposed code modification. The new provisions would ensure that surface drainage and water discharge from furnaces, air conditioning, and water heaters do not accumulate under the home. This will guard against structural damage and erosion. The proposed code change will also require a vapor barrier to be installed on the ground beneath the home, and will also require the area beneath the home to be properly ventilated. The surface drainage and water discharge requirements combined with the vapor barrier and

ventilation provisions will help maintain a dry environment. Controlling drainage and moisture will prolong the life of the structure and reduce the likelihood of mold and mildew growth.

Perhaps the greatest benefit would be the continuation of a Manufactured Home Installation Program that is administered and enforced by New York. A program enforced by the federal government could result in a decrease in manufactured home installations in the event that the federal program does not receive adequate funding or the program not provide adequate resources. By adopting this proposed code change, Authorities Having Jurisdiction will continue to have the ability to oversee the installation of such homes in their respective jurisdiction and not be subject to federal oversight, which may not have a strong presence. This will directly benefit owners of these homes who will be able to occupy them sooner.

Cost:

The Division prepared a detailed construction cost estimate for the different compliance paths for both the current and proposed Appendix E. The estimates were based on an average size manufactured home. Compliance path A pertains to existing, relocated manufactured homes and is currently enforced by the State of New York. Compliance paths B and C also pertain to existing, relocated manufactured homes and are proposed to replace compliance path A. Under the proposed code change, a regulated party would have the option of which compliance path to follow, either path B (24 CFR 3285 “Model Manufactured Home Installation Standards”) or path C (NFPA 225-2013). Summaries and estimates are as follows:

Compliance Path A (current code). Estimate using ANSI 225.1 – 1994 = \$13,492

Compliance Path B (proposed code). Estimate using HUD Standard = \$13,492

Compliance Path C (proposed code). Estimate using NFPA 225- 2013 = \$14,247

COST ANALYSIS					
CONSTRUCTION ELEMENT	NOTES	PATH A	Path B	PATH C	
		ANSI STANDARD A225.1-1994	HUD STANDARD 24 CFR 3285	NFPA STANDARD NFPA225-	
CONCRETE PIERS BELOW GRADE 42"	30" AUGER USED				
	45 HOLES				
	.75 YARDS PER HOLE	\$ 4,550.00	\$ 4,550.00	\$ 4,550.00	
BOBCAT DRILL WITH OPERATOR	30" AUGER				
		\$ 2,400.00	\$ 2,400.00	\$ 2,400.00	
VAPOR BARRIER	INSTALLED BEFORE				
	HOME IS SITED				
	6 MIL	\$ 160.00	\$ 160.00	\$ 160.00	
STONE TO COVER PLASTIC	INSTALLED BEFORE				
	HOME IS SITED	\$ 250.00	\$ 250.00	\$ 250.00	
TIE DOWN EQUIPMENT	Sidewall	LABOR INCLUDED	14	14	16
		\$ 75.50			
		TOTAL PER ANCHOR	\$ 1,057.00	\$ 1,057.00	\$ 1,208.00
	Endwall	LABOR INCLUDED	0	0	8
		\$ 75.50			
		TOTAL PER ANCHOR			\$ 604.00
	Far Beam	LABOR INCLUDED	0	0	0
		\$ 50.00			
		TOTAL PER ANCHOR	\$ -	\$ -	\$ -
CONCRETE BLOCKS	8"x8"x16" BLOCK, 4" & 8" SOLID				
	CAP & WEDGES INC.	\$ 1,200.00	\$ 1,200.00	\$ 1,200.00	
SET, ASSEMBLE & FINISH	LABOR & MATERIALS	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	
UTILITY CONNECTIONS (Within footprint)	LABOR & MATERIALS	\$ 875.00	\$ 875.00	\$ 875.00	
TOTALS		\$ 13,492.00	\$ 13,492.00	\$14,247.00	

According to the above data, there is a cost difference of \$755 between proposed compliance paths B and C. If a regulated party would choose compliance path B, there would be no additional cost incurred as compared to the current Appendix E requirements (compliance path A). If a regulated party would chose compliance path C, the additional cost would be \$755 as compared to the current requirements. The difference in price is marginal and shows that the construction standards available for the installation of a manufactured home all provide a similar cost impact to the consumer.

Alternatives:

As previously stated, perhaps the greatest benefit that will be realized by adopting the new regulations would be the continuation of a Manufactured Home Installation Program that is administered and enforced by New York State. The alternative would be to surrender the program and allow the federal

government to assume oversight. Federal oversight could result in a decrease in manufactured home installations in the event that the program does not receive adequate funding or provide adequate resources. For this reason, the Department of State supports updating Appendix E. New York has successfully maintained a manufactured home installation program since 2002. Adopting the proposed code change will allow the State to continue this program while providing safer homes.

Chapters 2 and 4 of the 2017 Uniform Code Supplement

2015 IRC and 2015 IPC

Maximum Flow Rates and Consumption for Plumbing Fixtures

2015 IRC Section: Table P2903.2, as amended by the 2017 Uniform Code Supplement

2015 IPC Section: Table 604.4, as amended by the 2017 Uniform Code Supplement

Needs and Benefits:

This proposal addresses the need for water conservation in New York State and how this need is addressed by water reducing plumbing fixtures. The requirements of this code change proposal are applicable to residential and commercial buildings.

Water may be viewed as both a renewable and a nonrenewable resource. The renewable aspect of water is somewhat obvious; rainwater and snowmelt can quickly replenish water supplies in reservoirs. Unfortunately, precipitation does not always fall when it is needed nor in the quantities that it is needed. Moreover, not everyone receives water from a reservoir. Many New Yorkers receive water from groundwater supplies (well water). According to the New York State Department of Health (DOH) Drinking Water Program, nearly five million New Yorkers receive water from public groundwater supply systems⁶.

⁶ Drinking Water Program: Facts and Figures,
https://www.health.ny.gov/environmental/water/drinking/facts_figures.htm

Approximately three million of these recipients are located in Nassau and Suffolk Counties. Many others receive water from private groundwater systems. To replenish these supplies, water must seep deep into the soil and become part of the groundwater table⁷. It can take months or even many years to replenish groundwater supplies.

Urbanization plays a major role in the rate at which groundwater supplies are recharged. As natural landscapes (woodland, meadow, etc.) are altered for commercial, residential, or transportation purposes, surface water that would normally soak into the ground and become part of the groundwater supply is quickly diverted to nearby waterways^{8,9} by surface ditches and drainage pipes. These waterways eventually drain to the ocean. According to the United States Environmental Protection Agency (EPA)¹⁰, as forested areas are converted to urban areas, the amount of groundwater recharge is decreased by 16% for areas with 10%-20% new impervious cover¹¹ and 20%-40% for urbanized areas with 35%-50% new impervious cover. In this sense, groundwater could be viewed as a nonrenewable resource because the mechanism by which the supplies are “renewed” (natural landscapes) is being altered. Regardless of the type of water supply (reservoir vs. well), population growth decreases the rate by which water supplies are replenished due to an increased demand on a finite supply.

In an attempt to conserve this critical resource, the EPA has implemented a partnership program^{12,13} with builders, product manufacturers, utility suppliers, and many other entities. The program, called WaterSense, promotes the use of highly efficient plumbing fixtures, such as showerheads and urinals. Products that have been certified as meeting the WaterSense efficiency standards are

⁷ https://pubs.usgs.gov/gip/gw/how_a.html

⁸ Protecting Water Quality from Urban Runoff, USEPA, EPA 841-F-03-003

⁹ https://www3.epa.gov/caddis/ssr_urb_is1.html

¹⁰ https://www3.epa.gov/caddis/ssr_urb_is1.html

¹¹ Impervious cover: “*all impermeable surfaces and includes: paved and gravel road surfaces, paved and gravel parking lots, paved driveways, building structures, paved sidewalks, and miscellaneous impermeable structures such as patios, pools, and sheds.*” (NYS Stormwater Management Design Manual, August 2010, Section 4.1, published by the NYSDEC).

¹² https://www3.epa.gov/watersense/about_us/what_is_ws.html

¹³ https://www3.epa.gov/watersense/meet_our_partners.html

provided with a label indicating such certification. According to the EPA, water reducing plumbing fixtures can save *“11,000 gallons over the life of the faucet”*. By using highly efficient plumbing fixtures, building occupants will conserve water and lower their water bills without altering their water use habits. A reduced water usage will decrease the demand on public and private water supplies, which will improve resiliency during droughts, water shortages, and population growth.

In order to achieve these higher efficiency water standards, the maximum flow rates found in Table P2903.2 of the 2015 International Residential Code (IRC) and Table 604.4 of the 2015 International Plumbing Code (IPC) must be reduced to the limits used by the WaterSense program. Fixtures affected in the IRC include: lavatory faucets (32% reduction), shower heads (20% reduction), and water closets (19% reduction). Fixtures affected in the IPC include: private lavatories (32% reduction), shower heads (20% reduction), urinals (50% reduction), and water closets (19% reduction).

Water conservation has many other benefits in addition to lower water bills and more sustainable water supplies. After water is used, it is flushed down a drain where pipes convey it to a treatment facility. After treatment, the water is conveyed to a discharge point, which is normally a waterway. Therefore, water conservation reduces not only the volume of water that is consumed but also the quantity of wastewater that must be conveyed, treated, and discharged. This reduces the burden on aging treatment facilities. Moreover, sewer bills are normally based on metered water usage. The public will ultimately benefit from this proposed code change by reduced water bills, reduced sewer bills, and more sustainable water supplies.

Cost:

The cost impact of high-efficiency plumbing products has been assessed by California during its adoption of the WaterSense limits. For residential lavatory faucets, The California Energy Commission (CEC) concluded that *“there was no incremental cost between a 1.5 GPM faucet and a 2.2 GPM faucet, based on studies conducted by the investor owned utilities and verification through a retail price search*

showing no premium for the more efficient products¹⁴. For showerheads, the CEC found that *"the incremental cost for showerheads is zero because there is no cost premium for a compliant product (meaning that an efficient product and an inefficient product cost the same, all other variables constant)"¹⁵*. For water closets and urinals, the CEC found that *"The incremental cost for each product category is zero because there is no cost premium for a compliant product (meaning that an efficient product and an inefficient product cost the same, all other variables constant). This means that consumers will immediately save money on their utility bill upon installing a compliant product"¹⁶*.

The findings in New York with respect to assessing the cost impact of high-efficiency plumbing products are similar to California. The DOS reviewed the availability of WaterSense labeled showerheads, water closets, urinals, and residential lavatory faucets at a popular "big box" store. The results of the search concluded that WaterSense labeled plumbing fixtures are widely available and at comparable costs to standard fixtures as illustrated in the table below.

¹⁴ http://docketpublic.energy.ca.gov/PublicDocuments/15-AAER-05/TN205513_20150724T152718_Staff_Analysis_of_Lavatory_Faucet_Appliance_Standards.pdf

¹⁵ http://docketpublic.energy.ca.gov/PublicDocuments/15-AAER-05/TN205654_20150807T151426_Staff_Analysis_Of_Water_Efficiency_Standards_For_Showerheads.pdf

¹⁶ <http://www.energy.ca.gov/2014publications/CEC-400-2014-007/CEC-400-2014-007-SD.pdf>

Fixture Comparison						
Fixture Type	Quantity Available	Price Range			Average Price	Average Cost Difference ²
Showerhead						
WaterSense	7	\$25	-	\$55	\$34	\$7
Other ¹	15	\$3	-	\$50	\$27	
Water Closet						
WaterSense	23	\$88	-	\$349	\$206	\$7
Other	1	N/A	-	N/A	\$199	
Urinal						
WaterSense	10	\$144	-	\$819	\$370	-\$76
Other	35	\$144	-	\$985	\$446	
Lavatory Faucet						
WaterSense	68	\$20	-	\$248	\$99	\$8
Other	39	\$44	-	\$159	\$91	

¹ Non-WaterSense fixture

² Average Cost Difference = WaterSense Average Price - Other Average Price

In conclusion, there does not appear to be an appreciable cost associated with this proposed code change.

Alternatives:

An alternative to this proposal is to maintain the current flow rates for residential and commercial buildings. This would fail to make New York more resilient against water shortages, droughts, and population growth. Continuing to allow higher water usage also places an undue burden on aging infrastructure, affecting both potable water supply and wastewater treatment systems. For these reasons, this alternative was rejected in favor of adopting lower flow rates.

2015 IRC, 2015 IBC, and 2015 IFC

Portable Smoke Alarms

2015 IRC Sections: R314.9, as amended by the 2017 Uniform Code Supplement

2015 IBC Section: 907.2.11.8, as amended by the 2017 Uniform Code Supplement

2015 IFC Section: 907.9.1, as amended by the 2017 Uniform Code Supplement

Needs and Benefits:

Article 18 of New York State Executive Law, § 378 requires that the Uniform Code address certain subjects. One of these subjects pertains to portable smoke-detecting alarms for the deaf and hearing impaired. Specifically, Executive Law § 378(8) compels the Uniform Code to require that hotels, motels, and lodging houses provide *“portable smoke-detecting alarm devices for the deaf and hearing impaired of audible and visual design, available for three percent of all units available for occupancy, with a minimum of one unit. If any other law or regulation requires a central, closed circuit interior alarm system, such device shall be incorporated into or connected to the system so as to be capable of being activated by the system. Incorporation into the existing system shall be in lieu of the portable alarms. Standards shall require operators of any such establishment to post conspicuously at the main desk or other similar station a notice in letters at least three inches in height stating that smoke-detector alarm devices for the deaf and hearing impaired are available.”*

This Executive Law requirement is intended to ensure that occupants with a hearing disability are adequately notified in the event of a fire. Similar provisions appeared in the 2002, 2007, and 2010 Fire Code of New York State (FCNYS); however, the 2015 IRC, 2015 IBC, and 2015 IFC do not include such provisions. This code change is statutorily required. Adopting these provisions will not only ensure compliance with the Executive Law, but will also benefit the public by helping to ensure that occupants with a hearing disability are adequately protected in the event of a fire.

Cost:

The cost for a regulated party to comply with this rule appears to vary slightly, depending on whether or not the alarms are connected to a building's alarm system. A portable alarm could range from \$170¹⁷ to \$190¹⁸ per unit. If an interior alarm system is required by other code requirements, compliance cost for a hard wired alarm could be in the range of \$224¹⁹ per unit.

In addition to the alarm cost, regulated parties must post a notice at the main desk stating that "*smoke-detector alarm devices for the deaf and hearing impaired are available*". This can be accomplished by simply printing it at a 3" font, accomplished at a negligible cost. If a regulated party were to purchase a professionally manufactured *personalized desk sign*, compliance cost could be in the order of \$47²⁰ per sign.

Alternatives:

An alternative to this proposal is to not provide the smoke-detecting alarms for the deaf and hearing impaired. This would significantly compromise occupant safety during a fire event. It would also jeopardize the lives of firefighters who would be required to rescue the occupants during such emergencies. Any alternative to this proposal would result in the Uniform Code failing to comply with a statutory requirement of the Executive Law. For these reasons, the Department of State rejected all such alternatives.

Chapters 2, 7, and 8 of the 2017 Uniform Code Supplement**2015 IRC, 2015 IFC, & 2015 IPMC****Evacuation Notices**

2015 IRC Sections: R314.8, as amended by the 2017 Uniform Code Supplement

¹⁷ Gentex 7109LS AC Powered Wall Mount Smoke Alarm GEN-7109LS, Harris Communications

¹⁸ Gentex Smoke Detector w/Strobe (Plug-In W/Battery Backup) 7139LS, United TTY Sales and Service

¹⁹ \$204 Strobe and horn (ADA type), 28 31 23.50 5610 (2007 RSMMeans Electrical Cost Data, 30th Edition). Average adjustment factor for NYS = 1.1. Approximate cost = 1.1 x \$204 = \$224.

²⁰ <http://www.smartsign.com/>, 24" x 18" Design Own Palladio Sign

AJ102.7, as amended by the 2017 Uniform Code Supplement

2015 IFC Section: 403.13, as amended by the 2017 Uniform Code Supplement

2015 IPMC Section: 705.2, as amended by the 2017 Uniform Code Supplement

Needs and Benefits:

Article 18 of New York State Executive Law, § 378 requires that the Uniform Code address certain subjects. One of these subjects is the requirement for a specific type of life-safety notice to be placed in certain buildings. These buildings include: hotels, motels and lodging houses²¹, Group B3 senior citizen buildings^{22,23}, and bed and breakfast dwellings²⁴. According to the Executive Law, the notice shall contain the following information:

1. *The location of nearest exits and fire alarms;*
2. *The procedures to be followed when the fire or smoke detector gives warning; and*
3. *The procedures to be followed in the event of fire or smoke development.*

This statutorily required notice is intended to provide occupants with basic information that would allow them to make an informed decision during a fire incident. Similar provisions appeared in the 2002, 2007, and 2010 Fire Code of New York State (FCNYS); however, the 2015 IRC, 2015 IFC, and 2015 IPMC do not include such provisions. The notice addressed by this code change proposal is statutorily required. Providing this notice will not only ensure compliance with the Executive Law, but will also benefit the public by helping to ensure occupant safety during a fire event.

Cost:

²¹ Executive Law § 378(5); posted in a prominent place in each guest room.

²² Executive Law § 378(9); intended primarily for persons sixty-two years old or more, who are in good physical condition and do not require physical assistance; such notice posted in a prominent place in each residential unit.

²³ Group B3 senior citizen occupancies under the 1984 Uniform Code equate to Group R-2 senior citizen housing occupancies under the current Uniform Code.

²⁴ Executive Law 18 § 378(12)(a); posted in each guest room.

The cost for a regulated party to comply with this rule is a function of the size of the building and the level of detail required by the life-safety notice. For example, the notice required for a one story bed and breakfast dwelling with four guest rooms may require significantly less detail than that for a five story hotel with 12 guest rooms per floor. “Detail”, in this sense, pertains to a floor plan which is typically used to satisfy the criteria for *“the location of nearest exits and fire alarms”*.

The approximate cost²⁵ to comply with this rule could range from \$250 to \$400 for each professionally prepared life-safety notice. This excludes the cost of frames, which may be around \$10 per notice. There is no statutory requirement for a professionally prepared and framed notice. A code enforcement official may approve a notice with a significantly lower level of detail provided that it meets the code requirements.

In the case of the above bed and breakfast dwelling vs. hotel example, the compliance cost for a professionally prepared and framed notice could range from:

- Bed and Breakfast: $(\$250 + \$10 \text{ per notice}) \times 4 \text{ notices} = \$1,040$.
- Hotel: $(\$400 + \$10 \text{ per notice}) \times (12 \text{ notices per floor} \times 5 \text{ floors}) = \$24,000$

Alternatives:

One alternative to this proposal is not providing the life-safety notice in one or more of the occupancies required by the Executive Law. A second alternative would be to require such notice in all appropriate occupancies but not contain all appropriate information as required by Law. Any alternative would result in the Uniform Code failing to comply with a statutory requirement of the Executive Law. For this reason, the Department of State rejected all such alternatives.

Chapter 8 of the 2017 Uniform Code Supplement

2015 IPMC

²⁵ Estimates submitted by Building Maps (<http://www.building-maps.com>).

Off-Street Parking

2015 IPMC Section: 302.3.1, as amended by the 2017 Uniform Code Supplement

Needs and Benefits:

This proposal addresses the public need for accessible parking spaces, how this need is addressed at the federal level issued under a civil rights law, and the ability of an Authority Having Jurisdiction (AHJ)²⁶ to adequately enforce accessible regulations.

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination against persons with disabilities in State and local government facilities, commercial facilities, and places of public accommodation by ensuring access to the built environment. Common examples of commercial facilities and public accommodations include office buildings, factories, manufacturing plants, stores, restaurants, bars, and places of lodging.²⁷ On September 15, 2010, the United States Department of Justice published final regulations revising the Department's ADA regulations, including the adoption of updated 2010 ADA Standards for Accessible Design (ADA Standards). Compliance with the 2010 Standards was required on March 15, 2012. These legally enforceable standards represent the minimum requirements for accessibility, applicable to new and existing facilities.

In addition to the federal standards, building owners must also comply with the accessibility requirements established by State building codes²⁸. Design and construction under state and local codes complies with the ADA only when the codes provide accessibility that equals or exceeds the ADA requirements. When State building codes are not coordinated with the ADA Standards, building owners and design professionals shoulder the burden of ensuring compliance with both federal and state laws.

²⁶ Authority Having Jurisdiction (AHJ): A governmental unit or agency responsible for administration and enforcement of the Uniform Code.

²⁷ <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/guide-to-the-ada-standards/single-file-version>

²⁸ Guide to the ADA Standards Chapters 1 – 3, United States Access Board; <http://www.ada.gov/certcode.htm>

To minimize compliance burdens on entities subject to more than one legal standard, many of the federal requirements are coordinated with State building codes.

Authorities Having Jurisdiction do not have the authority to enforce the ADA on behalf of the federal government. Instead, they are only authorized to enforce the provisions of the Uniform Fire Prevention and Building Code (Uniform Code) in addition to any other applicable State or local law. In contrast, the ADA relies on the traditional method of civil rights enforcement through litigation in federal courts or through investigations of complaints filed with federal agencies. By coordinating the Uniform Code with the ADA Standards, AHJs are provided with a mechanism to enforce regulations that satisfy federal requirements.

The federal ADA Standards address many elements of the built environment. One such element is parking lots. According to the ADA Standards, a regulated entity (State or local government, business owner, etc.) must provide accessible parking spaces when such entity restripes a parking lot^{29,30}. Failure to comply will result in violation of the federal requirements. The 2010 Property Maintenance Code of New York State (PMCNYS) contained provisions for off-street parking lot restriping. These provisions compelled regulated entities to ensure that altered off-street parking lots (or portion thereof) that contain accessible spaces remain accessible. The provisions were triggered when certain levels of alteration were reached. Unfortunately, these accessibility provisions are not found within the 2015 International Property Maintenance Code that was adopted during the March 2016 update to the Uniform Code. This proposed code change will reinstate the restriping requirements that were found in the 2010 PMCNYS and will help ensure compliance with a federal requirement.

²⁹ <https://www.ada.gov/restripe.pdf>

³⁰ <http://www.parking.org/2016/02/12/tpp-2015-11-the-americans-with-disabilities-act-ada-and-parking/>

The proposed code change will require accessible parking complying with Sections 1106³¹ and 1101.2 of the 2015 IBC to be provided when performing³² any of the following categories of work in an off-street parking lot:

- Repaving or repainting more than one half of the total number of parking spaces in an off-street parking lot, which contain designated accessible parking spaces;
- Repaving or repainting more than one half of the total number of designated accessible parking spaces in an off-street parking lot; or
- Creating designated accessible parking spaces in an off-street parking lot.

The overall accessibility of a building is significantly impaired if the first accessible element leading up to the building (the parking lot) is not accessible. Adopting this code change will help ensure that people with special needs can enjoy the same activities as the rest of the public, at the same location, and with the same convenience and independence. Individuals with special needs will directly benefit from this code change.

Cost:

The proposed code change will result in an additional cost incurred by regulated entities when a code triggering event occurs. This will necessitate the following construction requirements and associated costs³³:

- Handicap symbol³⁴ (the international symbol of accessibility pursuant to 19 NYCRR Part 300): \$55 per space.
- Layout of pavement markings³⁵ (Accessible aisle striping): \$0.06/linear foot @ approximately 58 linear foot per aisle ~ \$4 per aisle.

³¹ As modified by the 2017 Uniform Code Supplement.

³² “Performing” shall mean work performed within a six month period of time.

³³ Costs obtained from 2015 RSMeans Light Commercial Cost Data, 34th Edition

³⁴ Handicap symbol, 32 17 23.14 1200 (2015 RSMeans Light Commercial Cost Data, 34th Edition)

³⁵ Layout of pavement markings, 32 17 23.14 0790 (2015 RSMeans Light Commercial Cost Data, 34th Edition)

- Parking striping³⁶: \$0.75/linear foot @ approximately 58 linear foot per aisle ~ \$44 per aisle.
 - Location factor³⁷ = $113.1 \div 100 = 1.13$
 - Total cost = $(\$55 + \$4 + \$44) \times 1.13 = \103

The proposed code change is expected to increase construction cost by approximately \$103 per accessible parking space. If a regulated entity were required to ensure that 10 off-street parking spaces were accessible, this cost would be \$1,030. The above estimates may be conservative, since two accessible parking spaces are permitted to share the same accessible aisle. This estimate is therefore a function of the arrangement of accessible parking spaces and accessible aisles.

Alternatives:

The alternative to this proposed code change is to do nothing. This would allow regulated entities to restripe off-street parking lots and neither require them to restore the accessible parking spaces as they existed prior to restriping, nor upgrade the spaces to current standards. This alternative would cause an overall degradation of accessibility at these building sites. A building that is fully accessible is rendered less accessible if individuals with special needs are unable to access it because of inadequate parking accommodations. The Department of State rejected this alternative for this reason.

4. COST

- a. COST TO REGULATED PARTIES FOR THE IMPLEMENTATION OF, AND CONTINUING COMPLIANCE, WITH THE PROPOSED RULE

³⁶ Parking striping, 32 17 23.13 0203 (2015 RSMMeans Light Commercial Cost Data, 34th Edition)

³⁷ The costs used in 2015 RSMMeans Light Commercial Cost Data, 34th Edition are based on national averages. A location factor may be used to adjust these average costs for a specific location. The location factor used in this estimate is the average of all the location factors for New York State.

The adoption of new text for the Uniform Code will affect the construction, configuration and cost of new buildings. Remodeling or construction of additions in existing buildings will be similarly affected. It is anticipated that regulated parties will see a change in construction costs and building operation costs as a result of this rule making, with some increases and some decreases depending on the project. As previously set forth above, the estimates for the cost and savings of each of the significant amendments have been separately addressed.

Regulated parties can obtain a copy of the 2017 Uniform Code Supplement on the Department of State's website at no cost.

b. COST TO THE AGENCY, THE STATE AND LOCAL GOVERNMENTS FOR THE IMPLEMENTATION OF, AND CONTINUED ADMINISTRATION OF, THE RULE

The Department of State – Building Standards and Codes Division will provide training on the amendments to the Uniform Code for all local government code enforcement personnel in the State at no cost to the municipalities.

Code enforcement personnel employed by the cities, towns, villages and counties that are required to administer and enforce the Uniform Code will need to receive training regarding the new and amended provisions of the Uniform Code. However, such code enforcement personnel are already required by regulation (19 NYCRR Part 1208) to receive 24 hours of annual in-service training, and it is anticipated that the training needed to familiarize code enforcement personnel with the revised Uniform Code to be implemented by this rule will be accomplished within that annual in-service training.

Local governments can obtain a copy of the 2017 Uniform Code Supplement on the Department of State's website at no cost.

5. LOCAL GOVERNMENT MANDATES

This rule making will impose some programs, services, duties and responsibilities upon counties, cities, towns, villages, school districts, fire districts and other special districts. When any of the aforementioned governmental entities undertake the construction of a building or structure, the construction process is subject to the provisions of the proposed rule to the same extent that the construction of a private building or structure would be regulated.

Pursuant to Executive Law §381, every city, town and village is responsible for administering and enforcing the Uniform Code. Consequently, local government personnel will require training in the details of this rule. However, the Department of State, Building Standards and Codes Division has funding available to provide for training local government code enforcement officials. This training will provide knowledge to enable local government to enforce this regulation.

6. PAPERWORK

This rule will not impose any additional reporting or record keeping requirements. No additional paperwork is anticipated.

7. DUPLICATION

The Uniform Code provides standards for the construction and maintenance of buildings and structures and for the protection of buildings and structures and their occupants from the hazards of fire. The federal government does not impose comprehensive requirements for these matters. The federal government has addressed the topic of accessible and usable facilities for persons with disabilities through adoption of the Americans with Disabilities Act (ADA) and the Fair Housing Act. Although the existence of federal and state standards may raise issues of overlap or conflict, no such overlap or conflict exists with this proposed rule.

Several State agencies have promulgated regulations which impose requirements upon buildings or structures that house activities licensed or regulated by the particular agency. Although such regulations may affect the construction and/or maintenance of particular buildings or structures, they are not a comprehensive building and fire prevention code like the Uniform Code. Such regulations may impose an additional layer of regulation upon the construction, maintenance, or use of certain categories of buildings. These other regulations, however, are focused upon activities or occupants regulated or protected by the particular State agency and have been promulgated pursuant to statutory authority other than Article 18 of the Executive Law. For the most part, such additional requirements may coexist with the provisions of the Uniform Code without conflict. To the extent that any other State agency regulation conflicts with provisions of the Uniform Code, such other regulation is superseded by the code. Executive Law §383(1) provides:

“The provisions of this article (i.e., Executive Law, Article 18) and of the Uniform Fire Prevention and Building Code shall supersede any other provision of a general, special or local law, ordinance, administrative code, rule or regulation inconsistent or in conflict therewith . . .”

8. ALTERNATIVES

It is the policy of the Department of State to modernize and amend the Uniform Code, so as to maintain consistency with the national model codes, to keep building practices in New York State consistent with practice nationally, and to incorporate new technical developments in a timely manner. This rule making became necessary in light of the statutory requirements and special conditions specific to New York State. Consequently, the alternative of maintaining existing provisions of the Uniform Code was rejected.

To assist the Code Council, staff at the Department of State, Building Standards and Codes Division reviewed the 2016 Uniform Code Supplement and made recommendations to the Code Council to amend certain provisions of the Uniform Code deemed appropriate and applicable to continually developing design and construction issues and needs in New York State.

Proposed New York modifications were posted on the DOS website for public inspection. In addition, the Department maintains a list of over 10,000 interested parties that have signed up for e-bulletins regarding code issues, including code development proposed code changes.

Public hearings will be held after a notice of proposed rule making has been published in the State Register in accordance with the provisions of the State Administrative Procedure Act. A draft of the proposed code will also be available on the Department's website and an e-bulletin will be sent announcing that fact.

9. FEDERAL STANDARDS

The Uniform Code provides standards for the construction and maintenance of buildings and structures and for the protection of buildings and structures and their occupants from the hazards of fire. The federal government does not impose comprehensive requirements for these matters. The federal government has addressed the topic of accessible and usable facilities for persons with disabilities through adoption of the Americans with Disabilities Act (ADA) and the Fair Housing Act. Although the existence of federal and state standards may raise issues of overlap or conflict, no such overlap or conflict exists with this proposed rule.

10. COMPLIANCE SCHEDULE

The target date for publishing a notice of adoption for this rule making is June 2017. Upon adoption of the rule making the change to the Uniform Code will become effective ninety days after the date on which notice of such change has been published in the state register. See Executive Law §378(15).