

2. In the case of work requiring inspections by fewer than four subcode officials or their designees, the allocation shall be among or between the subcodes involved in the proportions set forth in (g)1 above. (Thus, for example, in work involving only the building and plumbing subcodes, two-thirds of the fee (40%) would be allocated to the building subcode and one-third of the fee (20%) to the plumbing subcode.)

(h) Where plan review is performed more than one month before the construction permit is issued, or where a project does not go forward after a private on-site agency has performed plan review, then the municipality shall pay to the private agency 20 percent of the amount that would otherwise be due, which amount shall be determined by multiplying the relevant fee set forth in N.J.A.C. 5:23-4.20 by the percentage set forth in the contract between the municipality and the private agency entered into in accordance with N.J.A.C. 5:23-4.5A.

(i) Private on-site agencies shall bill for their services at least once monthly. Each bill shall specify the billing period and the amount currently due, amounts already paid, and any remaining balances, identified by permit number and totalled for the billing period.

(j) The private agency shall be paid for work performed even if the municipality receives no inspection fee for such work.

(k) Private enforcing agencies shall charge no fees other than the fees set forth in N.J.A.C. 5:23-4.20 multiplied by the percentage set forth in the contract between the private agency and the municipality. Private enforcing agencies shall furnish no services other than subcode enforcement services to municipalities and shall not receive any payments from municipalities for any other goods or services whatsoever.

Amended by R.1983 d.642, effective January 17, 1984.
See: 15 N.J.R. 1406(a), 16 N.J.R. 129(a).

Use of municipal subcode officials and inspectors further delineated.
Amended by R.1990 d.313, effective June 18, 1990.
See: 22 N.J.R. 691(a), 22 N.J.R. 1915(b).

Text of (b), on private inplant inspection agencies, deleted.
Amended by R.1992 d.243, effective July 6, 1992.
See: 24 N.J.R. 678(a), 24 N.J.R. 2422(a).

Conflict of interest provisions added.
Amended by R.1994 d.323, effective July 5, 1994 (operative January 1, 1995).

See: 25 N.J.R. 2162(a), 26 N.J.R. 2780(a).
Amended by R.1996 d.273, effective June 17, 1996 (operative October 1, 1996).
See: 28 N.J.R. 1586(c), 28 N.J.R. 3120(a).

5:23-4.15 Suspension and revocation

(a) General:

1. In addition to any other remedies provided by the regulations, the Department may suspend or revoke its authorization of any private on-site agency if the Department determines that the authorization or reauthorization

was based on the submission of fraudulent or materially inaccurate information, or that the authorization or reauthorization was issued in violation of the regulations, or that a change of facts or circumstances make it unlikely that the inspection agency can continue to discharge its responsibilities under the regulations in a satisfactory manner, or that the inspection agency has violated the regulations.

2. During the period of suspension the affected agency shall not be authorized to discharge any of its responsibilities under the regulations unless otherwise specified in the notice of suspension or order of the department.

(b) Notice:

1. The department shall notify such agency of its suspension or revocation in writing. Copies of the notice of suspension shall be forwarded by the department to all manufacturers or municipalities with implementing contracts with the affected inspection agency.

2. The suspension shall be effective on the date the affected inspection agency receives the notice of suspension or on any later date that may be designated in the notice of suspension.

(c) Revocation without suspension:

1. The department may revoke its approval of any inspection agency without previously suspending its authorization. In such event, the department shall send a written notice to the affected inspection agency of its intention to consider revocation of its authorization, stating the growth therefore, and establishing a time and a place for a hearing on the question. The notice shall be sent to the affected inspection agency and to all manufacturers or municipalities with implementing contracts with the affected inspection agency.

2. No such agency shall reapply for approval as an on-site agency until the expiration of one year from the date of the order of revocation.

(d) Termination of contract: Upon the suspension or revocation of approval of any inspection agency, any municipality or any manufacturer with an implementing contract with the inspection agency shall have the right to terminate its contract with such inspection agency and be free of all obligations thereon and to enter with such inspection agency and be free of all obligations thereon and to enter into an implementing contract with any other inspection agency.

(e) In the case of the suspension or revocation of any on-site inspection agency, the department shall, upon the request of any municipality with an implementing contract with the suspended or revoked inspection agency, consult with such municipality to establish a temporary arrangement by which the municipality can continue to enforce the regulations until the suspension or revocation is lifted or an implementing contract entered into with another on-site

inspection agency. For these purposes, the department may, at its discretion, discharge some or all of the responsibilities of an on-site inspection agency. The department may also approve any other temporary arrangement which the department determines would best promote the purposes of the act and these regulations under the circumstances.

(f) The department shall provide any person aggrieved by any action of the department pursuant to this section with a hearing in accordance with the applicable provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1. The case shall be adjudicated before the Office of Administrative Law and the final decision shall be issued by the Commissioner.

Amended by R.1982 d.436, effective December 20, 1982.

See: 14 N.J.R. 734(a), 14 N.J.R. 1449(a).

Added cases to be heard by the OAL with final decision by the Commissioner.

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

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

Text on inplant inspection agencies and temporary arrangements deleted.

Notice of Petition to amend section.

See: 27 N.J.R. 3232(a).

5:23-4.16 (Reserved)

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

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

Section was "Fire limits".

5:23-4.17 Municipal enforcing agency fees

(a) Ordinance: The municipality shall set enforcing agency fees by ordinance for the following activities: plan review, construction permit, certificate of occupancy, certificates of continued occupancy, certificate of approval, demolition permit, elevator permit and sign permit.

1. The municipality shall include in any such ordinance all fees pertaining to the operations of the enforcing agency, including those for which the department has not set standards, such as fees for reinstatement of lapsed permit. All minimum fees shall be stipulated. Fees may be rounded to nearest dollar amount if the municipality's ordinance so provides.

(b) On or before February 10 of each year, in a municipality that budgets according to the calendar year (January 1 to December 31), or on or before August 10 of each year, in a municipality that budgets according to the State fiscal year (July 1 to June 30), the construction official shall, with the advice of the subcode officials and in consultation with the municipal finance officer, prepare and submit to the governing body a report detailing the receipts and expenditures of the enforcing agency and indicating his recommendations for a fee schedule, based on the operating expense of the agency.

1. The report shall be structured in accordance with (c) below and with such guidelines as shall be issued from time-to-time by the Commissioner so as to accurately portray true enforcing agency expenses in general and for structures of different use groups. This report shall serve as the basis for the ordinance to be enacted by the municipality, as it may deem appropriate, establishing the fee schedule.

2. A copy of the construction official's report recommending a fee schedule and setting forth enforcing agency revenues and expenses shall be filed with the Department when prepared and a copy of the ordinance, together with the fee schedule, shall be filed with the Department when enacted or amended.

3. The appropriation and expenditure of construction code fee revenues generated from the fee schedule established pursuant to (b)1 above shall be audited annually by an independent auditor acceptable to the Department and a copy of the auditor's report shall be provided to the Department when it is issued to the municipality. Submission of a copy of the annual municipal audit required to be submitted to the Division of Local Government Services at the time that it is required to be submitted to that Division shall constitute compliance with this requirement provided, however, that the annual municipal audit tests and contains an opinion that all expenditures of construction code fees have been made for purposes herein permitted.

(c) Costs: The fee schedule shall be calculated to reasonably cover the municipal costs of enforcing the regulations.

1. It is the purpose and intent of this subsection to facilitate the accumulation by municipalities of the funds necessary to offset future construction code enforcement expenses, to ensure that construction code revenue is used only for construction code enforcement purposes, and to provide a means of making such revenue readily available for such purposes from year to year.

2. All fees collected pursuant to the fee schedule established in accordance with (b)1 above shall be appropriated in accordance with the requirements of the Uniform Construction Code Act and the Local Budget Law to be applied solely to meet the municipal costs of enforcing the regulations, which costs shall be defined as including only the following:

i. Salaries and employee benefits for licensed code enforcement officials and inspectors and clerical personnel assigned to the enforcing agency, in an amount proportionate to the time spent in performing work for the enforcing agency provided, however, that detailed time records are kept where employees divide their time between Uniform Construction Code and Non-Uniform Construction Code duties;

ii. Cost of motor vehicles in an amount proportionate to their use by or for the enforcing agency. Payments for this purpose may be in the form of mileage reimbursement paid to employees for use of their own motor vehicles, cost of purchase of motor vehicles by the municipality for the exclusive use of the enforcing agency (which cost may not be amortized), depreciation and operating expenses of motor vehicles made available to the enforcing agency by another municipal agency, and cost of rental of motor vehicles for use by the enforcing agency;

iii. Direct costs in support of the agency such as equipment, supplies, furniture, office equipment maintenance, standardized forms, printing, and safety equipment that are supplied directly to the enforcing agency for its sole use;

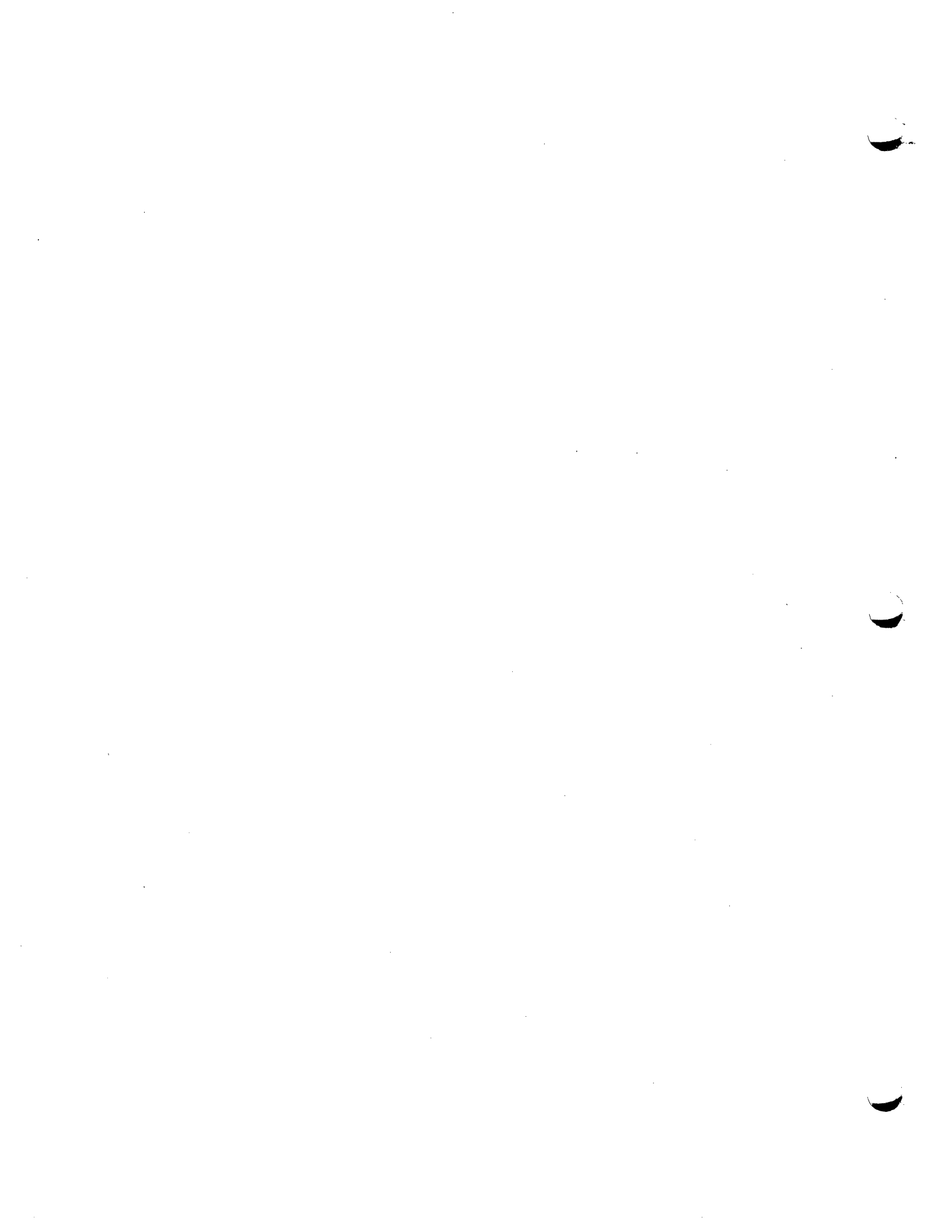
iv. Professional expenses of enforcing agency personnel that are directly related to the enforcement of the regulations, including publications, membership dues, license fees, and authorized travel to conferences, meetings and seminars;

v. Fees for services performed under contract by private on-site inspection agencies;

vi. Documented charges for legal services required in connection with construction code enforcement litigation;

vii. Fees for the annual audit of the dedicated fund by an independent auditor; and

viii. Subject to the limitations set forth in (c)3 below, indirect, overhead, and other expenses of the municipality in support of the enforcing agency, including:



- (1) Legislative and Executive expenses;
 - (2) Administration, including personnel, payroll, and general training services provided to the agency in common with all other municipal offices;
 - (3) Central services shared jointly with other municipal offices, such as telephone, reproduction, centralized computer services, etc.;
 - (4) Insurance except for group insurance premiums included under employer fringe benefits;
 - (5) General building maintenance expenses;
 - (6) Finance, including bookkeeping, purchasing, and auditing;
 - (7) Office space expenses, including rent or interest and debt service on municipal capital facilities; and
 - (8) Such other expenses as may be properly allocable to construction code enforcement.
3. Indirect and overhead expenses charged to the construction code fee revenues shall not exceed 12 percent of all other costs of the enforcing agency unless the indirect and overhead expenses of the municipality exceed 12 percent of the entire municipal budget, in which case indirect and overhead expense may be charged to construction code fee revenues in proportion to the general municipal overhead and expense ratio. A detailed written justification for any charge for indirect and overhead expenses in excess of 12 percent shall be prepared and made available for inspection both by the Department and by the public.
4. This subsection shall not be construed as precluding the use of money from the general fund of the municipality to pay costs of code enforcement when the construction code fee revenues generated from the fee schedule established pursuant to (b)1 above are insufficient for that purpose or when necessary to compensate the enforcing agency for work done without fee pursuant to statute or ordinance.
- (d) Interlocal enforcement: When two or more municipalities or a county and one or more municipalities enter into an agreement to administer and enforce this chapter pursuant to N.J.A.C. 5:23-4.4(a)2 and the Interlocal Service Act (N.J.S.A. 40:8A-1 et seq.), there shall be one uniform fee schedule which shall be applied by all parties to the agreement. Said fee shall be collected by the interlocal enforcing agency performing the administration and enforcement of the regulations. No additional fee shall be required to be paid or be paid by an applicant to any municipality or county for any Uniform Construction Code enforcement service. The enforcing agency shall maintain financial records showing for each municipality the amounts of money collected and expended in the enforcement of this chapter.

Amended by R.1982 d.401, effective November 15, 1982.

See: 14 N.J.R. 495(a), 14 N.J.R. 1300(a).

Added (d). Prior to recodification of N.J.A.C. 5:23, this section was codified at 5:23-4.8.

Amended by R.1982 d.402, effective November 15, 1982.

See: 14 N.J.R. 943(a), 14 N.J.R. 1300(b).

Added to (b)2 that copy of report . . . must be filed every two years. Emergency amendment, R.1989 d.405, effective July 3, 1989 (expires September 1, 1989).

See: 21 N.J.R. 2127(b).

In (a): added "certificates of continued occupancy, certificate of approval" and deleted "moving of building permit . . ."

In (a)1: added language regarding rounding of dollar amounts in fees.

Adopted concurrent proposal, R.1989 d.512, effective September 1, 1989.

See: 21 N.J.R. 2127(a), 21 N.J.R. 3086(a).

Provisions of emergency amendment R.1989 d.405 readopted without change.

Amended by R.1990 d.115, effective February 5, 1990 (operative March 1, 1990).

See: 21 N.J.R. 3348(a), 22 N.J.R. 352(a).

Requirements added at (c) for the establishment of a mechanism (dedication by rider) to ensure construction fees are used for no other purpose than to fund annual costs for the operation of enforcing agencies.

Amended by R.1990 d.489, effective October 1, 1990.

See: 22 N.J.R. 1871(a), 22 N.J.R. 3147(a).

Amended to state that appropriation of municipal construction code fees may be done by rider or by estimates in advance, in accordance with the Local Budget Law, N.J.S.A. 40A:4-1 et seq.

Amended by R.1992 d.148, effective April 6, 1992.

See: 24 N.J.R. 169(a), 24 N.J.R. 1399(a).

Construction official may report based on the municipality's fiscal year.

Case Notes

Fee schedules must be calculated to reasonably cover municipal code enforcement costs. *Bureau of Construction Code Enforcement v. Hasbrouck Heights*, 4 N.J.A.R. 282 (1983).

5:23-4.18 Standards for municipal fees

(a) General:

1. The fee for plan review, computed as a percentage of the fee for a construction permit, shall be paid at the time of submission of an application for a permit. The amount of this fee shall then be deducted from the amount of the fee due for a construction permit, when the permit is issued; provided however, that the municipality may provide by ordinance that the plan review fee be paid at the time of granting the permit. Plan review fees are not refundable.

2. The fee to be charged for a construction permit will be the sum of the basic construction fee computed in accordance with (c) below herein plus any applicable special fees, such as elevator or sign fees. This fee shall be paid before a permit is issued.

3. The fee to be charged for a certificate of occupancy shall be paid before a certificate is issued. This fee shall be in addition to the construction permit fee;

4. The fee to be charged for an annual construction permit shall be charged annually. This fee shall be a flat fee based upon the number of maintenance workers

employed by the facility and who are primarily engaged in work that is governed by a subcode. Managers, engineers and clericals shall not be considered maintenance workers for the purposes of establishing the annual construction permit fee. Annual permits may be issued for building/fire protection, electrical and plumbing. Annual permit fees shall be non-refundable.

5. Prior to the issuance of the annual permit, a training registration fee of \$140.00 per subcode and a list of at least one, but not more than three, individuals to be trained per subcode shall be submitted by the applicant to the municipal construction official, who shall forward the fee and list to the Department of Community Affairs, Bureau of Technical Assistance, Training Section along with a copy of the construction permit (Form F-170C). Checks shall be made payable to "Treasurer, State of New Jersey." The Department shall register these individuals and notify them of the courses being offered.

(b) Plan review fees:

1. Plan review fees shall be computed as a percentage of the fee to be charged for the construction permit. This percentage shall, to the extent possible, approximate the actual costs incurred in plan review activities, but in any case shall be not less than five percent nor more than 25 percent of the amount that would be charged for the construction permit. For projects which do not require plan review for all subcodes, the fee shall be the appropriate percentage of the subcode fee which is applicable.

2. N.J.A.C. 5:23-2.26 requires the designation of 20 percent of the construction permit fee as the plan review fee for the purpose of providing for plan review by the department or waiver of plan review.

3. If a municipality has not established a plan review fee by ordinance, 20 percent of the construction permit fee shall be designated as the plan review fee for prototype plans, in accordance with N.J.A.C. 5:23-2.26.

(c) Basic construction fee: The basic construction fee shall be computed on the basis of the volume of the building or in the case of alterations, the estimated construction cost, and the number and type of plumbing, electrical and fire protection fixtures or devices as herein provided.

1. Value or cost: Fees for new construction or alterations shall be as follows:

i. Fees for renovations, alterations, reroofing, repairs, and site construction associated with pre-engineered systems of commercial farm buildings, premanufactured construction, and the external utility connections for premanufactured construction, shall be based upon the estimated cost of the work. The fee shall be computed as a unit rate per \$1,000 of estimated cost.

ii. Fees for renovations, alterations, and repairs shall be based upon the estimated cost of the work. The fee shall be computed as a unit rate per \$1,000 of estimated cost.

iii. Fees for additions shall be computed on the same basis as for new construction for the added portion;

iv. Fees for combination renovations and additions shall be computed as the sum of the fees for the addition and alteration computed separately in accordance with (b) and (c) above;

v. The unit rates may vary for different occupancy groups or structures of different sizes within the same occupancy group, but this shall be clearly indicated in the ordinance and schedule;

vi. Temporary structures and all structures for which volume cannot be computed, such as swimming pools and open structural towers, shall be charged a flat rate;

vii. Fees for minor construction work shall be based upon the estimated cost of the work. The fee shall be computed as a unit rate per \$1,000 of estimated cost or fraction thereof.

2. Plumbing fixtures and stacks: Fees shall be based upon the number of plumbing fixtures, devices, plumbing stacks and utility service connections to be installed. Utility service connections include sewer connections and water service connections. The fee shall be a unit rate per fixture, stack, and utility service connection. The unit rate may vary for different types of fixtures and utility service pipes, but this shall be clearly indicated in the ordinance and schedule. There shall be no inspection fee charged for gas service entrances.

3. Electrical fixtures and devices: Fees shall be based upon the number of electrical fixtures and devices to be installed. The fee shall be a unit rate per fixture and device. The unit rate may vary for different types of fixtures, but this shall be clearly indicated in the ordinance and schedule.

4. Fees shall be based upon the number of sprinkler heads, standpipes, and detectors (smoke and heat) and shall be reasonable unit charges. Fees may also be charged for the inspection of premanufactured fire suppression systems, for gas and oil fired appliances not connected to the plumbing system, for kitchen exhaust systems and for incinerators and crematoriums. The municipal ordinance shall clearly set forth what fees are to be charged for what devices.

5. The municipality shall set a flat fee for a mechanical inspection in a Use Group R-3 or R-4 structure by a mechanical inspector. No separate fee shall be charged for gas, fuel oil, or water piping connections associated with the mechanical equipment inspected.

6. To remain employed by an enforcing agency, an intern must pass the appropriate module(s) of the National Certification Test in his or her specific code area within one year of the effective date of employment.

(f) Rules concerning effect are:

1. It shall be a violation of these regulations for any construction or subcode official or technical inspector to represent himself or herself to be qualified for a position that the person does not currently hold, or to use a title or otherwise represent himself to be qualified for a position that the person does not currently hold, or to use a title or otherwise represent himself as licensed or authorized to act under the code if that person does not possess the required license. In addition to any other remedy available under law, such shall be deemed a violation of this section subject to penalty of not more than \$500.00 for each offense.

2. It shall be a violation of these rules on and after January 1, 1981, for any person to hold or perform the duties of an office for which a license is required herein, or for any person to represent himself as qualified for such position, or to use any title or otherwise represent himself as licensed or authorized to act under the code if the person does not possess that license. In addition to any other remedy available under law, such shall be deemed a violation of this section subject to a penalty of not more than \$500.00 for each offense.

3. It shall be a violation of these rules on and after October 1, 1978, in the case of construction and subcode officials and technical inspectors for any enforcing agency, including private on-site inspection and plan review agencies, to offer employment to or to retain for employment any person who is not licensed in accordance with these rules if such person has not been previously and continuously employed by such agency. Further, it shall be a violation of these rules on and after January 1, 1981, for an enforcing agency to continue an individual in employment in a position for which a license is required pursuant to these rules, if such person is not licensed in accordance with this subchapter. Violation of this section shall be deemed a failure to perform within the meaning of N.J.A.C. 5:23-4.3(g) of these rules, and the Department may exercise the remedies provided therein.

4. It shall be a violation of the State Uniform Construction Code Act for any agency of the State of New Jersey, which is charged with enforcing agency responsibilities pursuant to the act or these rules, to fail to comply with paragraphs 1, 2 and 3 of this subsection.

(g) For the period July 1, 1992 to June 30, 1996, interim rules for elevator subcode officials and inspectors shall be as follows:

1. Except as otherwise provided in (f)2 below, no person shall be appointed to the position of elevator subcode official or appointed as an elevator inspector

unless he or she shall have been licensed in accordance with this subchapter.

2. No person serving as an elevator subcode official, or holding employment as an elevator inspector, on June 30, 1992 shall continue to serve in such capacity, or hold such employment, after June 30, 1996, unless he or she shall have been licensed in accordance with this subchapter.

Amended by R.1984 d.494, effective November 5, 1984.

See: 16 N.J.R. 1643(a), 16 N.J.R. 3007(a).

(d) substantially amended.

Amended by R.1985 d.85, effective March 4, 1985.

See: 16 N.J.R. 3372(a), 17 N.J.R. 579(a).

(d) amended.

Amended by R.1985 d.231, effective May 20, 1985.

See: 17 N.J.R. 341(a), 17 N.J.R. 1258(a).

(d)1i added.

Amended by R.1985 d.353, effective July 15, 1985.

See: 17 N.J.R. 1032(a), 17 N.J.R. 1758(b).

Subsection (d) substantially amended.

Amended by R.1985 d.612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

(d)3 substantially amended.

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

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

Substantially amended.

Administrative Corrections to (c), (d)2 and (d)2ii.

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

Amended by R.1992 d.272, effective July 6, 1992.

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

Trainee registration required; processing fee raised to \$20.00; "directly" broadened to "significant".

Amended by R.1992 d.292, effective July 20, 1992.

See: 24 N.J.R. 1669(b), 24 N.J.R. 2557(a).

Provision to license interns added.

Amended by R.1993 d.105, effective March 1, 1993.

See: 24 N.J.R. 4309(a), 25 N.J.R. 920(b).

Added subsection (g).

5:23-5.5 General license requirements

(a) A candidate for a license of any type issued pursuant to this subchapter shall submit an application to the Licensing Unit, Bureau of Technical Services, accompanied by the required non-refundable application fee established in N.J.A.C. 5:23-5.22. The application shall include such information and documentation as the Commissioner may require pursuant to this subchapter.

(b) After receipt of the required non-refundable fee, the Department shall determine, by examination of the application and review of supporting documents, including substantial evidence of acceptable experience, successful test results, training and/or education submitted, whether an applicant is qualified for a license of the type and specialty for which the application has been made. If the application is satisfactory, the Commissioner shall issue a license to the applicant. This license will show that the person has met the established requirements and is eligible to be employed in this State in accordance with the provisions of this chapter.

1. The Commissioner may deny or refuse to issue a license to an applicant if the application is incomplete or upon proof that there has been any act or omission which

would constitute grounds for revocation under this subchapter.

2. Upon receipt of an incomplete application, the non-refundable application fee shall be collected and a letter of acknowledgment forwarded to the applicant setting forth the manner in which the application is incomplete.

3. The applicant shall submit a complete application within 18 months of receipt of the letter of acknowledgment. If a complete application is not submitted within the 18 month period, the application shall be deemed abandoned, no further action shall be taken on it by the Department and a new application and non-refundable fee shall be required if the applicant desires to reapply.

4. Only test results for test modules passed within three years prior to, or at the time of, application shall be accepted toward fulfilling the requirements for the license sought. However, results of passed tests taken prior to July 1, 1991 of test module 6B—Elevator General shall be accepted toward fulfilling the requirements for elevator inspector H.H.S. licensure, if application is received by the Department within three years of issuance of the test results or by June 30, 1992, whichever is later.

5. No credit shall be given by the Department for any experience not involving the construction or alteration of buildings, or its equivalent, as determined by the Department.

6. No credit shall be given by the Department for any journeyman experience unless documentation of the completion of a formal or informal apprenticeship program, or its equivalent, as determined by the Department, is provided. In general, the Department makes reference to the U.S. Department of Labor's National Apprenticeship Program for assigning the length of time required to complete an apprenticeship program in a given trade.

7. Credit for part-time work experience shall be given by the Department on a proportional basis. The Department has established a 35-hour work-week as the standard full time equivalent. No additional credit will be given for hours in excess of 35 per week, regardless of any amount of overtime which an applicant claims to have worked.

(c) The following persons shall be exempt from the requirements of this section and shall be issued a license upon submission of an application and payment of the required fee:

1. Licensed plumbing inspectors:

i. A license of the appropriate type and specialty shall be issued to any person holding or receiving, prior to January 1, 1978, tenure or permanent civil service status.

ii. A person licensed by the Department under the above provision who subsequently loses his or her license as a result of revocation or of failure to renew within three years of lapsing must reapply for licensure under the requirements in effect at the time of reapplication without recourse to the above provision.

2. Licensed electrical inspectors:

i. A license for electrical inspector I.C.S. shall be issued to any person holding or receiving, prior to January 1, 1978, an electrical inspector's license, issued by the New Jersey Public Utilities Commission, pursuant to Title 48, Revised Statutes.

ii. A person licensed by the Department under the above provision who subsequently loses his or her license as a result of revocation or of failure to renew within three years of lapsing must reapply for licensure under the requirements in effect at the time of reapplication without recourse to the above provision.

3. Inspectors with civil service status or tenure:

i. A license of the appropriate type and specialty shall be issued to any person holding or receiving, prior to January 1, 1978, tenure or permanent civil service status.

(d) Special provisions:

1. An applicant who is licensed as a building inspector, electrical inspector, fire protection inspector or plumbing inspector shall be eligible for licensure as an inspector at the same level or lower in any other subcode, other than the elevator safety subcode, upon satisfactory completion of the approved educational program, if applicable, and the examination for licensure as an inspector in that other subcode, provided that the applicant has at least the number of years experience required for that other subcode inspector's license.

2. An applicant licensed as an inspector may apply for a mechanical inspector's license to perform mechanical inspections of Use Group R-3 or R-4 structures.

Amended by R.1981 d.462, effective December 7, 1981.

See: 13 N.J.R. 390(a), 13 N.J.R. 885(d).

(b)9 through 9ii added.

Amended by R.1981 d.463, effective December 7, 1981.

See: 13 N.J.R. 635(a), 13 N.J.R. 886(c).

(c) added "no credit shall be given . . . building".

Amended by R.1982 d.8, effective February 1, 1982.

See: 13 N.J.R. 799(b), 14 N.J.R. 143(a).

(b)liii and v: "such" added after "provided that"; "24" was "12"; and deleted "and further provided that's"; (b)5iii(3) deleted.

Amended by R.1982 d.19, effective February 1, 1982.

See: 13 N.J.R. 801(a), 14 N.J.R. 143(b).

(b) Substantially amended.

(c) "and" added between "application" and "review"; "alternative" deleted before "experience"; "pursuant to . . . N.J.A.C. 5:23-5.9" deleted.

Amended by R.1982 d.56, effective March 1, 1982.

See: 14 N.J.R. 8(a), 14 N.J.R. 237(a).

(b)1i: added "provided . . . 52:27D-126(b);".

Amended by R.1983 d.641, effective January 17, 1984.

See: 15 N.J.R. 1911(a), 16 N.J.R. 129(b).

Substantially amended.

Amended by R.1984 d.425, effective October 1, 1984.

See: 16 N.J.R. 1644(a), 16 N.J.R. 2520(b).

Section substantially amended.

Amended by R.1985 d. 612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

Substantially amended.

Amended by R.1986 d.255, effective July 7, 1986.

See: 18 N.J.R. 594(a), 18 N.J.R. 1373(a).

Deleted "satisfies the experience requirements for licensure" and substituted "is licensed" in (d)5.

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

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

Substantially amended.

Administrative Correction to (a).

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

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

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

Test result and licensure requirements specified further at (b)4 and (c)3.

Amended by R.1992 d.272, effective July 6, 1992.

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

Work week set at 35 hours; (d)1-4 deleted.

Amended by R.1993 d.105, effective March 1, 1993.

See: 24 N.J.R. 4309(a), 25 N.J.R. 920(b).

Persons serving as elevator inspectors when licensing rules proposed have an opportunity to qualify for licenses.

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

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

Added (d)2.

Administrative Correction.

See: 26 N.J.R. 1495(a).

Amended by R.1996 d.53, effective February 5, 1996.

See: 27 N.J.R. 4056(a), 28 N.J.R. 815(b).

5:23-5.6 Construction official requirements

(a) A candidate for a license as a construction official shall meet the following qualifications:

1. Possession of the qualifications established herein for at least one of the five subcode official licenses; provided, however, that any person qualified as a fire protection subcode official must also have experience for the applicable period of time specified by N.J.S.A. 52:27D-126b; and

2. Successful completion of an approved construction official educational program as required by N.J.A.C. 5:23-5.20 prior to application.

3. A provisional license shall be issued to any person provided that such person is licensed or is simultaneously licensed as a subcode official. Such person shall have successfully completed the educational program required herein within 24 months of issuance of the provisional license.

Amended by R.1985 d.612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

Was 5:23-5.5(b)1.

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

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

Deleted text in (a)1 "in the specialty . . . license is sought".

Administrative Correction to (a)2.

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

Amended by R.1992 d.272, effective July 6, 1992.

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

Simultaneous license accepted.

Case Notes

Citation to former N.J.A.C. 5:23-5.25 for construction official's qualifications; township manager without authority over matters of code enforcement and official discipline due to State legislative preemption. J.P. Properties, Inc. v. Macy, 183 N.J.Super. 572, 444 A.2d 1131 (Law Div.1982).

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

5:23-5.7 Subcode official requirements

(a) A candidate for a license as a building, electrical, fire protection, plumbing or elevator subcode official shall meet the following qualifications:

1. Possession of the qualifications established herein for a technical inspector license in at least the same specialty as the subcode official license being applied for; and

2. Successful completion of an approved subcode official educational program as established in N.J.A.C. 5:23-5.20 prior to, or at the time of, application; and

3. Completion of such additional experience in the subcode of qualification as may be required, beyond that needed for licensure as a technical inspector, to provide at least the following total experience:

i. Ten years in construction, design or supervision as a journeyman in a skilled construction trade currently regulated by the Uniform Construction Code; or 10 years as a technical inspector; or 10 years as a construction contractor in a field of construction currently regulated by the construction code; or

ii. Five years of experience in construction, design or supervision in building construction work, provided that such persons possess, prior to this experience, at least a bachelor's degree from an accredited institution of higher education in architecture or engineering, or in architectural or engineering technology, or in any other major area of study significantly related to building construction; or

iii. Three years of experience in construction, design or supervision as a licensed engineer or registered architect, provided that such person possess a license as an engineer or architect issued by the State of New Jersey at the time of application.

4. Exceptions to experience requirements follow:

i. A candidate for a license as a fire protection subcode official shall possess at least the following experience:

(1) Three years of experience as a fire prevention official; or

(2) Three years of experience as a fire protection official; or

(3) Three years of experience as a firefighter.

ii. A candidate for a license as a building, plumbing or electrical subcode official who obtained the technical license in that subcode area under the provisions of N.J.A.C. 5:23-5.5(d)5 shall possess the following experience:

(1) Three years of experience as an inspector in that specific subcode area; or

(2) Three years of experience in a skilled trade directly related to that specific subcode area; or

(3) Two years of experience in that specific subcode area as an inspector or in construction, design or supervision with at least a bachelor's degree from an accredited institution of higher education in architecture or engineering or in architecture or engineering technology or in a major area of study directly related to building construction; or

(4) One year of experience in that specific subcode area as an inspector or in construction, design or supervision as a licensed engineer or registered architect, provided that such person possesses a license as an engineer or architect issued by the State of New Jersey at the time of application.

5. A provisional license shall be issued to any person who possesses the required experience listed above provided that such person is licensed or is simultaneously licensed as a technical inspector in the same subcode area. Such person shall have successfully completed the educational program required herein within 24 months of issuance of the provisional license.

6. A person who is already licensed as a fire protection subcode official must have the total years of experience as described in (a)3 above to satisfy the experience requirement for any other subcode official license.

Amended by R.1985 d.612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

Was 5.5(b)2.

Amended by R.1986 d.255, effective July 7, 1986.

See: 18 N.J.R. 594(a), 18 N.J.R. 1373(a).

Added text to (a)6 "other than fire protection subcode official license".

Correction: Added "experience" to text in (a)6.

See: 18 N.J.R. 1963(b).

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

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

Substantially amended.

Administrative Correction to (a)2.

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

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

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

Elevator subcode official added.

Amended by R.1992 d.272, effective July 6, 1992.

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

Experience to be prior to application; simultaneous licensing accepted.

Amended by R.1992 d.393, effective October 5, 1992.

See: 24 N.J.R. 2661(a), 24 N.J.R. 3525(a).

Experience requirements for reciprocal subcode license added to (a)4; (a)6 deleted.

Case Notes

Position of electrical subcode official not a professional service; contract to approved inspection agency requires competitive bidding (citing former N.J.A.C. 5:23-5.5) Twp. of Burlington v. Middle Department Inspection Agency, Inc., 175 N.J.Super. 624, 421 A.2d 616 (Law Div.1980).

5:23-5.8 Building inspector H.H.S. requirements

(a) A candidate for a license as a building inspector H.H.S. shall meet one of the following educational and/or experience requirements:

1. Seven years of experience consisting of one of the following, or a combination thereof:

i. Experience in construction, design or supervision as a journeyman in a skilled trade currently regulated by the building subcode; or

ii. Experience as a building or housing inspector; or

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

2. Graduation from an accredited institution of higher education with a bachelor's degree in architecture or engineering, or in architectural or engineering technology, or in any other major area of study significantly related to building construction, and two years of subsequent experience in construction, design, inspection or supervision in a field of construction currently regulated by the building subcode; or

3. Possession of an associate's degree in code enforcement from an accredited institution of higher education, and three years of subsequent experience in the construction, design, inspection or supervision of construction work regulated by the building subcode; or

4. Possession of a current New Jersey registration/license as an architect or engineer.

(b) A candidate for a license as a building inspector H.H.S. shall also meet the following requirements:

1. Successful completion of an approved educational program meeting the requirements established in N.J.A.C. 5:23-5.20 for building inspector H.H.S.; provided, however, that persons having a bachelor's degree in architecture or engineering, or in architectural or engineering technology, or in any other major area of study significantly related to building construction, or who possess a current New Jersey registration/license as an architect or engineer shall be exempted from the educational program requirements for building inspector H.H.S.

2. Successful completion of an examination as required by N.J.A.C. 5:23-5.23.

3. Possession of, or eligibility for, the building inspector I.C.S. license.

Amended by R.1985 d.612, effective January 6, 1986.

(D) Area 4, Subcodes: Housing code provisions including occupancy loads, minimum utilities and facilities. Building subcode provisions including structural requirements, durability and weatherability requirements, and light, air and ventilation requirements. Electrical subcode provisions including minimum service and appliances and basic circuits. Fire prevention code provisions including special permits required, storage and handling of goods and materials, maintenance of exit facilities and maintenance of fire protection equipment. Fire Protection subcode provisions including height and area requirements, fire resistance, flame spread and combustibility requirements; and fire alarm, detection and suppression systems. Plumbing subcode provisions including sanitary waste disposal, water supply, venting and required facilities.

Amended by R.1985 d.612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

Was 5:23-5.6.

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

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

This section was "Facility fire protection supervisor requirements" which was repealed and 5.21 was recodified.

Administrative Correction to (a), (b)2 and (b)5.

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

Amended by R.1991 d.308, effective June 17, 1991.

See: 23 N.J.R. 1085(a), 23 N.J.R. 1923(a).

Midterm and final exams required at (b); RCS program increased to 60 contact hours; BOCA Building, Mechanical, Plumbing, Energy Conservation, Barrier-Free and CABO codes required in all courses, fire protection inspector subject requirements specified in greater detail.

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

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

Added elevator inspector standards at (d)11.

5:23-5.21 Renewal of license

(a) The Department may issue the appropriate license following submission of an application, payment of the required non-refundable fee, and verification by the Licensing Unit of the Bureau of Technical Services that the applicant meets the requirements for renewal of the license established herein.

(b) Every three years, any license already issued shall be renewed upon submission of an application, payment of the required non-refundable fee, and verification by the Licensing Unit of the Bureau of Technical Services that the applicant has met such continuing educational requirements as may be established by the Commissioner. The Department shall renew the license previously issued for a term of three years; provided, however, that it may renew any such license for a shorter period of time if so requested by the licensee. The renewal process shall begin 90 days prior to the expiration dates, which shall be July 31 or January 31.

(c) The Department shall issue, upon application, a duplicate license wallet card of the appropriate type and specialty, upon a finding that the license has been issued,

and that the applicant is entitled to such license wallet card to replace one that has been lost, destroyed, or mutilated. Payment of a fee of \$10.00 shall be required.

(d) Continuing education requirements are as follows:

1. The following continuing education requirements are based upon the type(s) of license(s) held, and not upon employment positions held. Continuing Education Units (CEU's) will be approved by the Bureau of Technical Services. One CEU equals 10 contact hours. CEU's will be awarded for technical and administrative licenses.

i. Inspector license only—1.5 CEU (technical);

ii. Inspector and subcode official licenses—2.0 CEU's (1.5 technical and 0.5 administrative);

iii. Inspector, subcode official and construction official licenses—2.5 CEU's (1.5 technical and 1.0 administrative).

2. If an individual adds an inspector license in a new subcode area to an existing license, there will be no additional continuing education requirement for the new licenses during that licensure period.

3. If an individual adds administrative licenses to an existing license, there will be no additional continuing education requirement for the new administrative license during that licensing period.

4. To maintain a mechanical inspector's license, 1.5 CEU (technical) shall be completed, as required by this section, in addition to any other CEU requirements for other licenses held.

5. The Department may determine that attendance at specific seminar(s) is mandatory either for individual inspectors or at least one representative of each municipality.

i. Regarding mandatory municipal seminars, at least one municipal code enforcement employee must attend the seminar. The construction official shall be responsible for compliance.

ii. Regarding mandatory inspector seminars, the department may determine that either all active code officials or all licensed code officials must attend a specific seminar. Compliance shall be a requirement for license renewal.

iii. If the Department establishes mandatory seminar(s), the seminar(s) will be offered in sufficient numbers and locations so as to facilitate compliance.

iv. For those code officials who do not complete the mandatory seminar(s), the Department shall offer either a special seminar or video seminar so the code official may be in compliance. The Department shall charge a fee of \$50.00 per person to attend any video seminar or special seminar.

6. Except as otherwise provided in (d)4 above, CEU credit for a given course shall be allowed with respect to all licenses held by a licensee to which the course may be applicable.

(e) Lapsed license renewal requirements are as follows:

1. Where the holder of a license has allowed the license to lapse by failing to renew the license as provided for in (b) above, a new application and license shall be required. If such application is made within three years of the license having lapsed, then application may be made in the same manner as a renewal application.

2. The late renewal application shall be accompanied by the appropriate renewal fee and an additional late fee of \$65.00 per year or fraction thereof.

3. Additionally, the licensee must make up or meet the annual continuing education training requirement for each active and expired year as specified herein.

4. Where a license has lapsed for a period exceeding three years, a new application shall be required in accordance with N.J.A.C. 5:23-5.5, and the applicant must meet all current licensure requirements.

(f) After revocation of a license upon any of the grounds set forth in these rules, the Licensing Unit may not renew or reinstate such license; however, a person may file a new application for a license with the Department.

(g) The Department shall not issue a new license to an applicant whose license was previously revoked unless and until the following conditions are met:

1. At least three years shall have passed since the effective date of the revocation of the previous license;

2. If the applicant was convicted of a crime related in any way to code enforcement, the Department shall have determined in light of the factors set forth in N.J.S.A. 2A:168A-2, that the applicant has been fully rehabilitated and that licensing the applicant would not be detrimental to the public welfare;

3. The applicant shall have made full restitution to any person who sustained a loss as a result of the act or omission for which the previous license was revoked; and

4. All conditions imposed by the order of revocation shall have been complied with.

Amended by R.1982 d.8, effective February 1, 1982.

See: 13 N.J.R. 799(b), 14 N.J.R. 143(a).

(b): Deleted "prior to July 31 in the second year" and added "The renewal . . . January 31".

(c): Deleted "equal to . . . license" and substituted "as may be . . . Commissioner" therefor.

(d): Subsection was "reserved"; test added through (d)liii.

(e): Added "in accordance with N.J.A.C. 5:23-5.5".

Amended by R.1985 d.352, effective July 15, 1985.

See: 17 N.J.R. 1031(a), 17 N.J.R. 1758(a).

Expiration date changed from "45 days" to "90 days".

(e) substantially amended.

Amended by R.1985 d.528, effective October 21, 1985.

See: 17 N.J.R. 1705(a), 17 N.J.R. 2535(b).

Deleted text in (f) "When it can . . . a new license."; (g) added.

Amended by R.1985 d.612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

Was 5:23-5.7.

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

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

Added (d)2 and recodified from 5.22.

Administrative Correction to (d), (d)1i and (f).

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

Amended by R.1991 d.181, effective April 1, 1991.

See: 23 N.J.R. 257(b), 23 N.J.R. 1029(a).

In (e)2, fee increased from \$30.00 to \$40.00.

Amended by R.1992 d.272, effective July 6, 1992.

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

Fee non-refundable; renewal process begins 90 days before expiration.

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

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

Fees increased.

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

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

Added (d)4.

Amended by R.1996 d.53, effective February 5, 1996.

See: 27 N.J.R. 4056(a), 28 N.J.R. 815(b).

Case Notes

Denial of relicensure upheld for formerly licensed electrical subcode official who pled guilty to disorderly persons offense (based upon former licensee's misconduct while performing public responsibilities authorized by license). *Bevacqua v. Renna*, 213 N.J.Super. 554, 517 A.2d 1215 (App.Div.1986).

Examination of educational standards at former N.J.A.C. 5:23-5.6. *Twp. of Burlington v. Middle Department Inspection Agency, Inc.*, 175 N.J.Super. 624, 421 A.2d 616 (Law Div.1980).

5:23-5.22 Fees

(a) No application for a license shall be acted upon unless said application is accompanied by a non-refundable fee as specified herein.

1. A non-refundable application fee of \$65.00 shall be charged in each of the following instances:

i. Application for any one given technical license specialty, or for the Inplant Inspector or Mechanical Inspector license.

ii. Application for any one given technical license specialty plus the related Subcode Official license, if both are applied for at the same time.

iii. Application for any one given technical license specialty plus the related Subcode Official license, as well as the Construction Official license, if all three are applied for at the same time.

2. A non-refundable application fee of \$35.00 shall be charged for each administrative license applied for separately from a technical license.

3. Persons rejected for one or more licenses, and who subsequently reapply, are subject to the fee schedule as defined in (a)1i, ii and iii above.

4. Renewal fee: The three year renewal application fee shall be \$65.00.

(f) Whenever a course or program has been approved by the department, the institution offering the course may include the statement "This course is approved for credit toward a license issued by the Department of Community Affairs pursuant to the State Uniform Construction Code Act" in any catalog, bulletin or informational circulars. Whenever such a statement is included, however, the catalog, bulletin or circular shall also contain a statement describing precisely the nature and extent of the approval.

(g) The Department may revoke its approval, after notice and the opportunity to be heard, whenever it ascertains that a course has lapsed or is no longer in conformity with the requirements of these regulations, and/or the terms of the department's approval. Whenever approval has been revoked or a course has been withdrawn by an institution, a new application and approval shall be required before the course may again be offered as providing credit toward a license.

Amended by R.1985 d.612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

Was 5:23-5.10.

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

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

Recodified from section 25.

Administrative Correction to (a), (b)8 and (d).

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

5:23-5.25 Revocation of licenses and alternative sanctions

(a) The Department may revoke a license, suspend a license for not more than 60 days and/or assess a civil penalty of not more than \$500.00, if the Department determines that the person involved:

1. Has violated the provisions of the Uniform Construction Code regulations;
2. Has obtained a license by fraud or misrepresentation, or the person named in the licensed has obtained it by fraud or misrepresentation;
3. Has aided or abetted in practice as a licensed code enforcement official any person not authorized to practice as a licensed code enforcement official under the provisions of these regulations;
4. Has fraudulently or deceitfully practiced as a licensed code enforcement official;
5. Has been grossly negligent or has engaged in misconduct in the performance of any of his duties;
6. Has failed, over a period of time, to maintain a minimally acceptable level of competence;
7. Has been found to have failed to report an offer or bribe or other favor in a proceeding under this act or other appropriate law of this or any other state or jurisdiction;
8. Has failed to comply with any order issued by the department;

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

10. Has engaged in any conduct which demonstrates incompetency or dishonesty; or

11. Has failed to enforce the Uniform Construction Code Act or regulations.

(b) The Department, in addition or as an alternative, as the case may be, to revoking or suspending a license, or assessing a penalty, may issue a letter of warning, reprimand, or censure with regard to any conduct which, in the judgment of the Department, warrants a letter of warning, reprimand or censure. Such letters, in addition to any other filing of requirements, shall be made a part of the licensing file of the individual.

(c) Conviction of a crime, or conviction of an offense in connection with one's performance as a licensed code enforcement official or inspector, shall constitute grounds for revocation or suspension of a license.

(d) The Commissioner shall appoint review committees to advise the Department concerning the appropriateness of sanctions that the Department proposes to take against persons licensed under the respective subcodes who are alleged to have done any act or omission proscribed by (a) above. The Department shall provide necessary staff for the review committees.

1. Each review committee shall consist of three persons licensed and currently employed by municipalities as subcode officials in the subcode, at least two of whom shall also be licensed as construction officials and at least one of whom shall not be employed by any one enforcing agency for a total of more than 20 hours per week. The Commissioner shall give the State organizations of officials and inspectors in each subcode an opportunity to comment on persons proposed to serve as members of each review committee prior to their appointment.

2. Members of the review committees shall be appointed by the Commissioner and shall serve for terms of three years; except that, of those members first appointed, one shall serve for one year, one shall serve for two years, and one shall serve for three years. No person shall be a member of a review committee for more than two consecutive terms. The Commissioner shall also appoint two alternate members of each committee, who shall be persons licensed and currently employed by municipalities as subcode officials in the subcode. The Commissioner shall designate each alternate as either a first or a second alternate. Alternates shall serve for two years, except that, of the alternates first appointed to each review committee, one shall serve for two years and one shall serve for one year.

3. No review committee shall hear any case or issue any recommendation without three members, who may be either regular or alternate members, being present.

4. In any case in which the Department makes a preliminary finding that a licensee has done any act or omission proscribed under (a) above, it shall have the case reviewed by the appropriate review committee prior to the issuance of any order revoking or suspending the license or assessing a civil penalty.

5. The Department shall present whatever evidence it may have to the review committee. The licensee shall be given notice of the meeting of the review committee and may appear before the review committee to present his or her position, but there shall be no cross-examination of either the licensee or any representative of the Department. Nothing said by the licensee or by any other persons at the meeting of the review committee shall be used in any way, nor shall any member of a review committee be required to testify concerning proceedings before the review committee, in any subsequent proceeding.

6. The review committee shall submit its recommendations as to the sanctions, if any, that ought to be imposed, to the Assistant Director for Construction Code Enforcement within 20 business days following the meeting. No sanctions shall then be imposed without the express approval of the Assistant Director for Construction Code Enforcement. Failure of a review committee to submit a timely recommendation shall be deemed to be concurrence with the action proposed to be taken by the Department. Notice of the review committee's recommendation, or failure to issue a recommendation, shall be given to the licensee.

7. A meeting of the review committee shall not be deemed to be a hearing or an adversarial proceeding and the findings of the advisory committee shall be deemed to be only a recommendation that is not binding on the Department.

8. A licensee shall be entitled to contest any order imposing sanctions in an administrative hearing, pursuant to N.J.A.C. 5:23-5.2, regardless of whether he or she has exercised the option of appearing before a review committee.

(e) If a mechanical inspector loses any licensure, through any circumstances, mechanical licensure shall be terminated at the same time, whether or not the loss of the other licensure is in any way related to the performance of mechanical inspection duties.

As amended, R.1978 d.350, effective October 1, 1978.

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

As amended, R.1981 d.134, effective April 10, 1981.

See: 13 N.J.R. 119(a), 13 N.J.R. 258(b).

(b) added, and old (b) renumbered as (c).

As amended, R.1982 d.8, effective February 1, 1982.

See: 13 N.J.R. 799(b), 14 N.J.R. 143(a).

Catchline: added "and alternative sanctions".

(a): added "or assess . . . \$500.00"; (a)8-10 added.

(b): added "or assessing a penalty"; deleted "does not warrant . . . suspension"; added "warrants . . . censure"; deleted "of warning . . . censure".

As amended, R.1982 d.436, effective December 20, 1982.

See: 14 N.J.R. 734(a), 14 N.J.R. 1449(a).

Added "of a crime, or conviction of an offense" and "shall constitute" to (c).

Amended by R.1985 d.528, effective October 21, 1985.

See: 17 N.J.R. 1705(a), 17 N.J.R. 2535(b).

Added test in (a) "suspend a license for not more than 60 days and?". Amended by R.1985 d.612, effective January 6, 1986.

See: 17 N.J.R. 1821(a), 18 N.J.R. 80(a).

Was 5:23-5.11.

Amended by R.1986 d.173, effective May 19, 1986.

See: 18 N.J.R. 16(b), 18 N.J.R. 1099(b).

(a)10 added; old (a)10 renumbered (a)11. This amendment was proposed under the old citation 5:23-5.11.

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

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

This section recodified from section 26.

Amended by R.1992 d.68, effective February 3, 1992.

See: 23 N.J.R. 3441(a), 24 N.J.R. 406(a).

Text on review committees added at (d).

Amended by R.1992 d.272, effective July 6, 1992.

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

Stylistic changes.

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

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

Added (e).

Case Notes

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

Elevator inspector's misconduct warranted revocation of elevator subcode official and elevator inspection license. *Garcia v. Department of Community Affairs*, 94 N.J.A.R.2d (CAF) 63.

False information on applications for electrical inspector, fire protection inspector, plumbing inspector, and subcode official warranted revocation. *Department of Community Affairs v. Zieniuk*, 93 N.J.A.R.2d (CAF) 35.

Appearance of conflict of interest was ground for revocation of license of fire protection subcode official. *Wood v. Bureau of Regulatory Affairs*, 92 N.J.A.R.2d (CAF) 133.

Construction official who was convicted of theft by deception forfeited his licenses to practice under the Uniform Construction Code. *Bureau of Regulatory Affairs v. Gaipa*, 92 N.J.A.R.2d (CAF) 129.

Licenses of construction and fire protection subcode official of Class II municipality were revoked for violations of provisions of the New Jersey Administrative Code. *Stankard v. Department of Community Affairs, Bureau of Regulatory Affairs*, 92 N.J.A.R.2d (CAF) 77.

SUBCHAPTER 6. TAX EXEMPTIONS

5:23-6.1 (Reserved)

Amended by R.1984 d.25, effective February 6, 1984.

See: 15 N.J.R. 1977(a), 16 N.J.R. 238(c).

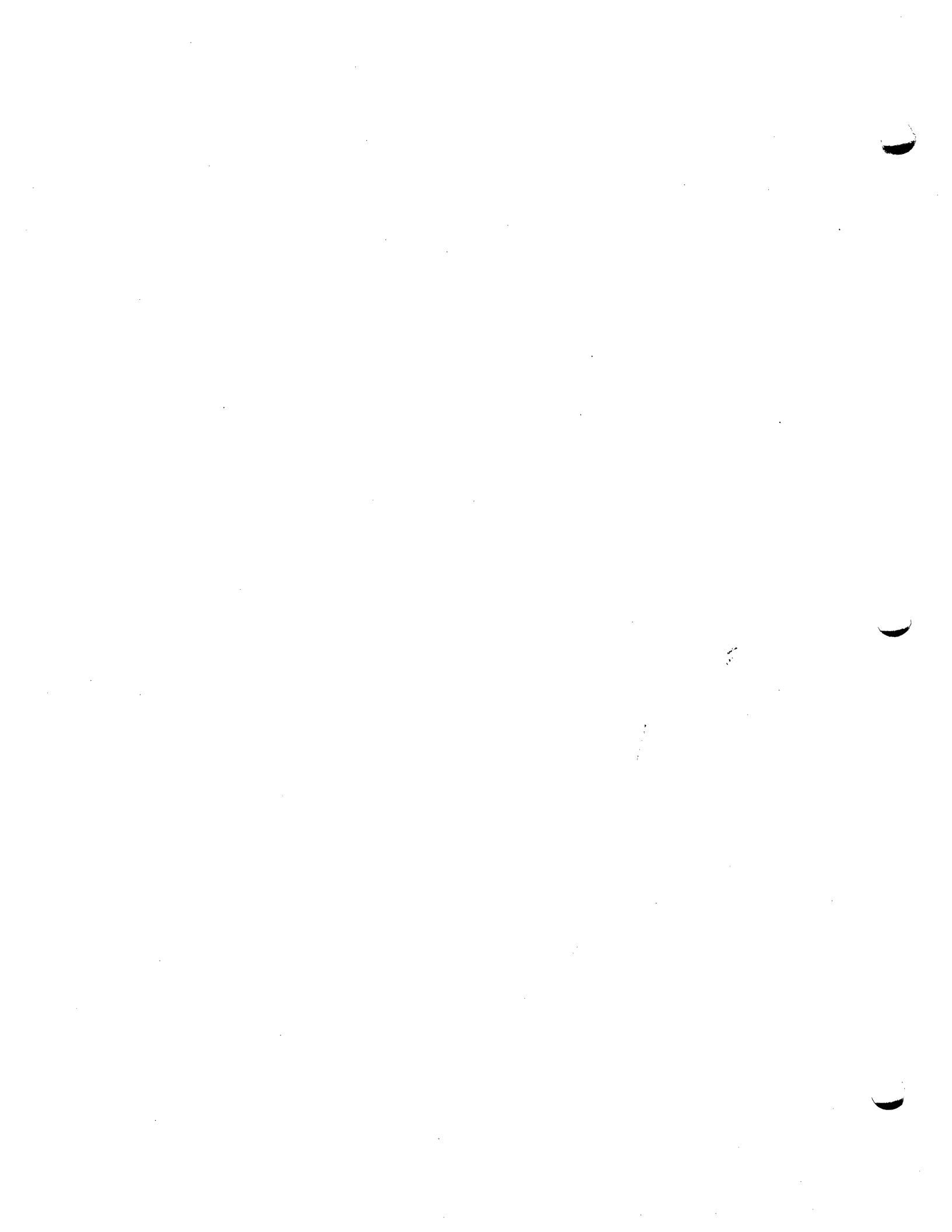
Amended by R.1984 d.121, effective April 16, 1984.

See: 16 N.J.R. 180(a), 16 N.J.R. 874(a).

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

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

"Solar energy systems; administrative requirements" expired April 1, 1988 pursuant to Executive Order No. 66(1978).
See: 20 N.J.R. 893(a).



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Citations are to Title, Chapter and Subchapter

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