

New York State Residential Green Building Program NYSERDA Briefing Paper

Section 1: Introduction and Background

Public Authorities Law (PAL) 1872 was signed into law on September 26, 2008. PAL 1872 authorizes NYSERDA to create and administer a green residential building program (Program) in New York State. The Program is to provide incentives to eligible building owners of new green residential buildings with fewer than 12 dwelling units who receive a Certificate of Occupancy, or to owners who complete substantial renovations on existing residential buildings with fewer than 12 dwelling units, on and after January 1, 2010 and before October 31, 2013.

NYSERDA is currently developing the administrative rule language which will establish standards and criteria for implementing the Program.

Section 2: Advisory Group

PAL 1872 also authorizes NYSERDA to consult with other state agencies or authorities in developing green residential building standards. An Advisory Group is being convened, consisting of agency staff, and other stakeholders with interests in green building, including builders, architecture and engineering professionals, and staff from not-for-profit organizations.

Those invited to serve on the New York State Residential Green Building Program Advisory Group are well-regarded for their technical knowledge of green building and practical knowledge of the building industry in New York State. NYSERDA's Executive Team, Management and staff are confident that they will provide valuable input and guidance going forward on how the Program might best serve intended participants.

Section 3: Anticipated Program Implementation Schedule

In order to meet the implementation deadline of January 1, 2010, NYSERDA has created a schedule to transmit rule language guiding implementation of the Program to the Governor's Office of Regulatory Reform (GORR). After GORR review and approval to proceed, the proposed rule would be submitted to the Department of State. A public comment period would then open, and if no substantial changes are required, NYSERDA could move forward with adoption of the final rule, anticipated for Fall 2009. If significant changes to the rule are needed after the public comment period, the rule would again require GORR review and another public comment period. NYSERDA will develop marketing and outreach materials for the Program and select an implementation contractor to process incentive applications.

Section 4: Program Goals and Incentive Funding

NYSERDA's fundamental goal for the Program is to have systems in place for building owners to apply for and begin receiving incentives on January 1, 2010. This meets the timeline mandated in the statute, and the intent to make incentives available to increase the number of green homes in the New York State market. The incentives are intended to help offset costs associated with planning, designing, constructing and certifying green homes.

Addressing Substantial Renovations

Language in the statute indicates that the Program is to provide incentives for use of green building practices in "substantial renovations." There is practical value to promoting green renovation and remodeling at this time: the instability in credit markets has had far-reaching negative impacts on the new home buying and construction markets, and many homeowners in New York State will likely be staying in their current homes and improving them over the next several years.

At this time, existing residential green certification systems are primarily targeted to the new construction market, making it difficult for renovations, additions, and remodels smaller in scope than complete or "gut" rehabilitations to achieve certification. NYSERDA is researching the viability of existing green certification programs for residential building remodels or additions to determine if any are applicable for purposes of the Program.

Energy Efficiency Requirements

Improving energy efficiency in the residential building sector, and reducing energy use and the environmental impacts associated with its production, are fundamental by any measure to a home being "green" and claiming to offer improved environmental performance. Based on this premise, NYSERDA intends to require that both new construction and substantial renovation projects seeking incentives through the Program must at least meet the performance requirements to obtain an ENERGY STAR Label in New York State for new home construction.

Setting Incentive Levels

Input from the Advisory Group will be critical in helping to determine incentive levels that will be appropriate and sufficient to encourage rapidly increasing uptake of residential green building in the New York State market. PAL 1872 establishes the building configurations and maximum incentives available for the Program, as detailed in the table on the following page. While this sets the upper bound of incentives available, NYSERDA will propose setting the incentive levels to offset some of the incremental costs typically associated with certified green building construction, depending on the building configuration. These costs generally include planning, design, energy modeling, choosing and installing green building materials, and documentation. NYSERDA is currently compiling data from Leadership in Energy and Environmental Design (LEED®) for Homes Providers to determine a reliable incremental cost range, and has reviewed a report on green building certification cost estimates prepared by the National Association of Home Builders (NAHB) Research Center.

New York State Residential Green Building Program - Maximum Incentives

Building Configuration	Incentive Level (maximum \$3.75/sq. ft.)	Maximum Total Incentive Available
1-2 Dwelling Units	Up to 2,000 sq. ft.	\$7,500
3-5 Dwelling Units	Up to 3,000 sq. ft.	\$11,250
6-11 Dwelling Units	Up to 4,000 sq. ft.	\$15,000

Section 5: Program Criteria

NYSERDA’s base criterion for Program development is the widely-accepted understanding that a successful green building program must be based on measuring and certifying green building performance using a third party-verified, comprehensive approach. This includes energy and water efficiency performance well beyond code requirements, site development and storm water management best practices, measures to improve indoor air and environmental quality, and selecting and installing greener building materials and finishes. As with other programs administered by NYSERDA, a second key criterion is that a robust infrastructure to administer third-party inspection and verification of green building features and performance must be in place as a part of the certification process. NYSERDA would rely significantly on certifying organizations to provide quality assurance and training, but may partner with stakeholder organizations to make green building training opportunities available.

Establishing Green Building Standards and Criteria

The statute authorizes NYSERDA to develop “rules and regulations to establish green residential building standards and/or criteria.” While developing a New York State-specific system or set of criteria presents an important opportunity, there are several compelling practical benefits to referencing existing well-vetted, consensus-based residential green building rating systems or standards:

- These rating systems or standards, such as the LEED for Homes Rating System or the ANSI Accredited National Green Building Standard (- NGBS), have been developed over several years with expert input from builders and design professionals, planners, and public health and environmental conservation organizations. NYSERDA will consider all such existing standards.
- These programs can provide comprehensive, reliable measures of green building performance based on proven techniques and best practices in the home building industry.
- The cost and time associated with the development of a new standard is both impractical in the timeframe provided, and unnecessary in light of the existing standards.

- Certification through a nationally-recognized green building rating system or standard may help building owners qualify for federal tax credits.

Because the rulemaking process and Program development must move forward very quickly, NYSERDA intends to refer to LEED for Homes, LEED New Construction, and the NGBS in the rule, and require successful certification—at a levels yet to be determined--as a performance requirement for receiving incentives through the Program.