

- ii. Alteration to construction at top of hoistways (1201.1c) and at bottom of hoistways (1201.1d);
- iii. Alteration to hoistways which affects control of smoke and hot gases (1201.1e);
- iv. Construction and alteration of machine room and machinery spaces (1201.2, 1203.1b);
- v. Installation and alteration of electrical equipment, wiring, pipes and ducts in hoistway and machine rooms (1201.3, 1203.1c);
- vi. Alteration to pits (1201.6, 1203.1f);
- vii. Alteration to bottom and top car and counterweight clearances and runbys (1201.7, 1203.1g);
- viii. Alteration to horizontal car and counterweight clearances (1201.8, 1203.1h);
- ix. Additions, alterations or replacements of hoistway entrances (1201.10, 1203.1j);
- x. Installation or alteration of hoistway door locking devices, access switches, parking devices and unlocking devices (1201.11, 1203.1k);
- xi. Alteration or addition of power operation of hoistway doors (1201.12, 1203.1m);
- xii. Alteration of spring buffers and bumpers (1202.2, 1203.2b);
- xiii. Alteration of counterweights (1202.3; 1203.1d and 1203.2c);
- xiv. Alteration of car frames and platforms (1202.4a, 1203.2d);
- xv. Alteration of car enclosures, car doors, gates, and illumination of cars (1202.5 except installation of new cars, 1203.2e);
- xvi. Use of freight elevators to carry passengers, hydraulic elevators only (1203.2j);
- xvii. Relocation of power unit (1203.3f);
- xviii. Replacement of tanks (1203.6);
- xix. Addition or alteration of top-of-car operating devices (1202.12a, 1203.8a);
- xx. Addition or alteration or car-leveling or truck-zoning devices (1202.12b, 1203.8b);
- xxi. Alteration of anti-creep leveling devices (1203.8c);
- xxii. Change of power supply, hydraulic elevators only (1203.8d);
- xxiii. Addition of rope equalizers (1202.14c, 1203.9c);
- xxiv. Addition of auxiliary rope-fastening devices (1202.14d);

- xxv. Alteration of handrails on escalators and moving walks (1207.6, 1208.6);
- xxvi. Alteration or addition of lighting and access to interiors and related electrical work (1207.14, 1208.14); and
- xxvii. Alteration of entrances or egresses on escalators (1207.15).

(d) Inspection of minor work:

1. Inspections shall be required for minor work and the enforcing agency shall inspect any such work within 30 days of the request for inspection;

2. The construction official shall issue a certificate of approval stating that the work performed under a Minor Work Permit substantially complies with the UCC. The inspection shall be based upon what is visible at the time of said inspection and the certificate of approval shall so indicate.

Amended by R.1991 d.509, effective October 7, 1991.

See: 23 N.J.R. 2236(a), 23 N.J.R. 3001(a).

Stylistic changes.

Amended by R.1993 d.580, effective November 15, 1993.

See: 25 N.J.R. 3692(a), 25 N.J.R. 5145(c).

Amended by R.1993 d.663, effective December 20, 1993.

See: 25 N.J.R. 4546(a), 25 N.J.R. 5927(a).

Amended by R.1995 d.381, effective July 17, 1995.

See: 27 N.J.R. 970(a), 27 N.J.R. 2715(a).

Amended by R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).

See: 27 N.J.R. 1846(a), 27 N.J.R. 3325(b).

Rewrote (d).

Amended by R.1995 d.564, effective November 6, 1995 (operative March 1, 1996).

See: 27 N.J.R. 2829(a), 27 N.J.R. 4281(b).

N.J.A.C. 5:23-2.17A(c)6xxv through xxvii, as added by R.1995 d.564, operative May 1, 1996.

### 5:23-2.18 Inspections

(a) Preliminary inspection: Before issuing a permit, the construction official and appropriate subcode official shall where necessary examine or cause to be examined all buildings, structures and sites for which an application has been filed for a construction permit.

(b) Inspections during the progress of work:

1. The construction official and appropriate subcode officials shall carry out such periodic inspections during the progress of work as are necessary to insure that work installed conforms to the approved plans and the requirements of the regulations.

i. Inspection by all subcodes for one and two-family dwellings for which construction must cease until inspection is made shall be limited to four as follows:

(1) The bottom of footing trenches before placement of footings, except that in the case of pile foundations, inspections shall be made in accordance with the requirements of the building subcode;

(2) Foundations and all walls up to grade level prior to back filling;

(3) All structural framing and connections prior to covering with finish or infill material; plumbing underground services, rough piping, water service, sewer, septic services and storm drains; electrical rough wiring, panels and service installations; insulation installations;

(4) Installation of all finished materials, sealings of exterior joints; plumbing piping, trim and fixtures; electrical wiring, devices and fixtures; mechanical systems equipment.

ii. Inspections for all subcodes, of construction other than one and two-family dwellings shall be limited to those required for one and two-family dwellings and the following fire suppression systems; heat producing devices; any inspections required by any subcode of the regulations;

iii. Any additional inspections, as permitted by this chapter and as may be required by the municipality, shall be of the type and nature that construction may continue without interruption;

iv. Special inspection schedule: Where buildings proposed for construction exceed two stories in height or by their nature pose complex or unusual inspection problems, the construction official or appropriate subcode official may specify additional or special inspections to the applicant in writing prior to the issuance of a permit and during construction in the case of unforeseeable circumstances. Where Class I structures incorporate construction techniques covered under the special inspection provisions of the building subcode, such special inspections shall be provided for. The applicant shall provide a list of special inspections required by the building subcode when applying for the permit.

(c) Notice for inspection:

1. The owner or other responsible person in charge of work shall notify the enforcing agency when the work is ready for any required inspection specified herein or required by the construction official or appropriate subcode official. This notice shall be given at least 24 hours prior to the time the inspection is desired. Inspections shall be performed within three business days of the time for which it was requested. The work shall not proceed in a manner which will preclude the inspection until it has been made.

(d) Final inspection: Upon completion of the building or structure, and before issuance of the certificate of occupancy required herein, a final inspection shall be made, any violations of the approved plans and permit shall be noted and the holder of the permit shall be notified of any discrepancies by the construction official.

(e) Inspections records: The enforcing agency shall make a written record of all inspections, including any discrepancies or violations noted and shall maintain those reports as a public record which shall be available for public inspection during normal business hours.

(f) Department inspections: At the request of an enforcing agency, the Department may assist the enforcing agency in the inspection of any construction, provided that the enforcing agency has submitted the plans and specifications for such construction to the Department.

(g) The construction official shall serve as an agent of the Bureau of Housing Inspection of the Department of Community Affairs for the purpose of inspecting newly constructed and altered hotels and multiple dwellings in order to enforce the provisions of the regulations for the maintenance of hotels and multiple dwellings (N.J.A.C. 5:10). Responsibility for inspection may be delegated to the appropriate subcode official(s).

Amended by R.1981 d.182, effective June 4, 1981.

See: 13 N.J.R. 187(b), 13 N.J.R. 333(b).

Amended by R.1992 d.244, effective June 15, 1992.

See: 24 N.J.R. 1147(a), 24 N.J.R. 2243(a).

Class I inspections added to (b)1iv.

Amended by R.1996 d.323, effective July 15, 1996, (operative January 1, 1997).

See: 28 N.J.R. 2112(a), 28 N.J.R. 3549(a).

**5:23-2.18A Utility load management device installation programs**

(a) Whenever a public utility proposes to undertake a program of installing load management devices at the properties of a substantial number of service customers within a limited period of time, it may apply to the Department for permission to utilize the procedure set forth in this section.

(b) A utility with a program to install load management devices shall submit detailed information to the Department on the design of the device.

(c) The utility shall provide an educational program acceptable to the Department to acquaint any interested Department personnel and municipal subcode officials with the device and with installation and operating procedures.

(d) The utility shall insure that all devices to be installed are identical in design, listed and labeled or otherwise approved according to this chapter for their intended use.

(e) At least one month in advance of any installations, the utility shall submit to the Department, and to each affected municipality, notice of the anticipated number of installations to be performed in each municipality. A maximum and a minimum figure may be submitted where there is uncertainty about the number to be scheduled by customers. An approximate number of weeks for installations in that municipality shall be given along with an approximate number of installations per week.

1. Each week, in advance of installation, the utility shall notify the municipality of any change in the anticipated number of installations for that week. No weekly number of installations shall be so great that the cumulative number of installations in the municipality shall exceed the maximum anticipated number submitted.

2. Prior to the commencement of any installation, and as soon as may be practicable, the utility or its contractors will provide to each municipality notice of the actual sites of installations.

3. The Department and the municipalities shall be notified as soon as possible in the event of any change in existing schedules by the utility or its contractors.

(f) On the Monday following installations, the utility shall submit to each municipality a completed permit application for all installations completed in the municipality's jurisdiction during the preceding week.

1. A listing of all permits so delivered shall be filed by the utility with the Department.

2. All devices installed during that week, by a single contractor, shall be included on that application. The application shall include the Construction Permit Application (F100B) and an Electrical Subcode Technical Section (F120B).

3. Since the permit is not, typically, for work at a single location, the block number shall be entered as "UCC 2.18" and the lot as "A." The work site location shall be the name of the municipality and the owner in fee shall be the utility.

4. In addition to the Construction Permit Application, the utility or contractor shall supply the municipality a complete listing of locations where the devices, listed on this permit, were installed. This list shall include owner's name, owner's address, block and lot, date of installation, type of device(s) installed, and the contractor's name.

(g) If, for any reason, a permit application, or any part, is found to have been submitted in error, the utility or its contractors shall notify the municipality as soon as possible.

(h) When all required municipal and utility inspections have been approved, a single certificate of approval, for that permit, shall be issued to the utility.

(i) If any municipality or the Department has reason to suspect that permit applications are being mishandled or carelessly accounted for, an investigation may be conducted of the utility's permit files for this project and of any permits in the possession of individual contractors in the utility's employ for this project.

(j) The utility shall pay to each municipality 30 percent of the permit fees otherwise due and owing.

(k) The municipality shall inspect 30 percent of the installations performed and shall record the results of those inspections. The utility shall inspect at least 10 percent of the installations performed and shall record the results of those inspections and forward those results concurrently to the municipality and to the Department weekly.

(l) If a municipality or a utility discovers a defect rate of not less than seven percent for any contractor employed by the utility, the Department shall be immediately notified. The Department shall investigate and, in the interest of public safety, shall be authorized to order that:

1. The offending contractor cease to be employed by the utility for this project;

2. The utility remit the fees necessary to inspect all existing installations of the offending contractor in all municipalities where that contractor has performed work;

3. That each municipality affected perform inspections of all the offending contractor's existing installations; and

4. That the utility or its designees correct or remove all defective installations to the satisfaction of the municipal officials.

(m) If, at any time, the Department tabulates a program-wide defect rate equal to or exceeding three percent, the utility shall be notified and the inspection rate and fee rate in (j) and (k) above shall rise to 50 percent.

(n) If the three percent or greater program-wide defect rate cannot be reduced within two weeks, the program may be terminated by the Department by notifying the utility and all affected municipalities.

(o) A municipality in which a defect rate equal to or greater than seven percent has been twice reported to the Department and which has reason to believe that the program cannot be successfully implemented within its jurisdiction may notify the Department and the utility of the need for termination of the program in that municipality. The Department, upon verifying the accuracy of the municipality's claim, shall issue a notice to the utility and to the municipality ordering the termination of the program in that municipality.

New Rule, R.1989 d.550, effective November 6, 1989.  
See: 21 N.J.R. 233(a), 21 N.J.R. 3458(a).  
Amended by R.1994 d.28, effective January 18, 1994.  
See: 25 N.J.R. 4546(b), 26 N.J.R. 352(a).

#### 5:23-2.19 Special technical services

(a) Whenever the construction official and the appropriate subcode official determine that a need for special technical services exists with regard to a particular project for which the municipal enforcing agency is classified to perform plan review, the construction official may require the applicant to obtain and furnish to the construction official at the applicant's expense, a report from a licensed engineer or registered architect. Such report shall contain the information deemed necessary by the construction official to aid in his determination. Such may include, but not be limited to:

1. Plan review services;
2. Site investigation;
3. Structural analysis;
4. Building systems analysis (that is, mechanical, electrical, vertical transportation, and so forth).

(b) The commissioner reserves the right to further regulate the performance of special technical services.

#### 5:23-2.20 Tests and special inspections

(a) All tests and special inspections required by the provisions of the regulations shall be made and conducted under the supervision of the enforcing agency and in accordance with such inspection and test procedures as may be prescribed by the provisions of the regulations, with the expense of all test and inspections to be borne by the owner or lessee, or the contractor performing the work.

(b) The construction official may accept tests and test reports of the Department and other government agencies, as well as signed statements and supporting inspection and test reports filed by qualified licensed professionals or approved agencies or firms.

(c) The construction official may accept a chimney certification for replacement of fuel fired equipment (form F-370), signed by the person who installed the replacement fuel fired equipment, in lieu of requiring the removal and reinstallation of the chimney vent connector for purposes of inspection of the chimney or vent.

Amended by R.1992 d.244, effective June 15, 1992.

See: 24 N.J.R. 1147(a), 24 N.J.R. 2243(a).

Special inspections added.

Amended by R.1995 d.249, effective June 5, 1995, (operative October 1, 1995).

See: 27 N.J.R. 619(a), 27 N.J.R. 2187(a).

Added (c).

#### 5:23-2.21 Construction control

(a) Responsibilities: The provisions of this section shall define the construction controls required for all buildings involving professional architecture/engineering services and delineate the responsibilities of such professional services together with those services that are the responsibility of the contractor during construction.

(b) Professional architecture/engineering services:

1. Design: All new, alteration, repair, expansion, addition or modification work involving the practice of professional architecture/engineering, as defined by the statutory requirements of the professional registration laws of this State, shall be prepared by registered architects or licensed engineers. All plans, computations and specifications required for a construction permit application must be prepared by or under the direct supervision of a registered architect or licensed engineer and bear his signature and seal in accordance with the State's statutes and regulations governing the professional registration and certification of architects/engineers.

(c) Responsible person in charge of work: The owner shall designate a person to be in charge of the work who shall be responsible for:

1. Review and approval of all shop drawings, documents, and details pertaining to the construction phase;
2. Verification of all controlled materials per building subcode requirements of testing, certification and identification; and
3. Special inspection of critical construction components;
4. The responsible person in charge of work shall perform the necessary services and be present on the construction site on a regular and periodic basis to determine that, generally, the work is proceeding in accordance with the documents approved for the construction permit.

(d) Reporting: At the completion of the construction, the responsible person in charge of work shall submit to the construction official a report as to the satisfactory completion and the readiness of the project for occupancy. Major deviations from the approved permit documents shall be listed in the report; minor exceptions to the permit documents not endangering occupancy need not be included.

(e) Construction contractor services: The actual construction of the work shall be the responsibility of the contractor(s) as identified on the approved construction permit and shall involve:

1. Execution of work in accordance with the regulations;
2. Execution and control of all methods of construction in a safe and satisfactory manner;
3. Execution of all work in accordance with the approved construction documents and directives of the architect or engineer;
4. In general, render all such construction services as required to effect a safe and satisfactory installation of the project;
5. Upon completion of the construction, he shall certify to the best of his knowledge and belief that such has been done in substantial accord with the above, with all pertinent deviations specifically noted.

(f) The provisions of this section do not relieve the enforcing agency of any of the responsibilities required by the regulations.

#### 5:23-2.22 Premanufactured construction

(a) Premanufactured construction certified in accordance with N.J.A.C. 5:23-4A or 4B, and carrying an appropriate label, shall be accepted as conforming to the requirements of the regulations to the extent provided for by the particular label for purposes of local construction inspection approval.

7. The municipality shall provide the construction official, each subcode official and each inspector with personal identification which includes at least the name of the municipality, and the name, title and photograph of the individual. The identification shall be validated by the municipality.

8. A municipality may, in its discretion, employ a mechanical inspector to perform plan review and mechanical inspections, with oversight by a designated subcode official, for Use Group R-3 or R-4 structures.

9. Provisions concerning reappointment of construction and subcode officials in non-civil service municipalities are as follows:

i. At least 30 days prior to the expiration of the statutory four-year term of office of a construction or subcode official, the appointing authority shall give written notice to the official indicating whether or not he or she is going to be reappointed.

ii. In the event that the official is neither reappointed, nor given written notice that he or she is not being reappointed, prior to the date of expiration of the statutory four-year term of office, the official shall be deemed to have been appointed to serve in an acting capacity for a period of not more than 60 days, in accordance with (a)6 above. The municipality is not relieved of the obligation, pursuant to (a)6 above, to notify the Department within seven days any time any acting appointment will exceed 30 days.

iii. In the event that the official is neither reappointed, nor given written notice that he or she is not being reappointed, prior to the expiration of the 60-day period following the date of expiration of the prior statutory four year term of office, the Department, in such circumstance, shall not extend any such acting appointment and the official shall be deemed to have been reappointed, such reappointment being effective retroactively to the date of expiration of the prior statutory four-year term.

(b) The municipality shall establish a central permit office under the direction and supervision of the construction official. This office shall receive applications for construction permits and plan review, issue construction permits and certificates of occupancy, collect fees, penalties, fines and issue notices, and orders. The office shall be open during normal business hours at times to be determined by the municipality. These times shall be posted in a conspicuous place and shall be comparable with the amount of construction activity in the municipality. Nothing herein shall prevent a municipality from establishing branch offices, but the public shall not, unless in the case of an emergency, unforeseen or unavoidable circumstance, be required to do business, except at the central permit office.

(c) The construction official and the subcode officials shall be available for consultation and discussion during

normal business hours at scheduled times to be determined by the construction official. All inspections shall take place between 9:00 A.M. and 5:00 P.M. on business days or while construction is taking place, or in the case of emergency, or with the permission of the owner or his representative.

(d) The municipality shall ensure that the enforcing agency has adequate staff to review plans, applications, specifications and to schedule and perform inspections in a timely manner.

Amended by R.1982 d.23, effective February 1, 1982.

See: 13 N.J.R. 863(a), 14 N.J.R. 142(b).

(a)6: text deleted and replaced with new text through (a)6iv. Notice of correction: "30 days. Acting appointments may not be made for longer than" was omitted from text in (a)6.

See: 20 N.J.R. 2823(a).

Amended by R.1993 d.187, effective May 3, 1993.

See: 25 N.J.R. 624(a), 25 N.J.R. 1875(a).

Added (a)8.

Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).

See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).

Amended by R.1996 d.387, effective August 19, 1996 (operative November 1, 1996).

See: 28 N.J.R. 2434(a), 28 N.J.R. 3923(a).

In (a) added provisions relating to reappointment of construction and subcode officials in non-civil service municipalities.

#### Case Notes

Township's failure to make a proper temporary appointment in conformance with regulation resulted in plaintiff's appointment as subcode plumbing inspector becoming one of tenure pursuant to N.J.S.A. 52:27D-126(b). *DeStefano v. Washington Twp.*, 220 N.J.Super. 273, 531 A.2d 1090 (L.1987).

#### 5:23-4.5 Municipal enforcing agencies; administration and enforcement

(a) Records and procedures: The municipality shall ensure that the construction official, with the assistance of the subcode officials and other necessary municipal employees, maintains a central file system, by block and lot, for each property in the municipality for which a permit has been issued or requested or for which an action has been taken by the municipal enforcing agency.

1. The files shall contain all information, including inspection reports, correspondence, and so forth, relevant to each application for a construction permit or certificate of occupancy.

2. The files shall contain or indicate the storage location of all plans and specifications too bulky for inclusion in the central file.

3. The files and records of the municipal enforcing agency shall be open to department review and audit and public inspection during normal business hours.

i. File copies of all documents in connection with building operations shall be retained in the official records as provided by law.

ii. Files and records shall be maintained in a manner consistent with the Municipal Procedures Manual established by the commissioner for this purpose.

(b) Forms:

1. The construction official shall ensure that all necessary forms and applications are available to the public at the central permit office.
2. The following standardized forms established by the Commissioner are required for use by the municipal enforcing agency:

Form No.	Name
F-100B	Construction Permit Application
F-110B	Building Subcode Technical Section
F-120B	Electrical Subcode Technical Section
F-130B	Plumbing Subcode Technical Section
F-140B	Fire Subcode Technical Section
F-150	Elevator Subcode Technical Section
F-155	Elevator Subcode Multiple Devices
F-160B	Application for a Variation
F-170C, D	Construction Permit, Required Inspection
F-180B	Construction Permit Notice
F-190B	Permit Update
F-210A	Notice of Violation and Order to Terminate/Notice Order to Pay Penalty
F-221A	Inspection Sticker Approval for Building
F-222A	Inspection Sticker Approval for Electric
F-223A	Inspection Sticker Approval for Plumbing
F-224A	Inspection Sticker Approval for Fire Protection
F-225	Inspection Sticker Approval for Elevator
F-230B	Inspection Sticker—Not Approved
F-240A	Notice of Unsafe Structure/Imminent Hazard
F-245A	Unsafe Structure Notice
F-250A	Stop Construction Order
F-255A	Stop Construction Notice
F-260B	Certificate
F-270B	Application for Certificate
F-310B	Elevator Inspection
F-320A	Elevator Notice
F-325	Notice of Elevator Device Sealed Out of Operation
F-330A	Application to Construction Board of Appeals
F-340A	Decision of Construction Board of Appeals
F-350B	Cut-In Card
F-360A	Denial of Permit
F-370	Chimney Certification for Replacement of Fuel Fired Equipment

3. The following standardized forms established by the Commissioner are optional for use by the municipal enforcing agency; provided, however, that where they are not used, equivalent forms or mechanisms are used by the enforcing agency to accomplish the same purpose:

Form No.	Name
F-200A	Inspection Notice
F-280B	T.C.O. Control Card
F-290A	Ongoing Inspections Control Card
F-300A	Ongoing Inspections Schedule
F-370	Tickler/X-Ref Card

4. No forms other than those established by the Commissioner shall be required of the public in connection with the administration and enforcement of the State Uniform Construction Code. The municipal enforcing agency may use additional forms for its own internal processing and recordkeeping. Nothing in this section pertaining to forms or in the forms themselves shall be deemed to affect the requirements for plans and specifications or documentation of prior approvals. Where there is insufficient space on a form for all required information, the form shall be used with attachments.

5. Printing of forms: The municipal enforcing agency shall arrange for the printing of all forms. Other interested persons may also arrange for the printing of forms or they may purchase and use forms printed by others. The municipal enforcing agency may provide for the inclusion of its name and other appropriate identifying information on the forms it has printed. However, the municipal enforcing agency shall accept forms not having municipal identification and shall, in any such case, insert the name of the municipality. All required forms shall be exact replicas of the forms required by the Commissioner, conforming in content, size, format and colors, except that all multi-part forms may be printed with an additional copy so long as the additional copy shall be in a color distinct from those specified by the Commissioner. Forms F-110A, F-120A, F-130A and F-140A may have the Subcode Technical Sections printed in any color or colors of ink as desired and Form F-310A (Elevator Inspection) may be printed as a multipart form on separate pages with up to four copies of each page.

(c) Logs:

1. The following standardized logs established by the Commissioner are required to be maintained by the municipal enforcing agency:

Log No.	Name
L-700B	Permit Fee Log
L-710A	Inspection Log
L-720B	Certificate Log
L-730A	Ongoing Inspection Log

2. The municipal enforcing agency shall maintain the required logs either on log sheets established by the commissioner or on log sheets or ledger books of its own choice or design, provided that all required entries are maintained.

(d) Monthly reports:

1. The following standardized report forms established by the Commissioner are required to be completed by the municipal enforcing agency and transmitted to the Department by the tenth business day following the end of each calendar month:

Report No.	Name
R-811B	Municipal Monthly Activity Report Certificates



3. As long as funding permits, the Department shall provide the UCCARS I software, training and technical support for the system free of charge to municipalities. Municipalities may submit monthly reports electronically using an alternative system compatible with UCCARS as determined by the Department and capable of transmitting a monthly report based on UCCARS specifications.

4. Municipalities, at their option, may choose to add UCCARS II and III systems to their UCCARS I System and may obtain them, at no cost, from the Department, when available.

(e) Quarterly reports: The following standardized report established by the Commissioner is required to be completed by the municipal enforcing agency for State of New Jersey training fees and must be submitted quarterly, with the accompanying fees, pursuant to N.J.A.C. 5:23-4.19:

Report No.	Name
R-840B	State Training Fee Report

(f) The following standardized report form established by the Commissioner is optional for use by the municipal enforcing agency:

Report No.	Name
R-800A	Inspector's Report

(g) Exceptions: Exceptions may be made by the municipal enforcing agency to those requirements for records and procedures, forms, logs, and reports as stated in this section and in the Municipal Procedures Manual established by the commissioner only with the express written authorization of the Department. Requests for exceptions shall be in writing and shall detail the requirement(s) to which an exception is sought, the reason(s) for such exception and the duration for which the exception is sought, and shall be accompanied by any appropriate documentation and examples of alternative procedures, forms, logs or reports.

(h) Duties of construction officials:

1. The construction official shall enforce the regulations and:

i. Provide that applications are available, and assist the public in preparing the applications whenever necessary;

ii. Review all applications for completeness as to form and for verification of prior approvals. He may request additional documentation concerning prior approvals whenever it is deemed necessary;

iii. Upon receipt of the completed application, the construction official shall determine the proper fee for the work required;

iv. Collect all fees and penalties and ensure that funds are properly accounted for;

v. Ensure that the proper subcode official shall have an adequate time period to review appropriate applications, plans and specifications;

vi. Ensure that all requests for variation are properly prepared, documented and referred to the appropriate subcode officials;

vii. Issue the construction permit upon receiving the approval of all appropriate subcode officials;

viii. Record all notices of violation upon receiving notification of the appropriate subcode official, and determine all penalties for noncompliance with the penalty notices;

ix. Ensure that all required inspections are scheduled and performed within three business days of the time for which inspection has been requested;

x. Ensure that the reports of all inspections are completed and properly filed;

xi. Record stop work orders, upon notification of the appropriate subcode official;

xii. Ensure that all final inspections have been completed prior to the issuance of a certificate of occupancy.

(1) Ensure that all inspection required for the purpose, has been completed prior to the issuance of temporary certificate of occupancy;

xiii. Issue the certificate of occupancy, upon receiving the approval of all appropriate subcode officials.

(1) Issue the temporary certificate of occupancy, upon receiving the approval of all appropriate subcode officials;

xiv. Ensure, in the case of a change of use, or upon a request for a certificate of continued occupancy, that each subcode official gives an approval based on an inspection and the review of all submitted data before issuing a certificate of continued occupancy;

xv. Prepare and obtain reports required in the regulations;

xvi. Attend meetings and hearings as required by the regulations;

xvii. Carry out such other functions as are necessary and appropriate to the position of construction official;

xviii. Coordinate the activities of the subcode officials in enforcement of the energy radon hazard, elevator safety and mechanical subcodes;

xix. Reply within three business days to any request from the municipal search officer for information concerning construction permits or certificates of occupancy;

xx. Comply with any local procedures which may be established by the governing body to provide the municipal search officer with information concerning construction permits and certificates of occupancy; and

xxi. File with the Department a notice of the execution of each contract with a private on-site inspection agency, which notice shall specify the subcode(s) covered by the contract, within 10 days after the effective date of the contract.

2. Nothing contained herein shall prevent the construction official from overruling a decision of a subcode official if he is qualified and certified in that subcode pursuant to subchapter 5 of this chapter.

(i) Duties of subcode officials:

1. The subcode official shall enforce the regulations and:

i. Review those aspects of the application, plans and specifications appropriate to his subcode for approval and release to the construction official for issuance of the permit;

ii. Receive and review directly from the applicant applications involving only one trade or subcode and minor or emergency work for approval and release to the construction official for issuance of the permit;

iii. Collect fees for permit applications involving only trade or subcode and minor or emergency work and forward same to the construction official for proper accounting;

iv. Comply with the time limitations for review as determined by the construction official;

v. Review requests for variations as necessary;

vi. Perform all required inspections within three business days of the time for which inspection has been requested;

vii. Issue in the name of the enforcing agency notices of violation and notify the construction official of same. The subcode official may issue verbal orders at the jobsite and shall record such orders in his inspection report;

viii. Complete reports of all inspections performed;

ix. Issue stop work orders in the name of the enforcing agency and notify the construction official of same;

x. Perform final inspection and notify construction official of approval in order that the construction official may issue certificate of occupancy;

xi. Make inspection, review submitted data and notify construction official of approval in the case of a change of use, or a request for a certificate of continued occupancy;

xii. Assist the construction official in the preparation of all reports required in the regulations;

xiii. Attend meetings and hearings as required by the regulations;

xiv. Issue documentation and certification, such as cut-in cards to utilities and/or public agencies if required by the regulations;

xv. Carry out such other functions as are necessary and appropriate to the position of subcode official.

2. In the course of enforcing the regulations, the fire protection subcode official shall cooperate, to the greatest extent possible, with the local fire service, which is the local fire department or district having jurisdiction.

i. The fire protection subcode official shall, upon request of the local fire service, allow a designated representative of the local fire service reasonable access to, and opportunity to review, plans submitted to the fire protection subcode official for his approval.

ii. The fire protection subcode official shall consult with the local fire service prior to granting any variations from the requirements of the fire protection subcode. If the fire protection subcode official is not himself a member of the local fire service, he shall, upon receipt of an application for a variation, forward a copy thereof to the local fire service and shall not grant a variation until he has received the comments of the local fire service or until 10 business days have passed, whichever comes first.

iii. The participation of the local fire service in the code enforcement process shall in no way be construed as reducing the responsibility of the fire protection subcode official for the proper enforcement of the fire protection subcode. Advice rendered by the local fire service shall in no way be binding upon the subcode official.

(j) Conflict of interest:

1. No person employed by an enforcing agency as a construction or subcode official or as an inspector shall carry out any inspection or enforcement procedure with respect to any property or business in which he or she, or a member of his or her immediate family, has an economic interest.

i. Where an inspection or enforcement procedure is necessary or required in any such property or business, the official or inspector shall arrange for the inspection or enforcement to be carried out either by another local enforcing agency or by the Department.

2. No person employed by an enforcing agency as a construction or subcode official, assistant to the construction or subcode official, trainee, inspector or plan reviewer, shall engage in, or otherwise be connected directly or indirectly for purposes of economic gain, with any business or employment furnishing labor, materials, products or services for the construction, alteration, or demolition of buildings or structures within any municipality in which he is so employed by an enforcing agency, and in any municipality adjacent to any municipality in which he is thus employed.

3. Persons subject to this subsection shall annually report any income or benefits received from any business or property subject to the Code, or from any business furnishing materials, products, labor or services for types of work subject to the Uniform Construction Code regulations, to the municipal governing body. This report shall include a list of all sources of income, but need not list the amount.

4. No person employed by a municipal enforcing agency as a construction official, subcode official or inspector shall be employed to appear before any construction board of appeals, or be involved in any court proceeding within the State, as a paid expert witness, or in any other compensated capacity in any proceeding involving the enforcement of the Uniform Construction Code except on behalf of another enforcing agency, or as a court-appointed witness.

i. This prohibition shall not apply to any litigation not involving enforcement of the Code, or to an appearance as a fact witness; nor shall it apply to any activities unrelated to an action for, or an appeal of, enforcement of the Code.

5. This section shall not apply to:

i. The ownership of stock or other investment instrument in any corporation listed on any national stock exchange.

ii. Any such business or employment outside the State;

iii. Dual employment by two or more enforcing agencies;

iv. Any business or employment which is not subject to the regulations.

v. Service as an instructor in a code enforcement training program.

6. Nothing herein shall prohibit a municipality from establishing by ordinance more restrictive provisions covering conflict of interest.

7. Prior to July 1, 1992, this subsection shall not apply to any person employed as an elevator inspector who is not licensed under this chapter.

Amended by R.1983 d.611, eff. January 3, 1984.

See: 15 N.J.R. 1789(a), 16 N.J.R. 45(b).

Deleted old (b)2.-3. and (c) and added new (b)2, (c), (d) and (e).  
Renumbered old (d)-(f) as new (f)-(h).

Amended by R.1984 d.303, effective July 16, 1984.

See: 16 N.J.R. 950(a), 16 N.J.R. 1968(b).

Added (g)2.

Amended by R.1990 d.61, effective February 5, 1990.

See: 21 N.J.R. 3346(b), 22 N.J.R. 351(b).

Form numbers updated, new (d)2. added and reference made to reports and fees being submitted quarterly.

Amended by R.1990 d.226, effective May 7, 1990.

See: 21 N.J.R. 3696(a), 22 N.J.R. 1356(a).

Radon mitigation added to (f)1xviii.

Amended by R.1991 d.325, effective July 1, 1991.

See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Elevator safety added at (f)1xviii; conflict of interest provision added at (h).

Amended by R.1992 d.47, effective February 3, 1992.

See: 23 N.J.R. 3440(a), 24 N.J.R. 405(a).

Electronic monthly reporting added at (d)2.-4.

Amended by R.1992 d.230, effective June 1, 1992.

See: 24 N.J.R. 168(a), 24 N.J.R. 2052(a).

Form numbers changed in (b).

Amended by R.1992 d.243, effective July 6, 1992.

See: 24 N.J.R. 678(a), 24 N.J.R. 2422(a).

Conflict of interest and exception provisions added.

Amended by R.1992 d.392, effective October 5, 1992.

See: 24 N.J.R. 2657(a), 24 N.J.R. 3521(b).

Report form number changed at (e).

Amended by R.1993 d.581, effective November 15, 1993.

See: 25 N.J.R. 3693(a), 25 N.J.R. 5146(a).

Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).

See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).

Amended by R.1995 d.249, effective June 5, 1995, (operative October 1, 1995).

See: 27 N.J.R. 619(a), 27 N.J.R. 2187(a).

In (b)2 added Form No. F-370.

#### Case Notes

Former N.J.A.C. 5:23-4.3 regarding conflict of interest valid. *New Jersey State Plumbing Inspectors Assn., Inc. v. Sheehan*, 163 N.J.Super. 398, 394 A.2d 1244 (App.Div.1978), certiorari denied 79 N.J. 484, 401 A.2d 239 (1979).

Monetary penalty against builder for code violations was not reduced for financial hardship, but was reduced by half to secure prompt compliance. *Bureau of Housing Inspection v. Regency Village Apartments*, 95 N.J.A.R.2d (CAF) 37.

Fraud and deceit while practicing as a licensed code enforcement official or inspector warranted license revocation. *Regulatory Affairs v. Zieniuk*, 95 N.J.A.R.2d (CAF) 15

Conflict of interest precluded employment as elevator inspector. *Kunz v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 32.

#### 5:23-4.5A Selection of private on-site inspection and plan review agencies

(a) Whenever a local governing body having jurisdiction elects to contract with a private onsite inspection and plan review agency to carry out the enforcement of one or more subcodes, as permitted by N.J.A.C. 5:23-4.14, the agency shall be selected in accordance with the provisions of this section.

(b) Prior to the selection of an on-site inspection agency, the local enforcing agency shall notify each private on-site agency authorized by the Department to serve as a subcode official for the subcode(s) to be contracted. The notification, which shall specify the term of the proposed contract, shall be delivered by certified mail, return receipt requested. The notice shall specify any local procedural requirements, including, but not limited to, staffing and response time requirements exceeding the minimum standards set forth in the code, with which the construction official and/or the governing body would expect a private on-site agency to comply in order to effectively enforce a subcode in accordance with the performance standards of the local enforcing agency. No other notice shall be required.

1. The notice shall specify that a written, sealed bid is requested, together with a qualification statement containing the information set forth in N.J.A.C. 5:23-4.5A(d), shall identify the subcode(s) for which a bid is requested, shall state the date and time by which bids and accompanying qualification statements must be submitted, which shall not be less than 30 days following the date of mailing of the request for bids, and shall state the name and address of the person to whom bids and accompanying qualification statements shall be mailed or delivered.

2. All bids shall set forth the fees which the private on-site agency proposes to charge for work done by it in the municipality. Such fees shall be expressed as a uniform percentage, by subcode, which shall not exceed 100 percent, of the fees charged, as of the date on which the bids are opened, by the Department when it serves as an enforcing agency, which fees are set forth at N.J.A.C. 5:23-4.20.

3. The contract shall be awarded to the bidder that offers to charge the lowest percentage of the Department's fees and is determined by the governing body, after consultation with the construction official, to be able to effectively enforce the subcode(s) for which the bid was submitted.

4. The amounts to be charged by a private on-site agency awarded a contract pursuant to this section shall be the amounts set forth in N.J.A.C. 5:23-4.20 and/or 5:23-12.6(a) and (b) as of the date of the opening of the bids, multiplied by the percentage set forth in the bid. Such amounts shall be in effect for the entire contract period and shall not be affected by any subsequent increase in the fees set forth in N.J.A.C. 5:23-4.20 or 5:23-12.6(a) and (b).

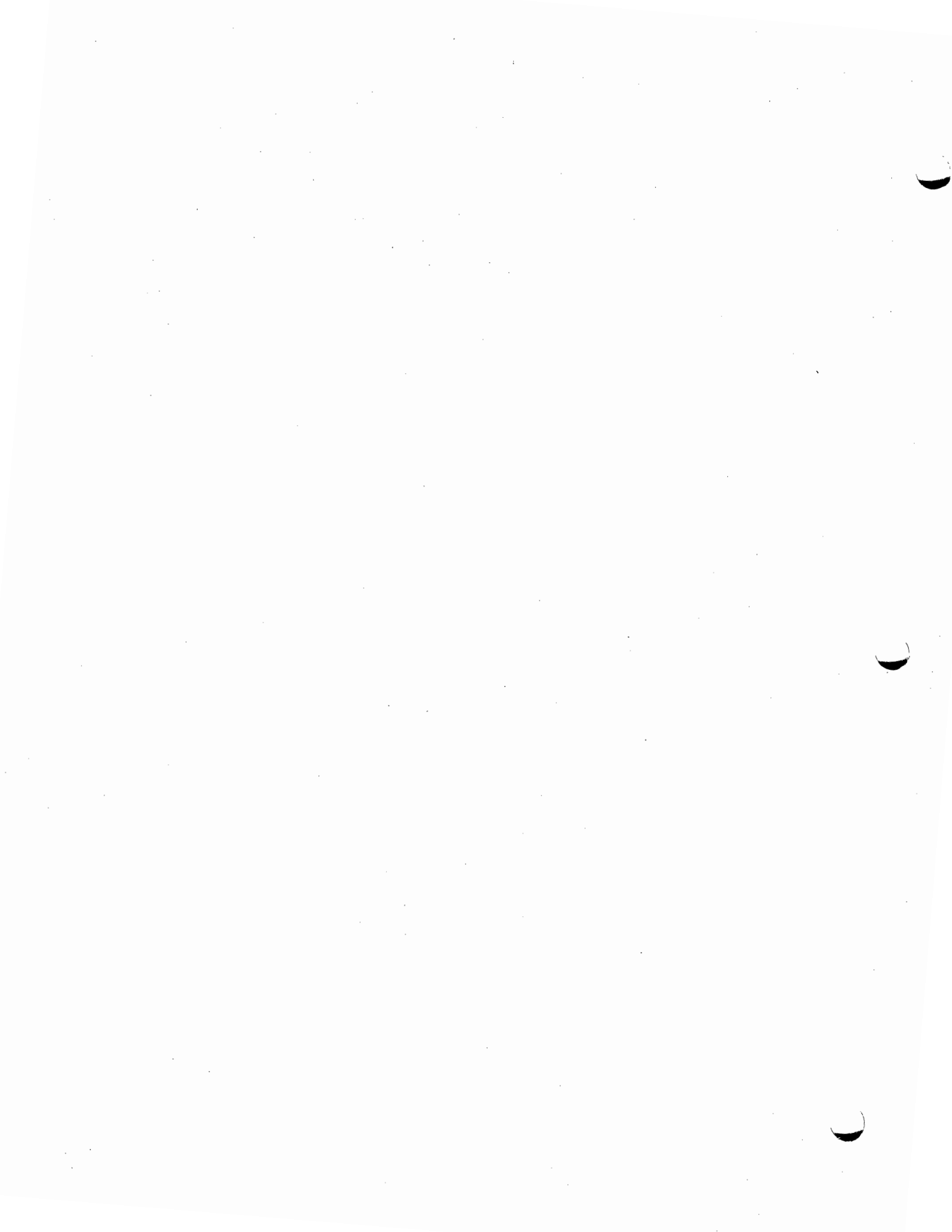
(c) Written, sealed bids, together with separately sealed qualification statements containing the information required by (d) below, shall be submitted to the municipal officer responsible for receiving bids at or before the date and time established in the original notice of request for proposals. The said municipal officer shall forward all such qualification statements received to the construction official, who shall evaluate each qualification statement and advise the governing body, in writing, as to whether, in the construction official's judgment, each private agency submitting a proposal would be able to effectively enforce the subcode(s) for which the proposal is being submitted in the municipality, in accordance with the performance standards of the local enforcing agency.

(d) All qualification statements submitted by private on-site inspection agencies to serve as subcode officials shall be in writing and shall contain all of the information required by this subsection. Any omission of required information shall allow the local governing body the option to automatically disqualify the proposal. No additional information shall be required. The required information is as follows:

1. The name and principal business address of the agency;
2. The name of the person who will serve as the agency's responsible official and representative if the agency is awarded the contract;
3. A full listing of all agency technical, field inspection and supervisory personnel, grouped by job classification and title. The listing shall include the technical, educational and licensure qualifications of each person;
4. A full listing of the municipalities served by the agency. This list shall specifically identify the subcodes enforced in each case and the number of permits supervised and the number of inspections performed during an average month during the preceding year in each municipality;
5. A table of organization for the agency which is correlated by job title to the required personnel list;
6. The manner in which the agency compensates each class of employees, which shall be one of the following only: full-time salaried, part-time salaried, full-time hourly or part-time hourly. Where employees of a given class are compensated in more than one way, a percentage breakdown shall be provided;
7. The full address of each agency office which is open and staffed at least 35 hours per week by salaried or hourly agency employees;
8. A narrative description of the arrangements the agency plans to make for the issuance of minor work and single trade permits;
9. A narrative description of the arrangements the agency plans to make for discharging its plan review obligations;
10. The time in which the agency can perform, or has performed, plan reviews upon assignment by the construction official;
11. Any guarantees of time in responding to requests for required inspections or plan reviews where the time in responding is less than the maximum time established in these regulations. If an agency does not guarantee response time less than the maximum, the agency shall so state in its proposal.
12. The time in which the agency can respond, or has responded, to requests for required inspections from the construction industry; and
13. A narrative description of the arrangements the agency plans to make for providing emergency inspection services, including response time.

(e) When considering qualification statements submitted by authorized on-site inspection agencies seeking to act as a subcode official, construction officials and governing bodies shall base their determination as to whether an authorized on-site inspection agency would be able to effectively enforce the subcode on the following criteria:

1. The speed with which the agency can respond, or has responded, to requests for required inspections from the construction industry;



x. The following work on rails and guides:

(1) Realignment or replacement of main or counterweight rail sections with like products; and

(2) Repair or replacement of guide shoe liners or car and counterweight guides with like product.

xi. The following work on cabs:

(1) Installation or replacement of main and auxiliary car operating panels, emergency lighting, communication devices, door protective and reopening devices, car position indicators, and in-car lanterns;

(2) Repair or replacement of operating station on top of cars, door operating devices, motors, linkages, hangers, etc., hoistway door drive mechanisms, clutches, etc., side emergency exit latching devices and electrical switches, floor leveling and selector drive devices, terminal slow down and limiting devices, load weighing devices (on top of car and under car isolation), keyless entry and security devices, top of car intrusion devices, closed-circuit TV surveillance devices, lighting fixtures in the car on top of the car and under the car; and

(3) Replacement of ceilings with code approved materials, and of door saddles, cab flooring, walls and panels with materials equivalent to those being replaced in respect to weight and fire resistance.

New Rule, R.1993 d.487, effective October 4, 1993.  
See: 25 N.J.R. 2159(a), 25 N.J.R. 4592(a).  
Amended by R.1995 d.647, effective December 18, 1995 (operative March 18, 1996).  
See: 27 N.J.R. 3517(a), 27 N.J.R. 5012(a).

#### 5:23-9.4 (Reserved)

New Rule, R.1990 d.490, effective October 1, 1990.  
See: 22 N.J.R. 592(a), 22 N.J.R. 3148(a).  
Repealed by R.1995 d.121, effective March 6, 1995 (operative July 1, 1995).  
See: 26 N.J.R. 4875(a), 27 N.J.R. 894(c).  
Formerly "Seismic Zones".

#### 5:23-9.5 Interpretation: Records retention

(a) A construction official shall maintain, for the life of each structure wholly or partially within its jurisdiction copies of the following documents: construction application, permit(s), any update(s), notice of unsafe structure, certificate of occupancy, ongoing inspection control card, elevator inspection, decision of the construction board of appeals, cut-in card and the inspection and certificate logs (F-100B, F-110B, F-120B, F-130B, F-140B, F-150, F-170C and D, F-190B, F-240A, F-260B, F-290A, F-310B, F-340A, L-710A, L-720B).

(b) Copies of additional documents may be retained at the discretion of the construction official.

(c) A construction office shall retain copies of plans for Class I and Class II structures for at least the life of the

structures and copies of plans for Class III structures for at least 10 years.

New Rule, R.1990 d.364, effective August 6, 1990.  
See: 22 N.J.R. 1455(a), 22 N.J.R. 2275(a).  
Amended by R.1992 d.230, effective June 1, 1992.  
See: 24 N.J.R. 168(a), 24 N.J.R. 2052(a).  
Form numbers changed in (a).  
Amended by R.1995 d.647, effective December 18, 1995 (operative March 18, 1996).  
See: 27 N.J.R. 3517(a), 27 N.J.R. 5012(a).

#### 5:23-9.6 Interpretation: Fixed central pedestal seating (stools) in casinos

(a) Fixed central pedestal seating (stools) shall be allowed within major aisles and cross-aisles in casinos for gaming patrons who use standard size slot machines or other similar machines, within these aisles, provided the following requirements are met:

1. Schematic drawings shall be submitted to the Department for review and approval which indicate the dimensions and locations of the stools, and the distances from adjacent fixtures, walls or other fixed objects;

2. Stool placement shall not result in any reduction of the required aisle accessway width when measured from the stool and any other adjacent obstacle, including, without limitation, other stools in back-to-back seating arrangements;

3. Stools that swivel and have a back rest shall be restricted so as to rotate in only one direction, operate in series, and be self-centering; and

4. A minimum clearance of eight inches, measured from the face of the gaming machine base at knee height, shall be provided between the gaming machine and the stool and a minimum clearance of 10 inches, measured from seat edge to seat edge, shall be provided between adjacent stools, in order to ensure discharge clearances.

New Rule, R.1991 d.61, effective February 19, 1991.  
See: 22 N.J.R. 3610(a), 23 N.J.R. 406(a).  
Amended by R.1995 d.647, effective December 18, 1995 (operative March 18, 1996).  
See: 27 N.J.R. 3517(a), 27 N.J.R. 5012(a).

#### 5:23-9.7 Interpretation: Manufacturing, production and process equipment

(a) Manufacturing, production and process equipment is not under the jurisdiction of the Uniform Construction Code. Manufacturing, production, and process equipment is defined as all equipment employed in a system of operations for the explicit purpose of the production of a product.

(b) Manufacturing, production, and process equipment shall include, but is not limited to, the following:

1. Electrical generation equipment, such as turbines, condensers, generators, and the like;

2. Electrical transmission equipment such as transformers, capacitors, regulators, switchgears, and the like;

3. Air pollution equipment, such as scrubbers;
4. Metal working equipment, such as castings, screen machines, grinders, lathes, presses, drills, welders, and the like;
5. Material handling equipment, such as rollers, control belts, and the like;
6. Packaging equipment, such as bottling machines;
7. Process drying equipment, such as ovens, kettles, fans, and the like;
8. Finishing equipment, used for such purposes as heat treatment, plating, painting, and the like;
9. Petrochemical refinery/plant equipment used for distillation, conversion, treatment and blending;
10. Electric, steam, pneumatic- or hydraulic-actuated equipment, such as motors, pumps, compressors, and the like;
11. Tanks which constitute part of a controlled industrial process, including those tanks containing flammable and combustible liquids, together with the dikes surrounding the tanks;
12. All piping used to transport products to and between industrial processes; any piping connected to the potable water supply downstream of an appropriate back-flow prevention device; any piping located upstream of the first joint at the outlet of the equipment or upstream of the indirect connection to the sanitary or storm sewer;
13. Pipe racks, hangers, and the like that support the process piping and the storage racks for the raw materials and finished products. Building structural systems supporting the racks, hangers, storage loads, and the like are excluded from the definition of process equipment, except that pipe support units that include a foundation and support steel shall be included as process equipment when they do not transfer loads to structures whose main function is other than supporting process pipe;
14. Boilers, pressure vessels, furnaces and the like used exclusively for industrial process;
15. Pre-wired and/or pre-engineered (bearing name plate) electro-mechanical equipment or machinery used exclusively for an industrial process;
16. Electrical work which forms a part of the power or control system of industrial process equipment, up to the point where that work connects to the plant electrical distribution system. Such a point shall be considered a suitable junction box, panel board, disconnect switch, or a terminal box which constitutes the final connection to the factory-installed equipment wiring. Where these items are not supplied as a part of the equipment, they shall be subject to local enforcing agency jurisdiction; and
17. (Reserved)

New Rule, R.1993 d.132, effective April 5, 1993.

See: 24 N.J.R. 3458(a), 25 N.J.R. 1512(b).

Amended by R.1995 d.647, effective December 18, 1995 (operative March 18, 1996).

See: 27 N.J.R. 3517(a), 27 N.J.R. 5012(a).

#### 5:23-9.8 Bed and breakfast guest houses, change in use group requirements

(a) Use Group R-3 or R-4 single family dwellings being converted to bed and breakfast guest houses shall meet the requirements of this section.

1. "Bed and breakfast guest house" shall mean a facility providing sleeping or dwelling accommodations to transient guests which:

i. Consists of a structure originally constructed for the purposes of a private residence;

ii. Includes individual sleeping accommodations for six to 12 guests;

iii. Has at least one dwelling unit occupied by the owner of the facility as his or her place of residence during any time this facility is being used for the lodging of guests;

iv. Has not less than 300 square feet of common area for the exclusive use of the guests, including but not limited to parlors, dining rooms, libraries and solariums;

v. Prohibits cooking and smoking in guest rooms;

vi. Provides a meal to the guests in the forenoon of each day but does not operate as a restaurant open to the general public;

vii. Is not a "rooming house" "or boarding house" as defined in N.J.S.A. 55:13B-3;

viii. Does not allow more than 15 percent of the guests to remain more than 30 successive days or more than 30 days of any period of 60 successive days; and

ix. Does not allow any guest to remain more than 60 successive days or more than 60 days of any period of 90 successive days.

(b) Use Group R-3 or R-4 single-family residences being converted to bed and breakfast guest houses shall be deemed to have met the intent of the rules, as provided in N.J.A.C. 5:23-2.6(b)1, if the following requirements have been met:

1. AC-powered interconnected smoke detectors with battery back-ups shall be installed in accordance with the building subcode in the locations listed below. Fixed temperature or rate-of-rise and fixed temperature heat detectors may be substituted for smoke detectors in those locations where frequent nuisance alarms would be likely to occur. At least one portable visual alarm-type smoke detector for the deaf or hearing impaired shall be available. Notification of the availability of such devices shall be provided to each occupant. Installation shall be required at the following locations:

“French drain” or “channel drain” means a path used to assist with water drainage which is installed in basements of some structures during initial construction, which consists of a gap (typically one-half to one and one-half inch in width) between the basement block wall and the concrete floor slab around the entire inside perimeter of the basement.

“Picocurie per Liter (pCi/L)” means 2.2 disintegrations per minute of radioactive material per liter. It may be used as a measure of the concentration of radon gas in air. One picocurie is equivalent to 10–12 Curies.

“Radon” means the radioactive noble gas radon-222.

“Radon progeny” means the short-lived radionuclides formed as a result of the decay of radon-222, including polonium-218, lead-214, bismuth-214 and polonium-214.

“Sump” means a pit or hole in or through a basement floor slab designed to collect water, and from which such water is drained by means of a vertical-lift or sump pump.

“Sump pump” means a pump used to move collected water out of the sump to an above grade discharge remote from the structure.

“Working level (WL)” means that concentration of short-lived radon decay products that will result in 130,000 million electron volts of potential alpha-particle energy per liter of air. Working level is a measure of radon decay product concentration in air.

### 5:23-10.3 Enforcement

(a) The provisions of this subchapter shall be enforced by the enforcing agencies having responsibility for the enforcement of this chapter.

(b) Enforcement responsibility shall be divided among subcode officials in the following manner:

1. For new structures and additions:

i. Except as otherwise indicated in (b)1ii below, plan review and inspection with regard to compliance with N.J.A.C. 5:23-10.4(b) shall be the responsibility of the building subcode official;

ii. Plan review and inspection with regard to work performed under N.J.A.C. 5:23-10.4(b) that is otherwise subject to the plumbing, electrical or fire protection subcode shall be the responsibility of the plumbing, electrical or fire protection subcode official, respectively.

2. For existing structures:

i. Construction enforcement responsibility for verification that radon mitigation work in all structures, other than detached one and two family dwellings, is in conformance with the adopted subcodes shall be as set forth in N.J.A.C. 5:23-3.4(a), (c), (d) and (f).

ii. In existing detached one and two family dwellings, the building subcode official shall be responsible for verification that all construction aspects of radon mitigation work are in conformance with the adopted subcodes, except that the electrical subcode official shall be responsible for those construction aspects that are subject to the electrical subcode.

Amended by R.1991 d.429, effective August 19, 1991.

See: 23 N.J.R. 1487(a), 23 N.J.R. 2501(a).

In (b), added 5 and 6.

Amended by R.1994 d.609, effective December 19, 1994 (operative April 1, 1995).

See: 26 N.J.R. 2704(a), 26 N.J.R. 5007(b).

### 5:23-10.4 Construction techniques

(a) Tier one radon hazard areas shall be identified in accordance with the county/municipal radon listing established by the Department of Environmental Protection. The current list of municipalities in tier one areas is set forth in Appendix 10-A of this subcode.

(b) The construction techniques set forth in this subsection shall be the minimum radon hazard protective features required to be incorporated into construction of buildings in Use Groups E and R in tier one areas, and may be incorporated elsewhere, in order to minimize radon and radon progeny entry and facilitate any post-construction radon removal that may be required. Enumeration of these construction techniques is not intended to preclude voluntary use of additional or more extensive techniques. Full compliance with these construction techniques is not required for additions; however, those construction techniques that are feasible shall be incorporated.

1. A continuous vapor barrier not less than six-mil (.006 inch; .152 mm) polyvinyl chloride or polyethylene with any seams overlapped not less than 12 inches (305 mm), or other approved materials, shall be installed under the slab in basement and slab-on-grade construction and on the soil in crawl space construction.

2. Floors of basements and slab on grade construction shall be placed over a base course, not less than four inches (102 mm) in thickness, consisting of gravel or crushed stone containing not more than 10 percent of material that passes through a No. 4 sieve.

3. Basement slabs with interior foundation pipe drains installed shall have a solid three-inch minimum diameter vent pipe section installed in conjunction with this drainage system and be connected to an independent vent stack pipe terminating at an approved location on the exterior of the building.

4. Basement slabs which do not have an interior foundation pipe drain, and slab on grade construction (excluding non-habitable spaces such as garages), shall be provided with one three-inch minimum solid vent pipe section with a “T” pipe fitting for every 1,500 square feet, or portion thereof, of slab area, this vent pipe section to be

installed into the sub-slab aggregate. The horizontal openings of the "T" pipe fitting shall be placed in the sub-slab aggregate. The vertical portion of the "T" pipe fitting shall be connected to an independent vent stack pipe terminating at an approved location on the exterior of the building. Where more than one vent pipe section is provided, interconnection of these sections into a single independent vent stack is permitted.

5. Basement slabs with French drains or channel drains shall not be allowed unless interior foundation pipe drains as described in this section are installed.

6. Joints in foundation walls and floors, including, without limitation, control joints between slab sections poured separately, and between foundation wall and floor (except for French drains or channel drains), as well as penetrations of the foundation walls and floor including, but not limited to, utility penetrations, shall be substantially sealed by utilizing a non-cracking polyurethane or similar caulk, or equivalent, in order to close off the soil gas entry routes. Any openings or penetrations of the floor over the crawl space shall be substantially sealed in order to close off the soil gas entry routes.

7. Untrapped floor drains shall be provided with removable stoppers which substantially close off the soil gas entry routes.

8. A sump cover which substantially closes off the soil gas entry routes shall be provided for all sump installations. If foundation pipe drains terminate at a sump installation and provisions are made for venting from the sump installation, the three-inch diameter solid vent pipe section requirement of (b)3 above need not be provided.

9. Any ductwork that is routed through a crawl space or beneath a slab shall be properly taped or sealed.

10. Sealant materials that substantially close off the soil gas entry routes shall be installed on any doors or other openings between basements and adjoining crawl spaces that are vented to the exterior.

11. The tops of foundation walls, including, without limitation, interior ledges, that are constructed of hollow masonry units shall be capped or the voids shall be completely filled.

12. The independent vent stack pipe provided in accordance with (b)3, 4 or 8 above shall be an adequately supported, gas tight, three-inch minimum diameter solid pipe, through any enclosed portions of the building. The pipe shall be routed in a manner that makes it accessible for the installation of a future in-line vent pipe fan in a non-conditioned (not heated or cooled) space, including, without limitation, an attic space, but excluding a basement or crawl space, and installed in a configuration, and supported in a manner, that will ensure that rain water or condensate accumulation within the pipes will drain downward into the ground beneath the slab or vapor barrier. The vent stack pipe shall meet the following termination requirements:

i. Vent pipes shall terminate at least 12 inches above the roof, measured from the highest point where the vent intersects the roof. When a vent pipe extension terminates on an occupiable roof the vent pipe shall extend at least seven feet above the roof surface. Exception: Buildings more than three stories in height shall be allowed to extend vent pipe terminals through a wall provided that the termination is at least 20 feet above grade and is effectively screened.

ii. No vent terminal shall be located directly beneath any door, window, or other ventilating opening of the building or of an adjacent building nor shall any such vent terminal be within 10 feet horizontally of such an opening unless it is at least two feet above the top of such opening.

iii. No vent terminal shall be closer than 10 feet horizontally from any lot line. Where this 10 foot horizontal distance is not possible due to lot width, the vent terminal shall be placed as remote from the lot line as practicable.

13. Radon vent pipes shall be identifiable and clearly labeled at intervals of not more than 25 feet in concealed locations, not more than 50 feet in exposed locations and not less than once in any room or space.

14. Electrical junction boxes shall be installed near the provided area, such as an accessible attic space, where a future in-line vent pipe fan and system failure alarms may be installed.

15. In combination basement/crawl space or slab-on-grade/crawl space buildings a three-inch minimum solid vent pipe shall be provided between the areas and interconnected into the independent vent stack to permit use of a single in-line vent pipe fan if activation of the system is desired.

16. In order to reduce stack effect, air passages that penetrate the conditioned envelope of the building, such as attic access openings, or other openings installed in top-floor ceilings, shall be closed, gasketed or otherwise sealed with materials approved for such applications.

Amended by R.1994 d.609, effective December 19, 1994 (operative April 1, 1995).  
See: 26 N.J.R. 2704(a), 26 N.J.R. 5007(b).

**APPENDIX 10-A**

**New Jersey Municipalities in Tier 1**

County	Municipality	
Burlington	Chesterfield	
Camden	Magnolia	Somerdale
	Runnemede	
Cumberland	Bridgeton	
Gloucester	Deptford	Harrison
	Greenwich	Wenonah
Hunterdon	All municipalities except Kingswood and Union	

County	Municipality	
Mercer	Ewing	Pennington
	Hopewell Borough	Princeton Borough
	Hopewell Township	Princeton Township
	Lawrence	
Middlesex	Highland Park	Piscataway
	North Brunswick	
Monmouth	Allentown	Marlboro
	Colts Neck	Roosevelt
	Freehold Borough	Shrewsbury Borough
	Freehold Township	Shrewsbury Township
	Holmdel	Upper Freehold
	Little Silver	
Morris	Chester Borough	Morris
	Chester Township	Morristown
	Dover	Mount Olive
	Harding	Randolph
	Jefferson	Riverdale
	Long Hill	Roxbury
	Mendham Borough	Victory Gardens
	Mendham Township	Washington
	Morris Plains	Wharton
		West Milford
Passaic	Pompton Lakes	
Salem	Alloway	Woodstown
Somerset	Bernardsville	Millstone
	Bernards	Montgomery
	Branchburg	Peapack & Gladstone
	Far Hills	Rocky Hill
	Hillsborough	Somerville
	Franklin	Watchung
Sussex	All municipalities except Hardyston	
Warren	All municipalities	

Public Notice.  
 See: 23 N.J.R. 3745(a).  
 Revised Tier I list issued.  
 Administrative Change.  
 See: 26 N.J.R. 3707(b).  
 Administrative Change.  
 See: 27 N.J.R. 3600(a).

**SUBCHAPTER 11. (RESERVED)**

**Subchapter Historical Note**

Subchapter 11, Indoor Air Quality Standards and Procedures for Buildings Occupied by Public Employees, was repealed by R.1995 d.612, effective December 4, 1995. See: 27 N.J.R. 3518(a), 27 N.J.R. 4885(a).

**SUBCHAPTER 12. ELEVATOR SAFETY  
 SUBCODE**

**5:23-12.1 Title; scope; intent**

(a) This subchapter of the rules adopted pursuant to the authority of the Uniform Construction Code Act, entitled "Elevator Safety Subcode," shall be known and cited throughout this chapter as subchapter 12 or N.J.A.C.

5:23-12, and when referred to in this subchapter may be cited as "this subchapter."

(b) Unless otherwise specifically provided, all references to paragraphs, sections, or to provisions not specifically identified, shall be construed to refer to such paragraph or section or provision of this subchapter.

(c) This subchapter shall control all matters relating to administration of tests and inspections of elevator devices as defined in (e) below.

(d) It is the purpose of this subchapter to enhance the public safety, health and welfare by ensuring that elevator devices as defined in this subchapter are periodically inspected and maintained in accordance with nationally recognized, referenced standards.

(e) For purposes of this subchapter, "elevator" or "elevator device" means a hoisting and lowering device equipped with a car or platform which moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure; or, a power driven, inclined, continuous stairway used for raising or lowering passengers; or, a type of passenger carrying device on which passengers stand or walk, and in which the passenger carrying surface remains parallel to its direction of motion and is uninterrupted. This includes, without limitation, elevators, escalators, moving walks, dumbwaiters, wheelchair lifts, manlifts, stairway chairlifts and any device within the scope of ASME A17.1 (Safety Code for Elevators and Escalators) or ASME A90.1 (Safety Standard for Belt Manlifts).

1. This definition shall not apply to any conveyor devices that are process equipment.

**5:23-12.2 Referenced standards**

(a) Periodic, routine and acceptance tests and inspections, if applicable, shall be required on all new, altered and existing power elevators, escalators, dumbwaiters, moving walks, wheelchair lifts, manlifts and stairway chairlifts in accordance with the most recent edition of ASME A17.1 referenced in the building subcode. This subsection shall not apply to elevator devices in structures in Use Groups R-3 or R-4, or to any elevator device located wholly within a dwelling unit in an R-2 structure if the device is not accessible to the general public.

(b) All operating and electrical parts and accessory equipment or devices for elevator devices shall be maintained in safe operating condition. The maintenance of elevators, dumbwaiters and escalators shall conform to the most recent edition of ASME A17.1 referenced in the building subcode.

(c) (Reserved)

(d) If, upon inspection of any elevator device subject to the requirements of this subchapter, the equipment is found to be in a dangerous condition, or if there is an immediate hazard to persons riding on or using any such device, or if the design, or the method of operation in combination with the design, of the device is determined to be inherently dangerous by the elevator subcode official, the elevator subcode official shall so advise the construction official so that a notice of unsafe structure may be issued pursuant to N.J.A.C. 5:23-2.32.

(e) Inspection and testing procedures for equipment within the scope (section 1) of the ASME A17.1 Safety Code for Elevators and Escalators shall be performed in accordance with the latest edition of ASME A17.2.

(f) Any education, experience or training requirements included or cited in reference standards shall not be binding in this State.

Amended by R.1993 d.662, effective December 20, 1993.

See: 25 N.J.R. 3891(a), 25 N.J.R. 5918(a).

Amended by R.1995 d.564, effective November 6, 1995 (operative March 1, 1996).

See: 27 N.J.R. 2829(a), 27 N.J.R. 4281(a).

### 5:23-12.3 Inspection and test schedule

(a) Routine, periodic and acceptance inspections and test of elevators shall be conducted as follows:

1. Routine and periodic inspections shall be made at intervals of not more than six months for all manlifts, and at intervals not exceeding those set forth in ASME A17.1 referenced in the most recent edition of the building subcode for elevators, escalators and dumbwaiters and moving walks. Stairway chairlifts and wheelchair lifts shall be inspected at intervals not exceeding one year.

2. Routine tests shall be made and periodic tests shall be witnessed at intervals not exceeding those set forth in the most recent edition of ASME A17.1 referenced in the building subcode.

3. Routine and periodic inspections, including any applicable acceptance inspections, shall be made by the elevator subcode official or elevator inspector. Routine tests shall be made and periodic tests, including any applicable acceptance tests, shall be witnessed by the elevator subcode official or elevator inspector.

4. Each building containing devices covered by this subchapter shall have an inspection cycle established by the enforcing agency. This cycle shall be consistent with the routine and periodic inspection and test intervals required in this section. Once this cycle is established, all such devices in the building shall be subject to inspections and tests, except as exempted by this section or by N.J.A.C. 5:23-12.9.

i. Elevator devices that have been temporarily taken out of operation for alteration work to be performed shall be exempt from routine and periodic inspection and test requirements as long as the elevator device is not accessible to the public or placed back in operation. Those devices that are still in operation, even though they are included in the alteration permit, shall be subject to routine and periodic inspections within the cycle of inspections in the building.

ii. Elevator devices that have been removed from service as per ASME A17.1 are exempt from routine and periodic inspections and tests until the device is placed back in service as per ASME A17.1, which is referenced in the building subcode. Taking a device in or out of service by Code shall be considered minor work within the meaning of N.J.A.C. 5:23-2.17A.

iii. Elevator devices that are used for construction purposes as per ASME A17.1 referenced in the building subcode are subject to inspections and tests required by ASME A17.1 for elevators used for construction. Such devices shall not be accessible to the public. During the operation of the device for construction purposes the owner shall assure that the device is used only for construction purposes by providing a designated operator, authorizing of key operation or by other methods acceptable to the elevator subcode official.

5. Elevator devices in structures classified as Use Group R-3 and R-4, except those elevator devices accessible to the public, shall be exempt from periodic inspection and test requirements. Elevator devices wholly within dwelling units in R-2 structures and not accessible to the general public shall also be exempt. In addition, signed statements and supporting inspection and acceptance test reports, filed by an approved qualified agent or agency for elevator devices in such structures, other than elevator devices accessible to the public, may be accepted by the construction official, in accordance with N.J.A.C. 5:23-2.19 and 2.20, in lieu of inspections performed by and acceptance tests witnessed by the enforcing agency for work requiring a permit. If the construction official designates the elevator subcode official to perform the inspection and to witness acceptance test for work under a permit in such structures, those inspections and tests shall assure compliance with the requirements of the code(s) under which the permit was issued.

Amended by R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).

See: 27 N.J.R. 1846(a), 27 N.J.R. 3325(b).

Added (a)4 and 5.

### 5:23-12.4 Registration of elevator devices

(a) On or before July 1, 1992, and thereafter as required by (e) below, the owner of every existing structure containing one or more elevator device, other than a structure in Use Group R-3 or R-4, or other than an elevator device wholly within a dwelling unit in an R-2 structure that is not accessible to the general public, shall register each elevator device with the Department on a form provided by the Commissioner.

**5:23-12.8 Alterations, replacements, damages, increases in size, changes in use group, minor work, ordinary repairs**

(a) In complying with this chapter, calculations concerning alterations, replacements, damages, increases in size and changes in use group, in N.J.A.C. 5:23-2, shall be performed using data for entire structures. The alteration provisions applicable to the whole structure and/or calculations in N.J.A.C. 5:23-2 shall not be applied to individual elevator devices.

(b) For purposes of this subchapter, alteration of an elevator device means any change to equipment other than minor work and ordinary repair, as defined in N.J.A.C. 5:23-2.17A and 5:23-9.3. When work that includes the alteration of an elevator device has a total cost of less than 50 percent of the physical value of the building, the alteration of the elevator device shall comply only with the applicable requirements of Part XII (Alterations, Repairs, Replacements and Maintenance) of the most recent edition of ASME A17.1 referenced in the building subcode.

Amended by R.1995 d.564, effective November 6, 1995 (operative March 1, 1996).  
See: 27 N.J.R. 2829(a), 27 N.J.R. 4281(b).

**5:23-12.9 Certificate of compliance requirements**

(a) A device shall be granted a certificate of compliance by the construction official for the time period specified based upon N.J.A.C. 5:23-12.3. No device shall be operated unless a valid certificate of compliance has been issued except for the initial period after work under a permit has been completed as per (f) below. Any violation shall be corrected before a new certificate of compliance may be issued.

(b) A temporary certificate of compliance may be issued by the construction official for a device in order to keep the device in operation on which work, as a result of violations, is being diligently performed, if the elevator subcode official finds that no hazard to the public is thereby created. A temporary certificate of compliance may be issued for no longer than 180 days, even if the device is inspected on an annual basis.

(c) The elevator subcode official shall provide written notice to the construction official whenever a temporary certificate of compliance or certificate of compliance is granted by the construction official.

(d) No certificate of compliance shall be issued for any elevator device in use on or before July 1, 1992 that is subject to these rules and is not registered with the Department in accordance with N.J.A.C. 5:23-12.4, except elevator devices in structures classified as Use Group R-3 and R-4 shall be exempt from registration. Elevator devices wholly within R-2 residences, not accessible to the general public shall also be exempt.

(e) No certificate of compliance or temporary certificate of compliance shall be issued for any elevator device, as required by this section, which has been approved to operate during the initial period, after a permit, in accordance with (f) below if the device has not been registered pursuant to this subchapter by its first routine inspection, even if a certificate of occupancy, temporary certificate of occupancy or certificate of approval has been issued.

(f) Except as otherwise provided in (e) above, a new device or an existing device which has had work done under a permit shall be issued a certificate of compliance under the first cyclical inspection based on the following:

1. A device has been approved following the inspection and witnessing of an acceptance test as required by N.J.A.C. 5:23-12.2, by the application of an Inspection Sticker Approval for Elevator (F-225) and a recommendation by the elevator subcode official on (F-150) Elevator Subcode Technical Section for a certificate of occupancy or approval as the case may be. The date of the approval shall begin the cycle of inspections and tests for new devices in a new building and for new devices in an existing building which did not have elevator devices previously. The date of the approval of an existing device in an existing building shall not change the device's existing cycle of inspections and tests. The cycle shall remain consistent with the inspection cycle in the building, except the device shall not be subject to the five year test before it is due as long as the acceptance test performed under the permit was a full five year test.

2. A device has been approved following the inspection process as required for minor work by N.J.A.C. 5:23-2.17A(d)2 and 12.2, by the application of an Inspection Sticker Approval for Elevator (F-225) and a recommendation by the elevator subcode official on (F-150) Elevator Subcode Technical Section for a certificate of approval. The device may operate under the approval given under the permit until the next cyclical inspection, as determined by the inspection cycle of the building, and then shall be subject to a routine or periodic inspection the same as all other elevator devices in the building.

New Rule, R.1995 d.476, effective September 5, 1995 (operative January 1, 1996).

See: 27 N.J.R. 1846(a), 27 N.J.R. 3325(b).

Amended by R.1995 d.564, effective November 6, 1995 (operative March 1, 1996).

See: 27 N.J.R. 2829(a), 27 N.J.R. 4281(b).

**5:23-12.10 Inspections in seasonal facilities**

(a) For purposes of this subchapter, a "seasonal facility" is defined as a building that is open, and available for use by members of the public, employees or maintenance personnel or any occupants, for a period of not more than 184 consecutive days and is then closed and not available for such use for at least 181 consecutive days.

(b) Elevator devices in seasonal facilities shall be subject only to the applicable periodic inspections and tests (one, three and five year). Such inspections and tests shall be performed prior to the building being used by employees, maintenance personnel, members of the public or occupants. A certificate of compliance or temporary certificate of compliance shall be granted only for the time period during which the device is allowed to operate in the seasonal facility.

1. The fees for performing such inspections and witnessing tests shall be in accordance with such provisions of N.J.A.C. 5:23-12.6 as may be applicable.

(c) An owner of a building with one or more elevator devices may obtain classification of the building as a "seasonal facility" from the local enforcing agency. A request for such classification shall contain the information in (d) below and shall be signed by the owner.

(d) An application for classification of a building as a seasonal facility shall include the following information:

1. The owner's name and address, the building address, the registration number, the device identification number(s), and the date of the last inspection;

2. That the total number of consecutive calendar days per year when the building is in use by the public, employees, maintenance personnel or occupants does not exceed 184 days and that the building is then closed for such use for at least 181 consecutive calendar days;

3. That the elevator devices in the building are not accessible to members of the public, employees, maintenance personnel or building occupants during the time in which the building is closed; and

4. That the disconnects located in elevator device machine rooms and machinery spaces are, during the time in which the building is closed, in the "off" position and locked; and that the access to the keys is secured.

(e) The seasonal facility classification shall become invalid when the conditions of the classification are no longer met. The owner shall immediately notify the enforcing agency of any change in the conditions upon which the approval of classification as a seasonal facility was based.

1. Classification of a building as a seasonal facility shall not be renewed if the classification became invalid as a result of a violation of any conditions of the approval of the classification.

(f) During the period of time in which any device in seasonal facility is in operation, it shall be subject to all applicable code requirements in the same manner as any other device subject to this subchapter.

New Rule, R.1996 d.323, effective July 15, 1996 (operative January 1, 1997).

See: 28 N.J.R. 2112(a), 28 N.J.R. 3549(a).