

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).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 23, Uniform Construction Code, expires on March 8, 2003. See: 34 N.J.R. 351(a).

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 Chapter 23 superseded N.J.A.C. 5:16, Standard Building Code and N.J.A.C. 5:20, Safety Glazing Materials, which were repealed by R.1978 d.360, effective October 6, 1978.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 Chapter 23 also superseded N.J.A.C. 5:21, Uniform Standards Code for Mobile Homes, which was repealed by R.1982 d.7, effective February 1, 1982.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.

Residential child care facility maintenance and sanitation requirements, see N.J.A.C. 10:127-4.4.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 5:23-1.1 Title; division into subchapters
- 5:23-1.2 Authority
- 5:23-1.3 Intent and purpose
- 5:23-1.4 Definitions
- 5:23-1.5 Effective date
- 5:23-1.6 Grace period
- 5:23-1.7 Validity

SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

- 5:23-2.1 Title; scope; intent
- 5:23-2.2 Matter covered
- 5:23-2.3 Applicability
- 5:23-2.4 Alterations, replacements and damages
- 5:23-2.5 Concerning increase in size
- 5:23-2.6 Change of use
- 5:23-2.7 Ordinary maintenance
- 5:23-2.8 Installation of equipment
- 5:23-2.9 Variations and exceptions
- 5:23-2.10 Applications for variations
- 5:23-2.11 Review of variation applications
- 5:23-2.12 Final decision on variations
- 5:23-2.13 Authority to grant variations
- 5:23-2.14 Construction permits—when required
- 5:23-2.15 Construction permits—application
- 5:23-2.16 Construction permits—procedure
- 5:23-2.17 Demolition or removal of structures; abandoned wells
- 5:23-2.17A Minor work
- 5:23-2.18 Inspections
- 5:23-2.18A Utility load management device installation programs
- 5:23-2.18B Utility area lighting facility installation program
- 5:23-2.18C Use and occupancy of swimming pools, spas and hot tubs
- 5:23-2.19 Special technical services
- 5:23-2.20 Tests and special inspections
- 5:23-2.21 Construction control
- 5:23-2.22 Premanufactured construction
- 5:23-2.23 Certificate requirements

- 5:23-2.24 Conditions of certificate of occupancy
- 5:23-2.25 Establishment of fees
- 5:23-2.26 Plan review fees
- 5:23-2.27 Refunds
- 5:23-2.28 Volume computation
- 5:23-2.29 Entry
- 5:23-2.30 Violation, notice and orders
- 5:23-2.31 Compliance
- 5:23-2.32 Unsafe structures
- 5:23-2.33 Service of notice
- 5:23-2.34 through 5:23-2.37 (Reserved)
- 5:23-2.38 Departmental appeal
- 5:23-2.39 Automatic fire suppression systems

SUBCHAPTER 3. SUBCODES

- 5:23-3.1 Title; scope; intent
- 5:23-3.2 Matters covered; exceptions
- 5:23-3.3 Enforcement
- 5:23-3.4 Responsibility
- 5:23-3.5 Posting structures
- 5:23-3.6 Standards; accepted practice
- 5:23-3.7 Municipal approvals of nonconforming materials
- 5:23-3.8 Departmental approval of nonconforming materials
- 5:23-3.8A Products violating the Code
- 5:23-3.9 Interpretations and opinions
- 5:23-3.10 (Reserved)
- 5:23-3.11 Enforcement activities reserved to the Department
- 5:23-3.11A Public school facility plan review and inspections; Uniform Construction Code enhancements in public school facilities
- 5:23-3.11B Underground storage tank systems
- 5:23-3.12 Amended rules
- 5:23-3.13 State-sponsored code change proposals
- 5:23-3.14 Building subcode
- 5:23-3.15 Plumbing subcode
- 5:23-3.16 Electrical subcode
- 5:23-3.17 Fire protection subcode
- 5:23-3.18 Energy Subcode
- 5:23-3.19 Manufactured home subcode
- 5:23-3.20 Mechanical subcode
- 5:23-3.20A (Reserved)
- 5:23-3.21 One and two-family dwelling subcode
- 5:23-3.22 Fuel gas subcode

SUBCHAPTER 3A. STATE-JURISDICTION SUBCODES

- 5:23-3A.1 Scope
- 5:23-3A.2 Subcodes established

SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

- 5:23-4.1 Title; scope; intent
- 5:23-4.2 Matter covered; exceptions
- 5:23-4.3 Municipal enforcing agencies—establishment
- 5:23-4.3A Enforcing agency classification
- 5:23-4.4 Municipal enforcing agencies—organization
- 5:23-4.5 Municipal enforcing agencies—administration and enforcement
- 5:23-4.5A Selection of private on-site inspection and plan review agencies
- 5:23-4.6 Interlocal enforcing agencies—establishment
- 5:23-4.7 Interlocal enforcing agencies—organization
- 5:23-4.8 Interlocal enforcing agencies—administration and enforcement
- 5:23-4.9 State enforcing agencies—establishment
- 5:23-4.10 State enforcing agencies—organization
- 5:23-4.11 State enforcing agencies—administration and enforcement
- 5:23-4.12 Private on-site inspection and plan review agencies; establishment
- 5:23-4.13 Private on-site inspection and plan review agencies; organization
- 5:23-4.14 Private on-site inspection and plan review agencies; administration and enforcement

- 5:23-4.15 Suspension and revocation
- 5:23-4.16 (Reserved)
- 5:23-4.17 Municipal enforcing agency fees
- 5:23-4.18 Standards for municipal fees
- 5:23-4.19 New Jersey State permit surcharge fees
- 5:23-4.20 Departmental fees
- 5:23-4.21 Private enforcing agency authorization and reauthorization fees
- 5:23-4.22 (Reserved)
- 5:23-4.23 Payment of fees
- 5:23-4.24 Plan review by the Department of Community Affairs
- 5:23-4.25 (Reserved)
- 5:23-4.26 Certification of building elements
- 5:23-4.27 through 5:23-4.40 (Reserved)

SUBCHAPTER 4A. INDUSTRIALIZED/MODULAR BUILDINGS AND BUILDING COMPONENTS

- 5:23-4A.1 Purpose
- 5:23-4A.2 Findings; functions of the Commission
- 5:23-4A.3 Scope
- 5:23-4A.4 Definitions
- 5:23-4A.5 Standards
- 5:23-4A.6 Amendments
- 5:23-4A.7 Certification required
- 5:23-4A.8 Product control and identification
- 5:23-4A.9 Compliance assurance documents
- 5:23-4A.10 Uniform Administrative Procedures
- 5:23-4A.11 Appeals
- 5:23-4A.12 Conduct of hearings
- 5:23-4A.13 through 5:23-4A.27 (Reserved)

SUBCHAPTER 4B. MANUFACTURED HOMES AND MANUFACTURED HOME ADD-ON UNITS NOT SUBJECT TO FEDERAL REGULATION

- 5:23-4B.1 Scope
- 5:23-4B.2 Applicability
- 5:23-4B.3 Standards
- 5:23-4B.4 Administration and enforcement
- 5:23-4B.5 Acceptability
- 5:23-4B.6 Approvals of building systems and compliance assurance program
- 5:23-4B.7 Certification
- 5:23-4B.8 Labels; fees
- 5:23-4B.9 Requirements for submission of compliance assurance documents
- 5:23-4B.10 Appeals
- 5:23-4B.11 Conduct of hearings

SUBCHAPTER 4C. ENFORCEMENT OF FEDERAL MANUFACTURED HOME STANDARDS

- 5:23-4C.1 Delegation of authority
- 5:23-4C.2 Relation to Federal law
- 5:23-4C.3 Complaint procedure
- 5:23-4C.4 Hearing and appeal procedures
- 5:23-4C.5 Monitoring inspection fee

SUBCHAPTER 5. LICENSING OF CODE ENFORCEMENT OFFICIALS

- 5:23-5.1 Title; scope; intent
- 5:23-5.2 Licensing unit; hearings
- 5:23-5.3 Types of licenses
- 5:23-5.4 Licenses required
- 5:23-5.5 General license requirements
- 5:23-5.6 Construction official requirements
- 5:23-5.7 Subcode official requirements
- 5:23-5.8 Building inspector H.H.S. requirements
- 5:23-5.9 Building inspector I.C.S. requirements
- 5:23-5.10 Building inspector R.C.S. requirements
- 5:23-5.11 Electrical inspector H.H.S. requirements
- 5:23-5.12 Electrical inspector I.C.S. requirements
- 5:23-5.13 Fire protection inspector H.H.S. requirements

UNIFORM CONSTRUCTION CODE

5:23-5.14	Fire protection inspector I.C.S. requirements
5:23-5.15	Fire protection inspector R.C.S. requirements
5:23-5.16	Plumbing inspector H.H.S. requirements
5:23-5.17	Plumbing inspector I.C.S. requirements
5:23-5.18	Inplant inspector requirements
5:23-5.19	Elevator inspector H.H.S. requirements
5:23-5.19A	Mechanical inspector requirements
5:23-5.19B	Amusement ride inspector I.C.S. requirements
5:23-5.19C	Amusement ride inspector H.H.S. requirements
5:23-5.19D	Boiler, pressure vessel and refrigeration inspector R.C.S. requirements
5:23-5.19E	Boiler, pressure vessel and refrigeration inspector I.C.S. requirements
5:23-5.19F	Boiler, pressure vessel and refrigeration inspector H.H.S. requirements
5:23-5.20	Standards for educational programs
5:23-5.21	Renewal of license
5:23-5.22	Fees
5:23-5.23	Examination requirements
5:23-5.23A	Examination requirements for State-jurisdiction subcode technical licensure
5:23-5.24	Procedure for approving educational programs
5:23-5.25	Revocation of licenses and alternative sanctions

SUBCHAPTER 6. REHABILITATION SUBCODE

5:23-6.1	Introduction; using this subcode
5:23-6.2	Applicability and compliance
5:23-6.3	Definitions
5:23-6.4	Repairs
5:23-6.5	Renovations
5:23-6.6	Alterations
5:23-6.7	Reconstruction
5:23-6.8	Materials and methods
5:23-6.9	New building elements
5:23-6.10	Basic requirements and supplemental requirements—general
5:23-6.11	Basic requirements in all Use Groups
5:23-6.11A	Supplemental requirements in all Use Groups
5:23-6.12	Basic requirements—Use Group A-1
5:23-6.12A	Supplemental requirements—Use Group A-1
5:23-6.13	Basic requirements—Use Group A-2
5:23-6.13A	Supplemental requirements—Use Group A-2
5:23-6.14	Basic requirements—Use Group A-3
5:23-6.14A	Supplemental requirements—Use Group A-3
5:23-6.15	Basic requirements—Use Group A-4
5:23-6.15A	Supplemental requirements—Use Group A-4
5:23-6.16	Basic requirements—Use Group A-5
5:23-6.16A	Supplemental requirements—Use Group A-5
5:23-6.17	Basic requirements—Use Group B
5:23-6.17A	Supplemental requirements—Use Group B
5:23-6.18	Basic requirements—Use Group E
5:23-6.18A	Supplemental requirements—Use Group E
5:23-6.19	Basic requirements—Use Group F
5:23-6.19A	Supplemental requirements—Use Group F
5:23-6.20	Basic requirements—Use Group H
5:23-6.20A	Supplemental requirements—Use Group H
5:23-6.21	Basic requirements—Use Group I-1
5:23-6.21A	Supplemental requirements—Use Group I-1
5:23-6.22	Basic requirements—Use Group I-2
5:23-6.22A	Supplemental requirements—Use Group I-2
5:23-6.23	Basic requirements—Use Group I-3
5:23-6.23A	Supplemental requirements—Use Group I-3
5:23-6.24	Basic requirements—Use Group M
5:23-6.24A	Supplemental requirements—Use Group M
5:23-6.25	Basic requirements—Use Group R-1
5:23-6.25A	Supplemental requirements—Use Group R-1
5:23-6.26	Basic requirements—Use Group R-2
5:23-6.26A	Supplemental requirements—Use Group R-2
5:23-6.27	Basic requirements—Use Groups R-3/R-4
5:23-6.27A	Supplemental requirements—Use Groups R-3/R-4
5:23-6.28	Basic requirements—Use Group S
5:23-6.28A	Supplemental requirements—Use Group S
5:23-6.29	Mixed use buildings
5:23-6.30	Special technical requirements—all use groups

5:23-6.31	Change of use
5:23-6.32	Additions
5:23-6.33	Historic buildings

SUBCHAPTER 7. BARRIER FREE SUBCODE

5:23-7.1	Applicability
5:23-7.2	Accessibility standard
5:23-7.3	Exceptions
5:23-7.4	Nonresidential buildings and buildings of Use Group R-1.
5:23-7.5	Residential buildings other than Use Group R-1
5:23-7.6	Exterior accessible route
5:23-7.7	Accessible building entrances
5:23-7.8	Interior accessible routes
5:23-7.9	Accessible parking
5:23-7.10	Requirements applicable to specific nonresidential use groups and Use Group R-1
5:23-7.11	Requirements applicable to all nonresidential use groups, including spaces other than guestrooms in Use Group R-1
5:23-7.12	Existing facilities
5:23-7.13	Variations
5:23-7.14	Enforcement
5:23-7.15	Recreation
5:23-7.16	Recreation: definitions
5:23-7.17	Recreation: exceptions
5:23-7.18	Recreation: route of travel
5:23-7.19	Recreation: pools
5:23-7.20	Recreation: swimming and skating areas
5:23-7.21	Recreation: boating areas
5:23-7.22	Recreation: fishing areas
5:23-7.23	Recreation: court games
5:23-7.24	Recreation: ice rinks and roller rinks
5:23-7.25	Recreation: playing fields
5:23-7.26	Recreation: golf facilities
5:23-7.27	Recreation: ski lifts, aerial tramways, and conveyors
5:23-7.28	Recreation: trails
5:23-7.29	Recreation: camping sites
5:23-7.30	Recreation: equipment
5:23-7.31	Recreation: equestrian facilities

SUBCHAPTER 8. ASBESTOS HAZARD ABATEMENT SUBCODE

5:23-8.1	Title; scope; intent
5:23-8.2	Definitions
5:23-8.3	Enforcement; licensing; special technical services
5:23-8.4	Variations
5:23-8.5	Construction permit for asbestos abatement
5:23-8.6	Coordination with other permits
5:23-8.7	Inspections; violations
5:23-8.8	Certificate of occupancy; certificate of completion
5:23-8.9	Fees
5:23-8.10	Asbestos safety technician
5:23-8.11	Asbestos safety control monitor
5:23-8.12	Application of asbestos
5:23-8.13	Pre-project procedures
5:23-8.14	Operations and maintenance activities
5:23-8.15	Asbestos hazard abatement projects
5:23-8.16	Asbestos encapsulation and enclosure
5:23-8.17	Limited containment removals
5:23-8.18	Demolition
5:23-8.19	Abatement in occupied buildings
5:23-8.20	Removal of non-friable asbestos-containing material
5:23-8.21	Air monitoring methodology
5:23-8.22	Disposal of asbestos waste

SUBCHAPTER 9. CODE INTERPRETATIONS

5:23-9.1	Interpretations: Plumbing Subcode
5:23-9.2	Interpretation: Construction Permit for a single family residence
5:23-9.3	Interpretation: Ordinary maintenance
5:23-9.4	(Reserved)
5:23-9.5	Interpretation: Records retention

- 5:23-9.6 Interpretations: Construction requirements for new and existing casinos
- 5:23-9.7 Interpretation: Manufacturing, production and process equipment
- 5:23-9.8 Interpretation: bed and breakfast guesthouses—change in use group requirements
- 5:23-9.9 Foundation systems for garden type utility sheds and similar structures

SUBCHAPTER 10. RADON HAZARD SUBCODE

- 5:23-10.1 Title; scope; intent
- 5:23-10.2 Definitions
- 5:23-10.3 Enforcement
- 5:23-10.4 Construction techniques

APPENDIX 10-A. NEW JERSEY MUNICIPALITIES IN TIER 1

SUBCHAPTER 11. PLAYGROUND SAFETY SUBCODE

- 5:23-11.1 Subcode adopted
- 5:23-11.2 Definition
- 5:23-11.3 Enforcement of subcode
- 5:23-11.4 Compliance schedule

SUBCHAPTER 12. ELEVATOR SAFETY SUBCODE

- 5:23-12.1 Title; scope; intent
- 5:23-12.2 Referenced standards
- 5:23-12.3 Inspection and test schedule
- 5:23-12.4 Registration of elevator devices
- 5:23-12.5 Registration fee
- 5:23-12.6 Test and inspection fees
- 5:23-12.7 Licensing
- 5:23-12.8 Alterations, replacements, damages, increases in size, changes in use group, minor work, ordinary repairs
- 5:23-12.9 Certificate of compliance requirements
- 5:23-12.10 Inspections in seasonal facilities
- 5:23-12.11 Notice concerning accidents
- 5:23-12.12 Special safety equipment

SUBCHAPTER 12A. OPTIONAL ELEVATOR INSPECTION PROGRAM

- 5:23-12A.1 Title; scope; intent
- 5:23-12A.2 Qualified elevator device inspection firms
- 5:23-12A.3 Qualified elevator device inspector
- 5:23-12A.4 Enrollment of devices
- 5:23-12A.5 Permit process and monitoring
- 5:23-12A.6 Special inspection and compliance procedures

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.

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

ii. The International Fuel Gas Code/2000 may be known and cited as the "fuel gas subcode."

2. Any references to the International Building Code, International Plumbing Code, ICC Electrical Code, International Fire Code or the International Energy Conservation Code listed in Chapter 7 shall be considered a reference to the appropriate adopted building, plumbing, electrical, BOCA National Fire Prevention Code-1996 or energy subcode in N.J.A.C. 5:23-3.

3. Anywhere the term "code" appears, shall be a reference to "subcode" as defined in N.J.A.C. 5:23-1.4 for any of the adopted national model codes as appropriate.

(b) The following chapters, sections or pages of the International Fuel Gas Code/2000 are amended as follows:

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

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

i. Section 201.3 is amended to delete the words "International Building Code, ICC Electrical Code, International Fire Code, International Plumbing Code," and in lieu thereof substitute "building, electrical, fire protection, and plumbing subcodes."

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

iii. The definition of the term "approved" is deleted;

iv. The definition of the term "code" is deleted;

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

vi. The definition of the term "unlisted boiler" is deleted.

3. Chapter 3 of the fuel gas subcode, entitled "General Regulations," is amended as follows:

i. Section 301.1 is amended to delete the words "in accordance with Section 101.2."

ii. Section 301.3 is amended to delete the words "in accordance with Section 105" on lines 2 and 4.

iii. Section 301.9 is deleted.

iv. Section 305.1. Delete the second paragraph in its entirety.

v. Section 306.2 is amended to delete the dimension 35 and substitute 36.

vi. Section 307.1 is amended to delete "approved plumbing fixture" on line 3 and insert the following: "drywell, sump pump, floor drain, or drainage system below floor."

vii. Section 307.2 is deleted.

viii. Section 308.3 is amended to delete the words "308.3.1 through 308.3.6" and substitute in lieu thereof "308.3.1, 308.3.2 and 308.3.4 through 308.3.6."

ix. Section 308.3.3 is deleted.

x. Section 308.4 is amended to delete the words "308.4.1 through 308.4.8" on line 3 and substitute in lieu thereof "308.4.1 through 308.4.6 and 308.4.8."

xi. Section 308.4.7 is deleted.

xii. Section 308.4.8. Delete "or 308.4.7" on line 2.

4. Chapter 4 of the fuel gas subcode, entitled "Gas Piping Installation," is amended as follows:

i. Section 401.2 is amended to add the following: "Delete in its entirety Section 3-2.5 "Installation of Containers on Roofs of Buildings" in NFPA-58, 1998 Edition." Installation of LP-Gas containers on roofs of buildings shall be strictly prohibited.

ii. Section 403.3 is deleted.

5. Chapter 5 of the fuel gas code, entitled "Chimneys and Vents," is amended as follows:

i. Section 503.5.6 is amended to replace the words "cleaned and free of obstructions" with the words "inspected in accordance with the chimney certification program as provided for in N.J.A.C. 5:23-2.20(c)."

ii. Section 503.5.6, exception: Delete the exception in its entirety.

6. Chapter 6 of the fuel gas code, entitled "Specific Appliances" is amended as follows:

i. Section 622.2 is deleted.

ii. Section 622.3 is deleted.

iii. Section 626.10 is deleted.

7. Chapter 7 of the fuel gas code, entitled "Referenced Standards," is amended as follows:

i. Under the heading "Codes," amend the following titles:

(1) Delete "IBC-2000 International Building Code."

(2) Delete "IFC-2000 International Fire Code" and substitute the following: "BOCA National Fire Prevention Code/1996."

(3) Delete "IECC-2000 International Energy Conservation Code."

(4) Delete "IPC-2000 International Plumbing Code."

(5) Delete "IEC-2000 Electrical Code."

8. Appendices A, B, and C of the fuel gas subcode are informative and are not part of the subcode itself.

New Rule, R.2001 d.196, effective June 18, 2001.

See: 33 N.J.R. 6(a), 33 N.J.R. 2090(a).

Administrative correction.

See: 33 N.J.R. 3310(a).

SUBCHAPTER 3A. STATE-JURISDICTION SUBCODES

Authority

N.J.S.A. 52:27D-123 and 124.

Source and Effective Date

R.2001 d.303, effective September 4, 2001.

See: 33 N.J.R. 1991(a), 33 N.J.R. 2989(a).

5:23-3A.1 Scope

This subchapter shall govern the enforcement by the Department of Community Affairs of the State Uniform Construction Code, in conjunction with other rules administered by the Department, in facilities and installations for which the Department is the sole enforcing agency, as set forth in N.J.A.C. 5:23-3.11(j).

5:23-3A.2 Subcodes established

(a) All provisions of adopted model codes that are applicable to the construction, alteration, installation, erection or demolition of carnival-amusement rides or ski lifts shall be designated collectively as the amusement ride subcode.

(b) All provisions of adopted model codes that are applicable to the construction, alteration, installation, erection or demolition of high pressure boilers, pressure vessels or refrigeration systems shall be designated collectively as the boiler, pressure vessel and refrigeration subcode.

(c) The amusement ride subcode and the boiler, pressure vessel and refrigeration subcode shall be known, and may be designated, as "State-jurisdiction subcodes."

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.

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. 6A:26, and have been submitted for review to, and released by, either the Department of Community Affairs 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 and adequacy requirements as set forth at N.J.A.C. 5:23-3.11A(c) and (d) or any other provision of the State Uniform Construction Code.

(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.

Amended by R.2000 d.166, effective April 17, 2000.

See: 31 N.J.R. 4151(a), 32 N.J.R. 1376(a).

Rewrote (b)2ii.

Administrative change.

See: 34 N.J.R. 1022(a).

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.

SUBCHAPTER 6. REHABILITATION SUBCODE

Authority

N.J.S.A. 52:27D-123.5, 123.8, 124.

Source and Effective Date

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

5:23-6.1 Introduction; using this subcode

(a) This section is a guide to the use of the rehabilitation subcode. It should not be interpreted as containing substantive requirements and it is not intended to be cited for enforcement purposes.

1. The provisions of the other subcodes of the Uniform Construction Code do not apply to work in existing buildings, changing the use of an existing building or work in an existing building related to an addition unless the provisions of this subcode specifically reference them and make them applicable.

2. Traditionally, the New Jersey Uniform Construction Code has made the requirements that are applicable to new buildings also apply to buildings whose use is changed; applicable to buildings undergoing rehabilitation with the extent of the requirements depending on the amount of money being spent on the building; and to some extent applicable to existing buildings that have an addition constructed. Buildings whose use was changed and buildings receiving rehabilitation costing more than 50 percent of the replacement cost of the building were required to comply with all the provisions of the Uniform Construction Code for new buildings.

3. This subcode takes a new approach. The requirements that apply to a project are based upon the type of work being done rather than on the extent of the work. There is only one exception to this rule. In the case of reconstruction work, as the term reconstruction is defined in this subcode, there are some requirements which must be met when the project is a large one in floor area.

4. In this subcode, work is classified into six categories. Each category has a separate section which describes the requirements for that category of work. The categories are repair, renovation, alteration, reconstruction, change of use and additions. These terms are defined in N.J.A.C. 5:23-6.3. The definitions are critical to understand the distinctions between these six categories of work. Where a project contains more than one category of work, each applicable category must be consulted for the requirements for that category of work.

(b) Repair Work: The requirements that apply to repair work are in N.J.A.C. 5:23-6.4. The requirements for repairs are brief due to the limited nature of the work. There is a short list of materials that may not be used for repair work due to their inherently hazardous nature and another list of materials which must be used in connection with

repair work where applicable. These lists should be used when planning the repair components of any project.

1. This subcode does not establish when a permit is required for a project. Those requirements are in N.J.A.C. 5:23-2. Although it is generally true that repair work undertaken by itself does not require a construction permit, it is important to understand that any repair work undertaken in connection with a project that involves other categories of work is required to meet only the provisions for the repair category established by this subcode. There is no limit to the amount of repair work which may be undertaken. The decision to renovate rather than repair is made only by the owner.

(c) Renovation Work: The requirements that apply to renovation work are in N.J.A.C. 5:23-6.5. Renovation is defined in N.J.A.C. 5:23-6.3.

1. There are short lists of materials that may not be used and materials or practices which must be used, where applicable, when renovation work is undertaken. These lists should be used when planning a project which involves renovation work.

2. The installation of smoke detectors is required in any building of Use Groups R-3/R-4 which undergoes a renovation.

3. Renovation work must comply with N.J.A.C. 5:23-6.8, Materials and methods. All materials used for the renovation work must meet the standards for those materials established by N.J.A.C. 5:23-6.8 and methods of installation must comply with that section. N.J.A.C. 5:23-6.8, Materials and methods, references and makes applicable to renovation work certain specified subsections of the other subcodes of the Uniform Construction Code. Only those subsections specifically referenced in N.J.A.C. 5:23-6.8 apply to renovation work. All materials and methods used in renovation work must comply with the requirements of that section.

4. This subcode never requires renovation. Any existing work may be repaired. The requirements for renovation apply only where the owner decides to renovate.

(d) Alteration Work: The requirements that apply to alteration work are in N.J.A.C. 5:23-6.6. Alteration is defined in N.J.A.C. 5:23-6.3.

1. N.J.A.C. 5:23-6.6, Alteration work, contains short lists of materials that may not be used and materials or practices which must be used, where applicable, when alteration work is undertaken. These lists should be used when planning a project which includes alteration work.

2. The installation of smoke detectors is required in any building of Use Group R-3/R-4 which undergoes an alteration.

3. Alteration work must also comply with materials and methods that are set forth in N.J.A.C. 5:23-6.8.

4. In alteration work, the configuration of the building is changed in some manner. The definition of "alteration" in N.J.A.C. 5:23-6.3 provides the information needed to fully understand this term. Because improper alteration work could create a safety hazard in the building, this subcode contains specific requirements which define these hazards. These are the basic requirements of the subcode which can be found in N.J.A.C. 5:23-6.10 through 6.30.

5. The subcode includes basic requirements, listed by use group, with the exception of egress capacity, interior finish requirements, commercial cooking operations, and windowless stories which apply to all use groups. Reference should be made to the list of basic requirements applicable to the particular use group in which the building being altered falls. Care should be taken to ensure that the alteration will not create a non-conformity with any of the basic requirements which did not exist before the alteration was undertaken.

6. Certain alterations create what are defined to be new building elements. There is a specific listing of those items which are to be treated as newly-created building elements which can be found in N.J.A.C. 5:23-6.9. The elements on that list are required to conform to certain specific sections of the other subcodes of the Uniform Construction Code. The sections with which each newly-constructed element must comply are listed in N.J.A.C. 5:23-6.9. Any alteration which creates one of the elements listed in that section must comply with the specific requirements listed in N.J.A.C. 5:23-6.9.

7. Improvements to the accessibility of buildings may be required when alteration work is undertaken. Those requirements are specified in N.J.A.C. 5:23-6.6(e) and (j).

(e) Reconstruction Work: The requirements that apply to reconstruction work are in N.J.A.C. 5:23-6.7. Reconstruction is defined in N.J.A.C. 5:23-6.3. Unlike repair, renovation, and alteration, reconstruction is not a kind of work. A reconstruction may, as the definition of the term makes clear, include a combination of repair, renovation, and alteration work. It is the extent and nature of the work which makes a project a reconstruction. There are no quantitative criteria which determine whether a project is a reconstruction. A project becomes a reconstruction when the area where the project is taking place cannot be occupied while the work is in progress and when a new certificate of occupancy is required before the area can be reoccupied. Both criteria must be met.

1. This subcode requires that a reconstruction project have a delineated work area. This area is established by the permit applicant. The term "work area" is defined in N.J.A.C. 5:23-6.3. A reconstruction project must always involve an entire use, primary function space, or tenancy as those three terms are defined in N.J.A.C. 5:23-6.3. Projects which do not involve an entire use, primary function space, or tenancy are not reconstruction projects.

2. Although a reconstruction project is comprised of repair, renovation and alteration work, all of the requirements that apply are found in N.J.A.C. 5:23-6.7. For ease of use, this section has been written to include all of the requirements applicable to reconstruction. The entire work area must conform to the basic requirements in N.J.A.C. 5:23-6.10 through 6.30. These sections must be carefully reviewed when a reconstruction project is being planned.

3. The basic requirements are organized by individual use groups in N.J.A.C. 5:23-6.12 through 6.28. Only the sections relevant to the building's use group must be consulted. Where a project involves mixed uses, then the special provisions of N.J.A.C. 5:23-6.29 should also be consulted. Basic requirements that apply to all use groups are in N.J.A.C. 5:23-6.11 and 6.30. Therefore, N.J.A.C. 5:23-6.11, 6.30, and the specific use group section between 6.12 and 6.28 must be consulted for the basic requirements which apply to a project.

4. In addition to meeting the basic requirements, certain reconstruction projects must meet the supplemental requirements found in N.J.A.C. 5:23-6.10 through 6.30. There is a specific section for each use group as is the case with the basic requirements. Supplemental requirements that apply to all use groups are in N.J.A.C. 5:23-6.11A and 6.30. The supplemental requirements apply only when the work area for a reconstruction project exceeds a certain size. Each supplemental requirement has its own threshold of applicability.

5. The owner of a building in which a reconstruction project is planned must review the supplemental requirements applicable to the use of the project to determine if any of those requirements applies to the project. In addition to the specific use group section between N.J.A.C. 5:23-6.12A and 6.28A, N.J.A.C. 5:23-6.11A and 6.30 should be consulted for the supplemental requirements that apply to a project.

(f) Applying the Subcode to a Project: The requirements of this subcode applicable to a project can be found as follows:

1. Separate the project into its component parts of repair, renovation, and alteration;

2. Where a portion of the work is repair, consult the repair section of this subcode (N.J.A.C. 5:23-6.4) to ensure that prohibited materials are not being used and that any applicable required materials or practices are being used;

3. Where a portion of the work is renovation:

i. Consult the renovation sections of this subcode (N.J.A.C. 5:23-6.5);

ii. Ensure that the renovation work does not use any prohibited materials and that any applicable required materials or practices are being used; and

(3) Repair or replacement of hoistway door equipment, rollers relating cables, gibs, hall buttons, lanterns, position indicator stations, and all existing related equipment, selector tapes, cables, dust covers, toe guards and hoistway fascia, and repair or replacement of all existing pit equipment with like equipment.

x. The following work on rails and guides:

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

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

xi. The following work on cabs:

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

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

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

New Rule, R.1993 d.487, effective October 4, 1993.

See: 25 N.J.R. 2159(a), 25 N.J.R. 4592(a).

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

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

Amended by R.1999 d.424, effective December 6, 1999.

See: 31 N.J.R. 2428(a), 31 N.J.R. 4001(c).

In (a), substituted references to maintenance for references to repairs throughout, and inserted 4iii.

5:23-9.4 (Reserved)

New Rule, R.1990 d.490, effective October 1, 1990.

See: 22 N.J.R. 592(a), 22 N.J.R. 3148(a).

Repealed by R.1995 d.121, effective March 6, 1995 (operative July 1, 1995).

See: 26 N.J.R. 4875(a), 27 N.J.R. 894(c).

Formerly "Seismic Zones".

5:23-9.5 Interpretation: Records retention

(a) A construction official shall maintain, for the life of each structure wholly or partially within the jurisdiction of the enforcing agency, copies of the following documents: construction application, permits(s), any update(s), notice of unsafe structure, certificate of occupancy, ongoing inspec-

tion control card, elevator inspection, decision of the construction board of appeals, cut-in card and the inspection and certificate logs.

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

(c) A construction office shall retain copies of plans for Class I and Class II structures for at least the life of the structures and copies of plans for Class III structures for at least 10 years.

New Rule, R.1990 d.364, effective August 6, 1990.

See: 22 N.J.R. 1455(a), 22 N.J.R. 2275(a).

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

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

Form numbers changed in (a).

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

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

Amended by R.1996 d.512, effective November 4, 1996.

See: 28 N.J.R. 3697(a), 28 N.J.R. 4782(a).

5:23-9.6 Interpretations: Construction requirements for new and existing casinos

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

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

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

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

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

5. The minimum clear width of aisles with slot stools shall be 48 inches.

(b) The following code requirements shall apply to gaming floors:

1. The use group of the gaming floor area shall be A-2.

2. Each gaming floor area shall be designed using an open landscape plan such that there is clear visibility throughout the floor and at least two of the exits are clearly discernible from all portions of the floor. Line of sight obstructions shall be limited and shall be subject to the approval of the Department.

3. An egress study shall be provided for each new egress route and for all modifications to an existing egress route, increases in occupant load or change of egress elements for gaming floor areas.

i. The occupant load shall be calculated at 11 square feet gross per person for all gaming floor areas, regardless of the gaming activity.

ii. The total capacity of the means of egress shall be calculated based on 116 2/3 percent of the calculated occupant load of any floor area containing gaming activities and any adjacent spaces using the gaming floor for exit access.

iii. Travel distances shall be delineated on the egress study and shall be measured from each and every occupiable point on the gaming floor to the closest exit. The travel distance shall be measured along the natural path of travel using a distance of one foot from obstructions, corners and walls and using the center of door openings.

iv. Each egress route shall identify the travel distance, number of occupants and size and type of egress elements.

4. Section 1017.4.1.3 of the building subcode, entitled "Special locking arrangements in penal facilities," shall be permitted to apply for areas that are back-of-house to the gaming floor where security is necessary.

5. Each slot machine installed on gaming floors shall comply with the following:

i. Each slot machine, other than those located at perimeter walls and columns, shall have a maximum overall height of 65 inches including base, except if the slot machine is placed at a location on the casino floor that would not cause a lack of compliance with (b)5ii below;

ii. A slot machine shall not obstruct visibility throughout the gaming floor, the visibility of exit signage or the operation of fire protection systems; and

iii. The base of the slot machine shall be constructed of noncombustible or fire-retardant treated material.

6. Signage installed on the gaming floor shall comply with the following:

i. All signage shall be listed, labeled, approved and identified by an approved testing laboratory;

ii. Each sign shall be attached to a wall, post or ceiling. A post-mounted sign above slot machines shall be fastened to, and supported by, the slot machine base;

iii. A sign containing moving sections or ornaments shall be equipped with fail-safe provisions to prevent the sign from releasing and falling or from shifting its center of gravity more than 15 inches. The fail-safe device shall be in addition to the mechanism and mechanism housing that operate the movable section. The fail-safe device shall be capable of supporting the full dead weight of the sign when the moving mechanism releases; and

iv. A sign shall not obstruct visibility throughout the gaming floor, the visibility of exit signage or the operation of fire protection systems.

7. Monitor cabinets, change banks, fillers and similar items shall be constructed of noncombustible or fire-retardant treated materials.

(c) The following precautions shall be taken during construction in any portion of an occupied casino hotel:

1. Except for changes to gaming tables, slot bases or signage, temporary construction partitions shall be required when construction is undertaken in an area with public access or in an area where the automatic sprinkler system will be inoperable.

i. A fire partition with a fire resistance rating of one hour shall be required for projects with automatic sprinkler protection. Fire partitions shall be constructed of noncombustible materials as defined in the building subcode and shall be continuous from the top of the floor to the underside of the ceiling above and shall be securely attached thereto. Opening protectives shall be rated for 3/4 hour.

ii. A fire separation assembly with a fire resistance rating of two hours shall be provided for projects where the automatic sprinkler system is inoperable. Fire separation assemblies shall be constructed of noncombustible materials, as defined in the building subcode, and shall be continuous from the top of the floor to the underside of floor/roof slab or deck above or to the top fire resistance rated floor ceiling assembly above and shall be securely attached thereto. Opening protectives shall be rated for 1 1/2 hours.

2. Projects with the ceiling removed shall be provided with operable upright type automatic sprinklers.

New Rule, R.1991 d.61, effective February 19, 1991.

See: 22 N.J.R. 3610(a), 23 N.J.R. 406(a).

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

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

Amended by R.1998 d.471, effective September 21, 1998.

See: 30 N.J.R. 1678(a), 30 N.J.R. 3466(a).

In (a), added 5; and added (b) and (c).

Amended by R.2000 d.414, effective October 16, 2000.

See: 32 N.J.R. 2279(a), 32 N.J.R. 3870(b).

In (b)3i, substituted "11" for "7.5" and changed "per person gross" to "gross per person" following "square feet".

Case Notes

In light of undeveloped record and uncertainty as to whether there was actually present conflict between two regulatory schemes, casino that objected to Department of Community Affairs' adoption of design and construction safety regulations for casinos, on theory that regulatory authority of Casino Control Commission prevailed over Department of Community Affairs' authority, was entitled to seek declaratory relief under Administrative Procedure Act at a joint hearing under auspices of Office of Administrative Law. *Atlantic City Showboat, Inc. v. Department of Community Affairs of State*, 331 N.J.Super. 40, 751 A.2d 111 (N.J.Super.A.D. 2000).

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

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

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

1. Electrical generation equipment, such as turbines, condensers, generators, and the like;
2. Electrical transmission equipment such as transformers, capacitors, regulators, switchgears, and the like;
3. Air pollution equipment, such as scrubbers;
4. Metal working equipment, such as castings, screen machines, grinders, lathes, presses, drills, welders, and the like;
5. Material handling equipment, such as rollers, control belts, and the like;
6. Packaging equipment, such as bottling machines;
7. Process drying equipment, such as ovens, kettles, fans, and the like;
8. Finishing equipment, used for such purposes as heat treatment, plating, painting, and the like;
9. Petrochemical refinery/plant equipment used for distillation, conversion, treatment and blending;
10. Electric, steam, pneumatic- or hydraulic-actuated equipment, such as motors, pumps, compressors, and the like;
11. Tanks which constitute part of a controlled industrial process, including those tanks containing flammable and combustible liquids, together with the dikes surrounding the tanks;
12. All piping used to transport products to and between industrial processes; any piping connected to the potable water supply downstream of an appropriate back-flow prevention device; any piping located upstream of

the first joint at the outlet of the equipment or upstream of the indirect connection to the sanitary or storm sewer;

13. Pipe racks, hangers, and the like that support the process piping and the storage racks for the raw materials and finished products. Building structural systems supporting the racks, hangers, storage loads, and the like are excluded from the definition of process equipment, except that pipe support units that include a foundation and support steel shall be included as process equipment when they do not transfer loads to structures whose main function is other than supporting process pipe;

14. Boilers, pressure vessels, furnaces and the like used exclusively for industrial process;

15. Pre-wired and/or pre-engineered (bearing name plate) electro-mechanical equipment or machinery used exclusively for an industrial process;

16. Electrical work which forms a part of the power or control system of industrial process equipment, up to the point where that work connects to the plant electrical distribution system. Such a point shall be considered a suitable junction box, panel board, disconnect switch, or a terminal box which constitutes the final connection to the factory-installed equipment wiring. Where these items are not supplied as a part of the equipment, they shall be subject to local enforcing agency jurisdiction; and

17. (Reserved)

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

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

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

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

5:23-9.8 Interpretation: bed and breakfast guesthouses—change in use group requirements

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

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

- i. Consists of a structure originally constructed for the purposes of a private residence;
- ii. Includes individual sleeping accommodations for six to 12 guests;
- iii. Has at least one dwelling unit occupied by the owner of the facility as his or her place of residence during any time this facility is being used for the lodging of guests;
- iv. Has not less than 300 square feet of common area for the exclusive use of the guests, including but not limited to parlors, dining rooms, libraries and solariums;

- v. Prohibits cooking and smoking in guest rooms;
- vi. Provides a meal to the guests in the forenoon of each day but does not operate as a restaurant open to the general public;
- vii. Is not a "rooming house" "or boarding house" as defined in N.J.S.A. 55:13B-3;
- viii. Does not allow more than 15 percent of the guests to remain more than 30 successive days or more than 30 days of any period of 60 successive days; and
- ix. Does not allow any guest to remain more than 60 successive days or more than 60 days of any period of 90 successive days.

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

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

- i. In all guestrooms;
- ii. On each story in common areas;
- iii. In storage rooms;
- iv. In basements; and
- v. In utility and mechanical rooms.

2. Except as otherwise provided in (b)2i and ii below, every story utilized for human occupancy shall be provided with a minimum of two exits.

i. An existing fire escape shall be accepted as providing one of the required means of egress if it can safely be used under emergency exiting conditions. All occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking. Access to a fire escape shall be through a door, except that window access shall be permitted from guest rooms.

ii. In buildings having a single exit, no additional exit shall be required if all of the following conditions are met:

(1) At all locations in the story at the level of discharge, the exit access travel distance shall not exceed 75 feet;

(2) Except as otherwise provided in (b)2ii(3) below, no part of the building open to guests shall be on a floor that is more than 16 feet above exterior grade;

(3) In buildings not more than two stories in height, from floors that are not more than 16 feet above grade, where there are not more than four guestrooms per floor and the exit access travel distance does not exceed 50 feet, the exit shall be enclosed with construction and opening protection providing a one hour fire-resistance rating.

3. Every sleeping room shall be provided with an approved window having a sill height of not more than 44 inches.

4. Dead-end corridors shall not exceed 35 feet.

5. Emergency egress lighting shall be provided and shall be connected to an emergency electrical system conforming to NFPA 70 to assure continued illumination for a duration of not less than one hour, in case of primary power loss in all building rooms or spaces required to have more than one exit or exit access.

6. In all buildings, rooms or spaces required to have more than one exit or exit access, all required means of egress shall be indicated with approved, internally illuminated or self-luminous exit signs that comply with the building subcode. Exit signs shall not be required if the second means of egress is a fire escape or on main exterior doors that are clearly identified as exists. Exit signs shall be connected to an emergency electrical system to assure continued illumination for not less than one hour in case of primary power loss.

7. Means of egress doors shall comply with the following:

i. All doors opening into a passageway at grade or exit stair shall be self closing or automatic closing by listed closing devices; and

ii. All guest room doors shall be at least 1 $\frac{3}{8}$ inch solid core wood or approved equal with approved door closers and shall be reasonably tight fitting. Replacement doors shall be 1 $\frac{3}{8}$ inch solid cord wood or approved equal unless existing frame will accommodate only a 1 $\frac{3}{8}$ inch door.

8. Existing handrails and guardrails provided for stairways and open sided floor areas shall be permitted to remain in place, provided they are structurally sound. When handrails or guardrails do not exist in locations where the building code requires them, or where handrails or guardrails are in danger of collapse when used under emergency conditions, handrails and guardrails complying with the building subcode shall be provided.

9. Transoms shall be either glazed with $\frac{1}{4}$ inch wire glass set in metal frames and permanently secured in the closed position or sealed with materials consistent with the corridor construction.

10. Interior finish shall comply with the following:

i. Interior finish of exit enclosures shall have a flame spread of 0-25 and a smoke developed rating of 450 or less (Class I finish as determined by ASTM-E84);

ii. Interior finish of exit access enclosures shall have a flame spread of 26-75 and a smoke developed rating of 450 or less (Class II finish as determined by ASTM-E84);

iii. Interior finish of all other spaces shall have a flame spread rating of under 200 and a smoke developed rating of 450 or less (Class III finish as determined by ASTM-E84).

11. Interior stairways and other vertical openings connecting more than six floors levels shall be enclosed with approved assemblies having a two-hour fire-resistance rating. Those connecting four to six floor levels shall be enclosed with approved assemblies having a one-hour fire-resistance rating. Interior stairways connecting three or fewer levels shall be enclosed as follows:

i. A minimum one-hour fire barrier shall be provided to protect all interior stairways and other vertical openings not exceeding three stories. Such fire barrier may be omitted provided that:

(1) The building is provided throughout with an approved automatic fire suppression system;

(2) In buildings where the building is protected throughout by an automatic fire alarm system complying with the building subcode; or

(3) All of the following conditions exist:

(A) Every sleeping room has an approved window with a sill height of not more than 44 inches;

(B) Every sleeping room above the second floor is provided with direct access to a fire escape or other approved secondary exit;

(C) Any exit-access corridor exceeding eight feet in length which serves two means of egress, at least one of which is an unprotected vertical opening, shall be separated from the vertical opening by a one-hour fire barrier; and

(D) The building is protected throughout with supervised fire alarm systems installed in accordance with the building subcode.

(c) Buildings meeting the requirements in (a) and (b) above shall be entitled to a certificate of occupancy for use group R-1. The certificate of occupancy shall be subject to

the condition that it shall be valid for a bed and breakfast use only.

New Rule, R.1995 d.611, effective December 4, 1995 (operative April 4, 1996).

See: 27 N.J.R. 3257(a), 27 N.J.R. 4884(a).

Amended by R.2001 d.127, effective April 16, 2001.

See: 33 N.J.R. 392(a), 33 N.J.R. 1195(a).

In (b)2ii(3), inserted "not" preceding "more".

5:23-9.9 Foundation systems for garden type utility sheds and similar structures

(a) Garden type utility sheds and similar structures which are 100 square feet or less in area, 10 feet or less in height and accessory to Use Groups R-2, R-3 or R-4 shall not be required to have a foundation system which extends below the frost line. These structures shall be of sufficient weight to remain in place or shall be anchored to the ground.

(b) Garden type utility sheds and similar structures which are greater than 100 square feet but not more than 200 square feet in area, 10 feet or less in height, and accessory to Use Groups R-2, R-3 or R-4 are not required to be provided with a foundation system that extends below the frost line provided the shed is dimensionally stable without the foundation system. A shed shall be considered dimensionally stable if it is provided with a floor system which is tied to the walls of the structure such that it reacts to loads as a unit. These sheds shall be placed on a bed of gravel not less than four inches in depth or shall have other frost protected design. These structures shall be of sufficient weight to remain in place or shall be anchored to the ground.

New Rule, R.2000 d.166, effective April 17, 2000.

See: 31 N.J.R. 4151(a), 32 N.J.R. 1376(a).

SUBCHAPTER 10. RADON HAZARD SUBCODE

5:23-10.1 Title, scope; intent

(a) This part of the regulations, adopted pursuant to the State Uniform Construction Code Act, P.L. 1975, c. 217, as amended and as supplemented by P.L. 1989, c.186 (N.J.S.A. 52:27D-119 et seq.), and entitled Radon Hazard Subcode, shall be known, and may be cited throughout the regulations as, N.J.A.C. 5:23-10 and, when referred to in this subchapter, may be cited as "this subchapter".

1. This subchapter is intended to complement rules adopted by the New Jersey Department of Environmental Protection at N.J.A.C. 7:28-27 which provide for certification of persons who sell radon or radon progeny devices, test for radon or radon progeny, or mitigate radon in buildings.

i. Copies of N.J.S.A. 26:2D-70 et seq. and N.J.A.C. 7:28-27 may be obtained from the New Jersey Depart-

ment of Environmental Protection, PO Box 411, Trenton, NJ 08625-0411.

(b) This subchapter pertains to the construction of all buildings in Use Groups E and R, as defined in the building subcode, within recognized radon prone areas defined as tier one by the New Jersey Department of Environmental Protection and shall control matters relating to construction techniques to minimize radon gas and radon progeny entry and facilitate any subsequent remediation that might prove necessary.

(c) This subchapter seeks to protect and ensure public safety, health and welfare insofar as it is affected by radon entry into schools and residential buildings.

1. It is the purpose of this subchapter to establish standards and procedures to ensure that construction techniques that minimize radon entry and that facilitate any post-construction radon removal that is required shall be incorporated in the construction of all buildings in Use Groups E and R in tier one areas and are permitted to be incorporated elsewhere in New Jersey.

2. Radon is a colorless, odorless, tasteless, radioactive gas that occurs naturally in soil gas, underground water, and outdoor air. Prolonged exposure to elevated concentrations of radon and its progeny (that is, substances formed as a result of the radioactive decay of radon) has been associated with increases in the risk of lung cancer. An elevated concentration is defined as being at or above the guideline of 4 pCi/L or 0.02 WL average annual exposure.

3. Inasmuch as it is deemed to be more cost effective to build schools and residential buildings that resist radon entry than to remedy a radon problem after construction, design and construction techniques shall be employed, in tier one areas, to minimize pathways for soil gas to enter and features shall be incorporated during construction in tier one areas that will facilitate radon removal after completion of the structure if prevention techniques prove to be inadequate.

4. The installation of radon mitigation systems in existing portions of buildings shall not be subject to the construction technique requirements set forth in N.J.A.C. 5:23-10.4.

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

5:23-10.2 Definitions

The following words, terms and abbreviations, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Foundation pipe drain” means a drain placed around the perimeter of a foundation that utilizes a perforated pipe. An “interior foundation pipe drain” is one placed around the internal perimeter of a foundation. An “exterior foundation pipe drain” is one placed around the external perimeter of a foundation.

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

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

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

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

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

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

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

5:23-10.3 Enforcement

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

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

1. For new structures and additions:
 - i. Except as otherwise indicated in (b)1ii below, plan review and inspection with regard to compliance with N.J.A.C. 5:23-10.4(b) shall be the responsibility of the building subcode official;
 - ii. Plan review and inspection with regard to work performed under N.J.A.C. 5:23-10.4(b) that is otherwise subject to the plumbing, electrical or fire protection subcode shall be the responsibility of the plumbing, electrical or fire protection subcode official, respectively.
2. For existing structures:
 - i. Construction enforcement responsibility for verification that radon mitigation work in all structures, other than detached one and two family dwellings, is in conformance with the adopted subcodes shall be as set forth in N.J.A.C. 5:23-3.4(a), (c), (d) and (f).

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

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

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

In (b), added 5 and 6.

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

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

5:23-10.4 Construction techniques

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

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

1. A continuous vapor barrier not less than six-mil (.006 inch; .152 mm) polyvinyl chloride or polyethylene with any seams overlapped not less than 12 inches (305 mm), or other approved materials, shall be installed under the slab in basement and slab-on-grade construction and on the soil in crawl space construction.
2. Floors of basements and slab on grade construction shall be placed over a base course, not less than four inches (102 mm) in thickness, consisting of gravel or crushed stone containing not more than 10 percent of material that passes through a No. 4 sieve.
3. Basement slabs with interior foundation pipe drains installed shall have a solid three-inch minimum diameter vent pipe section installed in conjunction with this drainage system and be connected to an independent vent stack pipe terminating at an approved location on the exterior of the building.
4. Basement slabs which do not have an interior foundation pipe drain, and slab on grade construction (excluding non-habitable spaces such as garages), shall be provided with one three-inch minimum solid vent pipe section with a “T” pipe fitting for every 1,500 square feet, or portion thereof, of slab area, this vent pipe section to be

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

APPENDIX 10-A

New Jersey Municipalities in Tier 1

County	Municipality	
Burlington	Chesterfield	Mansfield
Camden	Magnolia	Somerdale
	Runnemede	
Cumberland	Bridgeton	
Gloucester	Deptford	Harrison
	East Greenwich	Wenonah
	Greenwich	

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

Public Notice.
 See: 23 N.J.R. 3745(a).
 Revised Tier I list issued.
 Administrative change.
 See: 26 N.J.R. 3707(b).
 Administrative change.
 See: 27 N.J.R. 3600(a).
 Administrative change.
 See: 28 N.J.R. 4783(a).

**SUBCHAPTER 11. PLAYGROUND SAFETY
 SUBCODE**

Authority
 N.J.S.A. 52:27D-123.10.

Source and Effective Date
 R.1999 d.351, effective October 18, 1999.
 See: 31 N.J.R. 1838(a), 31 N.J.R. 3082(a).

5:23-11.1 Subcode adopted

(a) Pursuant to authority of P.L. 1999, c.50 (N.J.S.A. 52:27D-123.9 et seq.), the Commissioner hereby adopts the playground safety guidelines of the United States Consumer

Product Safety Commission, known as the 1997 edition of the "Handbook for Public Playground Safety" (Pub. No. 325). These guidelines are hereby adopted by reference as the Playground Safety Subcode for New Jersey.

1. Copies of these guidelines may be obtained from the United States Consumer Product Safety Commission, Office of Information and Public Affairs, Washington, DC 20207.

2. The "Handbook for Public Playground Safety" may be known and cited as the "Playground Safety Subcode."

(b) Only those guidelines that govern design, installation, inspection and maintenance of playgrounds and playground equipment shall be deemed to be mandatory. Guidelines concerning supervision and training of personnel shall be deemed to be advisory only.

5:23-11.2 Definition

For purposes of this subchapter, "playground" shall mean an improved area designed, equipped, and set aside for play of six or more children, which is not intended for use as an athletic playing field or athletic court, and shall include any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

5:23-11.3 Enforcement of subcode

(a) No permit shall be required for any element of playground construction that is not otherwise subject to the permit requirements of the State Uniform Construction Code.

(b) Compliance with the requirements of this subcode shall be the responsibility of the manager of the facility, of the owner of the facility and of the agency responsible for the administration of the facility.

(c) The facility manager and/or facility owner or agency responsible for administration of the facility shall certify in writing that any work performed complies with, and the facility is maintained in accordance with, all applicable provisions of this subcode and shall retain this certification on file.

(d) Complaints regarding lack of compliance with this subcode shall be in writing and shall be directed to the facility manager and the facility owner or agency responsible for administration of the facility. The facility manager or owner or administering agency shall respond in writing within 30 days to any written complaint received detailing the position taken with respect to the complaint. If the facility manager or owner or administering agency fails to respond in a manner satisfactory to the party registering the complaint, then the party shall have recourse to the appeals process as set forth at N.J.A.C. 5:23-2.38.

5:23-11.4 Compliance schedule

(a) All governmental and for-profit private entities operating playgrounds shall upgrade their playgrounds by replacement or improvement as necessary to comply with this subcode by October 18, 2004 for surfacing and by October 18, 2007 for all other elements, or, in the case of governmental entities, at such earlier date as State funds are made available for such purpose.

(b) All nonprofit entities operating playgrounds shall upgrade their playgrounds by replacement or improvement as necessary to comply with this subcode by October 18, 2004 for surfacing and by October 18, 2014 for all other elements.

(c) All newly constructed playgrounds built, and all new and replacement equipment installed, by a governmental, nonprofit or private for-profit entity more than six months after October 18, 1999 shall conform to the requirements of this subcode.

(d) All construction or alteration of playgrounds, playground equipment and surfacing that are subject to the Playground Safety Subcode shall comply with the applicable provisions of the Barrier-Free Subcode (N.J.A.C. 5:23-7).

1. In accordance with N.J.A.C. 5:23-7.18(d) and CABO/ANSI A117.1, Section 4.5, surfaces of all routes and spaces required to be accessible shall be stable, firm and slip-resistant. Sand and gravel shall therefore not be used as surfacing materials when new equipment is being installed, or a new safety surface is being put in place, and the barrier-free subcode is therefore applicable.

**SUBCHAPTER 12. ELEVATOR SAFETY
SUBCODE**

5:23-12.1 Title; scope; intent

(a) This subchapter of the rules adopted pursuant to the authority of the Uniform Construction Code Act, entitled "Elevator Safety Subcode," shall be known and cited throughout this chapter as subchapter 12 or N.J.A.C. 5:23-12, and when referred to in this subchapter may be cited as "this subchapter."

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

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

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

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

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

5:23-12.2 Referenced standards

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

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

(c) (Reserved)

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

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

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

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

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

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

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

5:23-12.3 Inspection and test schedule

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

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

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

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

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

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

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

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

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

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

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

Added (a)4 and 5.

5:23-12.4 Registration of elevator devices

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

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

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

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

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

5:23-12.9 Certificate of compliance requirements

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

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

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

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

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

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

1. A device has been approved following the inspection and witnessing of an acceptance test, as required by N.J.A.C. 5:23-12.2, by the application of an Inspection Sticker Approval for Elevator and a recommendation by the elevator subcode official on an Elevator Subcode Technical Section form for a certificate of occupancy or approval, as the case may be.

i. The date of the approval shall begin the cycle of inspections and tests for new devices in a new building and for new devices in an existing building which did not have elevator devices previously.

ii. The date of the approval of an existing device in an existing building shall not change the device's existing cycle of inspections and tests. The cycle shall remain consistent with the inspection cycle in the building, except the device shall not be subject to the five year test before it is due as long as the acceptance test performed under the permit was a full five year test.

2. A device has been approved following the inspection process, as required for minor work by N.J.A.C. 5:23-2.17A(d)2 and 12.2, by the application of an Inspection Sticker Approval for Elevator and a recommendation by the elevator subcode official on an Elevator Subcode Technical Section form for a certificate of approval.

i. The device may operate under the approval given under the permit until the next cyclical inspection, as determined by the inspection cycle of the building, and then shall be subject to a routine or periodic inspection the same as all other elevator devices in the building.

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

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

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

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

Amended by R.1996 d.512, effective November 4, 1996.

See: 28 N.J.R. 3697(a), 28 N.J.R. 4782(a).

5:23-12.10 Inspections in seasonal facilities

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

consecutive days and is then closed and not available for such use for at least 181 consecutive days.

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

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

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

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

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

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

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

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

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

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

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

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

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

5:23-12.11 Notice concerning accidents

(a) The construction official shall notify the Department about those accidents involving elevator devices (reported to the enforcing agency as required by the building subcode) that involve either death or personal injury requiring medical treatment by a physician other than first aid or damage to the elevator device that was either a result or cause of the accident and which affects the future safe operation of the device. For purposes of this section, "first aid" means the one time treatment or observation of scratches, cuts not requiring stitches, burns, splinters or contusions, or a diagnostic procedure, including examination and x-rays, which does not indicate any need for further medical treatment. First aid may be performed by licensed medical personnel or by other persons.

1. The construction official shall notify the Elevator Safety Unit about any accident within five working days after the accident is reported to the enforcing agency, except that accidents involving devices under the Department's jurisdiction shall be reported as soon as possible, but not later than the end of the next business day after an accident is reported to the construction official.

2. Within five working days after an accident involving a device not under the Department's jurisdiction is reported to the enforcing agency, a copy of the Accident/Incident Report form and all attachments, as indicated in the form, shall be forwarded to the Elevator Safety Unit by the construction official.

3. When a special inspection is performed by a person other than the Elevator Safety Unit subcode official, a copy of the Inspection Report shall be forwarded to the Elevator Safety Unit within five working days after the date of the special inspection.

New Rule, R.1997 d.64, effective February 18, 1997 (operative May 19, 1997).

See: 28 N.J.R. 4695(a), 29 N.J.R. 550(a).

5:23-12.12 Special safety equipment

(a) On all existing elevators, a space between the elevator hoistway door and the car door or gate shall comply with the requirements of Rule 204.4e of ASME A17.1-1990. Where the space exceeds the maximum distance, a space guard shall be installed to minimize the gap. Sight guards shall be installed along with the space guards on horizontally sliding type hoistway doors.

1. Freight elevators that are equipped with horizontally swinging doors, are not accessible to the general public, and are located in the factories, warehouses, garages, or similar buildings shall not be required to comply.

2. Installation of space and sight guards shall comply with all applicable requirements of ASME A17.3-1993 and shall be considered minor work within the meaning of N.J.A.C. 5:23-2.17A.

(b) In buildings containing more than one elevator device, each such device shall be identified by a number according to BOCA, Rule 3003.3 and ASME A17.1 referenced in the building subcode.

1. In addition, each elevator shall be identified by such a number in every elevator lobby. The identification number shall be a minimum of 1½ inches high and of a color that contrasts with the background. The number shall be permanent and shall be on or adjacent to every elevator hoistway entrance frame. By August 4, 2003, all existing elevators shall comply with this requirement.

(c) On each existing escalator, a skirt obstruction device conforming to ASME A17.1-93-95, Rule 805.1.h. and a step level device conforming to ASME A17.1-93-95, Rule 805.1.s. shall be installed by August 4, 2003.

(d) On each existing elevator, a floating (movable) platform that permits the operation of the elevator when the car door or gate is not in the closed position shall be prohibited. Use of a floating (movable) platform that exists as of February 4, 2002 on any elevator shall be discontinued by August 4, 2003.

New Rule, R.1997 d.305, effective July 21, 1997.

See: 29 N.J.R. 2205(a), 29 N.J.R. 3249(a).

Amended by R.2002 d.43, effective February 4, 2002.

See: 33 N.J.R. 3714(a), 34 N.J.R. 732(b).

Rewrote the section.

Administrative correction.

See: 35 N.J.R. 219(c).

SUBCHAPTER 12A. OPTIONAL ELEVATOR INSPECTION PROGRAM

Authority

N.J.S.A. 5:27D-124 and 126f.

Source and Effective Date

R.1998 d.480, effective September 21, 1998.

See: 30 N.J.R. 1119(b), 30 N.J.R. 3461(a).

5:23-12A.1 Title; scope; intent

(a) This subchapter of the rules, adopted pursuant to the authority of the Uniform Construction Code Act, as supplemented by P.L. 1997, c.336, is entitled "Optional Elevator Inspection Program" and shall be known and cited throughout this chapter as N.J.A.C. 5:23-12A. When referred to in this subchapter, it may be cited as "this subchapter."

(b) Unless otherwise specifically provided, all references to paragraphs, sections, or to provisions not specifically

identified, shall be construed to refer to such paragraph or section or provision of this subchapter.

(c) This subchapter shall control all matters relating to the administration of the registration of qualified elevator device inspection firms, hereinafter referred to as "qualified firms," qualified elevator device inspectors and the elevator devices enrolled in this optional program, as defined in (d) below.

(d) For purposes of this subchapter, "elevator" or "elevator device" means a hoisting and lowering device equipped with a car or platform which moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure. The term shall include, without limitation, elevators, dumbwaiters, wheelchair lifts, manlifts, stairway chairlifts and any device within the scope of ASME A17.1 (Safety Code for Elevators and Escalators) or ASME A90.1 (Safety Standard for Belt Manlifts), except escalators and moving walks.

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

5:23-12A.2 Qualified elevator device inspection firms

(a) Any sole proprietorship, partnership, association or corporation that is engaged in the business of maintaining, inspecting and testing elevator devices, has at all times, as a bona fide employee, at least one qualified elevator device inspector, and carries general liability insurance in at least the amount of \$4,000,000 for each person and each occurrence to satisfy claims or judgments for property damage and/or personal injury may apply for registration with the Department as a qualified firm.

1. The application shall contain information relating to the financial integrity of the firm, as evidenced by a reviewed financial statement prepared by an independent certified public accountant.

2. The application shall contain the names and addresses and home phone numbers of all persons who hold at least a ten percent interest in the qualified firm and/or are corporate officers.

3. Each applicant for registration as a qualified firm shall disclose in the application any subsidiary or parent relationship with any other qualified firm or other entity regulated by the State Uniform Construction Code and shall further disclose all interests of any officer, partner, or stockholder of the firm in any other qualified firm or other entity regulated by the State Uniform Construction Code.

4. Each application shall include a sample form of the contract of full service needs to be used for the purposes of this subchapter.

(b) Upon receipt of a completed application on a form prescribed by the Department, including the information in

(a) above and a nonrefundable fee of \$250.00, the Department shall issue a certificate of registration, unless the application is denied in accordance with (c) below.

1. The certificate of registration shall remain valid, unless revoked in accordance with (c) below, for two consecutive years following the date of registration; provided, however, that the certificate of registration shall become inactive for any period of time during which the firm ceases to engage in the business of maintaining, inspecting and testing elevator devices or ceases to employ at least one qualified elevator device inspector. It shall be the responsibility of the qualified firm to inform the Department within 30 days of any changes to the status of the qualified firm during the two-year registration period. It shall be the responsibility of the firm to reapply for registration at least two months prior to the renewal date to make current the information contained in the original application by submission of a completed reapplication form, as prescribed by the Commissioner.

(c) A certificate of registration may be denied or revoked if the Department determines that the firm, or any person holding an ownership interest in the firm or otherwise authorized to represent the firm, has at any time:

1. Willfully made a misstatement of material fact in an application for issuance or renewal of a registration certificate;
2. Willfully committed fraud in connection with the maintenance, inspection or testing of any elevator device;
3. Maintained, inspected or tested any elevator device in a grossly negligent manner;
4. Failed to ensure that the qualified elevator device inspectors that it employs perform their duties in accordance with the requirements of this subchapter;
5. Habitually failed to ensure the timely submission of the elevator device certification in accordance with the requirements of this subchapter;
6. Willfully violated the requirements of the State Uniform Construction Code to any substantial degree; or
7. Failed to report an accident or equipment failure as required by the building subcode and N.J.A.C. 5:23-12.11.

5:23-12A.3 Qualified elevator device inspector

(a) A candidate for certification as a qualified elevator device inspector for the inspection and testing of elevator devices enrolled under this subchapter shall pay a nonrefundable fee of \$65.00 and shall meet the following competence and experience requirements:

1. Seven years of experience consisting of one or a combination of the following:
 - i. Experience in construction, design, or supervision as a journeyman in a skilled trade currently regulated by the elevator subcode;
 - ii. Experience as an elevator inspector; or

iii. Experience as a construction contractor in a field of construction currently regulated by the elevator subcode; and

2. Demonstration of competence by successful completion of one of the following:

- i. Successful completion of the examination module 6B-Elevator General of the National Certification Program for Construction Code Inspectors administered by the Chauncy Group, a subsidiary of the Educational Testing Service for the Department; or
- ii. Possession of a current Qualified Elevator Inspector (QEI) certificate issued pursuant to ASME QEI-1-1993.

(b) The certificate shall be renewed every three years upon the submission of a renewal application, payment of a renewal fee of \$65.00 and submission of documentation of continuing education as follows:

1. Documentation of having completed 1.5 Continuing Education Units (CEUs) in a related technical subject area, as approved by the Bureau of Code Services, within the three-year period preceding the date of application. One CEU equals 10 contact hours;
2. Annual submission of a current QEI certificate; or
3. Submission of equivalent certification approved by the Bureau of Code Services.

(c) A qualified elevator device inspector, when employed by a qualified elevator device inspection firm, shall perform, and certify by signature, the inspection and tests required by this subchapter. The qualified inspector shall not inspect his or her own work; however, the qualified elevator device inspector may perform work as required under the contract of full service needs on the device he or she is inspecting at the time of the inspection and test, provided that work does not require more than one person. The maintenance and repair of a contracted device that is required at any other time under a contract of full service needs shall be performed by another individual, and not by the certifying inspector.

(d) The Department may revoke a certificate, suspend a certificate for not more than one year, and/or assess a civil penalty of not more than \$500.00 for each violation, if the Department determines that a qualified inspector:

1. Has violated any provision of the State Uniform Construction Code;
2. Has obtained a certificate by fraud or misrepresentation;
3. Has been grossly negligent or has engaged in misconduct in the performance of his or her duties pursuant to this subchapter;
4. Has failed, over a period of time, to maintain a minimally acceptable level of competence;
5. Has failed to comply with any order issued by the Department;

6. Has made a false or misleading written statement, or has made a material omission, in any submission to the Department; or

7. Has engaged in any conduct which demonstrates incompetency or dishonesty.

(e) An individual possessing an elevator inspector HHS license issued pursuant to N.J.A.C. 5:23-5.19 may apply for the qualified elevator device inspector certificate by completing an application and paying a fee of \$65.00. This certificate shall be a rider to the elevator inspector HHS license and shall be renewed separately from all other licenses.

1. Any violation notice issued to a licensee pursuant to this subchapter shall not be deemed to be an action taken with regard to the elevator inspector HHS license. Any such notice shall only be subject to review by a review committee under N.J.A.C. 5:23-5.23(d) if the Department indicates that it also intends to take action regarding the licensee's elevator inspector HHS license on the basis of the same set of facts.

5:23-12A.4 Enrollment of devices

(a) Elevator devices, as defined by this subchapter, can be enrolled in this optional program by the owner or the owner's agent. To be eligible for enrollment, an elevator device shall be subject to the cyclical inspections and witnessing of tests, as defined by this subchapter, by the qualified elevator device maintenance, inspection and testing firm under a contract of full service needs with the owner of the elevator.

1. For purposes of this subchapter, a contract of full service needs is a contract which stipulates that:

i. The scope of the applicable inspections and tests shall be in accordance with the most recent edition of ASME A17.1 or A90.1 referenced in the building subcode and the frequency of the inspections and tests, as well as the inspection/testing procedures, shall be in accordance with N.J.A.C. 5:23-12;

ii. The registered firm shall issue a certification that the inspection and tests have been performed and the signed report on the results shall be issued to the owner and to all other parties to whom the report is required to be sent; and

iii. The performance of the repairs necessary to ensure compliance of inspected/tested equipment with the requirements of applicable ASME A17.1 or A90.1 is required.

(b) To allow for the construction official to make necessary changes in official records regarding the elevator devices inspected/tested by the qualified firm, the devices shall be placed under or removed from this optional program by the owner or the owners agent not later than two months prior to the cyclical inspection/test, as required by the building's inspection cycle established, pursuant to N.J.A.C. 5:23-12.3(a)4, by the enforcing agency having jurisdiction.

This application for enrollment shall be on a form prescribed by the Department. The Department shall be notified by the owner of any changes made with regard to services being provided by the qualified firm not later than two months prior to the date of the cyclical inspection.

1. In addition to forwarding lists of the registered buildings and devices to the construction official quarterly, the Department shall issue update letters to the owners of devices placed under or removed from the optional program, and shall send copies of these letters to the construction official.

(c) As a result of an applicable inspection and test, the qualified firm shall issue a device certification to the Bureau of Code Services, so as to ensure that the required inspection and tests are performed and that the device is being maintained as required by this subchapter.

1. Within 20 working days from the date when each cyclical inspection/test was performed, the qualified firm shall:

i. File a certification with the Department for each device on a form prescribed by the Department, at the same time providing the owner with a copy of such certification; and

ii. Report to the owner, on a form prescribed by the Department, the results of the performed inspection/test.

2. A certification filed with the Department by a qualified firm shall include:

i. A statement that the elevator device was inspected and tested by the qualified firm according to the most recent addition of ASME A17.1 or A90.1 referenced in the building subcode and was found to be in conformance with the requirements of the code(s) under which the device was installed or altered;

ii. The building's cycle and registration number;

iii. The date and the type of the applicable inspection or inspection/test performed;

iv. The expiration date of the certification; and

v. The name, signature and the certification number of the qualified inspector.

3. The certification shall be accompanied by a filing fee in the amount of \$30.00.

(d) In addition to any other remedies provided for by these rules, a penalty in the amount of \$100.00 shall be assessed whenever a certificate required by this section is not filed with the Bureau of Code Services within 45 days of the due date as described in (c) above. This penalty shall be issued against the qualified firm with a information copy to the owner. Additional penalties shall be assessed in the event of further delay in filing. All violations of this filing requirement by a qualified firm shall be made a part of the qualified firm's file and reviewed at the time of renewal application, along with all other aspects of the qualified firm's performance pursuant to this subchapter.

5:23-12A.5 Permit process and monitoring

(a) All construction permit-related enforcement processes, inspection and witnessing of the "five year" tests of traction and roped hydraulic elevators, and inspection and witnessing of applicable tests at the "five-year" intervals of all other types of elevator devices enrolled in the optional program, shall be performed by the enforcing agency having jurisdiction pursuant to N.J.A.C. 5:23-4.3(a)3. The Department shall define cyclical inspections/tests at the time when those will be assigned to the enforcing agencies.

1. The Department shall notify the local jurisdiction at least two months prior to the inspections and witnessing of tests required to be done by the local jurisdiction.

2. Fees for permit-related enforcement shall be as required by the Uniform Construction Code. The fee for the required cyclical inspection and test performed/witnessed by the local jurisdiction, in the amount of \$150.00, shall be reimbursed by the Department and such fee shall be payable to a local enforcing agency only upon the Department's receipt of the inspection report. The inspection report shall be forwarded to the owner and the Department within 20 working days from the date when the inspection/test was performed.

(b) Notwithstanding the inspections and witnessing of tests performed by the local jurisdiction, the Bureau of Code Services shall have sole authority to monitor the performance of qualified firms and qualified elevator device inspectors.

(c) The Bureau shall develop and implement a performance-based monitoring program to assess the conditions impacting on the devices enrolled in this optional program and shall report as required by law.

5:23-12A.6 Special inspection and compliance procedures

(a) If, upon inspection or test, a qualified elevator device inspector who is employed by a qualified firm shall find that an elevator device is in a dangerous condition, or if there is an immediate hazard to persons riding on or using any such device, the qualified elevator device inspector, on behalf of the qualified firm, shall immediately prohibit any further use of such device and shall give written notice of this action and of the condition to the owner, the enforcing agency having jurisdiction and the Bureau of Code Services, and shall take such other steps as may be necessary to protect the public. Once the device is placed out of operation, it shall remain out of operation until such time as the qualified elevator device inspector shall issue a certification, on behalf of the qualified firm, indicating that the dangerous condition or immediate hazard has been removed or corrected and that the elevator device is safe for public use. Such a certification shall be forwarded to the enforcing agency having jurisdiction, the Bureau of Code Services and the owner before the device may be placed back in operation.

1. If, upon inspection or test, deficiencies beyond the scope of this subchapter are observed, the qualified elevator device inspector shall issue a report on such findings to the owner and shall forward a copy to the construction official and the Bureau of Code Services.

(b) If the enforcing agency having jurisdiction shall determine, at any time, in response to a complaint or otherwise, that an elevator device is in a dangerous condition or that there is an immediate hazard to persons riding on or using that device, the enforcing agency shall prohibit any further use of the elevator device until the condition is corrected, and shall require the owner of the elevator device to make such repairs as may be necessary, or take other corrective action, within such time as the enforcing agency may prescribe. The enforcing agency may charge a fee not exceeding \$100.00 for each such inspection or reinspection.