

Regulatory Flexibility Analysis for Small Businesses and Local Governments

The proposed rule is not expected to have an effect on small businesses or local governments. It impacts solely the New York State Fire Prevention and Building Code Council (the “Code Council”) and has no direct impact on small businesses or local governments. The proposed rule provides specific guidance on how the cost effectiveness can be determined regarding any changes made by the Code Council to the State Energy Conservation Construction Code (the “ECCC”). NYSERDA was tasked with creating the proposed rule by the New York legislature.

Under Energy Law § 11-103(2)(a), the Code Council is to determine whether the code remains cost-effective after amendments. To make such determination, §11-103(2)(a) requires the Code Council to consider: “(i) whether the life-cycle costs for a building will be recovered through savings in energy costs over the design life of the building under a life-cycle cost analysis performed under methodology as established by the New York state energy research and development authority in regulations which may be updated from time to time, and (ii) secondary or societal effects, such as reductions in greenhouse gas emissions, as defined in regulations.”

Accordingly, §11-102(2)(a), which has been passed into law by the New York State legislature, has already set out the steps to determine cost-effectiveness. The purpose of the proposed rule is to minimize the economic and financial impact of such changes made by the Code Council.

Therefore, the proposed rule, by itself, will not have direct impacts on small businesses or local governments. It will not have any direct impact the cost of construction, as it does not set any requirements for new or existing buildings. Any indirect impacts caused by decisions by the Code Council are speculative and hypothetical, and, further, are unrelated to the language of the proposed rule, itself. For these reasons, a Regulatory Flexibility Analysis is not being submitted with this rule.