

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Rehabilitation Subcode

Adopted Amendments: N.J.A.C. 5:23-6.1 through 6.9, 6.12, 6.13, 6.13A, 6.14, 6.15, 6.16, 6.17, 6.18, 6.18A, 6.19, 6.20, 6.20A, 6.21, 6.22, 6.22A, 6.23, 6.24, 6.25, 6.26, 6.27, 6.28, 6.28A, 6.29 through 6.33 and 12.8

Proposed: September 19, 2016, at 48 N.J.R. 1854(a).

Adopted: March 2, 2017, by Charles A. Richman, Commissioner, Department of Community Affairs.

Filed: March 29, 2017, as R.2017 d.077, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:27D-124

Effective Date: May 1, 2017.

Expiration Date: March 25, 2022.

Summary of Public Comments and Agency Responses:

Comments were received from a retired employee of the Department of Community Affairs, Mitchell Malec.

1. COMMENT: N.J.A.C. 5:23-6.4(e)2i and iii, 6.5(e)6i and iii, 6.6(e)9i and iii, and 6.7(e)9i and iii, and 6.4(e)2v, 6.5(e)6v, 6.6(e)9v, and 6.7(e)9v should not be deleted since these provisions are not covered in the electrical materials and methods provisions of N.J.A.C. 5:23-6.8(d) and have

existed in these sections for years without any misunderstanding. These provisions relate to replacement or “repair work” and as stated in N.J.A.C. 5:23-6.8(a), the provisions of N.J.A.C. 5:23-6.8 cover “other than repair.” The Department could delete all replacement sections from the electrical subcode since these are covered by the rehabilitation subcode.

RESPONSE: The Department’s deletion of N.J.A.C. 5:23-6.4(e)2i and iii, 6.5(e)6i and iii, 6.6(e)9i and iii, and 6.7(e)9i and iii, along with deletion of N.J.A.C. 5:23-6.4(e)2v, 6.5(e)6v, 6.6(e)9v, and 6.7(e)9v , is due to the redundancy of the requirements. The Department disagrees with the commenter’s statement that these items are not covered in N.J.A.C. 5:23-6.8(d). The Department will consider the commenter’s suggestion with regard to the electrical subcode, N.J.A.C. 5:23-3.16, in the next code adoption cycle, as this is beyond the scope of this rulemaking.

2. COMMENT: The Department’s proposed wording of N.J.A.C. 5:23-6.1(b)3, (c)3, and (d)3 needs to be revised. The amendments imply that a building having an attached garage, even if there are no communicating openings, would require the installation of carbon monoxide alarms. Consider that the installation of carbon monoxide detection is required in buildings in accordance with Section 915 of the building subcode or Section R315 of the one- and two-family dwelling subcode, as applicable, that undergo a repair, renovation, or alteration.

RESPONSE: The wording of N.J.A.C. 5:23-6.1(b)3, (c)3, and (d)3, addressing attached garages is existing and is not proposed for change at this time. Buildings with attached garages have been required to have carbon monoxide detection since these requirements were first adopted.

3. COMMENT: The Department also needs to include the allowance of using battery-powered

and plug-in devices for existing buildings since permanent wiring is required for new construction based on current adopted building subcode. In addition, changing “NJAC 5:23-3.20(c) of the mechanical subcode” to “Section 915 of the building subcode” eliminates the allowance to use battery-operated and plug-in type carbon monoxide alarms. Exceptions, as previously mentioned, need to be added in various sections. Otherwise, as an example, a repair/alteration/other in a building of Group R-3/others would require devices be permanently wired with battery backup. The elimination of allowance of the use of battery-operated and plug-in type carbon monoxide alarms actually occurred with the 2015 model code adoption in September 2015, even though the rulemaking stated the requirements for carbon monoxide alarms were deleted from the mechanical subcode and inserted in the building subcode at N.J.A.C. 5:23-3.14 and one- and two-family dwelling subcode at N.J.A.C. 5:23-3.21.

RESPONSE: The needed exceptions to allow the use of battery-powered or plug-in devices are included in the proposed amendments to N.J.A.C. 5:23-3.14 published in the September 21, 2016, edition of the New Jersey Register at 48 N.J.R. 1851(a).

4. COMMENT: It is interesting that the Department included smoke alarms in N.J.A.C. 5:23-6.1(b)2, repair work, at this time understanding this provision was not in the section when the Rehabilitation Subcode was initially adopted or ever proposed to be added until now.

Recognizing it is an unenforceable provision may be why it was never included. The same is true of adding carbon monoxide detection provisions (N.J.A.C. 5:23-6.1(b)3) to repair work.

One could argue that provisions are in N.J.A.C. 5:23-6.4(f) and (g), but if the repair work does not relate to smoke alarms or carbon monoxide alarms there is no “trigger” that this additional work be performed and as expressed in N.J.A.C. 5:23-6.1(b)1, “The decision to renovate rather

than repair is made only by the owner.” The Department should reconsider whether these provisions should be triggered by repair work.

RESPONSE: The Department disagrees with the points raised by the commenter with regard to repair work. N.J.A.C. 5:23-6.1 is, in essence, a guidance document written to aid and to inform the code user as the rehab subcode represented an entirely new approach to projects in existing buildings. N.J.A.C. 5:23-6.1 is not cited as part of a Notice of Violation. The requirement for carbon monoxide alarms and for smoke alarms is in the existing requirements applicable to repair work, see existing N.J.A.C. 5:23-6.4(f) and (g), and is proposed to be added to N.J.A.C. 5:23-6.1 for clarity.

5. COMMENT: In reviewing Section 915 of the building subcode, carbon monoxide detection provisions exist for Group I-1, I-2, I-4, and R occupancies and in classrooms in Group E along with private garages. The rehabilitation subcode has not been expanded to all these categories. Please explain why the rehabilitation subcode was not updated or revise sections as needed. Note that “R occupancies” seems a simple way to express “R-1, R-2, R-3, R-4, and R-5.”

RESPONSE: The expansion of the requirement for carbon monoxide alarms to all occupancies, as required by P.L. 2015, c. 146, is addressed in a separate notice of proposal, published at 48 N.J.R. 1851(a). The commenter has submitted comments on both proposed rules, so he presumably is aware of the other proposed amendments addressing this point. As to referencing the R (residential) occupancies, the Department declines to make this change as the listed occupancies to which the carbon monoxide detection requirements apply will be deleted upon adoption of the above-referenced concurrent proposal.

6. COMMENT: It is recommended that the Department include the installation of carbon monoxide detection provisions within the “basic requirements” section of the applicable groups of the rehab subcode similar to smoke detection. Also include carbon monoxide detection provisions in N.J.A.C. 5:23-6.32, Additions, with appropriate “triggers” similar to smoke alarms in N.J.A.C. 5:23-6.32(f), and other sections as needed.

RESPONSE: Because the carbon monoxide alarm requirements apply to all uses, the amendment, as published at 48 N.J.R. 1851(a), is proposed at N.J.A.C. 5:23-6.7, which would make it applicable to all reconstruction projects. There is no need to include such a requirement at N.J.A.C. 5:23-6.32, Additions, as the existing language makes it clear that an addition is new construction and all of the requirements applicable to new construction would apply.

7. COMMENT: The Department has added the phrase “but shall not replace any AC (Alternating Current) powered smoke alarms or household alarm systems” to various sections relating to the replacement use of battery-operated units. It is recommended the Department revise how this is written considering that AC hard-wired wireless interconnected smoke alarms, DC (Direct Current) direct wired wireless interconnected smoke alarms, and wireless interconnected battery powered smoke alarms are available. Wording such as “... but shall not replace any hard-wired (direct wired) smoke alarms or a household fire alarm system unless approved by the enforcing agency” should be considered.

RESPONSE: The Department thinks that the proposed language, including “or household alarm systems,” adequately captures the intent of the requirement. However, if there is confusion in the enforcement of this requirement, the Department will consider a future proposed amendment to address this point. The Department has made a correction upon adoption to change “A/C” to

“AC”.

8. COMMENT: The Department’s addition of tamper resistant receptacles to N.J.A.C. 5:23-6.26(o)8 and 6.27(f)8 is not recommended since the cost benefit is not the same as requiring replacement GFCI receptacles. Just consider the impact of changing all existing non-tamper resistant receptacles in a typical 1980s single-family home or a building undergoing a change of use subject to these provisions. The Department only included this change to Groups R-2, R-4, R-3, and R-5. Are the other occupancies of the electrical subcode, section 406.12 already addressed? Why has the Department not included provisions mandating changing of non-weather-resistant receptacles in locations that the electrical subcode requires weather-resistant receptacles? It would be more beneficial and reasonable to increase the required number of kitchen counter space receptacles.

RESPONSE: The Department’s inclusion of tamper resistant receptacles in finished space, which was previously unfinished in the referenced structures, remains consistent with the requirements listed in N.J.A.C. 5:23-6.9, New building elements. It would not require every receptacle in the 1980’s home or building undergoing a change of use to be replaced as the commenter suggests. It is specific in that only newly-installed receptacles associated within newly-created habitable space must meet this requirement.

9. COMMENT: The Department has succeeded (again) in confusing me with the proposed amendment at N.J.A.C. 5:23-12.8(a)1. The Summary states that the proposed new paragraph is added to distinguish “alteration” in the elevator subcode from “alteration” in the rehabilitation subcode. But it actually states an elevator subcode alteration (a stand alone project or separate

permit?) does not trigger rehabilitation subcode requirements of N.J.A.C. 5:23-6.6. Isn't the only elevator device requirement in N.J.A.C. 5:23-6.6, N.J.A.C. 5:23-6.6(e)21, the requirement that where work, other than ordinary maintenance or minor work, is being performed on an elevator, the elevator shall be equipped to operate with a standardized fire service key? Why does the Department not want to retain this for (stand alone) elevator subcode alterations? If the Department's intent was to bring the rehabilitation subcode elevator device alteration requirements in line with the elevator subcode alteration requirements, I recommend the Department revise N.J.A.C. 5:23-6.8(i) of the rehabilitation subcode to reflect N.J.A.C. 5:23-12.8 alteration requirements of the elevator subcode or just reference the elevator subcode for specific alteration requirements. (The Department may want to look at including, in N.J.A.C. 5:23-6.8, ASME 18.1, and ASME 90.1 provisions and the Department should review N.J.A.C. 5:23-6.30(g) to determine and propose revisions that are needed remembering and being aware that compliance with new provisions could be very costly to building owners. And note that existing elevator devices outside of the scope of the elevator subcode are subject to N.J.A.C. 5:23-12 provisions based on the rehabilitation subcode as written.)

RESPONSE: New N.J.A.C. 5:23-12.8(a)1 is proposed to distinguish "alteration" stand-alone elevator projects from "alteration" to a building. The change is clarifying in nature. It addresses the existing permit process for alteration work on elevators performed as stand-alone projects. An example of such a project is the replacement of the elevator governor, elevator safety, or elevator jack, etc.

Stand-alone elevator alteration projects must comply with N.J.A.C. 5:23-12.12(f) stipulating that a Yale 3502 key must be used on all elevators that are required to be equipped with a

standardized fire service key. According to the building subcode, Chapter 30, Sections 3001.2, alteration of elevators must conform to the requirements of ASME A17.1 and other requirements of the building subcode, including the requirements of Section 3003.3 for provision of a standardized fire service elevator key.

Federal Standards Statement

No Federal standards analysis is required because these amendments are not being adopted under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or any State statute that incorporates or refers to a Federal law, standards, or requirements.

Full text of the adopted amendments follows (additions to the proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

5:23-6.4 Repairs

(a) – (e) (No change from proposal.)

(f) In buildings of Groups R-3, R-4, and R-5 and in dwelling units of Group R-2, smoke alarms shall be installed and maintained on each level of the structure, outside each separate sleeping area in the immediate vicinity of the bedrooms, and located on or near the ceiling. Battery-operated units shall be permitted, but shall not replace any ***[A/C-powered]* **AC-powered***** smoke alarms or a household fire alarm system. (Fire)

(g) (No change from proposal.)

5:23-6.5 Renovations

(a) – (e) (No change from proposal.)

(f) In buildings of Groups R-3, R-4, and R-5 and in dwelling units of Group R-2, smoke alarms shall be installed and maintained on each level of the structure, outside each separate sleeping area in the immediate vicinity of the bedrooms, and located on or near the ceiling. Battery-operated units shall be permitted, but shall not replace any *[A/C-powered]* ***AC-powered*** smoke alarms or a household fire alarm system. (Fire)

(g) – (h) (No change from proposal.)

5:23-6.6 Alterations

(a) – (e) (No change from proposal.)

(f) In buildings of Groups R-3, R-4, and R-5 and in dwelling units of Group R-2, smoke alarms shall be installed and maintained on each level of the structure, outside each separate sleeping area in the immediate vicinity of the bedrooms, and located on or near the ceiling. Battery-operated units shall be permitted, but shall not replace any *[A/C-powered]* ***AC-powered*** smoke alarms or a household fire alarm system. (Fire)

(g) - (l) (No change from proposal.)