

RULE ADOPTIONS

BANKING

(a)

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Notice of Readoption

Proposed Interstate Acquisition

Readoption: N.J.A.C. 3:33

Authority: N.J.S.A. 17:1-15.e, 17:12B-278, 279, and 289.

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.

Effective Date: April 26, 2017.

New Expiration Date: April 26, 2024.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 3:33 were scheduled to expire on June 7, 2017.

N.J.A.C. 3:33 requires an out-of-State insured savings association or out-of-State savings and loan holding company that intends to acquire and retain control of a New Jersey insured savings association or New Jersey savings and loan holding company to file an application with the Department for determination of compliance with the requirements of N.J.S.A. 17:12B-279. Terms used in the chapter are defined in N.J.A.C. 3:33-1.1. The application must contain information as set forth in N.J.A.C. 3:33-1.2. In accordance with N.J.A.C. 3:33-1.3, the Commissioner of Banking and Insurance (Commissioner) shall determine whether the applicant is an "eligible insured savings association" or "eligible savings and loan holding company" as defined in N.J.A.C. 3:33-1.1 and whether more than 75 percent of the deposits of the applicant's subsidiaries are in insured subsidiaries located in an "eligible state," as defined in N.J.A.C. 3:33-1.1. The Commissioner shall also determine whether to place any limitations or restrictions on the acquisition of the New Jersey insured savings association or New Jersey savings and loan holding company. N.J.A.C. 3:33-1.4 sets forth the fees associated with the application. By continuing this chapter, which sets forth the application procedures, the rules will continue to fulfill the legislative intent that the acquisition of New Jersey entities be completed in a considered and orderly manner.

The Department of Banking and Insurance has reviewed these rules and has determined that the rules should be readopted without amendment. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

COMMUNITY AFFAIRS

(b)

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Uniform Fire Code

Carbon Monoxide Detection

Adopted Amendments: N.J.A.C. 5:23-3.14, 6.1, 6.4 through 6.7, and 6.31 and 5:70-4.3, 4.9, and 4.19

Proposed: September 19, 2016, at 48 N.J.R. 1851(a).

Adopted: March 15, 2017, by Charles A. Richman, Commissioner, Department of Community Affairs.

Filed: April 27, 2017, as R.2017 d.107, **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 and 52:27D-198 and P.L. 2015, c. 146.

Effective Date: June 5, 2017.

Expiration Dates: March 25, 2022, N.J.A.C. 5:23;
September 15, 2017, N.J.A.C. 5:70.

Summary of Public Comments and Agency Responses:

Comments were received from: Richard A. Soltis, Jr, President, Central Jersey Code Officials Association; Linda M. Doherty, President, New Jersey Food Council; and retired employee of the Department of Community Affairs, Mitchell Malec.

1. COMMENT: One commenter claims that the proposed provisions of the Uniform Construction Code are inconsistent with the proposed provisions of the Uniform Fire Code. The commenter further states that the proposed language of the Uniform Fire Code is clearer and would facilitate enforcement. Finally, the commenter points out that the Uniform Fire Code references NFPA 720 while there is no such reference in Section 915.4 of the International Building Code, 2015 edition, adopted by reference under the Uniform Construction Code. The commenter suggests that the provisions of the Uniform Fire Code and those of the Uniform Construction Code be brought into alignment.

RESPONSE: The provisions of the Uniform Construction Code apply to new construction and to existing buildings undergoing rehabilitation while the provisions of the Uniform Fire Code apply to existing buildings as they stand. The requirements of these two sets of rules are coordinated, but they are not identical. This is appropriate, inasmuch as the two sets of rules have different scopes and derive from different enabling legislation. The reference to NFPA 720 in the Uniform Fire Code is found in the requirements already contained in the Uniform Fire Code at N.J.A.C. 5:70-4.19(d).

2. COMMENT: The commenter states that UL 2034 detection systems should be required for commercial buildings. The commenter states that, if the devices fail while a building is unoccupied, there is no required indication to the occupants upon re-occupying the structure that the device is not operational. This gives the occupants a false sense of security and does not provide the proper level of protection that is afforded by a carbon monoxide detection system, which would provide a supervisory/trouble signal if there were an issue with the detector. Therefore, carbon monoxide detection systems should be required in commercial applications.

RESPONSE: It is the Department's position that it is not necessary to require carbon monoxide detection systems in commercial buildings. Carbon monoxide alarms provide adequate protection. When carbon monoxide alarms begin to fail, they emit a signal. Occupants will hear this upon re-entry.

3. COMMENT: The commenter strongly supports the language, which allows plug-in or battery-operated alarms as compliance options. The commenter also supports allowing detection systems with detectors that tie into a central station as a compliance alternative, but emphasizes that the use of detection systems should remain optional as requiring systems may be unduly burdensome in certain large, complex structures. The commenter notes that sections of NFPA 720 impose additional requirements and are inconsistent with a Statewide roll out of carbon monoxide detection requirements. Finally, the commenter asks that the final rule make it clear that long-life batteries (10 years or longer) may be used, as well as plug-in detectors.

RESPONSE: The Department thanks the commenter for the expressions of support. However, the Department disagrees that referencing NFPA 720 is inconsistent with a Statewide roll out of carbon monoxide detection requirements. NFPA 720 provides installation criteria for low voltage detection systems that are not covered by the specific provisions of the rule. Plug-in and battery-powered devices are allowed in existing buildings. The useful life of detection equipment is not addressed in this rulemaking. Typically, the manufacturer will establish a date. Detection devices are the subject of maintenance inspections under Subchapter 3 of the Uniform Fire Code.

4. COMMENT: The commenter is generally opposed to incorporating a reference to NFPA 720. The commenter characterizes NFPA 720 as a useful guideline and resource, but argues that it should not be incorporated into the regulations. Alternatively, the commenter suggests that it could be referred to as a resource, but the regulations would need to make clear that it is only as a resource and any conflict between the language of the regulations and NFPA 720 is to be resolved in favor of the language of the regulations.

RESPONSE: The Department disagrees with the commenter's position with regard to the removal of the references to NFPA 720. NFPA 720 currently is referenced in the Uniform Fire Code for maintenance. The scope of any referenced standard is limited to the purpose(s) for which it is referenced in the model code, and the legal hierarchy of requirements is as the commenter suggests: rule text, as adopted in the New Jersey Administrative Code, always takes precedence over referenced standards.

5. COMMENT: One commenter suggests that the draft rule should "take into account the reality of large complex commercial structures which are served by multi-zone HVAC systems. Air flow in such structures is controlled through the HVAC system. Detector placement is better established by HVAC zones in such buildings." The commenter recommends that the Department consider adding the following language to both the Uniform Construction Code and the Uniform Fire Code, allowing HVAC zones to be taken into consideration in determining the number and placement of detectors:

"... provided that in buildings with multiple heating or air conditioning zones, installation of no more than one detector in each zone shall be required."

RESPONSE: It is the Department's position that the rules, as proposed, adequately address the location of the detection equipment. The proposed rules would require detection only at the first area served by each main duct leaving the location of the HVAC unit. If additional ducts are installed as part of a multi-zoned HVAC system, an additional detection device or devices will need to be installed in that zone.

6. COMMENT: The commenter asks that the rule expressly include the permit requirements for installation of carbon monoxide detection systems.

RESPONSE: The proposed amendments did not include any change to the requirements for permits. These requirements are made explicit in Subchapter 2 of the Uniform Construction Code (N.J.A.C. 5:23-2.) The installation of battery-powered or plug-in alarms would not require a permit. However, the installation of a hard-wired or low voltage detection system would require a permit.

7. COMMENT: The commenter requests a one-year grace period to facilitate meeting the requirement for carbon monoxide detection. According to the commenter, "Each building will need to be assessed to determine how the regulations apply to its unique configuration. Engineers/consultants and other experts will be in substantial demand as this will be a state-wide roll out."

RESPONSE: The enabling legislation amends the Uniform Fire Safety Act to require that carbon monoxide detection be installed in existing buildings within 90 days of the adoption of these rules unless it is determined that there is no carbon monoxide hazard in the structure. Because of the length of time that has passed since this bill was signed into law, all affected building owners have had more than adequate time to plan to meet the requirement for carbon monoxide detection. The Uniform Construction Code does allow a six-month grace period. (See N.J.A.C. 5:23-1.6.) It should be noted, however, that even these buildings (those for which permit applications are submitted during the six-month grace period) and buildings that are already under construction will need to be brought into compliance. For clarity, the effective date has been added upon adoption at N.J.A.C. 5:70-4.9.

8. COMMENT: The Department has haphazardly attempted to incorporate carbon monoxide detection requirements into buildings of all uses to implement Korman and Park's Law. Although some of the issues may be due to the text of the enacted Law, the Department's "quick fix" should not be adopted. What appears to be a simple task (adding carbon monoxide detection requirements into buildings of all uses to the UCC and UFC) is not a simple task. It is recommended that the Department review and consider the text of Part 1228 of Title 19 New York Codes,

Rules and Regulations (NYCRR), specifically section 1228.4 Carbon Monoxide Detection in Commercial Buildings. The Department should also review and consider the New York initial rulemaking activities (WESTLAW New York State Register, I.D No. DOS-28-15-00004-EP, Filing No. 556, Filing Date June 26, 2015) that provides a valuable understanding of the substance of this New York emergency proposed and adopted rule.

RESPONSE: The Department disagrees with the commenter's characterization of the effort that went into the preparation of the proposed rules. There are layers of review inherent in the rulemaking process. The proposed amendments to the Uniform Construction Code were reviewed by the Uniform Construction Code Advisory Board and its subcode committees while the proposed amendments to the Uniform Fire Code were reviewed by the Fire Codes Advisory Council and the Fire Safety Commission. In the case of this proposed rule, because there is no national standard for the extension of the requirement for carbon monoxide detection demanded by this statute, the Department took the additional step of sharing the draft with the representatives of manufacturers' of these devices. The Department appreciates the commenter's suggestions with regard to review of New York's requirements. The New York Codes, Rules, and Regulations (NYCRR) were considered by the Department in the preparation of this rulemaking.

9. COMMENT: The commenter recommended an entirely different approach to the task of writing carbon monoxide detection requirements based on New York's requirements, cited in Comment 8. Rather than modifying the building subcode of the Uniform Construction Code to cover "all buildings," the commenter suggested new regulations to address new and existing buildings, supplementing the building subcode requirements where needed, for example, for Group E buildings. References to these new rules could then be added to the building and rehabilitation subcodes of the Uniform Construction Code and to the Uniform Fire Code. Additionally, the commenter suggested that the rules should establish "detection zones" with "triggering conditions" and that the rules should "establish and clearly state what buildings are not subject to the carbon monoxide detection provisions. (Such as a building classified, in its entirety, in Storage Group S or Utility and Miscellaneous Group U and occupied only occasionally and only for building or equipment maintenance.)"

RESPONSE: It is acknowledged that there are multiple ways to accomplish the task of incorporating carbon monoxide detection requirements into the rules. While the approach taken by the Department may not have been the approach the commenter would have chosen, it is the Department's position that this is the most straightforward and clearest way to incorporate the requirements into the rules. P.L. 2015, c. 146 contains two major parts: one modifying the Uniform Construction Code Act and one modifying the Uniform Fire Safety Act. Both sets of rules, the Uniform Construction Code and the Uniform Fire Code, must be amended to incorporate these new requirements. Placing all of the new requirements in one place, with references to these requirements in multiple places in two sets of rules would not be a "user friendly" approach, and it is unclear where these new rules would be codified. The building subcode is the most logical place for the requirements for newly-constructed buildings. Finally, there is no statutory basis for the Department to exclude any building other than through a finding that there is no potential carbon monoxide hazard in the structure.

10. COMMENT: The commenter suggested that the Department establish a "transition period" or a compliance date for existing commercial buildings. The commenter further suggested that, since the rule deals with public safety, the Department should also consider decreasing or eliminating the six-month grace period contained in the Uniform Construction Code.

RESPONSE: The compliance date is statutory. Please see the Response to Comment 7.

11. COMMENT: "The Department needs to present the rules with a clear understanding of the differences between the carbon monoxide detecting devices and systems and what the Law specifically mandates. (Carbon monoxide alarms listed in accordance with ANSI/UL 2034 and ANSI/UL 217 versus carbon monoxide detectors listed in accordance with ANSI/UL 2075 and ANSI/UL 268-Law only requires ...) The

Department should also consider adding text to N.J.A.C. 5:23-2.15, Construction permit-application to address NJSA 52:27D-123f subsection a.”

RESPONSE: P.L. 2015, c. 146 calls for devices to be listed in accordance with “Underwriters Laboratories standard 2034 or its equivalent.” ANSI/UL 2075 is an equivalent standard. It is the Department’s position that the differences are clearly understood and that the requirements are clearly stated. The rulemaking does not address the permit requirements of N.J.A.C. 5:23-2.15 nor does the Department think that any revisions to these requirements are necessary at this time.

12. COMMENT: The commenter offered a series of suggestions for specific corrections or wording changes, as follows:

a. The Department’s proposed amendment in N.J.A.C. 5:23-3.14(b)8lxxvii is missing the word “add.”

b. The proposed text is incorrectly worded for several of the “exceptions” since the word “or” is contained before “classroom” and “classrooms” not the word “and.” Revise as needed.

c. The word “equipment” in new subsection 915.2.4 appears unnecessary in N.J.A.C. 5:23-3.14(b)8lxxix and is suggested to be deleted. This deletion should also be done in other sections as needed.

d. No changes were proposed by the Department to section 915.3 which requires carbon monoxide detection required by Sections 915.1 through 915.2.3 comply with Section 915.4 (alarms) or Section 915.5 (systems). So what requirements do carbon monoxide detection of the new subsection 915.2.4 need to comply with?

RESPONSE:

a. The Department thanks the commenter. A correction has been made upon adoption (see item b below).

b. The Department has reviewed the wording and as a result, a correction has been made at N.J.A.C. 5:23-3.14(b)8lxxvii clarifying that “or any other occupiable space(s)” shall be added within the applicable subsection of the building subcode.

c. The word “equipment” was added for clarity. The Department disagrees that it is unnecessary. It may help and it does no harm.

d. The Department also disagrees with the commenter’s assertion that no requirements are set for new subsection 915.2.4, which provides for the use of detectors and for alarm installation for the applicable occupancies.

13. COMMENT: The Department needs to understand that carbon monoxide alarms listed in accordance with ANSI/UL 2034 are intended for protection in ordinary indoor locations of dwelling units even though the law appears to allow UL 2034 tested and listed devices everywhere. In addition, the Department needs to understand that it is not appropriate to use ANSI/UL 2075 “residential” type detectors for commercial applications. Therefore, based on the law, would the Department allow a new indoor go-cart race track to be protected with ANSI/UL 2034 listed carbon monoxide alarms or require a carbon monoxide detection system consisting of ANSI/UL 2075 listed carbon monoxide detectors? (Residential stand alone single station alarms - ANSI/UL 2034, Commercial type detector system connected with supervisory or trouble signal capability-ANSI/UL 2075) What about an existing indoor go-cart track? What would the price tag difference be between installing an ANSI/UL 2034 system or an ANSI/UL 2075 system in a new/existing building?

RESPONSE: The Department fully understands the listing requirements for carbon monoxide alarms. As stated in the Response to Comment 11, the enabling legislation calls for the use of UL 2034 “or equivalent.” In response to the commenter’s final questions, the Department does not have specific pricing information and any price differences are immaterial for the purposes of this requirement. This rule has been drafted in response to a legislative mandate to extend carbon monoxide detection to all buildings.

14. COMMENT: The proposed amendments to the UCC Rehabilitation Subcode need to be coordinated with the amendments proposed in PRN 2016-140, New Jersey Register Issue Date: September 19, 2016. As example, PRN 2016-155 still has references to the mechanical subcode for carbon monoxide detection, while PRN 2016-140 updates to reference the building subcode. When the 2015 model codes were adopted in September 2015, the requirements for carbon monoxide alarms was deleted from the mechanical subcode (N.J.A.C.

5:23-3.20(c)) and were to be 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. This did not happen in total. The text of the model codes adopted (or retention of text in the rehabilitation subcode) was inadvertently not modified (or retained) to include the battery-powered or plug-in device exception.

RESPONSE: The Department recognizes that references to N.J.A.C. 5:23-3.20(c) are obsolete as this section has been deleted. The references contained in the rehabilitation subcode, N.J.A.C. 5:23-6, were proposed for deletion as part of the rulemaking referenced by the commenter. The Department will review for any remaining references in other chapters or subchapters and will propose corrections as necessary.

15. COMMENT: The exemption to allow installation of battery-powered or plug-in devices should advise that these devices shall not replace any hard-wired carbon monoxide alarm or detection system unless approved by the enforcing agency. The Department’s proposed amendment, N.J.A.C. 5:23-6.31(j)1, stating “Exception: In occupancies other than Group I-1, I-2, I-4, or R or classrooms in Group E occupancies, battery-powered or plug-in devices shall be accepted for purposes of meeting the requirements of this section,” needs to be reconsidered and appropriately modified. The Department has added Group I-2, I-4, and classrooms in Group E occupancies as if they were always included in the carbon monoxide rehabilitation subcode provisions. The Department is mandating hard-wired carbon monoxide devices with battery back-up when the use of a building is changed to a Group I-1, I-2, I-4, or R or classrooms in Group E occupancies. But if a reconstruction occurs in a Group I-1 or R occupancies or any other building, battery-powered or plug-in devices are allowed even though the current adopted model codes would require hardwired with battery back-up devices in occupancies covered by the model codes. The Department appears to have erroneously mixed up the model code provisions with the provisions required by the law. As recommended above, a separate new regulation section addressing only the law should be adopted.

RESPONSE: As stated in the Response to Comment 9, the Department recognizes that there may be more than one way to incorporate the requirements of the enabling legislation into the rules, but disagrees that the commenter’s suggested approach is preferable to the approach taken by the Department. The statement that a battery or plug-in device may not replace a hard-wired device is not necessary. The removal of any required equipment is a violation of the certificate of occupancy, which is always conditioned on the building’s continued compliance with the requirements in effect at the time of construction. The distinctions between the requirements applicable to a change of use and those applicable to a reconstruction were deliberate. The requirements applicable to a change of use mirror those of the model codes for new construction.

16. COMMENT: The proposed amendments appear to be incorrectly written. As example: The proposed regulations state: “The installation of carbon monoxide detection equipment is required in buildings containing a fuel burning appliance or having an attached garage.” This implies that all buildings with an attached garage require carbon monoxide detection even if there may be no communicating openings. Also consider a storage-only building with a fuel burning appliance. Reference to the building subcode and the one- and two-family dwelling code sections (and the new regulation section if approach taken) is suggested.

RESPONSE: Carbon monoxide detection already is required for buildings of specified uses with attached garages, regardless of whether there are communicating openings. The Department has simply extended this requirement to all uses.

17. COMMENT: The Department did not propose any changes to N.J.A.C. 5:70-4.19(b), which refers to the withdrawn NFPA 74 standard. I believe NFPA 74 was incorporated into NFPA 72 in 1993. Or does the current edition of NFPA 720 address locations of carbon monoxide detection in residential and commercial buildings now? Can the Department elaborate on the law’s requirement for standards for the placement of carbon monoxide devices? The Department’s statement in the Fire Code that “the balance of the system installation shall comply with NFPA 720 and with the Uniform Construction Code” is interesting

when section 915.5.2 of the building subcode states “these locations supersede the locations specified in NFPA 720.” And although I am in favor of the NFPA 720 provision to permit performance-based designs for the location of system carbon monoxide detectors, there are numerous other provisions in the current edition of NFPA 720 that appear unnecessary and burdensome. Also, the Department, within the Fire Code proposed amendments, has blatantly exceeded the law requirements by requiring supervised/monitored carbon monoxide detection (not alarms) systems in occupancies other than those listed in “(d)2 (AND (d)1. ?)” Based on the proposed amendment, N.J.A.C. 5:70-4.3(a)8, a building in compliance with the carbon monoxide provisions of the UCC would still have to meet the requirements of the Fire Code—why? (Especially considering the rehabilitation code provisions with new retrofit requirements.) Also, note that the Fire Code does not mention Group R-5.

RESPONSE: The reference to NFPA 74 in N.J.A.C. 5:70-4.19(b) addresses smoke detection and is outside the scope of this rulemaking. It is the Department’s position that no further explanation is needed with regard to the requirements and the references to NFPA 720. The new rule makes it clear that NFPA 720 is used for other than the locations specified in the noted subsections of Section 915 of the building subcode. Specific locations were added as part of the proposed rule. As a matter of law, a standard, such as NFPA 720, applies only to the extent referenced. Any specifics contained in the rule would supersede a conflicting or overlapping provision of a referenced standard. The Department disagrees with the commenter’s assertion that the rule exceeds the enabling legislation. Supervision or monitoring is offered as an alternative to the installation of alarms. The Department also disagrees that the provisions of N.J.A.C. 5:70-4.3(a)8 would require that a building in compliance with the carbon monoxide detection requirements of the Uniform Construction Code would have to meet the requirements of the Uniform Fire Code. This provision is written to require buildings that are in compliance with the Uniform Construction Code, but predate the requirement for carbon monoxide detection, be subject to these requirements. Finally, Group R-5 is not a defined term or (use) group designation in the Uniform Fire Code. Single-family dwellings would be Use Group R-3 or R-4 under the Uniform Fire Code.

18. COMMENT: The Department makes mention (N.J.A.C. 5:70-4.9) to “the edition of NFPA 720 currently referenced in this chapter.” Is this the 2005 edition? If it is not a more current edition, it is recommended it be updated. And, if the current edition of NFPA 720 addresses the selection, design, application, installation, location, performance requirements, testing, and maintenance of carbon monoxide detection devices, why all this added text? Or take the previously-mentioned New York approach, which would retain existing text applicable to Group I and R occupancies in the Fire Code and add reference to new rules in the UCC.

RESPONSE: The Department did not specify an edition of NFPA 720 as it is always the edition referenced within the chapter, thus allowing for future updates. As to the balance of the above comment, please see the Responses to Comments 8 and 17.

19. COMMENT: The Department reasoning for the proposed deletions of N.J.A.C. 5:23-6.1(c)3 and 6.1(d)3 were not explained within the summary statements—please explain and justify.

RESPONSE: N.J.A.C. 5:23-6.1 is a guide to the content and use of the rehabilitation subcode and is not cited. The proposed deletions were not explained separately as the new text clearly states what requirements must be followed for a given scope of work.

20. COMMENT: Korman and Park’s Law specifically states that an application for a construction permit for any structure other than a structure subject to the provisions of P.L. 1999, c. 15 (N.J.S.A. 52:27D-133.3 et seq.) shall not be declared complete without containing provisions for the placement of a carbon monoxide sensor device or devices, unless it is determined that there is no potential carbon monoxide hazard in the structure. Please note that even though this provision of the law is not applicable to the exempted structures, the rehabilitation subcode triggers requirements. The application statement seems to be important and it is recommended that this be included in the UCC. N.J.A.C. 5:23-2.15, Construction permit-application, may be an appropriate location.

RESPONSE: Please see the Response to Comment 11. The Department does not agree that any change to N.J.A.C. 5:23-2.15 is necessary.

21. COMMENT: Since the Korman and Park’s Law is applicable to State and municipal buildings, I would expect that the addition of carbon monoxide detection devices and systems, as applicable, would be expedited in these buildings. The immediate installation of carbon monoxide detection devices and systems into State and municipal buildings to conform to the law, even prior to rule adoption, would set an example for others. And due to the diverse types of existing State and municipal buildings and occupancies (office buildings and spaces, warehouses, health care facilities, conference rooms, court houses, educational facilities, workshops, prisons, others), valuable insight would be gained in where devices need to be located, what type of devices are needed, the cost of alarm versus detector installation, the design professionals required, the licensed or certified installers needed, what documentation needs to be retained regarding devices installed (life expectancy of sensor/battery, location, etc.), the time needed to complete installations, the proper means and ways to test carbon monoxide devices and system performance, and more. For existing private buildings and occupancies needing to comply with the law, it is recommended that all permit fees, if any, associated with initial carbon monoxide detection installation be waived.

RESPONSE: The enabling legislation does not contemplate or authorize delaying implementation in existing, privately-owned buildings while the Department conducts some sort of a demonstration project to test the requirements in existing, publicly-owned buildings. The maintenance of carbon monoxide detection equipment is addressed through Subchapter 3 of the Uniform Fire Code. The waiving of Uniform Construction Code fees is outside the scope of this rulemaking and is not directed by the enabling legislation. On the contrary, the Uniform Construction Code Act mandates that fees be set to cover the cost of enforcement.

Summary of Agency-Initiated Changes:

1. Changes have been made at N.J.A.C. 5:23-6.1(b)3, (c)3, and (d)3 changing “alarms” to “equipment”; such changes conform the language adopted in the May 1, 2017 issue of the New Jersey Register at 49 N.J.R. 1020(a) to the language proposed in this rulemaking. Additionally, the list of groups to which these requirements apply has been deleted upon adoption as the requirements for carbon monoxide detection now apply to all uses.

2. Codification at N.J.A.C. 5:23-6.4(g), 6.5(g), 6.6(g), and 6.7(f) is corrected upon adoption.

3. A correction has been made at N.J.A.C. 5:70-4.9(d)3, changing “detection” to “detectors.”

Federal Standards Statement

No Federal standards analysis is required because the 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, standard, or requirement.

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

CHAPTER 23 UNIFORM CONSTRUCTION CODE

SUBCHAPTER 3. SUBCODES

5:23-3.14 Building subcode

(a) (No change.)

(b) The following chapters of the building subcode are modified as follows:

1.-7. (No change.)

8. Chapter 9, Fire Protection Systems, shall be amended as follows:

i.-lxxv. (No change.)

lxxvi. In Section 915.1.1, Where required, “in Group I-1, I-2, I-4 and R occupancies and in classrooms in Group E occupancies” shall be deleted.

lxxvii. In Subsections 915.1.2 through 915.1.5, including the exceptions, the word “and” shall be deleted before “classrooms” and the words “or any other occupiable space(s)” ***shall be added*** following “classrooms.”

lxxviii. In Section 915.2, Locations, “by Section 915.1.1” shall be deleted.

lxxix. A new subsection 915.2.4, Other occupancies, shall be added as follows:

“915.2.4 Other occupancies. Carbon monoxide detection equipment shall be installed in other occupancies. Systems using detectors shall have a distinct visual and audible notification at an approved location. When alarms are installed in lieu of detectors, they shall be located such that the audible signal is not less than 15 dB above the average ambient sound level.

Exception: Carbon monoxide detection equipment shall not be required in locations, such as repair garages, where the presence of carbon monoxide may be expected as a function of the normal use of the space. Additionally, carbon monoxide detection equipment shall not be required in locations where battery charging for motorized equipment takes place. In such locations, carbon monoxide detection equipment shall be provided just outside such spaces at the points where these spaces connect to other occupiable space(s).”

lxxx. Section 915.6, Maintenance, shall be deleted in its entirety.

9.-26. (No change.)

SUBCHAPTER 6. REHABILITATION SUBCODE

(**Agency Note:** The text of N.J.A.C. 5:23-6.1, 6.4 through 6.8, and 6.31 below reflect the adoption of amendments effective May 1, 2017.)

5:23-6.1 Introduction; using this subcode

(a) (No change.)

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

1. (No change.)

2. The installation of smoke alarms is required in any building of Groups R-3, R-4, R-5, and in dwelling units of Group R-2 that undergo a repair.

3. The installation of carbon monoxide ***[alarms]* *detection equipment*** is required in buildings ***[of Groups I-1, R-1, R-2, R-3, R-4, or R-5]*** containing a fuel burning appliance or having an attached garage.

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

1.-2. (No change.)

3. The installation of carbon monoxide ***[alarms]* *detection equipment*** is required in buildings ***[of Groups I-1, R-1, R-2, R-3, R-4, or R-5]*** containing a fuel burning appliance or having an attached garage.

4.-5. (No change.)

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

1.-2. (No change.)

3. The installation of carbon monoxide ***[alarms]* *detection equipment*** is required in buildings ***[of Groups I-1, R-1, R-2, R-3, R-4, or R-5]*** containing a fuel burning appliance or having an attached garage.

4.-8. (No change.)

(e)-(i) (No change.)

5:23-6.4 Repairs

(a)-(f) (No change.)

(g) In buildings containing a fuel burning appliance or having an attached garage, carbon monoxide detection equipment shall be installed in accordance with Section 915 of the building subcode or Section R315 of the one- and two-family dwelling subcode, as applicable. (Fire)

[i.]* *1. Exception: Battery-powered or plug-in devices shall be accepted for purposes of meeting the requirements of this section.

5:23-6.5 Renovations

(a)-(f) (No change.)

(g) In buildings containing a fuel burning appliance or having an attached garage, carbon monoxide detection equipment shall be installed in accordance with Section 915 of the building subcode or Section R315 of the one- and two-family dwelling subcode, as applicable. (Fire)

[i.]* *1. Exception: Battery-powered or plug-in devices shall be accepted for purposes of meeting the requirements of this section.

(h) (No change.)

5:23-6.6 Alterations

(a)-(f) (No change.)

(g) In buildings containing a fuel burning appliance or having an attached garage, carbon monoxide detection equipment shall be installed in accordance with Section 915 of the building subcode or Section R315 of the one- and two-family dwelling subcode, as applicable. (Fire)

[i.]* *1. Exception: Battery-powered or plug-in devices shall be accepted for purposes of meeting the requirements of this section.

(h)-(l) (No change.)

5:23-6.7 Reconstruction

(a)-(e) (No change.)

(f) In buildings containing a fuel burning appliance or having an attached garage, carbon monoxide detection equipment shall be installed in accordance with Section 915 of the building subcode or Section R315 of the one- and two-family dwelling subcode, as applicable. (Fire)

[i.]* *1. Exception: Battery-powered or plug-in devices shall be accepted for purposes of meeting the requirements of this section.

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

5:23-6.31 Change of use

(a)-(i) (No change.)

(j) Carbon monoxide detection equipment: When the use of a building is changed and the building contains a fuel-burning appliance or has an attached garage, carbon monoxide detection equipment shall be installed in accordance with the mechanical subcode. (Fire)

1. Exception: In occupancies other than Group I-1, I-2, I-4 or R or classrooms in Group E occupancies, battery-powered or plug-in devices shall be accepted for purposes of meeting the requirements of this section.

2. (No change.)

(k)-(p) (No change.)

CHAPTER 70 UNIFORM FIRE CODE

SUBCHAPTER 4. FIRE SAFETY CODE

5:70-4.3 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 except as may be required by (a)5, 7, and 8 below.

1.-3. (No change.)

4. The requirements of N.J.A.C. 5:70-4.19 shall apply to all Use Group R-3 or R-4 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.

5.-7. (No change.)

8. The requirements for carbon monoxide detection at N.J.A.C. 5:70-4.9(d) shall apply to all Use Groups, other than newly-constructed

buildings at the time of initial occupancy, regardless of their state of compliance with the Uniform Construction Code.

(b) (No change.)

5:70-4.9 Automatic fire and carbon monoxide alarms

(a)-(c) (No change.)

(d) *[Carbon]* ***Effective September 3, 2017, carbon*** monoxide detection equipment shall be installed in all existing buildings which contain a fuel-burning appliance or have an attached garage. An "open parking structure," as defined in the building subcode of the Uniform Construction Code, shall not be deemed to be an attached garage.

1. One- and two-family dwellings: Carbon monoxide detection shall be installed in buildings of Use Groups R-3 and R-4 in accordance with the requirements of N.J.A.C. 5:70-4.19.

2. Carbon monoxide detection equipment shall be installed in the immediate vicinity of each sleeping area in any guestroom or dwelling unit located in a building of Group I-1, R-1 or R-2 occupancies, except as provided in (d)2i or ii below.

i. Guestrooms or dwelling units which do not themselves contain a fuel-burning appliance or have an attached garage, but which are located in a building with a fuel-burning appliance or an attached garage, need not be provided with single station carbon monoxide detection equipment provided that:

(1) The guestroom or dwelling unit is located more than one story above or below any story which contains a fuel-burning appliance or an attached garage;

(2) The guestroom or dwelling unit is not connected by duct work or ventilation shafts to any room containing a fuel-burning appliance or an attached garage and the building has a common area carbon monoxide alarm system with all common area detectors connected to an approved supervisory station or other approved local visual and audible supervisory signal; and

(3) Individual detection equipment is located in every room adjacent to the room(s) containing a fuel-burning appliance; and

(A) In every corridor, hall or lobby adjacent to such room(s);

(B) In the immediate vicinity of any ventilated shaft, including, but not limited to, stair shafts, elevator shafts, ventilation shafts on the story containing the fuel-burning appliance; and

(C) On any story within two stories above or below the story containing the fuel-burning appliance.

ii. The building is provided with a supervised carbon monoxide detection system. Individual detectors shall be located in every room containing a fuel-burning appliance. All such detectors shall be connected to an approved supervisory station. Carbon monoxide and fire alarms may be incorporated into a common monitored system.

3. Carbon monoxide detection equipment shall be installed in all occupancies other than those listed in (d)2 above in accordance with this paragraph. Systems using detectors shall have a distinct visual and audible notification. When alarms are installed in lieu of *[detection]* ***detectors***, they shall be located such that the audible signal is not less than 15 dB above the average ambient sound level. Carbon monoxide detectors or alarms shall be installed in the immediate vicinity of all potential source(s) of carbon monoxide.

i. Carbon monoxide detection equipment shall not be required:

(1) In locations, such as repair garages, where the presence of carbon monoxide may be expected as a function of the normal use of the space;

(2) In the immediate area of large-drop battery charging;

(3) In unconditioned spaces where detectors or alarms may be subject to ambient temperatures outside the device's listed operating range or spaces where exposure to potential contaminants which may adversely affect their operation. For unconditioned spaces that require such detection, detection equipment shall be installed in approved adjacent room(s) or space(s);

(4) In other occupiable space(s) not connected by duct work or ventilation shafts to any room containing a fuel-burning appliance or to an attached garage, provided that the building has a common area carbon monoxide detection system with all common area detectors connected to an approved supervisory station or other approved local visual and audible supervisory signal and individual carbon monoxide alarms are located:

(A) In every room adjacent to the room(s) containing a fuel-burning appliance, and in every corridor, hall or lobby adjacent to such room(s);

(B) In the immediate vicinity of any ventilated shaft, including, but not limited to, stair shafts, elevator shafts, or ventilation shafts on the story containing the fuel-burning appliance;

(C) In the first area served by each main duct leaving the area where the appliance is located; and

(D) Any story within two stories above or below a story containing a fuel-burning appliance.

4. For carbon monoxide detection systems in occupancies other than those listed in (d)2 above, audible and visual supervisory notification shall only be provided at the detector, control panel and remote annunciator. The balance of the system installation shall comply with NFPA 720 and with the Uniform Construction Code. Carbon monoxide and fire alarms may be incorporated into a common monitored system.

5. Carbon monoxide alarms shall be manufactured, listed and labeled in accordance with UL 2034 and shall be installed and maintained in accordance with the requirements of this section and the edition of NFPA 720 currently referenced in this chapter, as applicable. Carbon monoxide alarms may be battery operated, hard wired or of the plug-in type. Expired alarms shall be immediately replaced.

6. Carbon monoxide detection systems shall comply with the edition of NFPA 720 currently referenced in this chapter. Carbon monoxide detectors shall be listed in accordance with UL 2075.

5:70-4.19 Smoke detectors for one- and two-family dwellings; carbon monoxide detectors

(a)-(c) (No change.)

(d) Carbon monoxide alarms shall be installed in all dwelling units in buildings in Use Groups R-3 and R-4, except for buildings that do not contain a fuel-burning device or have an attached garage, as follows:

1.-2. (No change.)

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

LOCAL FINANCE BOARD

Certification of Available Funds

Adopted Amendments: N.J.A.C. 5:30-5.3 through 5.5

Proposed: February 6, 2017, at 49 N.J.R. 227(a).

Adopted: May 10, 2017, by the Local Finance Board, Timothy J. Cunningham, Chair.

Filed: May 10, 2017, as R.2017 d.118, **without change**.

Authority: N.J.S.A. 52:27BB-10.

Effective Date: June 5, 2017.

Expiration Date: January 15, 2023.

Summary of Public Comment and Agency Response:

The Local Finance Board received one comment on the proposed amendments to N.J.A.C. 5:30-5.3 through 5.5. This comment was from the New Jersey Foundation for Open Government (the Foundation), the original party that petitioned for amendments to the above-referenced rules.

COMMENT: The Foundation expressed support for the amendments set forth in the notice of proposal, stating its view that the amendments constitute a common sense step toward greater transparency with respect to the maximum dollar value of a contract awarded by a local unit.

RESPONSE: The Board appreciates the Foundation's expression of support for the proposed amendments, and will adopt said amendments without change.

Federal Standards Statement

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