

(b) All buildings for which requirements are established in this subchapter shall be in compliance with such applicable requirements of this subchapter, unless a date for compliance is set forth in this subchapter.

1. Use Group R-3 structures used exclusively for dwelling purposes shall not be subject to any requirements of this subchapter other than N.J.A.C. 5:18-4.19.

Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

(c), (d), and (e) added. Correction to rule, see July 6, 1987 Register at 19 N.J.R. 1190(a).

Amended by R.1987 d.388, effective October 5, 1987.

See: 19 N.J.R. 1263(a), 19 N.J.R. 1792(a).

Deleted text in (d)1 "which are classified ... Uniform Construction Code" and substituted "used exclusively for ... three dwelling units".

Amended by R.1989 d.556, effective November 6, 1989.

See: 21 N.J.R. 2431(a), 21 N.J.R. 3453(a).

At (b) cross referenced definitions; at (c)7 established date of applicability and deleted 12 and renumbered 13-15 as 12-14 and referenced dates for compliance in (d).

Amended by R.1992 d.104, effective March 2, 1992.

See: 23 N.J.R. 3552(a), 24 N.J.R. 739(a).

Text at (b) and (c) deleted; text at (d) recodified to (b).

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:18-4.2 Compliance with the State Fire Prevention Code and other fire safety regulations

(a) The requirements established by this subchapter are in addition to, and not in lieu of, requirements established by the State Fire Prevention Code (N.J.A.C. 5:18-3).

(b) All buildings which are specifically listed as under the scope of this subchapter as denoted in N.J.A.C. 5:18-4.1 and which are subject to requirements previously established including, without limitation, any requirement of the State Fire Prevention Code (N.J.A.C. 5:18-3.1 et seq.), shall be in compliance with those requirements as of the effective date of this subchapter and shall remain in compliance throughout the life of the structure.

(c) All buildings which are not specifically listed as under the scope of this subchapter as denoted in N.J.A.C. 5:18-4.1 shall continue to be subject to the provisions of applicable existing fire safety requirements as promulgated by the State or local agency having jurisdiction and shall remain in compliance with those requirements throughout the life of the structure.

(d) Existing fire suppression and detection systems that were installed in accordance with the Uniform Construction Code, the Uniform Fire Code or which met the intent of the applicable NFPA standards at the time of installation shall be accepted as meeting the requirements of this Code, except as otherwise specifically provided in this Code.

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### 5:18-4.3 Relationship to Uniform Construction Code

(a) A building in full compliance with the subcodes adopted pursuant to the Uniform Construction Code Act and regulations in force at the time of its construction and possessing a valid certificate of occupancy shall not be required to conform to the more restrictive requirements established by this subchapter.

1. Exception: The requirements of N.J.A.C. 5:18-4.19 shall apply to all Use Group R-3 structures other than newly-constructed buildings at the time of initial occupancy, regardless of their state of compliance with the Uniform Construction Code or any other code.

(b) A building in full compliance with the current fire safety requirements of the Uniform Construction Code, as determined by the construction official with the concurrence of the fire subcode official and in consultation with the fire official, shall not be required to conform to more restrictive requirements established by this subchapter.

1. A determination as to whether a Uniform Construction Code requirement involves fire safety shall, in a disputed case, be determined by the Division of Codes and Standards after consultation with the Division of Fire Safety, the construction official and the fire official and, if necessary, with the concurrence of the Assistant Commissioner, Department of Community Affairs, responsible for overseeing the Divisions of Fire Safety and Codes and Standards.

2. For purposes of this subsection, "current fire safety requirements" means requirements set forth in the New Jersey Uniform Construction Code in effect at the time of adoption of the requirement as part of this subchapter.

Amended by R.1987 d.247, effective June 15, 1987.

See: 18 N.J.R. 1225(a), 19 N.J.R. 1078(a).

Added "in consultation with" to (b).

Amended by R.1992 d.11, effective January 6, 1992.

See: 23 N.J.R. 3064(a), 24 N.J.R. 88(a).

Exception for R-3 structures added.

Amended by R.1993 d.628, effective December 6, 1993.

See: 25 N.J.R. 4363(a), 25 N.J.R. 5466(a).

Amended by R.1995 d.58, effective March 6, 1995.

See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).

#### Case Notes

Occupancy load levels for restaurant were governed by code requirements in effect at time certificate of occupancy should have been issued. *Sweetwater Casino v. Department of Community Affairs*, 95 N.J.A.R.2d (CAF) 56.

#### 5:18-4.4 General provisions

(a) The applicability of provisions of this subchapter to existing buildings or structures, identified or classified by the Federal, State or local government authority as historic buildings, shall be determined by the local construction code enforcing agency in consultation with the fire official, as outlined in Section 513.0 of the Building Officials and Code Administrators, Inc. (BOCA) Basic/National Building Code, 1984 edition.

(b) A variation previously granted to a provision of an existing code, which provision contains requirements substantially the same as the comparable provision of this subchapter, shall remain valid, subject to the following conditions:

1. To be accepted the variation must have been:
  - i. Granted in writing;
  - ii. Granted through a formal process or procedure; and
  - iii. Granted upon a finding that equivalent life safety was provided.

(c) Nothing in this Code shall be construed as preventing any State agency from exceeding provisions of this Code in making improvements to buildings under their jurisdiction, ownership or control when such changes are mandated by or through Federal law or Federal regulations as a condition of funding such agency. Such action shall not reduce the requirements of these regulations.

(d) The provisions of N.J.A.C. 5:18-4.1 through 4.3 shall not prevent the fire official from making a finding of imminent hazard pursuant to N.J.A.C. 5:18-2.16 or the construction official from making a finding of unsafe building pursuant to the Uniform Construction Code and requiring correction of such hazard or unsafe condition in accordance with those regulations.

Repeal and New Rule, R.1995 d.58, effective March 6, 1995.  
See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).  
Formerly "Relation to State Fire Prevention Code".

#### 5:18-4.5 Comprehensive facility fire protection plans

(a) A comprehensive facility fire protection plan may be submitted for facilities located within the jurisdiction of more than one local enforcing agency which are under single facilities management, ownership and operational control.

1. The plan shall be submitted to the Division for approval and shall include an original and one copy plus a copy for each local enforcing agency in which the subject facilities are located. The plan shall include the following:
  - i. All buildings which are part of the facilities at every location included in the plan and for each building, the use group and an evaluation of the fire protection, including all requirements established in this subchapter;
  - ii. A timetable for compliance with the requirements of this subchapter; and
  - iii. A written application for a variance submitted in accordance with N.J.A.C. 5:18-2.14 for any proposed deviations from this subchapter.

2. The Division shall consult with each local enforcing agency in which facilities included on the plan are located before taking any final action.

3. Within 60 days after receiving the plan, the Division shall approve or disapprove it in writing. If the plan is disapproved, then the written statement shall include the reason(s) for the disapproval.

i. A plan which is not approved within 60 days shall be deemed to have been disapproved unless the 60 day period is extended by mutual agreement of the Division and the applicant;

ii. A disapproval may be appealed as provided in N.J.A.C. 5:18-2.19;

iii. No owner shall be required to retrofit a facility pending approval or disapproval of the plans by the Division.

4. The original approved plan shall be maintained on file by the Division. One copy of the approved plan shall be returned to the applicant and one copy shall be supplied to each local enforcing agency in which facilities included on the plan are located.

5. Any deviation from the plan as approved must be submitted to the Division for approval in accordance with the procedure established herein for the submission and approval of plans.

6. Inspections for compliance with the plans as approved shall be conducted by the local enforcing agency in which facilities are located.

Repeal and New Rule, R.1995 d.58, effective March 6, 1995.  
See: 26 N.J.R. 4258(a), 27 N.J.R. 878(b).  
Formerly "Modifications".

#### 5:18-4.6 Pre-existing violations

No violation committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred, prior to the repeal or revision of any regulation or any part thereof by the enactment of this subchapter, shall be discharged, released or affected by the repeal or revision of the regulation or part thereof under which such offense, liability, penalty or forfeiture was incurred, and indictments, prosecutions and actions for such offenses, liabilities, penalties or forfeitures committed or incurred, prior to the effective date of this subchapter, shall be commenced or continued and be proceeded with in all respects as if the regulation or part thereof had not been repealed or revised.

#### 5:18-4.7 Fire suppression systems

(a) All buildings of Use Group A-2 or portions thereof when separated in accordance with (k) below with a permitted occupant load of 50 or more shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code.