

TEXT OF RULE

1. Subpart 1229-2 of Part 1229 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is repealed and replaced with a new Subpart 1229-2 to read as follows:

Subpart 1229-2

Fossil-fuel Equipment and Building Systems

Section 1229-2.1 Introduction.

This Subpart establishes standards, in addition to those set forth in Parts 1219 through 1228 of this Title, for the installation of fossil-fuel equipment and building systems.

Section 1229-2.2 Purpose.

This Subpart implements the provisions of subdivision nineteen of section 378 of the Executive Law, as amended by Part RR of Chapter 56 of the Laws of 2023.

Section 1229-2.3 Definitions.

(a) Unless otherwise expressly stated, for the purposes of this Subpart, the following terms shall be deemed to have the meanings set forth in this subdivision.

(1) Agricultural building. A building or structure which is designed and constructed to have its primary purpose to be part of a farm operation as defined in section 301 of the Agriculture and Markets Law, including, but not limited to, those located on a property that is within either a county adopted state certified agricultural district or on a property that has an active approval for an agricultural assessment. This definition excludes any building or structure used in whole or in part as a place of human habitation.

(2) Car wash. A commercial building or structure, or portion thereof, containing fixed commercial equipment for washing vehicles either manually or automatically.

(3) Commercial food establishment. A commercial building or structure, or portion thereof, excluding dwelling units or sleeping units, where food preparation is performed for consumption either on-site or off-site, including, but not limited to, cooking, baking, boiling, broiling, frying, grilling, drying, roasting, heating, or reheating.

(4) Crematorium. A building or structure, or portion thereof, that uses heat and flame, to reduce human or animal remains or tissue to ashes and other residue.

(5) Critical infrastructure. A building or structure, or portion thereof, used for or as any one of the following:

(i) public mass transit facility used for emergency evacuation;

(ii) public utility facility or other power-generating station required as emergency backup facility for Risk Category IV structures, as indicated in Chapter 16 of the 2024 BCNYS;

(iii) storage of materials defined in the 2024 FCNYS to be a health hazard where such materials would be a threat to the general public if released;

(iv) aviation control tower, air traffic control center, and emergency aircraft hangar;

(v) national defense function;

(vi) emergency management facility;

(vii) wastewater treatment facility;

(viii) water treatment and pumping facility; or

(ix) flood control and pumping facility.

(6) Electrification ready. A building or structure, or a portion thereof, which contains electrical systems and designs that provide sufficient capacity, as determined by the Energy Code, for a future replacement of

fossil-fuel equipment and building systems that produce greenhouse gas emissions with electric-powered equipment.

(7) Emergency management facility. A building or structure, or portion thereof, or system used to provide emergency services to the general public, including, but not limited to, emergency preparedness, communications and operations centers, disaster relief, emergency housing, fire protection, ambulance, rescue, police, emergency shelters, or other facilities required for emergency response, including the administrative and support facilities and vehicle storage facilities essential to the operation of such emergency management or functions, even if not contiguous.

(8) Fossil-fuel equipment and building systems means:

(i) equipment, as such term is defined in section 11-102 of the Energy Law, that uses fossil-fuel for combustion; or

(ii) systems associated with a building that will be used for or to support the supply, distribution, or delivery of fossil-fuel for any purpose, other than for use by motor vehicles. This shall not include systems that support an industrial or commercial process.

(9) Fuel cell system. A device or system that uses the chemical energy of a fuel, such as hydrogen, to produce electricity with no carbon byproducts.

(10) Grid. Grid shall have the same meaning as an electric plant, as defined in section two of the public service law, including the generation, transmission, and distribution of electricity.

(11) Hospital and other medical facility. A building or structure, or portion thereof, where care involving medical or surgical procedures, nursing, or psychiatric purposes is performed or provided, which includes but is not limited to any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, or ambulatory surgical center.

(12) Laboratory. A commercial building or structure, or portion thereof, equipped for scientific experiments, research, teaching, testing, or for the manufacture of drugs or chemicals.

(13) Laundromat. A building or structure, or portion thereof, used for the commercial, institutional, or industrial washing of clothing, linens, rags, rugs, or other textiles by either the public or an employee(s) of the establishment.

(14) Local electric corporation. An “electric corporation” as that term is defined under section two of the Public Service Law that has authority under any general or special law or under any charter or franchise to lay down, erect, or maintain wires, conduits, ducts, or other fixtures in, over, or under the streets, highways, and public places where the building or development seeking new or expanded electric service is located.

(15) Local utility. A local utility shall mean a local electric corporation or municipal utility.

(16) Manufactured home. A building as defined in subdivision seven of section six hundred one of the Executive Law.

(17) Manufacturing facility. A building or structure, or portion thereof, that is used for manufacturing and industrial processing, including, but not limited to the fabrication or production of tangible products, chemicals, or materials, including processing that results in a change in the condition of such goods, chemicals, or material.

(18) Municipal utility. A “municipality” as that term is defined under section two of the Public Service Law that has authority under any general or special law to lay down, erect, or maintain wires, conduits, ducts, or other fixtures in, over, or under the streets, highways, and public places within the municipality where the building or development seeking new or expanded electric service is located.

(19) Substantially complete building permit application. A building permit application that, in the opinion of the authority having jurisdiction, includes sufficient information and documentation required by the stricter of either the authority having jurisdiction’s Code Enforcement Program or the requirements set forth in

19 NYCRR Part 1203, such that the authority having jurisdiction can examine the application and make a determination as to whether the proposed work is in conformance with the requirements of the Uniform Code and Energy Code.

(20) Wastewater treatment facility. A building or structure, or portion thereof, or equipment and processes required to collect, carry away, pump, and treat domestic and industrial wastes and dispose of the effluent.

(21) Water treatment and pumping facility. A building or structure, or portion thereof, used for a public water system which provides water to the public for human consumption through pipes or other constructed conveyances, including the collection, treatment, storage, and distribution facilities or equipment. This term shall also include any water storage facilities and pumping facilities required to maintain water pressure and flow for fire suppression.

(b) For this Subpart, the terms 2024 BCNYS, 2024 EBCNYS, 2024 FCNYS, 2024 FGCNYS, 2024 MCNYS, 2024 PCNYS, 2024 PMCNYS, and 2024 RCNYS shall have the meanings ascribed to those terms in section 1219.2 of this Title.

(c) Other terms. Terms used in this Subpart and not defined in subdivision (a) or (b) of this section shall have the meanings ascribed to those terms in the 2024 BCNYS, the 2024 EBCNYS, the 2024 FCNYS, the 2024 FGCNYS, the 2024 MCNYS, the 2024 PCNYS, the 2024 PMCNYS, and/or the 2024 RCNYS.

Section 1229-2.4 Applicability of the prohibition against installation of fossil-fuel equipment and building systems in buildings.

(a) General. Notwithstanding the exemptions provided in section 1229-2.5, the installation of fossil-fuel equipment and building systems in buildings, including any future repair, alteration, addition, relocation, or change of occupancy or use of such building, shall be prohibited in:

(1) any building not more than seven stories above grade plane in height, except for any commercial or industrial building greater than one hundred thousand square feet in conditioned floor area, for which a substantially complete building permit application is submitted on or after December 31, 2025; and

(2) any building for which a substantially complete building permit application is submitted after December 31, 2028.

Section 1229-2.5 Exemptions.

(a) Exempt. Notwithstanding the prohibition requirements in section 1229-2.4, fossil-fuel equipment and building systems shall be allowed in the following installations and uses:

- (1) in a manufactured home;
- (2) in an agricultural building;
- (3) in a building or part of a building that is used as a critical infrastructure;
- (4) in a building or part of a building that is used as a hospital or other medical facility;
- (5) for generation of emergency back-up power and standby power.

(b) Conditionally exempt.

(1) Notwithstanding the prohibition requirements in section 1229-2.4, and subject to the conditions in paragraph (2) of this subdivision, fossil-fuel equipment and building systems shall be allowed in the following installations and uses in a building or a part of a building that is used as a:

- (i) car wash;
- (ii) commercial food establishment;
- (iii) crematorium;
- (iv) fuel cell system;
- (v) laboratory;
- (vi) laundromat; or

(vii) manufacturing facility.

(2) Conditions: The exemptions provided pursuant to this subdivision shall not include fossil-fuel equipment and building systems related to lighting, heating, humidification, ventilation, cooling, and water heating, and shall, to the fullest extent feasible, be subject to the following limitations, provided that such limitations do not adversely affect health, safety, security, or fire protection:

(i) except with respect to fossil-fuel equipment and building systems servicing a manufacturing facility, the area or service within a building where fossil-fuel equipment and building systems are installed shall be electrification ready; and

(ii) emissions from fossil-fuel equipment and building systems shall be minimized by demonstrating that the alternative materials, equipment, or methods of construction used result in measurable emissions reductions or increased energy efficiency.

(c) Grid reliability exemption. Notwithstanding the prohibition requirements in section 1229-2.4, fossil-fuel equipment and building systems shall be allowed when a building owner or applicant provides to the authority having jurisdiction a determination indicating that new or expanded electric service cannot be reasonably provided by the local utility to such building by the electric transmission and distribution system. The determination shall be issued by the local utility, on a written form prescribed by the New York State Public Service Commission, in response to an application for new or expanded electric service submitted by the building owner or applicant.