

CHAPTER 23
UNIFORM CONSTRUCTION CODE

Authority

N.J.S.A. 52:27D-123, 123a, 123.2, 123.5, 123.8, 124 and 124f.

Source and Effective Date

R.1997 d.409, effective September 9, 1997.
See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

Executive Order No. 66(1978) Expiration Date

Chapter 23, Uniform Construction Code, expires on September 9, 2002.

Chapter Historical Note

Chapter 23, Uniform Construction Code, was adopted as R.1976 d.344, d.345, d.346 and d.347, effective January 1, 1977 and codified as Subchapter 1, General Provisions; Subchapter 2, Administration and Enforcement Process; Subchapter 3, Subcodes, and Subchapter 4, Enforcing Agencies: Duties, Powers, Procedures. See: 8 N.J.R. 216(b), 319(a), 370(d), 414(a); 8 N.J.R. 546(a). Chapter 23 superseded N.J.A.C. 5:16, Standard Building Code and N.J.A.C. 5:20, Safety Glazing Materials, which were repealed by R.1978 d.360, effective October 6, 1978. See: 10 N.J.R. 377(a), 10 N.J.R. 470(a). Chapter 23 also superseded N.J.A.C. 5:21, Uniform Standards Code for Mobile Homes, which was repealed by R.1982 d.7, effective February 1, 1982. See: 13 N.J.R. 717(a), 14 N.J.R. 142(a). Subchapter 5, Licensing of Code Enforcement Officials, was adopted as R.1977 d.304, effective October 1, 1977. See: 9 N.J.R. 257(b), 9 N.J.R. 413(b). Subchapter 6, Tax Exemption for Solar Facilities, was adopted as R.1978 d.334, effective September 18, 1978. See: 10 N.J.R. 222(b), 10 N.J.R. 418(a). Pursuant to Executive Order No. 66(1978), Subchapter 6 was readopted as R.1980 d.303, effective July 1, 1980. See: 12 N.J.R. 249(c), 12 N.J.R. 452(c).

Pursuant to Executive Order No. 66(1978), Chapter 23 was readopted as R.1983 d.144, effective April 26, 1983. See: 14 N.J.R. 1247(a), 15 N.J.R. 803(c). Subchapter 7, Barrier Free Subcode, was adopted as R.1986 d.448, effective November 3, 1986. See: 18 N.J.R. 757(a), 18 N.J.R. 2194(a). Subchapter 8, Asbestos Hazard Abatement Subcode, was adopted as Emergency New Rules R.1985 d.362, effective June 18, 1985 (expired August 17, 1985). See: 17 N.J.R. 1782(a). The provisions of R.1985 d.362 were readopted as R.1985 d.472, effective August 16, 1985. See: 17 N.J.R. 2249(a).

Pursuant to Executive Order No. 66(1978), Chapter 23 was readopted as R.1988 d.168, effective March 22, 1988. N.J.A.C. 5:23-6.1, 6.2 and 6.3, concerning tax exemption for solar facilities, were not readopted and expired on April 1, 1988. See: 20 N.J.R. 223(a), 20 N.J.R. 893(a). Subchapter 9, Code Interpretations, was adopted as R.1988 d.195, effective May 2, 1988. See: 20 N.J.R. 224(a), 20 N.J.R. 977(a). Subchapter 10, Radon Hazard Subcode, was adopted as R.1990 d.226, effective May 7, 1990. See: 21 N.J.R. 3696(a), 22 N.J.R. 1356(a). Subchapter 4A, Industrialized/Modular Buildings and Building Components, was adopted as R.1990 d.313, effective June 18, 1990, (operative July 1, 1990). See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b). Subchapter 11, Indoor Air Quality Standards and Procedures for Buildings Occupied by Public Employees, was adopted as R.1992 d.33, effective January 21, 1992. See: 23 N.J.R. 1730(b), 24 N.J.R. 229(c). Subchapter 12, Elevator Safety Subcode, was adopted as R.1991 d.325, effective July 1, 1991. See: 23 N.J.R. 805(a), 23 N.J.R. 2046(a).

Pursuant to Executive Order No. 66(1978), Chapter 23 was readopted as R.1993 d.106, effective February 3, 1993. See: 24 N.J.R. 1420(b), 25 N.J.R. 920(a). Subchapter 4B, Manufactured Homes and Manufactured Home Add-On Units Not Subject to Federal Regulation, and Subchapter 4C, Enforcement of Federal Manufactured Home

Standards, were adopted as R.1994 d.96, effective February 22, 1994. See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a). N.J.A.C. 5:23-7.1 through 7.99 were repealed and 7.100 through 7.116 were recodified as 7.2 through 7.18 by R.1995 d.144, effective March 20, 1995 (operative July 1, 1995). See: 26 N.J.R. 2698(a), 26 N.J.R. 2524(a), 27 N.J.R. 1180(a). 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 (operative July 1, 1995). See: 27 N.J.R. 3518(a), 27 N.J.R. 4885(a).

Pursuant to Executive Order No. 66(1978), Chapter 23 was readopted as R.1997 d.409, effective September 9, 1997. See: Source and Effective Date. As a part of R.1997 d.409, effective October 6, 1997, Subchapter 6, Tax Exemption, was repealed. See, also, section annotations.

Cross References

Child care center physical facility requirements, see N.J.A.C. 10:122-5.1 et seq.

Children's group home physical facility requirements, see N.J.A.C. 10:128-4.1 et seq.

Children's shelter physical facility requirements, see N.J.A.C. 10:124-5.1 et seq.

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SUBCHAPTER 1. GENERAL PROVISIONS

5:23-1.1 Title; division into subchapters

(a) These regulations shall be known as the "Regulations for the New Jersey Uniform Construction Code" and are referred to herein as "the regulations".

(b) The chapter consists of the following subchapters:

1. "General provisions" which may be cited throughout the regulations as N.J.A.C. 5:23-1 and when referred to in subchapter 1 of this chapter may be cited as this subchapter.

2. "Administration and enforcement; process" which may be cited throughout the regulations as N.J.A.C. 5:23-2 and when referred to in subchapter 2 of this chapter may be cited as this subchapter.

3. "Subcodes" which may be cited throughout the regulations as N.J.A.C. 5:23-3 and when referred to in subchapter 3 of this chapter may be cited as this subchapter.

i. N.J.A.C. 5:23-3.11B contains references to the Department of Environmental Protection's rules concerning underground storage tanks, codified at N.J.A.C. 7:14B, which are jointly enforced by this Department and local enforcing agencies pursuant to this chapter.

4. "Enforcing agencies: duties, powers, and procedures" which may be cited throughout the regulations as N.J.A.C. 5:23-4 of this chapter and when referred to in subchapter 4 of this chapter may be cited as this subchapter.

5. "Industrialized/Modular Buildings and Building Components" which may be cited throughout the regulations as N.J.A.C. 5:23-4A and when referred to N.J.A.C. 5:23-4A may be cited as this subchapter.

6. "Manufactured Homes and Manufactured Home Add-On Units Not Subject to Federal Regulations" which may be cited throughout the regulations as N.J.A.C. 5:23-4B and when referred to in subchapter 4B may be cited as this subchapter.

7. "Enforcement of Federal Manufactured Home Standards" which may be cited throughout the regulations as N.J.A.C. 5:23-4C and when referred to in subchapter 4C may be cited as this subchapter.

8. "Licensing of Code Enforcement Officials" which may be cited throughout the regulations as N.J.A.C. 5:23-5 and when referred to in subchapter 5 of this chapter may be cited as this subchapter.

9. "Rehabilitation Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-6 and, when referred to in subchapter 6 of this chapter, may be cited as this subchapter.

10. "Barrier Free Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-7 and when referred to in subchapter 7 of this chapter may be cited as this subchapter.

11. "Asbestos Hazard Abatement Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-8 and when referred to in subchapter 8 of this chapter may be cited as this subchapter.

12. "Code Interpretations" which may be cited throughout the regulations as N.J.A.C. 5:23-9 and when referred to in subchapter 9 of this chapter may be cited as this subchapter.

13. "Radon Hazard Subcode" which may be cited throughout the regulations as N.J.A.C. 5:23-10 and when referred to in subchapter 10 of this chapter may be cited as this subchapter.

14. (Reserved)

15. "Elevator Safety Subcode" which may be cited throughout the rules as N.J.A.C. 5:23-12 and when referred to in subchapter 12 of this chapter may be cited as this subchapter.

Amended by R.1978 d.350, eff. October 1, 1978.

See: 10 N.J.R. 378(a), 10 N.J.R. 469(f).

Amended by R.1987 d.509, effective December 7, 1987.

See: 19 N.J.R. 1264(a), 19 N.J.R. 2270(a).

(b) substantially amended.

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

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

Added 9 and 10 to (b).

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text added at (b)5.

Amended by R.1990 d.562, effective November 19, 1990.

See: 22 N.J.R. 2629(c), 22 N.J.R. 3482(d).

Added reference to N.J.A.C. 7:14B.

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

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

Text on elevators added at (b).

Amended by R.1992 d.183, effective April 20, 1992.

See: 24 N.J.R. 167(a), 24 N.J.R. 1475(b).

Reference to Indoor Air Quality Subcode added at (b)12.

Amended by R.1994 d.96, effective February 22, 1994.

See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Amended by R.1997 d.409, effective October 6, 1997.

See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

Deleted (b)14.

Amended by R.1998 d.28, effective January 5, 1998.

See: 29 N.J.R. 3603(a), 30 N.J.R. 129(a).

In (b)9, substituted "Rehabilitation Subcode" for "Tax Exemptions."

Case Notes

Councilperson violated local ethics law; project manager for private construction company. Bleeker v. Local Finance Board, 94 N.J.A.R.2d (CAF) 122.

ii. High hazard facilities, such as grain elevators or grain storage silos used to store products which are neither used nor produced on the farm itself;

iii. Processing facilities that include specialized machinery to perform functions other than the washing, cleaning, hydrocooling, vacuum cooling, grading, sizing and packing of agricultural or horticultural products, unless the exempted functions are only the first step in a sequence of processing to be performed on the farm;

iv. Mercantile structures, such as farm retail markets or nursery greenhouse retail sales areas;

v. Offices with either 11 or more occupants, or floor area of greater than 1,200 square feet; and

vi. Buildings that contain any use not included in the definition of commercial farm building, except incidental offices as provided in (d)9vii below.

7. A commercial farm building may include a use that does not meet the definition of a "commercial farm building," provided that the space that does not meet the commercial farm building definition is separate from the remainder of the building with the required fire separation assemblies and meets all applicable requirements of the building subcode.

8. Construction type, height and allowable area requirements for commercial farm buildings and structures shall be as specified in the building subcode and shall not exceed the area or height limitations of Table 503 for the type of construction used, except as follows:

i. The height and area of a one story commercial farm building of any type of construction shall not be limited if the building meets the fire resistance rating and fire separation distance as specified in section 507.2 of the building subcode.

ii. The height and area of a two story commercial farm building of any type of construction shall not be limited if the building meets the fire resistance rating and fire separation distance as specified in section 507.2 of the building subcode and is provided with an approved automatic fire suppression system throughout, conforming to the Uniform Construction Code.

iii. Two or more commercial farm buildings excepted under (d)8i and ii above may be constructed on the same lot, or on an owner's contiguous lots without meeting the fire separation distance between them specified in section 507.2 of the building subcode. However, the fire separation distance specified in section 507.2 of the building subcode must be maintained between a commercial farm building and any building not eligible for this exemption.

9. Commercial farm buildings exempted under (d)8i above shall meet the following requirements in lieu of those requirements specified in the subsections of Chap-

ter 10, Means of Egress, of the BOCA National Building Code:

i. In lieu of the requirements of Section 1006.0, the maximum distance of travel from any point in the building to an exit shall not exceed 150 feet;

ii. In lieu of the requirements of Section 1010.0, one exit is required for each 15,000 square feet of floor area and fraction thereof;

iii. In lieu of the requirements of Section 1023.0, exit signs must be posted. Exit signs are not required to be illuminated;

iv. The provisions of section 1024.0 shall apply in commercial farm buildings where the owner has determined to provide electricity. Where electricity is provided, any electric light provided in the commercial farm building shall be deemed to meet the means of egress lighting requirements and a back up power source shall not be required unless the commercial farm building will be used as a place of public assembly in accordance with (d)5 above.

v. In lieu of the requirements of section 1008.0, occupancy is limited to 30 people;

vi. Lightning protection of the type required for the structure by NFiPA 780, fire extinguishers and "no smoking" signs shall be provided;

vii. Offices with 10 or fewer occupants and a floor area not in excess of 1,200 square feet shall be considered incidental to the structure, if direct exit to the exterior is provided.

10. Site plans signed and sealed by a registered architect or a licensed engineer, pursuant to N.J.A.C. 5:23-2.15(e)1vii, shall not be required, provided that a sketch plan of the site is submitted to the construction official.

Amended by R.1981 d.132, effective May 7, 1981.

See: 13 N.J.R. 121(a), 13 N.J.R. 258(d).

Amended by R.1986 d.448, effective November 3, 1986.

See: 18 N.J.R. 757(a), 18 N.J.R. 2194(a).

Deleted (b)1 and 4; recodified (b)2 and 3 to (b)1 and 2.

Amended by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

(b)1: model subcode revisions.

Amended by R.1988 d.144, effective April 4, 1988.

See: 19 N.J.R. 1778(a), 20 N.J.R. 783(a).

Changed (b)2 to (c) and (d).

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.603, effective November 20, 1995 (operative March 20, 1996).

See: 27 N.J.R. 2655(a), 27 N.J.R. 4699(a).

Amended by R.1997 d.269, effective July 7, 1997.

See: 29 N.J.R. 968(a), 29 N.J.R. 2817(a).

Inserted (d)5i; in (d)6vi, amended N.J.A.C. reference; in (d)8, inserted reference to construction type and inserted "; except as follows:"; deleted (d)8i; recodified former (d)8i(1) through (3) as (d)8i through iii; inserted new (d)9iv; recodified former (d)9iv through vi as (d)9v through vii; and recodified former (e) as (d)10.

Amended by R.1997 d.417, effective October 6, 1997.

See: 29 N.J.R. 3387(a), 29 N.J.R. 4285(a).
Substantially amended (b)1.

5:23-3.3 Enforcement

(a) In accordance with the delineation of responsibility for enforcement specified herein, subject to specific reservations by the Department to itself and other State agencies, the appropriate official(s) shall enforce the subcode and shall act on any question relative to the mode or manner of construction, and the materials to be used in the erection, addition to, repair, renovation, alteration, reconstruction, removal, demolition, installation of service equipment, and the location, use and occupancy of all buildings and structures, except as may be otherwise specifically provided for in the regulations, including, but not limited to:

1. Applications, certificates and permits: Such official(s) shall review applications for permits for the erection, repair (other than the making of ordinary repairs), renovation, alteration and reconstruction of buildings and structures; indicate approval or denial to the construction official; and inspect the premises for which such permits have been issued and enforce compliance with the provisions of the regulations.

2. Notices and orders: Such official(s) shall issue all necessary notices or orders to remove illegal or unsafe conditions; to require the necessary safeguards during construction; and to insure compliance with all requirements for the safety, health and general welfare of the public.

3. Inspections: Such official(s) shall make all the required inspections, and all reports of such inspections shall be in writing and certified by them or they may engage such expert opinion as he may deem necessary to report upon unusual technical issues that may arise, subject to the approval of the construction official and appointing authority.

4. Enforcing agency records: Such official(s) shall assist in the keeping of official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued as may be required by the construction official.

Amended by R.1998 d.28, effective January 5, 1998.
See: 29 N.J.R. 3603(a), 30 N.J.R. 129(a).

5:23-3.4 Responsibility

(a) Responsibility for the enforcement of specific provisions of the building subcode shall be as follows:

1. Plan review functions of sections 402.0 through 406.0, 408.0 through 420.0; Chapters 7, 8, and 10; sections 1506.0, 1511.0, 2603.0; section 2114.0, and Chapter 28; sections 3006.0 through 3011.0 for elevator devices not accessible to the general public in structures classified as Use Groups R-3, R-4, or in R-2 structures in which the elevator devices are wholly within dwelling units and not accessible to the general public, and 3103.0, 3104.0, 3106.0, 3305.0 and 3406.0 shall be enforced jointly by the building subcode official and the fire protection subcode official.

i. Plan review functions of sections 3006.0 through 3011.0 for elevator devices in any Use Group other than R-3, R-4, or in R-2 structures in which the elevator devices are wholly within dwelling units and not accessible to the general public, and for elevator devices that are accessible to the general public in structures classified as Use Groups R-2, R-3 or R-4, shall be enforced jointly by the building, elevator, and fire protection subcode officials.

2. Plan review functions of sections 407.0 and 421.0 shall be enforced exclusively by the building subcode official.

3. Plan review sections of Chapter 9 shall be enforced exclusively by the fire protection subcode official.

4. Construction inspection functions of sections 402.0 through 402.9, 402.14 through 402.15.1, 402.15.3 through 421.0; Chapters 7, 8, and 10; and sections 1506.0, 1511.0, 2114.0, 2603.0, 3007.1, 3007.2, 3007.4 through 3007.7, 3008.0, 3010.1 through 3010.2.1, 3010.2.3, 3010.4, 3011.1, 3011.2, 3103.0 and 3104.0 shall be enforced exclusively by the building subcode official.

5. Construction inspection functions of sections 402.10 through 402.13 and section 402.15.2, Chapter 9 and Chapter 28; and sections 3007.3, 3010.2.2, 3011.2.1, 3011.2.2 and 3305.0 shall be enforced exclusively by the fire protection subcode official.

6. Construction inspection functions of sections 3006.0, 3009.0, 3010.3 and 3010.5 shall be enforced exclusively by the elevator subcode official.

7. Section 3004.2 shall be enforced exclusively by the elevator subcode official.

8. In the event of conflicting or inconsistent interpretation or application of this subcode between the two officials, the construction official shall rule as to which interpretation or application shall be followed.

9. All remaining articles and sections of the building subcode shall be enforced exclusively by the building subcode official.

(b) Responsibility for enforcement of the plumbing subcode shall be the exclusive province of the plumbing subcode official.

(c) Responsibility for the enforcement of specific provisions of the electrical subcode shall be as follows:

1. Plan review functions of article 300-21; article 450, part C; chapter 5; and article 760 shall be enforced jointly by the electrical subcode official and the fire protection subcode official.

2. Plan review functions of article 620 for elevator devices not accessible to the general public in structures classified as Use Group R-3, R-4, or in R-2 structures in which the elevator devices are wholly within dwelling units and not accessible to the general public, shall be enforced by the electrical subcode official.

i. Plan review functions of article 620 for elevator devices in any Use Group other than R-3, R-4, or in R-2 structures in which the elevator devices are wholly within dwelling units and not accessible to the general public, and for elevator devices that are accessible to the general public in structures classified as Use Groups R-2, R-3 or R-4, shall be enforced jointly by the elevator and electrical subcode officials.

3. Construction inspection functions of article 300-21; article 450, part C; chapter 5; and article 760 shall be enforced exclusively by the electrical subcode official.

4. Construction inspection functions of article 620 for entire parts A, B, E and H, and of part C (except section 620-22), part D (except section 620-38), section 620-51(b) of Part F, part J (except section 620-85), and part K (except section 620-101(b), for elevator devices in any Use Group other than R-3, R-4, or in R-2 structures in which the elevator devices are wholly within dwelling units and not accessible to the general public shall be enforced exclusively by the elevator subcode official.

i. For elevator devices not accessible to the general public in structures classified as Use Group R-3, R-4, or in R-2 structures in which the elevator devices are wholly within dwelling units and not accessible to the general public, construction inspection functions of article 620 in its entirety shall be the sole responsibility of the electrical subcode official.

5. Construction inspection functions of sections 620-22, 620-38 (for electrical equipment and materials only), sections 620-51 and 620-51(a) of part F, entire part G, Section 620-85 and section 620-101(b), shall be enforced exclusively by the electrical subcode official.

6. In the event of conflicting or inconsistent interpretations or application of this subcode between the two officials, the construction official shall rule as to which interpretation or application shall be final.

7. All remaining chapters and articles of the electrical subcode shall be enforced exclusively by the electrical subcode official.

(d) Responsibility for enforcement of the fire protection subcode shall be the exclusive province of the fire protection subcode official except as is otherwise provided in (a), (c) and (f).

(e) Responsibility for enforcement of specific provisions of the energy subcode shall be as follows:

1. Chapters 3 and 4 of the BOCA National Energy Conservation Code and Sections 8, 9, 10, and 13 of ASHRAE/IES 90.1-1989 shall be enforced exclusively by the building subcode official.

2. Chapter 5 of the BOCA National Energy Conservation Code and Section 11 of ASHRAE/IES 90.1-1989 shall be enforced exclusively by the plumbing subcode official.

3. Chapter 6 of the BOCA National Energy Conservation Code standard LEM-1 and Sections 5, 6, 7, and 12, of ASHRAE/IES 90.1-1989 shall be enforced exclusively by the electrical subcode official.

4. Plan review and construction inspection functions for structures submitted under Chapter 7 shall be reserved to the respective subcode officials as delineated above.

5. The construction official shall coordinate the plan review and construction inspection functions of the subcode officials.

(f) Responsibility for enforcement of specific provisions of the mechanical subcode shall be as follows, except as provided in (j) below:

1. Chapters 3, 12 and 14 and sections M-901.0, M-903.3, M-905.1, M-905.3, M-905.4, M-908.0 and M-910.0: Plan review functions shall be enforced jointly by the building and fire protection subcode officials. Construction inspection functions shall be enforced exclusively by the Building subcode official.

2. Chapters 4, 5, and 10: Plan review and construction inspection functions shall be enforced exclusively by the fire protection subcode official.

3. Chapters 6, 7, 8 and 13 and sections M-903.1, M-903.2, M-903.4 through M-903.9, M-904.0, M-905.2, M-906.0, M-909.0, M-911.0 and M-912.0: Plan review and construction inspection functions shall be enforced exclusively by the plumbing subcode official.

4. Chapter 11: Plan review functions shall be enforced jointly by the building and fire protection subcode officials; construction inspection functions shall be enforced exclusively by the fire protection subcode official.

5. Chapter 15: Plan review functions shall be enforced by the Department of Community Affairs, and construction inspection functions shall be enforced by the fire protection subcode official.

6. Chapter 16: Plan review and construction inspection functions shall be enforced exclusively by the building subcode official.

7. Chapter 18: Plan review functions shall be enforced jointly by the building and plumbing subcode officials; construction inspection functions shall be enforced by the plumbing subcode official.

(g) Responsibility for enforcement of the indoor air quality subcode shall be the exclusive province of the building subcode official.

(h) Responsibility for enforcement of specific provisions of the radon hazard subcode shall be as set forth at N.J.A.C. 5:23-10.3.

(i) Enforcement of the elevator safety subcode shall be the sole responsibility of the elevator subcode official, unless otherwise specified in N.J.A.C. 5:23-12.

(j) A mechanical inspector employed by the Department or by a municipality, and so assigned by the construction official, shall have responsibility for enforcement of all provisions of the code, except electrical, relating to the installation of mechanical equipment, such as refrigeration, air conditioning or ventilating apparatus, gas piping or heating systems, in Use Group R-3 and R-4 structures.

1. When assigned by the construction official, a plumbing subcode official shall have responsibility for the enforcement of all provisions of the code, except electrical, for the replacement of heating or cooling equipment or water heaters in Use Group R-3 or R-4 structures. A plumbing subcode official need not be a mechanical inspector to perform these inspections.

(k) Responsibility for the enforcement of the rehabilitation subcode shall be as set forth in N.J.A.C. 5:23-6. For provisions of other subcodes of the Uniform Construction Code referenced in the rehabilitation subcode, enforcement responsibility shall be as delineated in this section.

Amended by R.1981 d.132, effective May 7, 1981.

See: 13 N.J.R. 121(a), 13 N.J.R. 258(d).

Amended by R.1986 d.380, effective September 22, 1986.

See: 18 N.J.R. 1235(a), 18 N.J.R. 1931(a), 18 N.J.R. 2063(a).

Substantially amended.

Amended by R.1987 d.14, effective January 5, 1987.

See: 18 N.J.R. 2083(a), 19 N.J.R. 63(a).

(f)4 added; old (f)4-6 renumbered (f)5-7.

Amended by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

(a)1 through 4: model subcode revisions.

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

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

Provisions for enforcement of radon subcode added at (g).

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

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

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

Other elevator devices covered; enforcement responsibilities clarified.

Amended by R.1992 d.147, effective April 6, 1992.

See: 24 N.J.R. 170(a), 24 N.J.R. 1397(a).

Elevators wholly within R-2 residences exempt.

Amended by R.1992 d.183, effective April 20, 1992.

See: 24 N.J.R. 167(a), 24 N.J.R. 1475(b).

Enforcement of indoor air quality subcode assigned to building subcode official.

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

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

Added subsection (j); deleted "Allocation of enforcement" from heading.

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.143, effective March 20, 1995 (operative July 1, 1995).

See: 26 N.J.R. 4872(a), 27 N.J.R. 1179(b).

Amended by R.1997 d.409, effective October 6, 1997.

See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

In (g), deleted reference to exclusive authority provided in N.J.A.C. 5:23-3.11(h).

Amended by R.1997 d.418, effective October 6, 1997.

See: 29 N.J.R. 3402(a), 29 N.J.R. 4286(a).

In (f), inserted reference to (j); and added (j)1.

Amended by R.1998 d.28, effective January 5, 1998.

See: 29 N.J.R. 3603(a), 30 N.J.R. 129(a).

Inserted (k) stating responsibility for the enforcement of the rehabilitation subcode.

5:23-3.5 Posting structures

(a) Posted use and occupancy: Every building and structure and part thereof designed for business, factory and industrial, high hazard, mercantile, or storage use, (use groups B, F, H, M and S) as defined in article 2 of the building subcode shall be posted on all floors by the owner with a suitably designed placard in a form designated by the building subcode official, which shall be securely fastened to the structure in a readily visible place, stating the use group and the live load and occupancy load.

(b) Posted occupancy load: Every building and structure and part thereof designed for use as a place of public assembly or as an institutional building for harboring people for penal, correctional, educational, medical or other care or treatment (use groups A, E and I) shall be posted with an approved placard designating the maximum occupancy load.

(c) Replacement of posted signs: All posting signs shall be furnished by the owner and shall be of permanent design; they shall not be removed, or defaced and, if lost, removed or defaced, shall be immediately replaced.

(d) Periodic inspections: The building subcode official or fire protection subcode official may periodically inspect all existing buildings and structures, except one and two-family dwellings, for compliance with the regulations in respect to posting; or they may accept the report of such inspection from an authorized licensed professional engineer or architect; and such inspection and report shall specify any violation of the requirements of the regulations in respect to the posting of floor load, occupancy load and use group of the building.

(e) Identification: Any building official or fire protection official making periodic inspections, shall present personal identification as provided by the municipality.

Amended by R.1989 d.555, effective November 6, 1989.

See: 21 N.J.R. 2783(a), 21 N.J.R. 3460(a).

Added reference to E Use Group (educational facilities) at (b).

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

(c) The Construction Code Element may issue bulletins to provide advice to code enforcing agencies, builders, and designers. Bulletins may be issued when the Element finds that an issue that is in need of clarification is adequately dealt with by existing rules and that rulemaking is therefore not appropriate or necessary. Consultation with the Code Advisory Board shall be required prior to the issuance of any bulletin.

(d) In response to a written or oral inquiry or request setting forth a specific factual situation, a staff member of the Construction Code Element may issue an informal opinion as to the proper application of the regulations if the issue is one with which he has authority to deal. Such informal opinion shall only be in writing if it is issued in response to a written inquiry or request and shall not be binding upon the Element or any other party.

Amended by R.1981 d.454, effective December 7, 1981.

See: 13 N.J.R. 561(a), 13 N.J.R. 886(a).

Section substantially amended.

Administrative Correction: Name change.

See: 22 N.J.R. 2503(b).

Amended by R.1995 d.340, effective June 19, 1995.

See: 27 N.J.R. 1512(a), 27 N.J.R. 2388(a).

Redesignated (c) as (d) and added a new (c).

5:23-3.10 (Reserved)

Amended by R.1987 d.509, effective December 7, 1987.

See: 19 N.J.R. 1264(a), 19 N.J.R. 2270(a).

Substantially amended.

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

Recodified to 5:23-4.3A by R.1992 d.272, effective July 6, 1992.

See: 24 N.J.R. 1446(a), 24 N.J.R. 2424(a).

Section was "Enforcing agency classification".

5:23-3.11 Enforcement activities reserved to the Department

(a) Except as otherwise provided in N.J.A.C. 5:23-3.11A(c) and (d), the Department of Community Affairs shall be the sole plan review agency for the following structures:

1. Electrical generating stations and substations, including nuclear;
2. Incineration plants;
3. Solid waste disposal plants;
4. Class I and Class II structures where required in accordance with N.J.A.C. 5:23-4.3A and N.J.A.C. 5:23-4.24(a)2ii;
5. Casino hotels;
6. Public mausoleums, vaults, crypts and other structures intended to hold or contain human remains;
7. All premanufactured systems for Class I and Class II structures, other than those authorized to be approved by an inplant inspection agency licensed to perform Class I and Class II plan review as provided in N.J.A.C. 5:23-4A.10, and all on-site installation of Class I and Class II premanufactured construction within the jurisdiction of a local enforcing agency that is not a Class I or Class II agency, as the case may be.
8. Health care facilities, as defined in N.J.A.C. 5:23-1.4; and
9. Public school facilities, as defined in N.J.A.C. 5:23-1.4.

(b) The Department of Community Affairs shall be the sole plan review agency for elevators, escalators, and moving walks in Use Groups other than R-3, R-4, or R-2 structures in which the elevator devices are wholly within dwelling units and not accessible to the general public, in all buildings and structures other than those that:

1. Are in a municipality that has an elevator subcode official; and
2. Are otherwise within the plan review jurisdiction of the local enforcing agency.

(c) A permit shall not be issued until the required plans for the building or structure have been released by the department. The department shall insure that the municipal enforcing agency receives a copy of the approved plans.

(d) The department may perform field inspections for any of the above projects when it deems such activity appropriate. However, such action shall not relieve the municipality of the obligation to perform field inspections for any project for which the municipality has granted a permit.

(e) Whenever the department shall determine that there exists a violation of these regulations, it shall take appropriate action and shall provide the municipality with copies of all notices, orders, and other applicable information. The department and any municipality may consolidate or take other steps to expedite any matter of which they jointly complain, but in no event shall the owner of any building

subject to the act be sanctioned twice for the same violations.

(f) In any case where the department shall notify a municipality that a violation exists, no certificate of occupancy may issue until the department notifies the municipality that the violation has been abated.

(g) The Department of Community Affairs shall be the sole agency for the enforcement of the Barrier Free Recreation Standards (N.J.A.C. 5:23- 7.2 through 7.18). Any complaint of noncompliance with these rules shall be forwarded to the Department.

(h) The Department of Community Affairs shall be the sole agency having authority to grant variations from the requirements of the Asbestos Hazard Abatement Subcode, pursuant to N.J.A.C. 5:23-8.4.

Amended by R.1981 d.455, effective December 7, 1981.

See: 13 N.J.R. 561(b), 13 N.J.R. 886(b).

Correction: Codification error and (a)6 was missing.

See: 16 N.J.R. 1621(a).

Administrative Change: This section has been divided into 3.11 and 3.11A administratively.

See: 18 N.J.R. 1842(a).

Amended by R.1988 d.352, effective August 1, 1988.

See: 19 N.J.R. 1270(a), 20 N.J.R. 1873(b).

Added (f).

Amended by R.1990 d.313, effective June 18, 1990.

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Industrialized/modular buildings requirements added to (a)7.

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

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

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

Enforcement of elevator, moving walk and escalator requirements for other than R-3 and R-4 reserved to Department.

Amended by R.1992 d.147, effective April 6, 1992.

See: 24 N.J.R. 170(a), 24 N.J.R. 1397(a).

Elevators wholly within R-2 residences exempt.

Amended by R.1992 d.183, effective April 20, 1992.

See: 24 N.J.R. 167(a), 24 N.J.R. 1475(b).

Enforcement of public employees' indoor air quality subcode assigned to DCA.

Amended by R.1994 d.28, effective January 18, 1994.

See: 25 N.J.R. 4546(b), 26 N.J.R. 352(a).

Amended by R.1994 d.96, effective February 22, 1994.

See: 26 N.J.R. 1073(a).

Amended by R.1997 d.377, effective September 15, 1997.

See: 29 N.J.R. 2741(b), 29 N.J.R. 4102(b).

In (g), amended N.J.A.C. references; deleted (g)1; and substantially amended (h).

Amended by R.1997 d.417, effective October 6, 1997.

See: 29 N.J.R. 3387(a), 29 N.J.R. 4285(a).

In (a), inserted "Except as otherwise provided . . . and (d)."; added (a)8 and 9; and in (g), amended N.J.A.C. references.

Case Notes

Delaware River Port Authority was not subject to Construction Code or anti-discrimination laws. Eastern Paralyzed Veterans Ass'n, Inc. v. City of Camden, 111 N.J. 389, 545 A.2d 127 (1988).

5:23-3.11A Enforcement activities reserved to other State agencies; alternative public school facility plan review; Uniform Construction Code enhancements in public school facilities

(a) The Department of Labor shall be the sole enforcing agency for the following work:

1. Amusement rides;
2. Ski lifts;
3. High pressure boilers;
4. Refrigeration systems;
5. Pressure vessels;
6. Liquefied petroleum gas installations, except one and two-family residential (building subcode use group R-3) which jurisdiction is retained by the municipal enforcing agency.

(b) Prior to the release of plans for the following types of projects, the Department of Education shall ensure that the plans meet the standards for educational adequacy set forth in N.J.A.C. 6:22:

1. New public school buildings;
2. Additions to existing public school buildings;
3. Alterations changing the total number of units, size or type of any instructional space;
4. Alterations changing office space that require alterations to instructional space;
5. Alterations to locker, weight or game rooms, or to field houses with locker facilities;
6. Alteration of athletic fields or tracks and field areas;
7. Installations of mobile units; or
8. Any site or building change or alteration for the purpose of making the site and school barrier-free pursuant to N.J.A.C. 5:23-7 and accessible to the handicapped pursuant to section 504 of the Federal Rehabilitation Act of 1973.

(c) In lieu of obtaining construction code plan review approval from the Department, a school district, upon notice to the Department, may secure construction code plan review approval from any municipal code enforcing agency, pursuant to P.L. 1990, c.23.

1. The municipal code enforcing agency providing construction code plan approval must agree to perform the review and must be appropriately classified for the proposed project in accordance with this chapter.

2. When a review for educational adequacy is necessary, such review and approval shall be obtained from the State Department of Education prior to obtaining a construction code plan review, whether this construction code plan review is performed by the Department or by a municipal code enforcing agency.

3. The municipal code enforcing agency performing the construction code plan review may require the payment of any municipal plan review fees.

4. No construction permit shall be issued for a public school facility unless and until the final plans and specifications have been approved by the Department or an appropriately classified municipal code enforcing agency.

5. The municipal code enforcing agency within the jurisdiction of which the facility is located shall be responsible for construction permit issuance, construction inspection and certificate of occupancy issuance.

6. Amendments to approved plans and specifications for reasons other than educational adequacy shall be submitted for review and approval to the Department or the municipal code enforcing agency, whichever originally approved the plans.

7. Release of the plans by the Department or the municipal code enforcing agency, as the case may be, shall not preclude the enforcing agency doing the inspection from issuing a stop work order in the event of a violation of the code. The enforcing agency doing the inspection shall not, however, issue a stop work order based on its disagreement with the released plans unless the agency that released the plans, be it the Department or another local enforcing agency, agrees that the issuance of such an order is appropriate. In the event that the enforcing agency doing the inspection believes there to be an error in the plans, that enforcing agency shall give prompt notice of the error that is believed to exist to the Department or the municipal agency that reviewed the plans, as the case may be.

(d) The Department or the municipal enforcing agency providing construction code plan approval, shall be responsible for enforcing the following Uniform Construction Code enhancements in public school facilities:

1. All doors equipped with latching devices in buildings of use group E or portions of buildings used for assembly for educational purposes and which serve rooms or spaces with an occupant load greater than 50 shall be equipped with approved panic hardware.

2. Guardrails along stair runs and landings shall be at 42 inches above the tread nosing without exception.

3. All heating appliances intended to supply domestic hot water or hot water/steam for space heating shall not be located in any instructional room in use group E, as designated in the Building Officials Code Administrators National Code (BOCA) except for industrial arts and vocational education shops and laboratories.

4. An electric solenoid key-operated gas shut-off switch shall be installed in all gas supply lines to all instructional rooms, laboratories, shops or other spaces in use group E where gas is used by students.

5. An automatic fire detection system shall be installed in all new buildings of use group E (educational), as designated in the BOCA National Building Code/93 Section 917.4.1 and in accordance with applicable National Fire Protection Association standards. The system shall utilize:

i. Combination fixed-temperature and Rate of Rise devices in classrooms and other spaces not covered in (e)5ii below;

ii. Devices to detect abnormal visible smoke densities or gaseous products of combustion are required in corridors and exit stairs;

iii. An automatic fire suppression system and, in areas where suppression is deleted, automatic detection devices; or

iv. A combination of the above three types of detection devices except that a fixed-temperature detector shall be permitted in approved locations, such as in a boiler room or incinerator.

6. Manual fire alarm boxes, in addition to BOCA/93 Section 917.5 requirements as amended, shall be provided in the natural path of escape from fire, near each exterior door from the corridor, kitchen, heater room and other exterior exits that are required to serve 50 or more persons. Additional fire alarm boxes shall be located in the main office, stage, at each stairway entrance from a corridor or place of assembly and near one exterior exit in each section of a place of assembly. It shall not be necessary to traverse more than 200 feet of unobstructed horizontal distance on the same floor in order to reach a fire alarm box.

7. Each instructional space and room of assembly which is illuminated with the use of high intensity discharge (HID) sources, such as mercury vapor, high pressure sodium and metal halide lamps, shall also be provided with a second source of illumination to provide illumination instantly upon activation of the circuit. All high intensity discharge (HID) lamps shall be of the fail-safe type which will permanently extinguish within two minutes after the outer glass of the bulb is broken. All lamps shall be provided with a glass or plastic lens to protect the bulb.

8. All school buildings shall be equipped with a mechanical air supply and exhaust ventilation system which will provide, during periods of occupancy, standard tempered outdoor air supply and mechanical exhaust at the minimum rates set forth in the BOCA Basic National Mechanical Code as amended.

Amended by R.1986 d.142, effective May 5, 1986.

See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).

New (a)7; old (a)7 through 9 renumbered (a)8.-10.

Administrative Change: This section was originally part of N.J.A.C. 5:23-3.11.

See: 18 N.J.R. 1842(a).

Amended by R.1988 d.155, effective April 4, 1988.

See: 20 N.J.R. 824(d).

Added (d). This was amended by the rule adoption of the Department of Education published in the New Jersey Register at 20 N.J.R. 824(d).

Administrative Correction to (c).

See: 22 N.J.R. 2503(b).

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to P.L. 1990, c.23, qualified agencies may perform plan review of public school structures.

Amended by R.1991 d.309, effective June 17, 1991.

See: 23 N.J.R. 1084(a), 23 N.J.R. 1922(a).

Rule conformed to P.L. 1990 c. 23; text at (c) revised to specify type of project covered; BOCA cites updated; reference to N.J.A.C. 6:22 added.

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.1997 d.417, effective October 6, 1997.

See: 29 N.J.R. 3387(a), 29 N.J.R. 4285(a).

Deleted (a); recodified former (b) through (e) as (a) through (d); in (b), inserted "Prior to the release . . . of projects,"; in (b)1 and 2, inserted "public" preceding "school buildings"; in (c)7, deleted option of inspecting agency requiring subsequent correction of any errors in the plans, inserted second sentence, and in third sentence amended notice provisions.

5:23-3.11B Underground storage tank systems

(a) The installation, repair (other than "minor repair," as defined in N.J.A.C. 7:14B-10.5), and closure (or "demolition") of underground storage tank systems, as defined in N.J.A.C. 7:14B-10.1, shall be controlled by the State Uniform Construction Code and by N.J.A.C. 7:14B-1 through 15.

(b) A DEP permit for the installation, repair or closure of an underground storage tank system that requires a DEP approval, or any part thereof, or an emergency permit granted pursuant to N.J.A.C. 7:14B, shall be a prior approval for any permit application submitted pursuant to the State Uniform Construction Code Act and these rules. Applicants installing secondarily contained systems for which no prior DEP approval is necessary shall be required to submit engineering drawings of the secondarily contained systems and to certify that the underground storage tank system meets all requirements of N.J.A.C. 7:14B.

(c) Construction code officials shall retain all penalty powers, as set forth in these rules, with respect to the installation, usage or closure (demolition) of underground storage tank systems and parts thereof in violation of the State Uniform Construction Code Act or these rules.

(d) The following types of underground storage tank systems requiring a construction permit are exempt from the requirements of N.J.A.C. 7:14B:

1. Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

2. Tanks with a capacity of 2,000 gallons or less used to store heating oil for onsite consumption in a nonresidential building;

3. Tanks used to store heating oil for onsite consumption in a residential building;

4. Septic tanks installed in compliance with rules adopted by DEP pursuant to P.L. 1954, c.199 (N.J.S.A. 58:11-23 et seq.);

5. Tanks situated in an underground area, including, but not limited to, basements, cellars, mines, drift shafts, or tunnels, if the storage tank is situated upon or above the surface of the floor;

6. Tanks situated in an underground area, including, but not limited to, basements, cellars, mines, drift shafts, or tunnels, if the storage tank is equipped with secondary containment and is uncovered so as to allow visual inspection of the exterior of the tank;

7. Wastewater treatment tanks;

8. Electrical equipment;

9. Hydraulic lift tanks; and

10. Any pipes, lines, fixtures, or other equipment connected to any tank exempted from the provisions of N.J.A.C. 7:14B as set forth in (b)1 to 9 above.

New Rule, R.1990 d.562, effective November 19, 1990.

See: 22 N.J.R. 2629(c), 22 N.J.R. 3482(d).

Amended by R.1997 d.409, effective October 6, 1997.

See: 29 N.J.R. 2736(a), 29 N.J.R. 4281(a).

In (d)3, deleted maximum capacity for tanks of 2000 gallons.

5:23-3.12 Amended rules

(a) Whenever the commissioner shall make any modification to the regulations, notice of same shall be published in the New Jersey Register.

(b) Whenever a model code organization, the code of which has been adopted by the commissioner as a subcode, shall issue a new edition of such code, the commissioner shall make such new edition operative as soon as is practicable and consistent with its availability from the model code organization.

1. The commissioner shall take such steps as are necessary and appropriate to inform the public that such editions have been adopted by the model code organization, and of the date upon which they become operative in New Jersey. Notice shall include publication of a notice in the New Jersey Register and mailing a copy of such notice by regular mail to each enforcing agency and board of appeals. The notice and the mailing to the enforcing agency shall state that such editions have been adopted by the model code organization and give notice as to where copies of the full text can be obtained.

Amended by R.1995 d.544, effective October 16, 1995.

See: 27 N.J.R. 2827(a), 27 N.J.R. 3933(a).

5:23-3.13 State-sponsored code change proposals

(a) Any municipality, other political subdivision, or agency of the State seeking to submit a "State-sponsored code change proposal" shall do so not less than 90 days prior to the code change meeting of the model code adoption agency for which the amendment is proposed.

(b) Such proposal shall be on a form provided by the model code organization where one is available. If none is available, such proposal shall state the name and address of the official proposing the code change, the agency or political subdivision represented, the text of the amendment suggested and an explanation of the amendment together with any technical justification deemed necessary by the proponents.

(c) A hearing shall thereafter be held in accordance with N.J.S.A. 52:27D-124 of the Act.

(d) Copies of the submitted applications for code change proposals, transcripts of hearings on such applications and State-sponsored code change proposals as adopted, shall be available from the department at a fee of \$.50 per page.

(e) Whenever a model code change hearing is scheduled so as not to permit adequate time to meet the procedures set forth in this section and in N.J.S.A. 52:27D-124 of the Act, the Commissioner may hold a hearing and require the advice of the code advisory board within a lesser time period, as the situation dictates.

5:23-3.14 Building subcode

(a) Rules concerning the building subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, the Commissioner hereby adopts the model code of the Building Officials and Code Administrators International, Inc., known as the "BOCA National Building Code/1993," including all subsequent revisions and amendments thereto. This code is hereby adopted by reference as the building subcode for New Jersey subject to the modifications stated in (b) below.

i. Copies of this code may be obtained from the sponsor at: BOCA, International, 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795.

ii. "The BOCA National Building Code/1993," including all subsequent revisions and amendments thereto, may be known and cited as the "building subcode."

2. Any references to the mechanical code, plumbing code, CABO One and Two Family Dwelling Code, CABO A117.1 standard (including reference to chapter 11) or NFPA 70 (including reference to Chapter 27) listed in Chapter 35 shall be considered a reference to the appropriate adopted mechanical, plumbing, one and two family dwelling or electrical subcode referenced in N.J.A.C. 5:23-3 or to the barrier-free subcode, N.J.A.C. 5:23-7, as appropriate.

(b) The following chapters of the building subcode are modified as follows:

1. Chapter 1 of the building subcode, entitled "Administration," is deleted in its entirety.

2. The following amendments are made to Chapter 2 of the building subcode, entitled "Definitions," section 202.0 general definitions:

i. The term and definition of "Additions" is deleted;

ii. The definition of the term "Approved" is amended to delete the phrase "or other authority";

iii. The phrase and definition of "Approved material, equipment and methods" is deleted;

iv. The term and definition of "Approved rules" is deleted;

v. The following term and definition are added: "Attic, habitable: A habitable attic is an attic which has a stairway as a means of access and egress and in which the ceiling area at a height of 7½ feet (2235 mm.) above the attic floor is not more than one-third the area of the next floor below.";

vi. The definition of the term "Building" is deleted and replaced by the definition at N.J.A.C. 5:23-1.4;

vii. The term and definition of "Building, existing" is deleted;

viii. The term and definition of "Building line" is deleted;

ix. The term and definition of "Building service equipment" is deleted and replaced by the term and definition of "equipment" at N.J.A.C. 5:23-1.4;

x. The definition of the term "Code official" is deleted and is redefined herein and throughout the subcode as the "building subcode official" as defined in N.J.A.C. 5:23-1.4 unless indicated otherwise;

xi. The term and definition of "Equipment, existing" is deleted;

xii. The term and definition of "Facility" is deleted;

xiii. The terms and definitions of "hereafter" and "heretofore" are deleted;

xiv. The term and definition of "Jurisdiction" is deleted;

xv. The term and definition of "Occupancy, change of" is deleted;

xvi. The definition of "Owner" is deleted and replaced by the definition at N.J.A.C. 5:23-1.4;

xvii. The term and definition of "Permit" is deleted;

xviii. The term and definition of "Person" is deleted;

xix. The definition of "Physically Disabled Person" is deleted and replaced with the definition of "Physically Handicapped" at N.J.A.C. 5:23-6;

xx. The term and definition of "Repair" is deleted;

xxi. The term and reference for "Site" is deleted;

xxii. The definition of the term "Structure" is replaced by the definition at N.J.A.C. 5:23-1.4;

xxiii. The term and definition "Structure, existing" is deleted;

xxiv. The term and reference for "Technically Infeasible" is deleted;

xxv. The term and definition of "Writing" is deleted;

xxvi. The term and definition of "Zoning" is deleted.

3. The following amendment is made to Chapter 3 of the building subcode entitled "Use or Occupancy."

i. Section 310.6 is amended to delete the phrase "not more than three stories in height."

4. The following amendments are made to Chapter 4 of the building subcode, entitled "Special Use and Occupancy":

i. Section 415.1 is amended to replace the phrase "authority having jurisdiction" with the term "construction official";

ii. Section 416.11 is deleted;

iii. Section 420.0 is amended to replace the terms "Mobile Units," "Unit" and "Units" with the terms "Manufactured Homes," "Home" and "Homes" respectively;

iv. Sections 420.1 and 420.2 are deleted in their entirety;

v. Section 421.3 is amended to replace the term "code official" with the term "construction official";

vi. Section 421.6 is amended to end with the phrase "in accordance with the plumbing subcode";

vii. Section 421.6.1 is deleted;

viii. Section 421.6.2 is amended to end with the phrase "in accordance with the plumbing subcode";

ix. Section 421.9.3 is amended to replace the term "governing body" with the term "construction official."

5. The following amendment is made to Chapter 8 of the building subcode, entitled "Interior Finishes":

i. Sections 805.2.1 and 807.2.2 are amended to replace the term "code official" with the term "fire protection subcode official."

6. The following amendments are made to Chapter 9 of the building subcode, entitled "Fire Protection Systems":

i. References to the term "code official" shall be replaced with the term "fire protection subcode official."

ii. Section 901.4 is deleted in its entirety;

iii. Section 903.1 is amended to replace the term "department" with the phrase "enforcement agency responsible for plan review," and in the note, to replace the word "Since" with the term "If";

- iv. Section 916.0 is amended to replace the phrase "administrative authority of the jurisdiction" with the term "fire protection subcode official";
7. The following amendment is made to Chapter 10 entitled "Means of Egress":
 - i. Section 1001.2 is amended to replace the phrase "Article 1 for modification of this code or by adoption of approved rules" with the regulations at "N.J.A.C. 5:23-2";
8. Chapter 11 of the building subcode entitled "Accessibility", is modified in the manner set forth in N.J.A.C. 5:23-7.
9. The following amendment is made to Chapter 13 entitled "Energy Conservation":
 - i. Chapter 13 is deleted in its entirety.
10. The following amendment is made to Chapter 15 of the building subcode, entitled "Roofs and Roof Structures":
 - i. Section 1512.1 is amended to delete the sentence "The repair for new roofing."
11. The following amendments are made to Chapter 17 of the building subcode, entitled "Structural Tests and Inspections":
 - i. Section 1701.2 is amended to replace the term "approved rules" with the word "regulations";
 - ii. Section 1702.1, the definition of the term "approved agency" is amended to add the words "by the code official or other authority having jurisdiction in accordance with the regulations" after the word "approved";
 - iii. Section 1702.1, the definition and the term "Inspection, special" are deleted;
 - iv. Section 1705.1 is amended to add the words "for Class 1 structures or when requested by the building subcode official" after the words "special inspections" on lines 1 and 2;
 - v. Section 1705.1.1 is deleted in its entirety and replaced with the sentence: "Permit applications shall be made in accordance with N.J.A.C. 5:23-2.15";
 - vi. Section 1705.2 is amended to add the sentence: "Building elements fabricated off site shall be approved in accordance with N.J.A.C. 5:23-4.26";
 - vii. Section 1705.3.1 is deleted in its entirety;
 - viii. Section 1707.1 is amended to replace the phrase "approved rules" with the word "regulations," and to replace the phrase "Section 106.0" with the phrase "the regulations."
12. The following amendment is made to Chapter 27 of the building subcode, entitled "Electric Wiring, Equipment and Systems":
 - i. Chapter 27 is deleted in its entirety.
13. The following amendments are made to Chapter 28 of the building subcode, entitled "Mechanical Systems":
 - i. Section 2803.0 is deleted in its entirety;
 - ii. Section 2811.0 is deleted in its entirety;
14. The following amendment is made to Chapter 29 of the building subcode, entitled "Plumbing Systems":
 - i. Chapter 29 is deleted in its entirety.
15. The following amendments are made to Chapter 30 of the building subcode, entitled "Elevators and Conveying Systems":
 - i. Section 3001.1 is amended to delete the phrase "Except as otherwise provided by statute" in the first line, to add the phrase "and where applicable, of N.J.A.C. 5:23-12" after the word "Chapter" in the second line, to delete the phrase "and amusement devices" in the second sentence and to replace the term "code official" with the term "construction official" in the second sentence;
 - ii. Section 3001.2 is amended to substitute the term "this code" for "these rules" and to add the following sentence: "However any education, experience or training requirements included or cited in reference standards shall not be binding in this State.;"
 - iii. Section 3003.0 is deleted in its entirety except section 3003.3;
 - iv. Section 3004.1 is amended to delete the words "and maintenance" and substitute in lieu thereof "inspection and," and to delete the words "and periodic inspections";
 - v. Section 3004.2 is amended to add the words "inspection and" after the word "Acceptance" in the title and after the words "All such" in the seventh line; to delete the words "this code" in the first sentence and substitute in lieu thereof "these rules"; and to replace the term "code official" with the term "appropriate subcode official";
 - vi. Sections 3004.3 and 3004.4 are deleted in their entirety;
 - vii. Section 3004.5.2 is amended to delete the words "and amusement devices" and to add the word "and" after the word "freight lifts" in this section;
 - viii. Section 3004.5.4 is amended to replace the term "code official" with the term "construction official";

ix. Section 3005.0 is deleted in its entirety with the exception of section 3005.4 which is amended to replace the term "code official" with the term "construction official";

x. Section 3009.0 is amended to delete the words "Signals and" after the word "Emergency" in the title;

xi. Section 3010.2.2 is amended to replace the term "code official" with the term "fire protection subcode official";

xii. Section 3012.2 is deleted;

xiii. Section 3012.4 is amended to replace the term "code official" with the term "construction official";

xiv. Section 3012.5 is amended to replace the term "code official" with the term "construction official";

xv. Section 3013.0 is deleted in its entirety.

16. The following amendments are made to Chapter 31 of the building subcode, entitled "Special Construction":

i. Section 3104.1.1 is deleted in its entirety and replaced by the following language:

(1) Temporary structures: A construction permit is required for the erection, operation or maintenance of all temporary structures (excluding tents and tensioned membrane structures) covering an area in excess of 120 square feet, including all connecting areas or spaces with a common means of egress or entrance, or which are used or intended to be used for gatherings of 10 or more persons;

(2) Tents with appurtenances: A construction permit is required for the erection, operation or maintenance of all tents or tensioned membrane structures of any size if they contain appurtenances such as platforms or electrical equipment;

(3) Tents without appurtenances: No permit is required for the erection, operation or maintenance of any tent or tensioned membrane structure without appurtenances if the tent or structure is no more than 900 square feet in area and no more than 30 feet in any dimension (excluding canopies), whether it is one unit or composed of multiple units. Tents used exclusively for recreational camping purposes shall be exempt from the above requirements.

(4) A temporary greenhouse, also called a "hoop-house" or "polyhouse," used exclusively for the production or storage of live plants, shall be exempt from the permit requirements of the Uniform Construction Code if it meets the following criteria:

(A) There is no permanent anchoring system or foundation;

(B) There is no storage, temporary or otherwise, of solvents, fertilizers, gases, or other chemical or flammable materials;

(C) The structure is no wider than 31 feet and there is an unobstructed path of no greater length than 150 feet from any point to a door or fully accessible wall area; and

(D) The covering of the structure is of a material no greater than six mils (152.4 micrometers) in thickness, conforming to N.F.P.A. 701 standard, that yields approximately four pounds of maximum impact resistance to provide egress through the wall.

(5) The provisions of (b)16i(4) above notwithstanding, if a temporary greenhouse contains any device subject to the electrical subcode or any mechanical equipment subject to the mechanical subcode, then a permit shall be required for the system or fixture only. If the temporary greenhouse is connected to a potable water system, a permit shall be required for the backflow prevention devices only;

ii. Section 3104.6 is amended to replace the term "code official" with the term "construction official";

iii. Section 3106.5 is amended to replace the term "authorities" with "authorities having jurisdiction";

iv. Section 3108.5 is amended to add the phrase "to comply with the requirements of the electrical subcode" after the word "grounded."

17. The following amendments are made to Chapter 32 of the building subcode, entitled "Construction in the Public Right of Way":

i. Section 3202.5 is deleted in its entirety.

ii. Section 3205.1 is amended to replace the term "code official" on line 1 with the term "construction official".

18. The following amendments are made to Chapter 33 of the building subcode, entitled "Sitework, Demolition and Construction":

i. Section 3302.1 is amended to replace the term "code official" on line 3 with the term "construction official";

ii. Section 3309.2 is amended to delete the words "and the construction and extension of soil and vent stacks and the location of window openings shall comply with the provisions of section 2908.3" and replace them with the following language:

(1) "When a new building is erected higher than an existing building, windows or other wall openings shall not be located nearer than 10 feet to an existing soil or vent stack on the lower building unless the owner of the new building makes the necessary provision to extend such soil or vent stacks to a height of not less than two feet above the topmost opening at his own expense and with the approval of the adjoining owner."

(2) "When the existing adjoining building is of greater height than the new building, the owner of the structure of greater height may, with consent of the owner of the new structure, extend all new soil, waste or vent stacks which are located within 20 feet of the common lot line to a level above the higher existing roof";

iii. Section 3310.3 is amended to replace the term "code official" on lines 1 and 4 with the term "construction official".

19. The following amendment is made to Chapter 34 entitled "Existing Structures":

i. Chapter 34 is deleted with the exception of section 3406.0, which is amended to replace the term "code official" with the term "construction official";

20. The following amendments are made to Chapter 35 of the building subcode, entitled "Referenced Standards":

i. Delete the entire subheading "ASHRAE" and all titles under this subheading;

ii. Under the subheading "BOCA," delete the following titles:

- (1) National Property Maintenance Code;
- (2) National Mechanical Code;
- (3) National Plumbing Code;
- (4) National Private Sewage Disposal Code.

iii. Under the subheading "CABO," delete the following titles:

- (1) Model Energy Code.

Amended by R.1981 d.132, effective May 7, 1981.

See: 13 N.J.R. 121(a), 13 N.J.R. 258(d).

Amended by R.1983 d.12, eff. February 7, 1983, operative February 22, 1983.

See: 14 N.J.R. 132(a), 15 N.J.R. 141(c).

Added (a)2 and (c).

Amended by R.1984 d.314, eff. August 6, 1984.

See: 16 N.J.R. 1139(a), 16 N.J.R. 2084(b).

This section was substantially amended.

Amended by R.1985 d.154, effective April 1, 1985 (operative July 1, 1985.)

See: 17 N.J.R. 239(a), 17 N.J.R. 810(a).

(a)2 added; subsection (c) added.

Correction: N.J.A.C. 5:23-3.14(c)5 was incorrect in adoption.

See: 17 N.J.R. 1409(a).

Amended by R.1985 d.324, effective July 1, 1985.

See: 17 N.J.R. 861(c), 17 N.J.R. 1646(a).

(b)3i: amended text.

Amended by R.1986 d.380, effective September 22, 1986.

See: 18 N.J.R. 1235(a), 18 N.J.R. 1931(a).

Substantially amended.

Amended by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

Model subcode revisions.

Amended by R.1988 d.270, effective June 20, 1988.

See: 20 N.J.R. 575(a), 20 N.J.R. 1344(a).

Added (a)3 and (c).

Amended by R.1990 d.253, effective May 21, 1990.

See: 22 N.J.R. 909(b), 22 N.J.R. 1554(a).

Text added at (c)2ii, 4, 5 and 7.

Amended by R.1990 d.325, effective July 2, 1990.

See: 21 N.J.R. 1654(a), 22 N.J.R. 2001(a).

Text added at (b)5xii(1) to conform to Fire Code.

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

Amended by R.1990 d.558, effective November 19, 1990.

See: 22 N.J.R. 1969(b), 22 N.J.R. 3483(a).

Conditional exemption for hoopouses or polyhouses added.

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

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

Article 26 amended at (b)14.

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

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

In (a), added 3. Added (c).

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

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

Text added at (b)10v through viii.

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.144, effective March 20, 1995 (operative July 1, 1995).

See: 26 N.J.R. 2698(a), 26 N.J.R. 3524(a), 27 N.J.R. 1180(a).

Amended by R.1995 d.477, effective September 5, 1995.

See: 27 N.J.R. 1717(a), 27 N.J.R. 3328(a).

Added (b)2v.

Case Notes

Set back provisions of borough zoning ordinance controlled conflicting state building code provisions. *Pfeuffer v. Sculco*, 242 N.J.Super. 181, 576 A.2d 309 (A.D.1990).

5:23-3.15 Plumbing subcode

(a) Rules concerning subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, the Commissioner hereby adopts the Model Code of the National Association of Plumbing-Heating-Cooling Contractors, known as "The National Standard Plumbing Code/1993", including all subsequent revisions and amendments thereto, as the plumbing subcode for New Jersey.

i. Copies of this code may be obtained from the sponsor at: NAPHCC, P.O. Box 6808, Falls Church, VA 22046.

2. "The National Standard Plumbing Code/1993", including all subsequent revisions and amendments thereto, may be known and cited as "the plumbing subcode."

(b) The following pages, chapters, sections or appendices of the plumbing subcode are amended as follows:

1. Page v: Delete the note referring to local changes under the heading Introductory Note.

2. The section entitled "Administration," comprising sections ADM 1.1 through ADM 1.13, is deleted in its entirety.

3. Chapter 1 of the plumbing subcode, entitled "Definitions," is amended as follows:

i. The definition of the term "administrative authority" is deleted in its entirety, and substitute in lieu thereof the following language, "Unless otherwise de-

fined herein, or unless the context clearly indicates otherwise, the term "administrative authority" for purposes of the plumbing subcode, shall mean the "plumbing subcode official."

ii. The definition of the term "approved" is amended to add after the word "authority" on line 3, the words "as defined in N.J.A.C. 5:23-3.7."

iii. The definition of the term "building" is deleted, and substitute in lieu thereof, the definition of the term "building" found in N.J.A.C. 5:23-1.4.

iv. The definition of the term "building classification" is amended to delete the term "administrative authority" and substitute in lieu thereof, the term "building subcode official."

v. The term "code" is deleted in its entirety.

vi. The term "family" is deleted in its entirety.

vii. The definition of and the term "nuisance" are deleted.

4. Chapter 2 of the plumbing subcode, entitled "General Regulations," is amended as follows:

i. Section 2.4.1 is amended to delete the sentence "The provisions of this paragraph may be waived by the administrative authority."

ii. Section 2.4.3 is amended to delete the phrase "or is approved by the administrative authority as having a desirable and acceptable function and is of ultimate benefit to the proper and continuing functioning of the plumbing system."

iii. Section 2.5 is deleted in its entirety.

iv. Section 2.6.4 is amended to insert the word "applicable" after the word "All" on line 1.

v. Section 2.9.3 is amended to delete the phrase "building code or as required by the proper administrative authority" and substitute in lieu thereof, the term "building subcode."

vi. Section 2.16 is amended to insert the number "Forty-two" in the blank space under item (a), and to insert the number "Twenty-four" in the blank space under item (b). Under item (c), delete the words "section 3.12.1" and substitute in lieu thereof, the words "N.J.A.C. 5:23-2.9."

vii. Section 2.19.1 is amended to delete the blank and the words "feet of any property line of the premises, or other."

viii. Section 2.19.2 is amended to delete the words "the Health Department or other agency having jurisdiction" and substitute in lieu thereof "The New Jersey Department of Environmental Protection and Energy."

ix. Section 2.25.1(h) is amended to add at the end, the words "which does not otherwise adversely affect health and safety."

5. Chapter 3 of the plumbing subcode, entitled "Materials," is amended as follows:

i. Section 3.1.1 is amended in the heading to delete the word "minimum" and under items (a) and (b) to delete the words "Section 3.12.2" at the end and substitute in lieu thereof, the words "N.J.A.C. 5:23-3.7."

ii. Section 3.1.2 is amended to delete the words "at least" on line 2. Also deleted the words "section 3.12" at the end and substituted in lieu thereof, the words "N.J.A.C. 5:23-3.7."

iii. Section 3.1.3 is amended to delete the words "Section 3.12.2" on line 4 and in lieu thereof, substituted the words "N.J.A.C. 5:23-3.7."

iv. Section 3.3.11 entitled "septic tank" is deleted in its entirety.

v. Section 3.11.1 is amended to delete the phrase "approved by the Administrative authority".

vi. Section 3.11.2 is amended to delete the phrase "except as may be otherwise authorized by the administrative authority".

vii. Sections 3.12.1, 3.12.2, 3.12.3, 3.12.4, and 3.12.5 are deleted in their entirety.

6. Chapter 4 of the plumbing subcode entitled "Joints and Connections" is amended as follows:

i. Section 4.2.17 is amended to delete the phrase "or by the administrative authority".

ii. Section 4.3.8a is amended to delete the word "acceptable" on line 2 and in lieu thereof, substitute "approved".

7. Chapter 5 of the plumbing subcode entitled "Traps and Cleanouts" is amended as follows:

i. Section 5.3.2 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the words "administrative authority" on line 3.

ii. Section 5.3.4 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the words "administrative authority" on line 2.

8. Chapter 6 of the plumbing subcode, entitled "Interceptors," is amended as follows:

i. Section 6.1.1 is amended to delete the phrase "in the opinion of the administrative authority" on line 2 and to add after line 5 the sentence "The determination of necessity shall be made by the administrative authority in accordance with N.J.A.C. 5:23-3.3."

ii. Section 6.3.2b is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the word "required" on line 4.

iii. Section 6.4.4 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the word "approval" on line 2.

9. Chapter 7 of the plumbing subcode, entitled "Plumbing Fixtures," is amended as follows:

i. Section 7.2.1 is amended to read "Water closets either flush tank, flushometer tank or flushometer valve operated shall be designed, manufactured and installed to be operable and adequately flushed with an average of 1.6 gallons or less of water per flushing cycle, when tested at any one test pressure in accordance with listed standards. Only pressurized (not gravity flow) water closets are acceptable for commercial uses. Commercial uses are A, E, B and M uses with an occupancy with more than two water closets connected to the building sewer."

(1) Exception: Installation of water closets bearing a manufacturer's date stamp indicating a date of manufacture prior to July 1, 1991 and requiring an amount in excess of 1.6 gallons per flush shall be permitted.

ii. Section 7.2.2 is amended to insert the number "1" in the blank provided.

iii. Section 7.2.3.1 is amended to insert the number "2.2" in the blank provided.

iv. Section 7.2.3.2 is amended to insert the number ".25" in the blank provided.

v. Section 7.2.4 is amended to insert the number "2.2" in the blank provided.

vi. Section 7.2.5 is amended to insert the number "2.5" in the blank provided.

vii. Section 7.16.1 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.7" after the words "administrative authority" on line 6.

viii. Section 7.23.2 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the words "administrative authority" on line 2.

ix. Section 7.25 is amended to delete the words "local Administrative Authority" on line 2 and in lieu thereof, substitute the words "Barrier Free Subcode".

x. Note to Tables 7.24.1A, 7.24.1B, 7.24.1C, 7.24.1D and 7.24.1E is amended to delete the words "for handicap requirements see local, state, or national codes" in the second sentence.

xi. Figure 7.4.5 on page 7-3 is amended to delete the word "Code" and substitute in lieu thereof "Subcode" in the block at bottom.

xii. A new section 7.22 is added as follows:

"7.22 Safety Features for Spas and Hot Tubs

Spas and hot tubs shall comply with the following sections of ANSI/NPSI-2 1992:

9.4 Entrapment avoidance: If the suction outlet system, such as an automatic cleaning system, is a vacuum cleaner system which has a single suction outlet or multiple suction outlets which can be isolated by valves, then each suction outlet shall protect against user entrapment by either an antivortex cover or an equivalent means approved by the plumbing subcode official.

9.5 Outlets per pump: A minimum of two suction outlets shall be provided for each pump in the suction outlet system, separated by a minimum of three feet or located on two different planes; for example, one on the bottom and one on the vertical wall, or one each on two separate vertical walls. These suction outlets shall be plumbed such that water is drawn through them simultaneously through a common line to the pump.

17.1 Obstructions and entrapment avoidance: There shall be no obstructions that can cause the user to be entrapped or injured. Types of entrapment can include but not be limited to such things as wedge or pinch-type openings and rigid, nongiving cantilevered protrusions."

10. Chapter 9 of the plumbing subcode, entitled "Indirect Waste Piping and Special Waste," is amended as follows:

i. Section 9.1.6 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the words "administrative authority" on line 4.

ii. Section 9.3.2 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the words "administrative authority" on lines 3 and 4.

iii. Section 9.7.2 is amended to delete the phrase "submitted to, and accepted by," on line 7 and in lieu thereof, substitute the phrase "approved in accordance with N.J.A.C. 5:23-3.3."

11. Chapter 10 of the plumbing subcode, entitled "Water Supply and Distribution," is amended as follows:

i. Section 10.2 is amended to add the words "in accordance with N.J.A.C. 5:23-3.3" after the words "Administrative Authority" on line 4.

ii. Section 10.4.2 is amended to delete the words "administrative authority" and in lieu thereof, substitute "authority having jurisdiction".

iii. Section 10.4.4 is amended to delete the words "administrative authority" and in lieu thereof, substitute "authority having jurisdiction".

iv. Section 10.4.9 is amended to delete the words "administrative authority" and in lieu thereof, substitute "authority having jurisdiction".

v. Section 10.5.4 is amended to delete the words "administrative authority" and in lieu thereof, substitute "authority having jurisdiction".

vi. Section 10.5.6b is amended to delete the phrase "by the local administrative authority" and in lieu thereof, insert "in N.J.A.C. 5:23-2.23".

vii. Section 10.8.1 is amended to add the phrase "as required by the authority having jurisdiction" after the word "practice" on line 4.

viii. Section 10.16.2 is amended to delete the phrase "when required by the administrative authority" on line 2.

12. Chapter 11 of the plumbing subcode, entitled "Sanitary Drainage Systems," is amended as follows:

i. Section 11.3.1 is amended to delete the words "administrative authority" and substitute in lieu thereof, the words "authority having jurisdiction" on line 5.

ii. Section 11.4.3 is amended at the end to add the sentence "Diversity factors shall be established in accordance with N.J.A.C. 5:23-3.3."

iii. Section 11.7.1a is amended to delete the words "administrative authority" on line 4 and in lieu thereof, substitute the words "authority having jurisdiction".

13. Chapter 12 of the plumbing subcode, entitled "Vents and Venting," is amended as follows:

i. Section 12.2.2 is amended to delete the words "administrative authority" and in lieu thereof, substitute the words "authority having jurisdiction" on line 3.

ii. Section 12.4.5 is amended to delete the phrase "when approved by the administrative authority".

iii. Section 12.5 is amended to delete the phrase "a fitting acceptable to the administrative authority", and in lieu thereof substitute "an approved fitting".

14. Chapter 13 of the plumbing subcode, entitled "Storm Drains," is amended as follows:

i. Section 13.1.5a is amended to read "subsoil drains shall be provided in accordance with the building subcode".

ii. Section 13.9.1 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the word "authority" on line 5.

15. Chapter 14 of the plumbing subcode, entitled "Medical Care Facility Plumbing Equipment," is amended as follows:

i. Section 14.25.2 is amended to add the phrase "in accordance with N.J.A.C. 5:23-3.3" after the words "administrative authority" on line 4.

16. Except as otherwise indicated in (b)16i below, sections 16.1 through 16.12.1.13 of chapter 16 of the plumbing subcode, entitled "Regulations governing individual sewage disposal systems for homes and other establishments where public sewer systems are not available" are deleted in their entirety.

i. Section 16.1.7 is retained and amended to read as follows: "When a sewage disposal system is being abandoned and a connection is being made to the public sewer system, the plumbing subcode official shall ensure that the abandoned septic system is disconnected from the building, pumped out and filled with gravel, stones or soil material."

Note: Existing standards of the Department of Environmental Protection and boards of health with respect to individual on-site sewage disposal systems remain in effect.

17. Chapter 17 of the plumbing subcode, entitled "Potable water supply system" and comprising sections 17.1 through 17.15.2 is deleted in its entirety.

Note: Existing standards of the Department of Environmental Protection and Energy and boards of health with respect to individual on-site water supply systems remain in effect.

18. Chapter 18 of the plumbing subcode, entitled "Mobile Home and Trailer Park Plumbing Standards," is amended as follows:

i. Whenever the term "trailer", "trailer coach", "trailer park", and so forth, is used in this subcode, it shall have the same meaning as "mobile home", "mobile home park", and so forth, as used in the building subcode.

ii. Section 18.2.1 is amended to delete the last sentence beginning "Trailer home park".

iii. Section 18.2.2 is amended to delete the words "or sewerage disposal" on line 1.

iv. Section 18.5.8 is amended to add the phrase "and as provided by the authority having jurisdiction" after the words "chapter 10".

v. Section 18.8.1.2 is deleted.

vi. Section 18.8.3 is amended to add the phrase "for dependent trailers" after the word "park" on line 1.

vii. Section 18.8.4 is amended to add the phrase "for dependent trailers" after the word "park" on line 1.

19. Appendix E of the plumbing subcode, entitled "Special Design Plumbing Systems", is amended as follows:

i. Section E.2.1 is amended to delete the words "local administrative authority" on line 2 and in lieu thereof, substitute "authority having jurisdiction".

ii. Section E.4.2 is amended to delete the term "Administrative Authority" and substitute in lieu thereof "Authority Having Jurisdiction."

Amended by R.1981 d.132, effective May 7, 1981.

See: 13 N.J.R. 121(a), 13 N.J.R. 258(d).

Amended by R.1983 d.12, eff. February 7, 1983, operative February 22, 1983.

See: 14 N.J.R. 1326(a), 15 N.J.R. 141(c).

Added (a) 3 and (c).

Amended by R.1984 d.314, eff. August 6, 1984.

See: 16 N.J.R. 1139(a), 16 N.J.R. 2084(b).

Section substantially amended.

Amended by R.1986 d.12, effective February 3, 1986.

See: 17 N.J.R. 2714(a), 18 N.J.R. 267(a).

(a)1i had a change of address; (a)3 and (c) added.

Amended by R.1987 d.81, effective February 2, 1987.

See: 18 N.J.R. 2237(b), 19 N.J.R. 289(d).

Amended by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

Model subcode revisions.

Amended by R.1989 d.66, effective February 6, 1989.

See: 20 N.J.R. 2846(a), 21 N.J.R. 288(a).

Added (c).

Amended by R.1990 d.58, effective February 5, 1990.

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

Added (d) adopting the 1989 Supplement to the 1987 National Standard Plumbing Code.

Amended by R.1990 d.253, effective May 21, 1990.

See: 22 N.J.R. 909(b), 22 N.J.R. 1554(a).

Text added at (a)3; (d)3ii amended.

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

Amended by R.1991 d.326, effective July 1, 1991.

See: 23 N.J.R. 804(a), 23 N.J.R. 2044(a).

GPF set at 1.6; gravity water closets not permitted in commercial uses.

Amended by R.1991 d.571, effective November 18, 1991.

See: 23 N.J.R. 2619(a), 23 N.J.R. 3444(b).

Added new (c).

Amended by R.1992 d.67, effective February 3, 1992.

See: 23 N.J.R. 3602(a), 24 N.J.R. 404(b).

Low volume water closet exception added at (b)18i(1).

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.122, effective March 6, 1995 (operative July 1, 1995).

See: 26 N.J.R. 4874(a), 27 N.J.R. 894(a).

Amended by R.1998 d.136, effective March 16, 1998.

See: 30 N.J.R. 4(a), 30 N.J.R. 1038(a).

In (b)9, added xii.

i. Copies of this code may be obtained from the sponsors at NFPA, Batterymarch Park, Quincy, Massachusetts 02269.

2. The National Electrical Code/1993, including all subsequent revisions and amendments thereto, may be known and cited as "the electrical subcode."

(b) The following chapters or articles of the electrical subcode are amended as follows:

1. Article 90 of the electrical subcode, entitled "Introduction," is amended as follows:

i. Section 90-2(b)(5) is amended to delete the term "(FPN):" in the seventh line and add the words "the installation of utilization equipment and its associated wiring on private property (see section 90-2(a)(1) for installations covered) and" after the words "this Code cover" in the tenth line.

ii. Section 90-4, Enforcement, is amended to delete in the first paragraph the phrase, "authority having jurisdiction of enforcement of the code" and substitute in lieu thereof, the term "electrical subcode official." And add a new last sentence in the first paragraph: "Approval shall be in accordance with N.J.A.C. 5:23-2.9." Delete in the second paragraph the phrase "authority having jurisdiction" and substitute in lieu thereof the term "electrical subcode official" and add after "effective safety" the phrase "as provided in N.J.A.C. 5:23-2.9." Delete in the third paragraph the phrase "authority having jurisdiction" and substitute in lieu thereof the term "electrical subcode official" and delete the phrase "by the jurisdiction" after the word "adopted."

2. Chapter 1 of the electrical subcode Article 100, entitled "Definitions" is amended as follows:

i. The definition of the term "approved" is amended to delete the phrase "authority having jurisdiction" and substitute in lieu thereof, the phrase "electrical subcode official. Approval shall be in accordance with N.J.A.C. 5:23-3.7 and 3.8."

ii. Amend to include the following definition: "Authority having jurisdiction: Unless otherwise specifically noted the authority having jurisdiction for the Electrical Subcode shall be the Electrical Subcode Official".

iii. The definition of the term "building" is deleted and in lieu thereof, substitute the definition of the term "building" found in N.J.A.C. 5:23-1.4".

iv. The definition of the term "garage" is amended to add the sentence, "The term cutoff is intended to refer to the appropriate fire separation as required by the building subcode."

3. Chapter 3 of the electrical subcode, entitled "Wiring Methods and Materials," is amended as follows:

Case Notes

Statute providing that only licensed master plumbers could be plumbing contractors was unconstitutional. *Mechanical Contractors Ass'n of New Jersey, Inc. v. State*, 255 N.J.Super. 488, 605 A.2d 743 (A.D.1992).

5:23-3.16 Electrical subcode

(a) Rules concerning the subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, the Commissioner hereby adopts the Model Code of the National Fire Protection Association known as "the National Electrical Code/1993," including all subsequent revisions and amendments thereto, as the electrical subcode for New Jersey.

i. Section 300-4(a)(1) is amended to delete the wording from "so that the edge ..." on line three through "... cannot be maintained" on line five and in lieu thereof substitute "as required by the building subcode where the distance between the edge of the hole to the nearest edge of the wood member is less than 1¼ inches (31.8 mm)."

4. Chapter 5 of the electrical subcode, entitled "Special Occupancies," is amended as follows:

i. Exception to the section 500-3(a)(4), section 514-5(b) and section 514-5(c) are amended to delete the phrase "authority having jurisdiction" and substitute in lieu thereof the phrase "fire protection subcode officials."

ii. Part B of Article 550, entitled "Mobile Homes," comprising sections 550-5 through 550-15 is deleted in its entirety with the exception of section 550-5 which shall be retained.

(1) Exception—Part B is retained in its entirety in the case of mobile homes undergoing repair or alteration work.

iii. In Article 551, entitled "Recreational Vehicles and Recreational Vehicle Parks", delete from the title the words "Recreational Vehicles and".

(1) Section 551-1 is amended to delete the phrase "within or on recreational vehicles" on line 2.

(2) Parts B, C, D, E and F, comprising sections 551-10 through 551-60, are deleted in their entirety, with the exception of Figure 551-46(c), which shall be retained.

Amended by R.1981 d.132, effective May 7, 1981.

See: 13 N.J.R. 121(a), 13 N.J.R. 258(d).

Amended by R.1984 d.314, effective August 6, 1984.

See: 16 N.J.R. 1139(a), 16 N.J.R. 2084(b).

Section substantially amended.

Amended by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

Model subcode revisions.

Amended by R.1990 d.253, effective May 21, 1990.

See: 22 N.J.R. 909(b), 22 N.J.R. 1554(a).

Amendments to (b)4i(2), ii(2).

Administrative Correction to (b)4i(2).

See: 22 N.J.R. 2503(b).

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

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

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

Case Notes

Former N.J.A.C. 5:23-3.6 designated "National Electrical code of 1975" as controlling code; statute of limitations. *Brown v. Jersey Central Power and Light Co.*, 163 N.J.Super. 179 394 A.2d 397 (App. Div.1978) certification denied 79 N.J. 489 401 A.2d 244.

5:23-3.17 Fire protection subcode

(a) Rules concerning the subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, as amended, the Commissioner hereby adopts the following portions of the building, electrical and mechanical subcodes, to the extent delineated in N.J.A.C. 5:23-3.4, as the fire protection subcode for New Jersey.

i. BOCA National Building Code/1993 of the Building Officials and Code Administrators International Inc. (N.J.A.C. 5:23-3.14):

(1) Chapter 4—Special Use and Occupancy;

(2) Chapter 7—Fire resistant Materials and Construction;

(3) Chapter 8—Interior Finishes;

(4) Chapter 9—Fire Protection Systems;

(5) Chapter 10—Means of Egress;

(6) Sections 1506.0 and 1511.0 of Chapter 15—Roofs and Roof Structures;

(7) Section 2114.0 of Chapter 21—Masonry;

(8) Sections 2603.0 through 2605.0 of Chapter 26—Plastic;

(9) Section 3106.0 of Chapter 31—Special Construction;

(10) Section 3305.0 of Chapter 33—Site Work, Demolition and Construction;

(11) Section 3406.0 of Chapter 34—Existing Structures.

ii. National Electrical Code/1993 of the National Fire Protection Association (N.J.A.C. 5:23-3.16).

(1) Article 300-21 of chapter 3—Wiring Methods and Materials;

(2) Article 450, Part C—Transformer Vaults of Chapter 4—Equipment for General Use;

(3) Chapter 5—Special Occupancies;

(4) Article 760 of chapter 7—Special conditions;

iii. BOCA National Mechanical Code/1993 of the Building Officials and Code Administrators International Inc. (N.J.A.C. 5:23-3.20):

(1) Chapter 4—Mechanical Equipment;

(2) Chapter 5—Kitchen Exhaust Equipment;

(3) Chapter 9—Flammable and Combustible Liquid Storage and Piping Systems;

(4) Chapter 10—Combustion Air;

(5) Chapter 12—Chimneys and Vents;

(6) Chapter 14—Fireplaces, Solid Fuel-Burning and Gas Accessory Appliances.

2. The model code portions listed above, including (where appropriate) all subsequent revisions and amendments thereto, may be known and cited as "the fire protection subcode".

(b) Rules concerning modifications to subcodes are as follows:

1. The modifications made to the appropriate portion of the adopted model code in N.J.A.C. 5:23-3.14 (Building Subcode), N.J.A.C. 5:23-3.16 (Electrical Subcode) and N.J.A.C. 5:23-3.20 (Mechanical Subcode) will apply also to those portions as regards this adoption.

Amended by R.1981 d.132, effective May 7, 1981.

See: 13 N.J.R. 121(a), 13 N.J.R. 258(d).

Amended by R.1984 d.314, effective August 6, 1984.

See: 16 N.J.R. 1139(a), 16 N.J.R. 2084(b).

Section substantially amended.

Amended by R.1986 d.380, effective September 22, 1986.

See: 18 N.J.R. 1235(a), 18 N.J.R. 1931(a).

Substantially amended.

Amended by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

Model subcode revisions.

Amended by R.1990 d.253, effective May 21, 1990.

See: 22 N.J.R. 909(b), 22 N.J.R. 1554(a).

Reference to 1989 Supplement added; (a)1i(7) amended.

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

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

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

Case Notes

Zoning ordinance's definition of family violated Constitution. *Cherry Hill Tp. v. Oxford House, Inc.*, 263 N.J.Super. 25, 621 A.2d 952 (A.D.1993).

5:23-3.18 Energy Subcode

(a) Rules concerning the subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, as amended, the Commissioner hereby adopts the model code of the Building Officials and Code Administrators International, Inc., known as the BOCA National Energy Conservation Code/1993, including all subsequent revisions and amendments thereto, as well as the Illuminating Engineering Society's standard known as LEM-1, 1982, "IES Recommended Procedure for Lighting Power Limit Determination," including all subsequent revisions and amendments thereto, as the energy subcode for New Jersey.

i. Copies of the BOCA National Energy Conservation Code/1993 may be obtained from the sponsor at BOCA, 4051 West Flossmoor Road, Country Club Hills, Illinois, 60477-5795.

ii. Copies of LEM-1, 1982, "IES Recommended Procedure for Lighting Power Limit Determination," may be obtained from the sponsor at IES, 345 East 47th Street, New York, New York 10017.

iii. The model code and standard listed above, including (where appropriate) all subsequent revisions and amendments thereto, may be known and cited as the "energy subcode."

2. Any reference to the building code, mechanical code, or plumbing code listed in Chapter 8 shall be considered a reference to the appropriate adopted building, mechanical, or plumbing subcode in N.J.A.C. 5:23-3.

(b) The following chapters and sections of the energy subcode are amended as follows:

1. The following amendments are made to Chapter 1 of the energy subcode entitled "Scope and Application":

i. Section E-101.1 is deleted in its entirety.

ii. The text of Section E-101.3 is deleted and the following language is substituted: "Buildings other than those of use group R-3 and R-4 as well as R-2 which are three stories or less in height shall meet the requirements of ASHRAE/IES 90.1-1989. For buildings of use group R-3, and R-4 as well as R-2 which are three stories or less in height, compliance with the applicable provisions of ASHRAE 90A or 90B listed in Chapter 8 shall be deemed to meet the requirements of this code, unless otherwise specifically provided for herein".

iii. Section E-101.4 is amended to add the words "... except for buildings and structures required to comply with ASHRAE/IES 90.1-1989 as noted in section E-101.3" after the words "... shall apply" in the last sentence.

2. The following amendments are made to Chapter 3 of the energy subcode entitled "Building Envelope":

i. Section E-302.1 is amended to delete the words "or the CABO Model Energy Code" and to add the following sentences: "For determining required thermal transmittance values for buildings of use groups R-3, R-4 and R-2 that are three stories or less in height, the following heating degree day values shall be used for the following counties:

(1) 4,500 annual Fahrenheit heating degree days shall be used for the counties of Cape May, Salem, Cumberland, Camden, Atlantic and Gloucester.

(2) 5,000 annual Fahrenheit heating degree days shall be used for the counties of Burlington, Ocean, Monmouth, Mercer, Middlesex, Essex, Hudson and Union.

(3) 5,500 annual Fahrenheit heating degree days shall be used for the counties of Somerset, Warren, Hunterdon, Morris, Bergen and Passaic.

(4) 6,000 annual Fahrenheit heating degree days shall be used for the county of Sussex."

3. The following amendments are made to Chapter 4 of the energy subcode entitled "Heating, Ventilating and Air Conditioning Systems and Equipment":

i. Delete section E-402.1.1 and substitute the words "Outdoor design temperatures shall be based on the 97½-percent value for heating and the 2½-percent value for cooling determined from Appendix A or from Table 1, Climatic Conditions for the United States, set forth in the current edition of the ASHRAE Fundamentals Handbook. Values between locations listed shall be determined by extrapolation."

4. The following amendments are made to Chapter 5 of the energy subcode entitled "Plumbing Systems":

i. Delete section E-503.0.

5. The following amendment is made to Chapter 6 of the energy subcode entitled "Electrical Systems":

i. In Section E-602.2, add the words "In buildings of Use Group R-2 which are under a condominium or cooperative form of ownership only, electrical energy use by the occupants of each dwelling unit may be determined by means of checkmetering rather than by use of a separate meter owned by the electric utility for each dwelling unit."

6. The following amendments are made to Chapter 7 of the energy subcode entitled "Alternative Systems":

i. Section E-701.1 is amended to delete the words "this code" on lines 3 and 6 and, in lieu thereof, substitute "the energy subcode."

7. The following amendment is made to Chapter 8 of the energy subcode entitled "Referenced Standards":

i. Delete the subheading CABO and all titles listed below the subheading.

8. The following amendments are made to section 2 of standard LEM-1 of the energy subcode, entitled "Scope":

i. Delete the first paragraph in the section and in lieu thereof, substitute "These provisions regulate the amount of power which may be utilized by buildings of use group R-3 and R-4 as well as R-2 which are three stories or less in height for lighting. No such building shall employ more power for lighting than that determined through the use of the criteria and calculated procedures contained herein."

(c) The requirements of the Energy Subcode shall apply as follows:

1. The thermal efficiency standards of the Energy Subcode shall apply to all newly constructed and renovated buildings.

2. The lighting efficiency standards of the Energy Subcode shall apply to all newly constructed and renovated buildings in use groups A, B, E, F, H, I, M, R, S and U as defined in the Building Subcode.

3. As used in this section, "newly constructed" means built in its entirety in accordance with a construction permit as required by this chapter and "renovated" means having changes made to the structure of an existing building in accordance with a construction permit as required by this chapter.

Amended by R.1987 d.387, effective October 5, 1987.

See: 19 N.J.R. 433(b), 19 N.J.R. 1793(a).

Substantially amended.

Amended by R.1988 d.50, effective February 1, 1988.

See: 19 N.J.R. 1862(b), 20 N.J.R. 268(a).

Added (b)6; renumbered (b)6.-7. as (b)7.-8.

Amended by R.1988 d.417, effective September 6, 1988.

See: 20 N.J.R. 699(b), 20 N.J.R. 2274(a).

Substantially amended.

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

Amended by R.1991 d.326, effective July 1, 1991.

See: 23 N.J.R. 804(a), 23 N.J.R. 2044(a).

Section E-502.1 deleted.

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)5, deleted old and added new i.

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.143, effective March 20, 1995 (operative July 1, 1995).

See: 26 N.J.R. 4872(a), 27 N.J.R. 1179(b).

Case Notes

Registered architect retained to sign and seal drawings to comply with permit regulations entitled to approve as prepared or return for compliance modifications (citing Small Dwelling Energy Subcode). *Deck House, Inc. v. New Jersey State Board of Architects*, 531 F.Supp. 633 (D.N.J.1982).

Departments of Community Affairs and Energy could not amend state energy subcode. *New Jersey Builders Ass'n v. Coleman*, 227 N.J.Super. 23, 545 A.2d 783 (A.D.1988).

5:23-3.19 Manufactured home subcode

(a) Pursuant to authority of P.L. 1975, c.217, as amended, the Commissioner hereby adopts the Federal Manufactured Home Construction and Safety Standards, as set forth in Part 3280 of Title 24 of the Code of Federal Regulations, including all subsequent revisions and amendments thereto, as the manufactured home subcode for New Jersey.

1. Copies of the volume of the Code of Federal Regulations containing Part 3280 of Title 24 may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20420.

2. Part 3280 of Title 24 of the Code of Federal Regulations, including all subsequent revisions and amendments thereto, may be known and cited as the manufactured home subcode.

(b) The following sections of Subpart A of Part 3280 are deemed to be administrative in nature and are therefore excluded from the manufactured home subcode:

1. Section 3280.1, entitled "Scope";
2. Section 3280.5, entitled "Data plate";
3. Section 3280.6, entitled "Serial number";
4. Section 3280.7, entitled "Modular homes"; and
5. Section 3280.8, entitled "Certification label".

(c) Any manufactured home construction or safety issue not covered under the manufactured home subcode which is, however, covered under another subcode adopted pursuant to this subchapter shall be determined in accordance with such other subcode.

(d) The adoption of a manufactured home subcode shall not be construed as in any way limiting the power or duty of the Department of Community Affairs to enforce and comply with all applicable provisions of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 and the regulations promulgated pursuant thereto, including all subsequent revisions and amendments thereto, when authorized to do so by the Secretary of the United States Department of Housing and Urban Development.

Amended by R.1982 d.7, eff. February 1, 1982.

See: 13 N.J.R. 171(a), 14 N.J.R. 142(a).

This section was recodified from 5:23-3.9.

5:23-3.20 Mechanical subcode

(a) Rules concerning the subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, the Commissioner hereby adopts the model code of the Building Officials and Code Administrators International, Inc. known as the "BOCA National Mechanical Code/1993," including all subsequent revisions and amendments thereto. This code is hereby adopted by reference as the Mechanical Subcode for New Jersey subject to the modifications stated in (b) below.

i. Copies of this code may be obtained from the sponsor at: BOCA International, 4051 Flossmoor Road, Country Club Hills, Illinois 60478-5795.

ii. The "BOCA National Mechanical Code/1993," including all subsequent revisions and amendments thereto, may be known and cited as the "mechanical subcode."

2. Any references to the building code, plumbing code, or NFIPA 70 listed in Chapter 21 shall be considered a reference to the appropriate adopted building, plumbing, or electrical subcode in N.J.A.C. 5:23-3.

(b) The following chapters, sections or pages of the BOCA National Mechanical Code/1993 are amended as follows:

1. Chapter 1 of the mechanical subcode, entitled "Administration and Enforcement," is deleted in its entirety.

2. Chapter 2 of the mechanical subcode, entitled "Definitions," is amended as follows:

i. Section M-201.3 is amended to delete the words "codes listed in Chapter 21" on line 3, and in lieu thereof, substitute "subcodes."

ii. The definition of the term "administrative authority" is deleted in its entirety, and substitute in lieu thereof, the following language: "For the purpose of the mechanical subcode, the term "administrative authority" shall mean the appropriate subcode official designed in N.J.A.C. 5:23-3.4."

iii. The definition of the term "approved" is amended to delete the words "code official or other."

iv. The definition of the term "building" is deleted and the definition found in N.J.A.C. 5:23-1.4 is substituted;

v. The term and definition of "code" is deleted in its entirety.

vi. The definition of the term "code official" is deleted in its entirety, and the following language is substituted: "For the purpose of the mechanical subcode, the term "code official" shall mean the appropriate subcode official as designated in N.J.A.C. 5:23-3.4."

vii. The definition of the term "structure" is deleted and the definition found in N.J.A.C. 5:23-1.4 is substituted.

3. Chapter 4 of the mechanical subcode, entitled "Mechanical Equipment," is amended as follows:

i. Section M-403.1 is amended to delete "Section M-107.0" on line 3, and, to substitute in lieu thereof, "N.J.A.C. 5:23-3.7."

4. Chapter 5 of the mechanical subcode, entitled "Kitchen Exhaust Equipment," is amended as follows:

i. Section M-509.0, "Test and Cleaning Schedule" is deleted.

5. Chapter 9 of the mechanical subcode, entitled "Flammable and Combustible Liquid Storage and Piping Systems," is amended as follows:

i. Section M-901.1 is amended to add the words "For those systems that are subject to the Department of Environmental Protection and Energy's Underground Storage Tank Systems rules, N.J.A.C. 7:14B, the requirements of this article that conflict with the DEPE rules shall be inapplicable."

6. Chapter 15 of the mechanical subcode, entitled "Incinerators and Crematories," is amended as follows:

i. Section M-1501.2 is deleted in its entirety.

7. Chapter 16 of the mechanical subcode entitled "Ventilation Air" is amended as follows:

i. Section M-1604.0 is deleted in its entirety and substitute in lieu thereof "Requirements for ventilation air shall be as set forth in N.J.A.C. 5:23-3.20A".

ii. Section M-1605.1 is amended to delete the words "spaces designated by Note b of Table M-1604.3" and replace them with the words "smoking lounges; autopsy rooms; bathrooms of hotels, motels and dormitories; garages common to multiple dwelling units; public restrooms; and locker and dressing rooms".

8. Chapter 17 of the mechanical subcode, entitled "Air Quality" is deleted in its entirety.

9. Chapter 19 of the mechanical subcode, entitled "Energy Conservation" is deleted in its entirety.

10. Chapter 20 of the mechanical subcode, entitled "Boilers and Pressure Vessels, Maintenance and Inspection," is deleted in its entirety, with the exception of section M-2001.2.

11. The following amendments are made to Chapter 21 of the mechanical subcode, entitled "Referenced Standards":

i. Under the subheading "ASHRAE," delete the following title:

(1) Energy Conservation in New *Building Design*—with Addendum 90A-a-1987.

ii. Under the subheading "BOCA," delete the following titles:

(1) BOCA National Building Code.

(2) BOCA National Plumbing Code.

iii. Under the subheading "NFIPA" delete the following title:

(1) National Electrical Code.

R.1984 d.314, eff. August 6, 1984.

See: 16 N.J.R. 1139(a), 16 N.J.R. 2084(b).

New rule.

Amended by R.1985 d.154, effective April 1, 1985 (operative July 1, 1985).

See: 17 N.J.R. 239(a), 17 N.J.R. 810(a).

(a)2 added; subsection (c) added.

Amended by R.1986 d.380, effective September 22, 1986.

See: 18 N.J.R. 1235(a), 18 N.J.R. 1931(a).

Substantially amended.

Amended by R.1987 d.14, effective January 5, 1987.

See: 18 N.J.R. 2083(a), 19 N.J.R. 63(a).

In (b)5iv Section M-508 was deleted and Section M-508.1 was substituted.

Amended by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

Model subcode revisions.

Amended by R.1988 d.270, effective June 20, 1988.

See: 20 N.J.R. 575(a), 20 N.J.R. 1344(a).

Added (a)3 and (c).

Amended by R.1990 d.253, effective May 21, 1990.

See: 22 N.J.R. 909(b), 22 N.J.R. 1554(a).

References to 1989 Supplement added; (c)1 and 3 added.

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990.

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

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

In (a), added 3. Added new (c).

Amended by R.1992 d.183, effective April 20, 1992.

See: 24 N.J.R. 167(a), 24 N.J.R. 1475(b).

Text added at (b)7 and (c)1, deleting parts of article 16 of the mechanical subcode.

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.120, effective March 6, 1995 (operative July 1, 1995).

See: 26 N.J.R. 4874(b), 27 N.J.R. 894(b).

5:23-3.20A Indoor air quality subcode

(a) Pursuant to authority of P.L. 1975, c.217, as amended, the Commissioner hereby adopts the nationally-recognized standard of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., known as ASHRAE 62-1989 (Ventilation for Acceptable Indoor Air Quality), including all subsequent revisions and amendments thereto, as the standard for building ventilation and indoor air quality in all buildings or portions of buildings subject to this chapter in which mechanical ventilation is utilized. This standard is hereby adopted by reference as the indoor air quality subcode for New Jersey.

1. Copies of this standard may be obtained from the sponsor at: ASHRAE Publications Sales Department, 1791 Tullie Circle NE, Atlanta, GA 30329.

New Rule R.1992 d.183, effective April 20, 1992.

See: 24 N.J.R. 167(a), 24 N.J.R. 1475(b).

5:23-3.21 One and two family dwelling subcode

(a) Rules concerning the subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, the Commissioner hereby adopts the model code of the Council of American Building Officials known as "The CABO One and Two Family Dwelling Code/1992", including all subsequent revisions and amendments thereto, as the one and two family dwelling subcode for New Jersey subject to the modifications stated in (b) below.

i. Copies of this code may be obtained from BOCA International, 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795.

(b) The following articles or sections of the one and two family building subcode are modified as follows:

1. Chapter 1 entitled "Administrative" is amended as follows:

i. Sections R-101 and R-102 are deleted and substituted in lieu thereof UCC regulations.

ii. Section R-103 is deleted and the following substituted in lieu thereof: "The provisions of this code apply only to the construction, alteration, repair or increase in size of detached one or two family dwellings of use group R-4 (including single family townhouses), of type 5B construction not more than 2 stories or 35 feet in height and 4,800 square feet in area per floor, and not located in areas prone to flooding. Dwellings to be erected in areas identified as prone to flooding by the most recent Flood Insurance Rate Map published by the Federal Emergency Management Agency shall be constructed in conformity with the building subcode, and the option to use the one and two-family dwelling subcode as an alternative to the building subcode shall not apply.

iii. Sections R-104 through R-117 are deleted.

iv. Section R-118 is amended to change the definitions as follows:

(1) The definition of the term "approved" is deleted and in lieu thereof substitute "approved by the building official or other authority having jurisdiction in accordance with the regulations."

(2) The definition of the term "Approved Agency" is amended to add the phrase "or other authority having jurisdiction in accordance with the UCC regulations" after the word "Official" on line 3.

(3) The definition of the term "Building Official" is deleted and is redefined herein and throughout the subcode as the "building subcode official" as defined in N.J.A.C. 5:23-1.4 unless indicated otherwise.

(4) The definition of the term "Grade" is deleted and in lieu thereof substitute, "A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line, or when the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.

2. Chapter 2 entitled "Building Planning" is amended as follows:

i. Section R-201.2 is amended to modify Table R-201.2 to read as follows:

Table No. R-201.2
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

Roof Live Load (lbs./sq. ft.)	Roof Snow Load (lbs./sq. ft.)	Wind Pressure (lbs./sq. ft.)	Seismic Condition by Zone	Subject to Damage from Weathering	Subject to Damage from Frost Line Depth	Subject to Damage from Termite	Subject to Damage from Decay
20	20	sec	Sec note 3	Severe	2'-6"	Yes	Yes
Sec note 1	Sec notes 1, 4	Appendix A and notes 5, 6, 7		Sec note 2	(Southern Area) 3'-0" (Northern Area)		
					Sec notes 2, 4		

Notes:

1. Roof live and snow loads are not additive.
2. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy structural requirements of this code. The grade of masonry units shall be determined from ASTM C34, C55, C62, C73, C90, C129, C145, C216, or C652 listed in Section S-26.201. The frost line depth may require deeper footings than indicated in Figure R-303.
3. New Jersey is divided into two zones: Zone 1 consists of Monmouth and Burlington Counties and all counties to the south. Zone 2 consists of Mercer and Middlesex Counties and all counties to the North (see N.J.A.C. 5:23-9.4).
4. The enforcing agency having jurisdiction may establish values other than the ones listed for "roof snow load", and "frost line depth" if warranted by documented local climatic and geographic conditions.
5. Wind speed for Atlantic, Cape May, Monmouth and Ocean counties, and Bass River, Washington, Woodland townships in Burlington County shall be 90 mph.
6. Wind speed for Bergen, Camden, Cumberland, Essex, Gloucester, Hudson, Mercer, Middlesex, Morris, Passaic, Salem, Somerset, Union, and Burlington (except for Bass River, Washington and Woodland townships) counties shall be 80 mph.
7. Wind speed for Hunterdon, Warren and Sussex counties shall be 70 mph.

ii. Sec. R-202.1, in the first and third lines, delete "3 feet" and substitute in lieu thereof, "5 feet";

iii. Section R-203.5 "Required heating" is deleted.

iv. Section R-209.1—Opening Protection—Delete and substitute in lieu thereof the following: "Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid core wood doors not less than 1¾ inches in thickness or approved equivalent. The sills of all door openings between garages and adjacent interior spaces shall be raised not less than 4 inches above the garage floor."

v. Sec. R-209.2—Separation Required—Delete and substitute in lieu thereof the following: "Private garages located beneath rooms shall have walls, partitions, floors and ceilings separating the garage space from the adjacent interior spaces constructed of not less than 1 hour fire resistance rating. Attached private garages shall be completely separated from the adjacent interior spaces and the attic area by means of ½-inch gypsum board or equivalent applied to the garage side";

vi. Section R-212, under the second exception in the second line, delete "8½ inches" and substitute in lieu thereof, "8 inches";

vii. Section R-214.1 "Handrails": Delete paragraph 2 and replace with the following text: "All stairway handrails shall have a circular cross section with an outside diameter of at least 1¼ inches and not greater than 2 inches, or approved rails of equivalent graspability;

viii. Section R-215.1 "Smoke detectors required": Delete this section and replace with the following text: "Single or multiple station smoke detectors shall be installed and maintained at the following locations:

- (1) In the immediate vicinity of the bedrooms;
- (2) In all bedrooms; and
- (3) In each story within a dwelling unit including basements. All detectors shall be interconnected such that the activation of one alarm will activate all the alarms in the individual unit. When the installation is complete, each detector, and all interconnecting wiring for multiple station detectors, shall be subject to acceptable testing in accordance with section 919.6 of the building subcode. All detectors shall be approved and listed and shall be installed in accordance with section 919.1 of the building subcode.

EXCEPTION: In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke detector installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level.

ix. Section R-215.2 is amended to delete the words from "or in buildings" to the end of paragraph;

x. Sec. R-216.2.4, after the words "foam filled doors" add the phrase "except for fire doors";

3. Chapter 3, entitled "Foundations," is amended as follows:

- i. Sec. R-301.1, delete the words "Sec. R-108" and in lieu thereof insert "UCC regulations N.J.A.C. 5:23-3.6 and 3.7."
 - ii. From Section R-304.1 Concrete and Masonry: delete the exception;
 - iii. Add new section R-312 "Pile Foundations," reading as follows: "Where buildings are constructed under the scope of this subcode that utilize pile foundations, Chapter 18 of the building subcode shall apply."
4. Chapter 4, entitled "Wall Construction," is amended as follows:
- i. Sec. R-401.1, delete the words "Section R-108" and in lieu thereof insert "UCC regulations N.J.A.C. 5:23-3.6 and 3.7";
 - ii. From Section R-404.3.1 Unreinforced Masonry: delete the second paragraph of the exception.
 - iii. From Section R-404.3.2 Reinforced Masonry: delete the exception.
5. Chapter 6, entitled "Floors," is amended as follows:
- i. Sec. R-601.1, delete the words "Section R-108" and in lieu thereof insert "UCC regulations N.J.A.C. 5:23-3.6 and 3.7".
6. Chapter 7, entitled "Roof Ceiling Construction", is amended as follows:
- i. Sec. R-701.1, delete the words "Section R-108" and in lieu thereof insert "UCC regulations N.J.A.C. 5:23-3.6 and 3.7".
7. Chapter 8, entitled, "Roof Coverings", is amended as follows:
- i. Sec. R-801.1, delete the words "Section R-108" and in lieu thereof insert "UCC regulations N.J.A.C. 5:23-3.6 and 3.7".
 - ii. In Section R-801.3 Roof Covering Materials: On line eight delete the phrase "in areas . . . 3 feet" and replace with the phrase: "when the edge of the roof is less than 6 feet from the property line";
 - iii. Add a new section R-810 "Reroofing," reading as follows: Where an existing roof is replaced or recovered under the scope of this subcode, the provisions of the building subcode, section 1512.0, as amended, shall apply.
8. Chapter 9, entitled "Chimneys and Fireplaces", is amended as follows:
- i. Sec. R-901.7 is amended to add the following phrase after 1800°F.: "and embedded in medium duty refractory mortar complying with ASTM C105." Delete the "EXCEPTION";
 - ii. Section R-902 is amended to add the sentence "Factory built chimneys shall conform to U.L. 103 and be installed in accordance with their listing."
 - iii. Sec. R-903.2, in the last line, change "10 inches" to "12 inches";
 - iv. Sec. R-903.5, in the second line, change "3/8 inches . . . all imposed loads" to "4 inches solid masonry or equivalent";
 - v. Section R-903.7, in the second and fourth lines, change "2 inches" to "4 inches" and add the sentence "The minimum clearance to combustibles from the exterior surface of the smoke chamber shall be 2 inches";
 - vi. Sec. R-904.1 item # 4, is amended to add after the word "opening" the following: "for a fireplace having an opening of less than 6 square feet. The hearth of a fireplace with a larger opening shall extend a minimum of 20 inches beyond the face of the fireplace opening and a minimum of 12 inches on each side of the fireplace opening." Also, in Item # 5 of Sec. R-904.1, delete and substitute in lieu thereof: "Factory Built Fireplaces shall be listed, labeled and tested according to UL 127, and installed according to their listing";
 - vii. Sec. R-905—At the end of the section, add "Factory built fireplace stoves shall be tested according to UL 737."
9. Part IV—Mechanical, is amended as follows:
- i. Section M-1001: Delete the words "Section R-108" and in lieu thereof insert "N.J.A.C. 5:23-3.6 and 3.7";
 - ii. Section M-1002.2: At the end of the section, add "Solid fuel burning room heaters shall be tested and labeled in accordance with UL 1482";
 - iii. Section M-1008 "Existing Mechanical Systems" is deleted;
 - iv. Section M-1009 "Inspections" is deleted;
 - v. Section M-1304.3 is amended to delete the words "conform to the requirements of part V of this code" and substitute in lieu thereof "conform to the requirements of the plumbing subcode";
 - vi. Section 1304.4 is amended to delete the words "Section P-2402" and substitute in lieu thereof "the plumbing subcode";
 - vii. Section M-1905 is amended to delete the words "Section P-2408" and substitute in lieu thereof "the plumbing subcode";
10. Part V—Plumbing, is deleted in its entirety. All requirements for plumbing shall be provided in accordance with the Plumbing Subcode listed in N.J.A.C. 5:23-3.15.

11. Parts VI and VII pertaining to Electrical and Energy Conservation are deleted. Requirements for electrical and energy conservation shall be provided in accordance with the respective subcodes, Electrical per N.J.A.C. 5:23-3.16, and Energy per N.J.A.C. 5:23-3.18.

New Rule, R.1985 d.324, effective July 1, 1985.

See: 17 N.J.R. 861(c), 17 N.J.R. 1646(a).

Amended by R.1987 d.374, effective September 21, 1987.

See: 19 N.J.R. 1024(a), 19 N.J.R. 1720(b).

Model subcode revisions.

Amended by R.1988 d.388, effective August 1, 1988.

See: 20 N.J.R. 1130(a), 20 N.J.R. 2073(b).

Added (c).

Amended by R.1990 d.253, effective May 21, 1990.

See: 22 N.J.R. 909(b), 22 N.J.R. 1554(a).

References to 1989 Supplement added; (b)1ii(5), 2, 4, 8 and 9 amended; (b)5, 6 and 7 added; (c) deleted; Table R-201.2 added.

Amended by R.1991 d.571, effective November 18, 1991.

See: 23 N.J.R. 2619(a), 23 N.J.R. 3444(b).

Added new (c).

Amended by R.1992 d.208, effective May 18, 1992.

See: 24 N.J.R. 680(a), 24 N.J.R. 1879(a).

Code provisions applicable to flood hazard zones clarified.

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

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

See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Reference to subchapter 4A added to (c).

Amended by R.1994 d.96, effective February 22, 1994.

See: 26 N.J.R. 1073(a).

Law Review and Journal Commentaries

Municipal employees—Construction Code Officials. Judith Nallin, 135 N.J.L.J. No. 14, 50 (1993).

Case Notes

Citation to former N.J.A.C. 5:23-2.9 on enforcement. Newark Health Welfare Dept. v. Rogers, 179 N.J.Super. 389, 432 A.2d 135 (Ch.Div.1981).

City must proceed against property through its own ordinances rather than seek common law public nuisance injunction where no local board of health established and nuisance not proven. Newark Health & Welfare Dept. v. Rogers, 179 N.J.Super. 389, 432 A.2d 135 (Ch.Div. 1981).

5:23-4.2 Matters covered; exceptions

(a) Except as otherwise provided in subsection (b) below, the provisions of this subchapter shall apply to all agencies with an enforcement responsibility under the act and regulations.

(b) Rules concerning exceptions are:

1. Interstate agencies: This subchapter shall not apply to agencies created by Interstate Compact. Such agencies shall administer and enforce the subcodes, under such rules and regulations as they may develop, pursuant to authority of the State Uniform Construction Code Act, and any other applicable law of this State.

2. Department of Education:

i. When final plans for the construction or alteration of a public school facility have been submitted to the Department of Education, and approved under the standards for educational adequacy set forth at N.J.A.C. 6:22, and have been submitted for review to, and released by, either the Department or a construction official of an enforcing agency, such plans shall be filed with the enforcing agency of the municipality in which the public school facility is located.

ii. The enforcing agency shall inspect any construction or alteration of a public school facility in the same manner as any other building or structure subject to the code for the purpose of determining if there are any violations of the educational enhancement requirements set forth at N.J.A.C. 5:23-3.11A(d) or any other provision of the State Uniform Construction Code. Any notice or order issued by the enforcing agency shall be binding upon the district board of education, except that the district board of education shall have the right to appeal any notice or order issued by a local enforcing agency to the construction board of appeals having jurisdiction and the right to appeal any notice or order issued by the Department in accordance with N.J.A.C. 5:23-2.38.

SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

5:23-4.1 Title; scope; intent

(a) This subchapter, adopted pursuant to authority of the State Uniform Construction Code Act and entitled "Enforcing agencies; duties; powers; procedures", shall be known and may be cited through the regulation as N.J.A.C. 5:23-4," and when referred to in this part of the regulations, may be cited as "this subchapter".

(b) Unless otherwise specifically provided, all references to article or section numbers or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of this subchapter.

(c) This subchapter and N.J.A.C. 5:23-4A, 4B, 4C shall control matters related to: the structure, organization, and procedures of municipal, State, and interlocal enforcing agencies; their interrelationships; the structure, organization, and procedures of boards of appeal; the approval of premanufactured construction; private enforcing agencies; and the establishment of fees.

(d) This subchapter seeks to provide an efficient administrative structure for enforcing agencies and boards of appeal, through which delay in the construction process can be reduced, uniformity of systems and procedures encouraged, and the public health and safety protected. Such intent shall be given full effect in the construction of any specific provision of this subchapter.

Amended by R.1990 d.313, effective June 18, 1990.

(c) Rules concerning matters not specifically provided for are:

1. Any type or class of enforcing agency or board of appeals, the procedures of which are developed in this subchapter, may individually adopt further rules for their internal governance, not inconsistent with any specific provision of this subchapter, or with its stated intent.

Amended by R.1991 d.309, effective June 17, 1991.

See: 23 N.J.R. 1084(a), 23 N.J.R. 1922(a).

Rule conformed to P.L. 1990 c.23; reference to N.J.A.C. 6:22 added.

Amended by R.1997 d.417, effective October 6, 1997.

See: 29 N.J.R. 3387(a), 29 N.J.R. 4285(a).

In (b)2i, substituted "educational adequacy" for "facility adequacy", inserted "either the Department or" preceding "a construction official"; and substantially amended (b)2ii.

5:23-4.3 Municipal enforcing agencies—establishment

(a) Notice of intention to establish:

1. Any municipality seeking to establish and operate an enforcing agency, pursuant to the act and the regulations, shall first notify the department of its intent to establish such an agency by registered and certified mail, return receipt requested, not later than one month prior to the effective date of the regulations. Such notice, in the form of a resolution of the governing body, shall state that enforcement will be carried out either by the municipal enforcing agency or by interlocal agreement. The resolution shall also state the extent to which the municipality anticipates that private on-site agencies will be utilized. The resolution shall state the address of the enforcing agency and the board of appeals, if different. Such resolution shall additionally state whether a board of appeals will be appointed within the municipality, whether an intermunicipal joint board of appeals will be established or whether appeals will be left to the jurisdiction of the county.

2. Any municipality which shall not choose to establish and operate an enforcing agency pursuant to the act and the regulations shall notify the department of this intent by registered or certified mail, return receipt requested, not later than one month prior to the effective date of the regulations. Such notice, in the form of a resolution of the governing body, shall state that the governing body requests that the department assume the task of administration and enforcement.

3. A municipality may, by resolution, provide for the employment of an elevator subcode official, licensed in accordance with N.J.A.C. 5:23-5, to perform inspections and witness tests within its jurisdiction. If a municipality fails to employ such an official by July 1, 1992, the Department shall have exclusive jurisdiction to review plans and witness tests for, and inspect elevators within, the municipality. Thereafter, a municipality may acquire such jurisdiction by enacting the necessary resolution and employing an elevator subcode official, but the transfer of jurisdiction to the municipality shall not be effective until 120 calendar days after a certified copy of the resolution is received by the Department.

(b) Remedies:

1. Whenever the department shall not have received the notice as described in (a)1 of this section, at least one month prior to the effective date of the regulations, it shall forward by certified or registered mail, return receipt requested, to the governing body of any such municipality, a notice of failure to comply with these regulations, a statement detailing the implications of such failure, and a statement of intention to seek the order of a court of competent jurisdiction requiring that the municipality declare its intention with respect to enforcement pursuant to (a)1 of this section or in the alternative that the department be established as the enforcing agency in such municipality.

2. The department may seek an order pursuant to this subsection after the expiration of 10 days from the mailing of such notice.

(c) Term; transfer:

1. Whenever a municipality pursuant to (c)2 below, having relinquished its jurisdiction for the administration and enforcement of the code to the department, shall seek to reestablish such jurisdiction, it may do so upon the passage of an ordinance establishing an enforcement agency in accordance with the regulations; provided however, that such ordinance shall not take effect until the expiration of 120 calendar days from the date of certified copy of the ordinance is received by the department in order to give the department sufficient time to reallocate staff assignments.

2. Whenever a municipality having accepted responsibility for administration and enforcement of the regulations shall seek to relinquish such authority to the department, it may do so upon the passage of an ordinance repealing the functions and duties of the enforcing agency and transferring same to the department; provided however, that such ordinance shall not take effect until the expiration of 120 calendar days from the date a certified copy of the ordinance is received by the department, in order to give the department sufficient time to hire any necessary staff and to integrate the municipality's enforcing agency functions within its overall inspection program; provided further that whenever the commissioner shall determine that the interest of public health, safety and welfare cannot be accommodated within this period, the commissioner may notify the municipality that the department will not accept jurisdiction for an additional period to be specified. During this period the municipality shall continue to enforce the regulations.

i. Whenever the commissioner shall seek to delay acceptance of jurisdiction pursuant to this section beyond 120 days, such shall be upon notice and opportunity to be heard pursuant to the Administrative Procedures Act, N.J.S.A. 52:14.B-1 et seq.;

5:23-4.34 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.
 See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).
 Recodified from 4.25(n) and substantially amended.
 Repealed by R.1990 d.313, effective June 18, 1990.
 See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

5:23-4.35 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.
 See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).
 Recodified from 4.25(o) and substantially amended.
 Repealed by R.1990 d.313, effective June 18, 1990.
 See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

5:23-4.36 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.
 See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).
 Recodified from 4.25(p).
 Repealed by R.1990 d.313, effective June 18, 1990.
 See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

5:23-4.37 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.
 See: 17 N.J.R. 1169(a), 17 N.J.R. 945(a).
 Recodified from 4.25(q).
 Repealed by R.1990 d.313, effective June 18, 1990.
 See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

5:23-4.38 (Reserved)

Amended by R.1986 d.142, effective May 5, 1986.
 See: 17 N.J.R. 1169(b), 18 N.J.R. 945(a).
 Recodified from 4.25(r).
 Repealed by R.1990 d.313, effective June 18, 1990.
 See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

5:23-4.39 (Reserved)

R.1982 d.42, effective March 1, 1982.
 See: 13 N.J.R. 717(a), 14 N.J.R. 233(a).
 As amended, R.1982, d.232, effective August 2, 1982.
 See: 14 N.J.R. 496(a), 14 N.J.R. 834(e).
 Added Federal citation to (e). Prior to recodification of N.J.A.C. 5:23, this section was codified at 5:25-4.10A.
 Amended by R.1986 d.142, effective May 5, 1986.
 See: 17 N.J.R. 1169(a), 18 N.J.R. 945(a).
 Recodified from 4.25A.
 Amended by R.1990 d.313, effective June 18, 1990.
 See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).
 Address changed in (a); (l) added.
 Repealed by R.1994 d.96, effective February 22, 1994.
 See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).
 Section was "Enforcement of Federal manufactured home standards".

5:23-4.40 (Reserved)

Repealed by R.1996 d.236, effective May 20, 1996 (operative January 1, 1997).
 See: 27 N.J.R. 4050(a), 28 N.J.R. 2586(a).
 Section was "Construction boards of appeal".

SUBCHAPTER 4A. INDUSTRIALIZED/MODULAR BUILDINGS AND BUILDING COMPONENTS

5:23-4A.1 Purpose

(a) The purpose of this subchapter is to implement P.L. 1991, c.457, which made New Jersey a party to the Interstate Compact on Industrialized/Modular Buildings. The adoption of this subchapter, which is identical in content to implementing rules adopted by the other states participating in the compact, will result in uniformity in state compliance requirements, thereby promoting the use of new technologies, techniques, and materials and increasing the availability of safe, decent and affordable construction, both for housing and non-housing uses.

(b) No approval, ruling, action, order or notice issued in accordance with rules in effect prior to the effective date of the adoption of this subchapter shall be rendered invalid or unenforceable by reason of the adoption of this subchapter or the repeal of rules superseded by this subchapter. Any approval issued in accordance with rules in effect prior to the effective date of the adoption of this subchapter shall continue in effect for the period for which it was granted, but any subsequent approval shall be in accordance with this subchapter.

Amended by R.1994 d.96, effective February 22, 1994.
 See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

5:23-4A.2 Findings; functions of the Commission

(a) The Department, as the administrative agency for the State of New Jersey under the Interstate Compact on Industrialized/Modular Buildings, finds that:

1. Industrialized/modular buildings are constructed in factories in various states and are a growing segment of the nation's affordable housing and commercial building stock.
2. The regulation of industrialized/modular buildings varies from state to state and from locality to locality. This creates confusion and burdens state and local building officials and the industrialized/modular buildings industry.
3. Regulation by multiple jurisdictions imposes additional costs, which are ultimately borne by the owners and users of industrialized/modular buildings and which restrict market access and discourage the development and incorporation of new technologies.

(b) The Industrialized Buildings Commission shall:

1. Provide the states regulating the design and construction of industrialized/modular buildings and building components with a system for coordinating and uniformly administering their rules and regulations for such buildings, all in a manner that will assure mutual acceptance of industrialized/modular buildings and building components; and

2. Provide to Congress assurances that would preclude the need for a voluntary preemptive Federal regulatory system for industrialized/modular housing, as outlined in Section 572 of the Housing and Community Development Act of 1987, including development of model standards for industrialized/modular housing construction, such that design and performance will insure quality, durability and safety, will be in accordance with cost-effective energy conservation standards and will promote the lowest total construction and operating costs over the life of such housing.

Repeal and New Rule, R.1994 d.96, effective February 22, 1994.
See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).
Section was "Objective".

5:23-4A.3 Scope

(a) This subchapter shall govern the design, manufacture, handling, storage, delivery, and installation of industrialized/modular buildings and building components intended for installation in this State. Industrialized/modular buildings or building components certified pursuant to this subchapter may be sold for, delivered to, or installed on, building sites located in the State. Industrialized/modular buildings that are not required to be labeled or comply with code approval under this chapter are exempt from the requirements of this subchapter.

(b) Industrialized/modular buildings or building components certified pursuant to this subchapter shall be deemed to comply with all requirements of this chapter.

(c) Except as otherwise specifically provided, this subchapter shall not apply to requirements concerning land use and zoning, building set-backs, side and rear yards, property lines and on-site development, construction and inspection; provided, however, that such requirements shall not be more stringent than those imposed on other types of buildings in the same zone or area.

Repeal and New Rule, R.1994 d.96, effective February 22, 1994.
See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

5:23-4A.4 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the State Uniform Construction Code Act, P.L. 1975, c.217, as supplemented by P.L. 1991, c.457 and

the Interstate Compact on Industrialized/Modular Buildings ratified thereby.

"Approved" means approved by the Industrialized Buildings Commission, a participating state or a designated evaluation/inspection agency.

"Building component" means any subsystem, sub-assembly or other system of closed construction that is designed for use in, or as part of, a structure. "Building component" may include structural, electrical, mechanical, plumbing and fire protection systems and other systems affecting health and safety.

"Building system" means a method of constructing a type of industrialized/modular building or building component that is described by plans, specifications and other documentation that together establish a set of limits meeting the requirements of this subchapter for that type of industrialized/modular building or building component. This may include structural, electrical, mechanical, plumbing and fire protection systems and other systems affecting health and safety.

"Certification" means the process whereby participating states and local building inspection agencies are assured that elements of closed construction that it is not practical to inspect at the building site conform to the applicable codes.

"Certification label" means an approved insignia or seal evidencing certification in accordance with the Uniform Administrative Procedures of the Industrialized Buildings Commission.

"Closed construction" means any building, building component, assembly or system manufactured in such a manner that concealed parts or processes of manufacture cannot be inspected at the building site without disassembly, damage or destruction. This definition shall not include products, such as structural, electrical and plumbing fixtures and equipment that are tested, listed, labeled and certified by a nationally recognized testing laboratory.

"Code" means the codes, standards, specifications and requirements adopted pursuant to N.J.A.C. 5:23-4A.5.

"Commission" means the Industrialized Buildings Commission.

"Compliance assurance documents" means approved building system documents, an approved compliance assurance manual and approved on-site installation instructions.

"Compliance assurance program" means the policies and procedures that assure that industrialized/modular buildings and building components, including their manufacture, storage, delivery, assembly, handling and installation, conform with this subchapter and with the Uniform Administrative Procedures.

“Designated” means selected by the Commission to perform one or more of the inspection and/or evaluation functions described under the Uniform Administrative Procedures.

“Evaluation agency” means a designated person or organization, private or public, determined by the Commission to be qualified by reason of facilities, personnel, experience and demonstrated reliability and independence of judgment, to investigate and evaluate industrialized/modular buildings, building components, building systems or compliance assurance programs.

“Independence of judgment” means not being affiliated with, or influenced or controlled by, building manufacturers or producers, suppliers or vendors of products or equipment used in industrialized/modular buildings and building components, in any manner that is likely to affect capacity to render reports and findings objectively and without bias.

“Industrialized/modular building” means any building of closed construction, including, but not limited to, modular housing that is factory-built single-family and multi-family housing (including closed wall panelized housing) and other modular, nonresidential buildings. “Industrialized/modular building” does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974.

“Inspection agency” means a designated person or organization, private or public, that is determined by the Commission to be qualified by reason of facilities, personnel, experience and demonstrated reliability and independence of judgment, to monitor compliance assurance programs.

“Installation” means the process of affixing, or assembling and affixing, industrialized/modular building or building components on the building site.

“Interim reciprocal agreement” means a formal reciprocity agreement as defined in P.L. 1991, c.457, the statute ratifying the Interstate Compact on Industrialized/Modular Buildings.

“Module” means a closed wall structure or substantial part of a closed wall structure incorporating one or more rooms used as habitable, occupiable or mechanical/equipment space.

“Nonconformance” means the failure to adhere to the requirements of an approved building system or, where the building system is not specific, to the code.

“Participating state” means any compacting state or any non-compacting state acting under an interim reciprocal agreement.

Repeal and New Rule, R.1994 d.96, effective February 22, 1994. See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

5:23-4A.5 Standards

(a) Building systems shall comply with all applicable provisions of the State Uniform Construction Code.

(b) The Commissioner has determined that industrialized buildings and building components built to the following codes are consistent with the basic purposes of the State Uniform Construction Code Act and this chapter and that these codes are therefore acceptable, in lieu of the comparable subcodes adopted pursuant to this chapter, for industrialized/modular construction:

1. Building codes:
 - i. Uniform Building Code, ICBO, Whittier, CA;
 - ii. Standard Building Code, SBCCI, Birmingham, AL.
2. Plumbing codes:
 - i. Uniform Plumbing Code, IAPMO, Los Angeles, CA;
 - ii. National Plumbing Code, BOCA;
 - iii. Standard Plumbing Code, SBCCI;
 - iv. One and Two Family Dwelling Code, CABO, Part V—Plumbing.
3. Mechanical codes:
 - i. Uniform Mechanical Code, ICBO;
 - ii. Standard Mechanical Code, SBCCI;
 - iii. Standard Gas Code, SBCCI.
4. Energy codes:
 - i. Model Energy Code, CABO;
 - ii. Regulations of any participating state;
 - iii. National Building Code, BOCA—Chapter 13.
5. Barrier-free codes:
 - i. Americans With Disabilities Act regulations;
 - ii. National Building Code, BOCA—Chapter 11.

(c) Alternates: The provisions of this subchapter are not intended to prevent the use of any technologies, techniques or materials not specifically prescribed by the codes, standards, specifications and requirements, provided any such alternate has been approved.

1. Applications for such alternates shall be filed in writing with the evaluation agency. The application shall contain the current requirements of the codes, standards or specifications from which an alternate is sought and a statement of how the proposed alternate would adequately protect the health, safety and welfare of both the occupants and the public.

2. The evaluation agency may approve any such alternate, provided that it determines that the proposed design is satisfactory and that the material, method or work offered is, for the purpose intended, consistent with the adopted codes and standards as to quality, strength, effectiveness, fire resistance, durability and safety. The evaluation agency shall require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding the use of any such alternate. The evaluation agency shall notify the applicant of the determination. If the application is denied, the notification shall state the reasons for the denial.

Repeal and New Rule, R.1994 d.96, effective February 22, 1994. See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

5:23-4A.6 Amendments

(a) The Department may amend these rules pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) Any proposed amendments to national codes adopted by reference in these regulations shall be undertaken pursuant to N.J.A.C. 5:23-3.13, State-sponsored code change proposals.

5:23-4A.7 Certification required

No person or agency shall deliver, sell, lease or install any industrialized/modular building or building component in the State unless such building or building component is certified in accordance with this subchapter.

Repeal and New Rule, R.1994 d.96, effective February 22, 1994. See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Section was "Administration and enforcement".

5:23-4A.8 Product control and identification

(a) The following information shall be typewritten on a smudge-proof, permanent manufacturer's data plate located in the vicinity of the certification label:

1. The name and address of the manufacturer;
2. The serial (manufacturer's identification) number(s);
3. The manufacturer's plan approval designation (model number/name);
4. The certification label number(s);
5. The construction classification;
6. The occupancy classification (use group);
7. The seismic zone;
8. The wind velocity load;
9. The roof and floor live load;
10. The fire rating for exterior walls;
11. The thermal transmittance values;

12. The date of manufacture; and
13. The name and date of each code complied with.

(b) The manufacturer shall apply a serial number to each unit at the beginning of the production process. The serial number shall not be applied to a feature of the industrialized building or building component that is readily removable. The location of the serial number(s) shall be identified in the manufacturer's compliance assurance program.

Amended by R.1990 d.507, effective October 15, 1990. See: 22 N.J.R. 2208(a), 22 N.J.R. 3214(a).

Text conformed to BOCA National Code/1990. Amended by R.1993 d.662, effective December 20, 1993. See: 25 N.J.R. 3891(a), 25 N.J.R. 5918(a). Repeal and New Rule, R.1994 d.96, effective February 22, 1994. See: 25 N.J.R. 5388(a), 26 N.J.R. 1073(a).

Section was "Approvals of building systems and compliance assurance programs".

5:23-4A.9 Compliance assurance documents

(a) The building systems documents shall consist of plans, specifications, calculations, test results and/or other documents that describe in detail the product and the manufacturing processes employed to produce industrialized/modular buildings or building components. The documents need only show details for equipment provided by the manufacturer. The documents shall be comprehensively indexed and shall treat the material listed below in detail. For the building systems to be evaluated, the following shall be provided:

1. General requirements:

i. All plans, specifications and other documentation shall be submitted in four copies.

ii. All documents submitted with the application shall be identified to indicate the manufacturer's name.

iii. A clear space shall be provided on all sheets of plans near the title box for the stamp(s) of approval.

iv. Manufacturers shall submit plans showing all elements relating to specific systems on properly identifiable sheets.

v. Structural connections and connections of systems, equipment and appliances to be performed on-site shall be identified, detailed and distinguished from work to be performed in the manufacturing facility.

vi. The method of interconnection between the industrialized/modular buildings or building components and the location of connections shall be indicated.

vii. Design calculations and/or test reports shall be submitted when required by the evaluation agency. The manufacturer shall cross-reference all designs to the appropriate calculations and/or test reports.

viii. Documents shall indicate the location of the certification label(s).

ix. Drawings shall be dated and identified and shall include an index that can be used to determine whether the package is complete.

x. Documents shall provide or show, as appropriate, occupancy or use, area, height and number of stories, type of construction and loads (wind, floor, snow and seismic).

2. Documents for industrialized/modular buildings or building components shall provide or show, as appropriate, the details listed in (b)2i through vi below. Only the minimum documentation necessary to demonstrate each alternative possible within the system shall be required.

i. General information as follows:

(1) Details and methods of installation of industrialized/modular buildings or building components on foundations and/or attachment to each other;

(2) Floor plan(s) and typical elevation(s);

(3) Cross-sections necessary to identify major building components;

(4) Details of flashing, such as at openings and at penetrations through roofs and subcomponent connections, including flashing material and gauge to be used;

(5) Attic access and attic ventilation, when required by the code;

(6) Exterior wall, roof and soffit material;

(7) Interior wall and ceiling material;

(8) Barrier-free provisions, if applicable;

(9) Sizes, locations and types of doors and windows;

(10) Suggested foundation plans, vents and underfloor access; and

(11) Details of any elevator or escalator system, including method of emergency operation, when provided.

ii. Fire safety details:

(1) Details of fire-rated assemblies, including reference listing or test report for all stairway enclosures, doors, walls, floors, ceiling partitions, columns, roofs and other enclosures;

(2) Means of egress, including details of aisles, exits, corridors, passageways and stairway enclosures;

(3) The flame spread and smoke-developed classification of interior materials;

(4) The location of required draftstops and firestops;

(5) Opening protectives in fire resistance-rated systems and assemblies; and

(6) Drawings of fire suppression systems, stand-pipe, fire alarms and detection systems, when required.

iii. Structural details, as follows:

(1) Calculations of structural members and/or test results, where appropriate, except where compliance can be demonstrated through code tables, accepted handbooks and listing documents;

(2) Details of structural elements, including framing details, spacing, size and connections;

(3) The grade, species and specifications of materials;

(4) Typical foundation plans, details and assumed design soil-bearing value;

(5) A schedule of roof, floor, wind and seismic loads upon which designing is based; and

(6) The column loads and column schedule.

iv. Mechanical details, as follows:

(1) The location of all equipment, appliances and baseboard radiation units;

(2) Energy conservation calculations;

(3) Input/output rating of all equipment and appliances, as appropriate;

(4) Duct and register locations, sizes and materials, as appropriate;

(5) The method of providing combustion air, if required;

(6) The method of providing ventilation air, if required;

(7) The method of providing make-up air, if required; and

(8) The location of flues, vents and chimneys and clearances from air intakes, combustible materials and other vents and flues.

v. Plumbing details as follows:

(1) A schematic drawing of the plumbing layout, including, but not limited to: size of piping, fittings, traps and vents, closeouts and valves and gas, water and drainage systems; and

(2) Plumbing materials and location of all equipment, appliances and safety controls to be used, including indication of the rating and capacity of equipment and appliances.

vi. Electrical details, as follows:

(1) Details of any service equipment provided by the manufacturer;

(2) The method of grounding service equipment;