



The New York City Council Committee on Housing and Buildings Wednesday, June 22, 2016

Hearing on Int. No. 1169-2016 – A Local Law to amend the administrative code of the city of New York, in relation to conforming the New York City energy conservation code to the New York state energy code with amendments unique to construction in the city and repealing section 28-1001.2

Testimony by Daniel H. Nall PE, Vice Chair, Energy Codes Committee, American Council of Engineering Companies of New York (ACEC New York)

On behalf of the American Council of Engineering Companies of New York / Metropolitan Region (“ACEC New York”), I’d like to thank the Mayor’s Office, City Council and the NYC Department of Buildings for inviting us to share our perspective on the city’s efforts to update the New York City energy code. I am a Vice President of the Syska Hennessy Group located in New York City and as Vice Chair of the ACEC New York Energy Codes Committee, I am here today to testify in favor of the proposed update to the New York City Energy Conservation Code.

Founded in New York City in 1921, ACEC New York is one of the oldest continuing organizations of professional consulting engineers in the U.S. ACEC New York represents 280 engineering and affiliate firms throughout New York State that collectively employ more than 20,000 people statewide, with a concentrated presence of firms located within the five boroughs of New York City. ACEC New York is dedicated to promoting growth of the industry through the education of our members, promotion of cooperative relationships, and by addressing specific areas of concern on behalf of our membership. Our members volunteer hundreds of hours every year helping NYCDOB with Construction Code updates.

The legislative schedule for adoption of Intro 1169 is of critical importance to all New York City stakeholders. By State process, the new New York State Energy Code will go into effect on October 3 of this year. As such, and by law, the New York City code update must also go into effect on or before this date. Since the design process for new buildings takes many months, and sometimes years, project Owners and design professionals for projects that will need file for building permits in the October time frame are already at risk due to the uncertainty of the pending code update, relative to design decisions that needed to be made some time ago. Thus, I wish to emphasize the acute need to pass this Intro prior to the end of June, in order to allow the industry time to react to the required design changes prior to effective October 3rd date.

Next, I would like to call attention to continuing the precedent set in the last Energy Code update, in modifying section C407 (Total Building Performance) of the Code by replacing the requirements of the International Energy Conservation Code with the analogous requirements of ASHRAE Standard 90.1-2013. This step greatly simplifies the complexity of the Energy Code by removing a redundant energy modeling-based compliance path that is not well articulated nor

clearly defined in the International Code, and instead utilizing the National Standard compliance path of ASHRAE Standard 90.1. This step will reduce the total number of compliance paths available in the Code for Commercial buildings in New York City from six to five. This is a critically important step, and hopefully just a first step, toward rationalizing this important Code toward a balance point between flexibility and complexity, similar to that currently found in all of the New York City Construction Codes, none of which approach this level of complexity or flexibility.

I wish to call attention to a critical omission in the proposed Energy Code update, namely the issue of Code Interpretations and Code Variances. Unlike any of the other New York City Construction Codes, New York City currently provides a complicated process for applicants to receive interpretations or variances in that the New York State Department of State must be consulted for those provisions of the Code that are carried forward from the State Energy Code. We understand this procedural burden is primarily attributable to provisions in the current State Energy Law. Nevertheless, this is in stark contrast to the implementation procedures and practices for all of the other New York City Construction Codes whereby New York City enjoys full autonomy in this regard. This lack of administrative process is becoming a significant problem in the City of New York, especially as the performance requirements of the City Energy Code continues to increase. We strongly recommend that, in some form or another, this critical issue be specifically addressed between the City and the State.

On a related issue around enforcement of the Energy Code, it is worth repeating that this Code is very complex and difficult to fully comprehend for both practitioners and public officials alike, especially so for the energy modeling compliance path. Thus, two Department functions are essential for the successful implementation of this Code update:

1. In order to effectively administer and enforce the Energy Code, it is critical that Department staff, who will be reviewing these submissions for compliance, be adequately trained in this technical area. We commend the initial efforts by the Department in this regard and strongly recommend continued ongoing support for this critical staff function.
2. The literal working format of this Code update consists of three separate but intertwined documents: the 2015 International Energy Code, the recently enacted New York State Supplement and this Intro 1169. Essential to the practical implementation of this Code is the creation of an integrated code document which combines the language of the three stand-alone texts. We applaud the preparation of this integrated document by the Department for the current Energy Code and strongly recommend that this important function be repeated again for this Code update.

Thank you for your consideration of these comments. I would be pleased to answer any questions you may have.