STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
Department of Administration
Rules Relating to the Green Buildings Act

NOTICE OF PUBLIC HEARING

The Director of the Rhode Island Department of Administration is considering the adoption of a rule concerning whether a project qualifies for an exception from the LEED certified or equivalent high-performance green building standard, and the lesser green building standards that may be imposed on projects that are granted exceptions.

This proposed rule is promulgated in accordance with section 37-24-5(a) of the General Laws of Rhode Island. This section is included within Chapter 212 of the Public Laws of 2009, also referred to as "The Green Buildings Act". The proposed rule is also promulgated in accordance with Chapter 42-35 of the General Laws of Rhode Island, as amended.

Notice is hereby given in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended, that a public hearing on the above proposed rules and regulations shall be held on the 14th day of October, 2010 at 10:00 a.m. in Conference Room B in the William E. Powers Building (Department of Administration Building), One Capitol Hill, Providence, Rhode Island, at which time and place all persons interested will be heard.

In the development of the proposed amended rules and regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business, as defined in Chapter 42-35 of the Rhode Island General Laws, as amended, which may result from these regulations. No alternative approach or duplication or overlap was identified based upon available information.

Copies of the proposed rules and regulations are available for public inspection at the offices of the Building Code Commission, One Capitol Hill, Providence, RI 02908, or by calling Jeanne Enos at 401-222-1129, or by sending an email to: jenos@gw.state.ri.us

For the sake of accuracy, it is requested that statements made relative to any aspect of the regulations, including alternative approaches, overlap, or significant economic impact, be submitted in writing at the time of the hearing or mailed prior to the hearing date to: Jeanne Enos, Building Code Commission's Office, One Capitol Hill, Providence, RI 02908. Oral statements made at the public hearing will be considered, but should be limited to five minutes each.

Conference Room B is accessible to individuals with disabilities. Individuals requesting interpreter services for the hearing impaired must call James Pitassi at 222-6395 at least forty-eight (48) hours in advance of the hearing date.

Signed this 10th day of September, 2010

Rosemary Booth Gallogly

Rosemary Booth Gallogly
Director, Department of Administration

State of Rhode Island and Providence Plantations
A. Ralph Mollis
Secretary of State

Rules and Regulations Filing Form

1. Agency Name and Address
Administration, Department of
One Capitol Hill, Providence, RI

2. Title of Rule
Rules and Regulations to Implement the Green Buildings Act

3. Statutory Source of Authority
RIGL section 37–24–5(a)

4. Concise Explanatory Statement – §42–35–2.3
These rules and regulations describe how the department of administration will determine whether a project qualifies for an exception from the LEED certified or equivalent high–performance green building standard, and the lesser green building standards that may be imposed on projects that are granted exceptions. In addition, the rules and regulations set forth standards for the green buildings advisory committee.

5. Type of Filing

Emergency Rules

A1. Emergency 120–day initial – §42–35–3(b)
☐ Adoption
☐ Amendment of ERLID:
☐ Repeal of ERLID:

A2. Emergency 90–day renewal – §42–35–3(b)
☐ Adoption
☐ Amendment
Indicate ERLID of 120–day initial:

Brief Statement of Reason for Finding Imminent Peril §42–35–3(b)(2):

Final Rules

☐ B1. Amendment ☑ B2. Adoption ☐ B3. Repeal ☐ C. Technical Revision

Supersedes ERLID: Repeals ERLID: Expires ERLID:

If B1 or C, please indicate new, amended, deleted, or revised sections:

6. Notice and Hearing Information
Date of Public Notice – §42–35–3(a)(1):09/14/2010
Date of Public Hearing – §42–35–3(a)(2):10/14/2010
End of Comment Period:10/15/2010

7. Agency Additional Information – Web Page
http:// .

8. Certification

I hereby certify that the attached rules and regulations were adopted in accordance with the Administrative Procedures Act (42–35) and that they are true copies of this Department, attest,

_____
Name

_____
Title

_____
Notary Public

Subscribed and sworn before me
this_____ day of _____, _____

Rules and Regulations to Implement the Green Buildings Act
September 8, 2010

Section 1. Purpose of Rules

These rules and regulations are promulgated in order to implement Chapter 37-24 of the Rhode Island General Laws and are authorized by RIGL section 37-24-5(a).

This Chapter was enacted on November 9, 2010 as Chapter 212 of the Public Laws of 2009 is referred to as "The Green Buildings Act", and is otherwise referred to within as the Act.

These rules and regulations describe how the department of administration will determine whether a project qualifies for an exception from the LEED certified or equivalent high-performance green building standard, and the lesser green building standards that may be imposed on projects that are granted exceptions. In addition, the rules and regulations set forth standards for the green buildings advisory committee.

Section 2. Definitions

A. Except for definition (4.1), the following definitions are set forth in the Act in RIGL section 37-24-3:

(1) "Department" means the department of administration.
(2) "LEED certified standard" means the current version of the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard referred to as LEED certified.
(3) "Equivalent standard" means a high-performance green building standard other than LEED, which provides a rating system or measurement tool, that, when used, leads to outcomes, similar or equivalent to, LEED, outcomes, in terms of green building performance; current accepted equivalent standards include green globes, Northeast collaborative high-performance schools protocol; or other equivalent high-performance green building standard accepted by the department;
(4) "Construction" means the process of building, altering, repairing, improving, or demolishing forty percent (40%) or more of any public structures or buildings, or other public improvements of any kind to any public real property;

(4.1) "Forty percent (40%) or more of any public structures or buildings" shall mean the LESSER OF the following values:

1. The Gross Square Footage (GSF) of the structure, OR
2. The currently listed insurance value of the structure, OR
3. The currently held insured value of the structure, OR
4. The currently listed tax value of the structure, OR

5. The currently listed market value of the structure.

(5) "Public facility" means any public institution, public facility, public equipment, or any physical asset owned, leased or controlled in whole or in part by this state or any agency or
political subdivision thereof;

(6) "Major facility project" means:

(i) A building construction project larger than five thousand (5,000) gross square feet of occupied or conditioned space; or

(ii) A building renovation project is larger than ten thousand (10,000) gross square feet of occupied or conditioned space.

(7) "Public agency" means every state office, board, commission, committee, bureau, department or public institution of higher education.

B. In addition to the above definitions, the following term is defined as follows:

(1) "Design Phase" means any phase of design work beginning with the legal entity's execution of an agreement for professional services, such as engineering or architecture, or the legal entity's self-performance of said professional services that occurs PRIOR TO the entities' execution of a construction contract or agreement.

Section 3. Notification Process

(1) As required by RIGL section 37-24-4, all major facility projects of public agencies, that have not entered the design phase prior to January 1, 2010, shall be designed and constructed to at least the LEED certified or an equivalent high performance green building standard.

(2) The Department shall annually notify all entities covered by the Act of their legal obligations and requirements under the Act and these rules, including all reporting requirements.

Section 4. Green Buildings Advisory Committee

(1) Composition As stated in RIGL section 37-24-5, the department shall create a green buildings advisory committee composed of representatives from the design, construction, lumber and building materials industries involved in public works contracting, personnel from affected public agencies and school boards that oversee public works projects, and others at the department's discretion to provide advice on implementing this section.

(2) Responsibilities:

(a) The advisory committee shall make recommendations regarding an education and training process and an ongoing evaluation or feedback process to help the department implement the Green Buildings Act. (RIGL section 37-24-5).

(b) In addition:

1.the Building Commissioner will, at all times, seek the advice and counsel of the Green Buildings Advisory Committee and shall inform the Committee of all granted variances; and

2. the Commissioner shall seek the advice and council of the Green Buildings Advisory Committee in making determinations of all equivalent standards.

(3) Operation

a. The chairman of the committee shall be selected by the director of the department of administration. A Vice-chairperson and a secretary shall be appointed by committee members.

b. Members shall serve for staggered terms and may be reappointed.

c. The committee shall meet at least nine (9) times per year.

d. The committee may establish such subcommittees as it deems necessary.

Section 5. Exceptions to Green Building Standards

(1) The department is authorized to determine whether a project qualifies for an exception from the LEED certified or equivalent high-performance green building standard and the lesser green building standards that may be imposed on projects that are granted exceptions. (see RIGL section 37-24-5)

(2) As stated in RIGL section 37-24-4, a major facility project does not have to meet LEED certified standard or an equivalent high-performance green building standard if:

(a) There is no appropriate LEED standard or other high-performance green building standard for that type of building or renovation project. In such case and as stated in RIGL section 37-24-5, the department will set lesser green building standards that are appropriate to the project.

(b) There is no practical way to apply the LEED standard or other high-performance green building standard to a particular building or renovation project. In such case and as stated in RIGL section 37-24-5, the department will set lesser green building standards that are appropriate to the project.

Section 6. Equivalent Standards to LEED Certification

(1) The following are deemed to be LEED Equivalent Standards:

a. High Performance Schools Standards, as required by the Rhode Island Department of Elementary and Secondary Education, as a condition of construction reimbursement;

b. Green Globes Certification;

c. International Green Construction Code (IGCC); and

d Any other equivalent standards, as determined by the State Building Commissioner, that meet the intent of the Act. .

Section 7. Applying for an Exception

(1) Any and all requests for an exception from the LEED certified or equivalent high-performance green building standards need to be directed to the Department of Administration, State Building Commissioner.

(2) In deciding whether to approve a request for an exception, the State Building Commissioner shall consider whether one or more of the following described hardships exist:

a Economic Hardship related to the specific structure or project, not including ongoing economic hardship of the covered entity.
b Undo Hardship related to the impracticality of achieving a green building standard for the subject structure.
c Other Hardship not otherwise covered herein, including, but not limited to disaster reconstruction or structural damage caused by fire, vandalism, theft, or act of God that may be in excess of threshold applicability standards covered by the act.

(3) The applicant must establish why any such exception shall be made and why the such exception(s) would not have an adverse effect.

(4) Before a structural hardship variance is granted, the covered entity must agree to a timetable that describes when the lesser green building standards will likely be completed.

Section 8. Annual Report

(1) The department shall monitor and document ongoing operating savings that result

from major facility projects designed, constructed and certified as meeting the LEED certified standard and annually publish a public report of findings and recommended changes in policy. (See RIGL section 37-24-5)

(2) The report shall also include a description of projects that were granted exceptions from the LEED certified standard, the reasons for exception, and the lesser green building standards imposed. (See RIGL section 37-24-5)

(3) The annual report will be issued in December and will be posted on the website maintained by the office of the Building Commissioner.

Section 9. Severability

(1)If any provision of these Rules or Sections or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the Rules or Sections which can be given effect, and to this end the provisions of these Rules or Sections are declared to be severable.

Section 10. Effective Date

(1) These Rules shall take effect twenty (20) days after they have been filed with the Secretary of State.