

COMMUNITY AFFAIRS

**Division Of Codes And Standards
Uniform Construction Code
Playground Safety Subcode
Proposed Amendment: N.J.A.C. 5:23-11.1**

Authorized By: Joseph V. Doria, Jr., Commissioner, Department of Community Affairs.

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

Calendar: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2008-208

Submit written comments by September 5, 2008 to:

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JOSEPH V. DORIA, JR., Commissioner

The agency proposal follows:

Summary

The proposed amendment would update the Playground Safety Subcode of the State Uniform Construction Code by incorporating by reference the 2008 edition of the *Handbook for Public Playground Safety* issued by the United States Consumer Product Safety Commission. The previous edition was issued in 1997. N.J.S.A. 52:27D-123.10 requires that the playground safety rules adopted by the Department of Community Affairs under P.L. 1999, c.50 “shall be those guidelines and criteria which are contained in the *Handbook for Public Playground Safety* issued by the United States Consumer Product Safety Commission or any successor.” The proposal would also add website information so that those desiring to obtain a copy of the *Handbook* can do so online.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a) 5.

Social Impact

Changes from the 1997 edition of the *Handbook for Public Playground Safety* include expansion of age ranges for equipment to include children as young as six months based on ASTM F2373, addition of guidelines for track rides and log rolls and harmonization of exit zone requirements for slides with ASTM F1487. The *Handbook* has had editorial revisions designed to make it easier to understand and use. Incorporation of the 2008 edition of the *Handbook* into the Playground Safety Subcode of the State Uniform Construction Code will make these improvements available to owners, operators and users of playgrounds in New Jersey.

Economic Impact

To the extent that any provision of the 2008 edition of the *Handbook* would impose a higher standard than the 1997 edition, it would only be applicable to new playgrounds built more than six months after the effective date of the rules adopting the 2008 edition and to any existing playgrounds that are not yet in compliance with the Playground Safety Subcode. Under the statute and existing rules, all surfacing in all playgrounds was required to be in compliance by October 18, 2004, all other elements in playgrounds owned by governmental and for-profit entities were required to be in compliance by October 18, 2007 and all other elements in playgrounds owned by nonprofit entities are required to be in compliance by October 18, 2014.

Federal Standards Analysis

The purpose of the proposed amendment is to incorporate the most current edition of the applicable Federal standard into the State Uniform Construction Code. The Playground Safety Subcode, as required by statute, incorporates the surfacing and equipment guidelines set forth in the *Handbook for Public Playground Safety* issued by the United States Consumer Product Safety Commission, with the exception that the subcode does not allow the use of sand or pea gravel as surfacing material because use of such materials would conflict with N.J.A.C. 5:23-7.19, which requires that routes of travel at recreational facilities be accessible to persons using wheelchairs.

Jobs Impact

The Department does not anticipate that any jobs would be created or lost as a result of the proposed amendment.

Agriculture Industry Impact

The Department does not anticipate that the proposed amendment would have any impact on the agricultural industry.

Regulatory Flexibility Statement

Owners and operators of playgrounds subject to the Playground Safety Subcode include “small businesses,” as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Since the same public safety considerations apply regardless of the size or form of organization of the owner or operator, “small businesses” must comply with same requirements as other owners or operators. Though the Legislature has seen fit to give nonprofit entities an additional seven years to be in full compliance with the Playground Safety Subcode, it has not seen fit to do the same for for-profit entities, be they “small businesses” or otherwise.

No additional professional services would be required as a result of this proposed amendment. No additional reporting or recordkeeping requirements would be imposed.

Smart Growth Impact

The Department does not anticipate that the proposed amendments would have any impact upon either the achievement of "smart growth" or implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

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 Products Safety Commission, known as the [1997] **2008** 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, www.cpsc.gov/CPSCPUB/PUBS/325.pdf.

2. (No change.)

(b) (No change.)