

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Adopted Amendment: N.J.A.C. 5:23-2.18

Proposed: November 4, 2024, at 56 N.J.R. 2119(a).

Adopted: July 21, 2025, by Jacquelyn A. Suárez, Commissioner, Department of Community Affairs.

Filed: July 21, 2025, as R.2025 d.094, **without change**.

Authority: N.J.S.A. 52:27D-119 et seq.

Effective Date: August 18, 2025.

Expiration Date: February 9, 2029.

Summary of Public Comments and Agency Responses:

Comments were received from Catherine Best, New Jersey Realtors Association; Mitch Malec; and Daniel O’Gorman.

Comment received from Catherine Best, New Jersey Realtors Association

1. COMMENT: The commenter notes that the New Jersey Realtors Association has reviewed this rulemaking and would like to raise a point of clarification with the newly proposed requirements. The commenter states that, based on P.L. 2021, c. 464, the proposed amendment at N.J.A.C. 5:23-2.18(d)7 should not apply to inspection requirements when a home is sold in municipalities requiring a Certificate of Occupancy or similar document. The commenter explains that they do not believe it was the intent of the law and this rulemaking and would like to seek clarification that this requirement will not be tied to the sale or rental of a home through the Certificate of Occupancy process, especially given that not every municipality has this

requirement.

RESPONSE: The proposed amendment at N.J.A.C. 5:23-2.18(d)7 applies to final inspection requirements before the issuance of a Certificate of Occupancy for the building or structure. The Certificate of Occupancy, as defined at N.J.A.C. 5:23-1.4 and as referenced in the Uniform Construction Code (UCC), is the certificate provided for at N.J.A.C. 5:23-2, which indicates that the construction authorized by the construction permit has been completed in accordance with the construction permit, the act, and the rules. The Department of Community Affairs (Department) is aware of municipalities using the term or similar terms for inspections outside the use of the Uniform Construction Code, however, the provisions of the proposed amendments do not apply in those circumstances.

Comments received from Mitch Malec

2. COMMENT: The commenter states that the Department's proposed amendment appears to fall short in addressing the law, P.L. 2021, c. 464, and should not be adopted as proposed. The commenter further states that it appears to be a simplistic amendment that does not accomplish the task and further conflict with the Uniform Construction Code. The commenter notes that N.J.S.A. 52:27D-141.20, section 3.c., states that "upon final inspection of the installation of any appliance or product subject to the State Uniform Construction Code, the appropriate subcode official shall ensure that any product identified in subsection a. of this section contains a mark, label, or tag denoting that the product meets or exceeds the efficiency standards in Section 4 of this act." The commenter explains that the Department's proposed amendment at N.J.A.C. 5:23-2.18 only relates to the final inspection upon completion of a building or structure where a Certificate of Occupancy is issued.

RESPONSE: The Department respectfully disagrees that the proposed amendment falls short of addressing P.L. 2021, c. 424 (the law) and should not be adopted. In accordance with the law, the proposed amendment ensures that the State Uniform Construction Code appropriately reflects the requirement for subcode officials to identify and confirm efficiency standards upon final inspection of the installation of the listed appliances or products as identified by the Department of Environmental Protection. As such, the Department maintains that the proposed amendment accomplishes the intent and purpose of the law.

Additionally, the proposed amendment incorporated at N.J.A.C. 5:23-2.18, Inspections, and specifically, at N.J.A.C. 5:23-2.18(d), which concerns the requirements for final inspections. N.J.A.C. 5:23-2.18 applies to all Uniform Construction Code inspections, and as such, the provisions of the law were incorporated within.

3. COMMENT: The commenter recommends including for new buildings or structures, as part of the application for permit, a statement from the applicant that they are aware of and will install appliances and products meeting the specific energy and water efficiency standards. The commenter explains that the proposed amendment does not address the installation of any appliance or product subject to the Uniform Construction Code when a Certificate of Approval is issued or when the installation is completed pursuant to N.J.A.C. 5:23-2.7, Ordinary maintenance.

Additionally, the commenter recommends that the Department consider amending N.J.A.C. 5:23-2.4(a), (b), and (c). The commenter states that N.J.A.C. 5:23-2.4(a) refers to N.J.A.C. 5:23-6 provisions, and N.J.A.C. 5:23-2.4(c)1 or 6.2(g)1 likely needs amendment to address the fact that this law establishes requirements for matters covered by the Uniform

Construction Code. The commenter states that it appears that both the Department of Community Affairs and the Department of Environmental Protection did not fully recognize and discuss the impacts of the law.

RESPONSE: The Department respectfully disagrees with including the recommended language within the application for permit because of redundancy, as permits already require adherence to the applicable provisions of the Uniform Construction Code. Further, the proposed amendment is incorporated into N.J.A.C. 5:23-2.18(d) that concerns the final inspection requirements of the Uniform Construction Code provisions, including those for Certificates of Approval. Regarding N.J.A.C. 5:23-2.7, final inspections are not required for ordinary maintenance, as such, the provisions of the law would not apply.

Additionally, the Department respectfully disagrees with the recommendation to amend the provisions at N.J.A.C. 5:23-2.4. Due to the statutory requirements of the law being incorporated into the final inspection provisions of the Uniform Construction Code, additional modifications would be duplicative and unnecessary for the implementation of the law.

4. COMMENT: The commenter recommends that the Department look at the specific items listed in the law that are subject to the Uniform Construction Code and determine if, and where, amendments are needed so that conflicts do not exist. The commenter provides examples, such as toilets meeting the 1.28 gallons or less per flush requirement of the law and the Plumbing Subcode provisions allowing 1.6 gallons or less per flush needing modification. The commenter notes other provisions that may need modification, such as N.J.A.C. 5:23-6.5(e), 6.6(e), 6.7(e), 2.7(c)2, and 3.8(d)3. The commenter notes that they hope N.J.A.C. 5:23-3.4, Responsibilities, is not impacted. The commenter states that the other 12 items need to be reviewed and addressed in

the same manner. The commenter recommends that changes are needed because the Department's proposed amendment referencing the law does not address conflicts.

5. COMMENT: The commenter states that the Department should consider modifying the adopted model codes to reflect the law requirements. The commenter notes that it appears that requirements at N.J.A.C. 5:23-3.15(b)18, Appendix G of the plumbing subcode, are to be enforced and are not just a reference standard for special design plumbing systems.

RESPONSE TO COMMENTS 4 AND 5: The Department agrees that additional changes are needed to correct for conflicts within the Uniform Construction Code. The Department intends to include changes in separate rulemakings to account for possible conflicts with the provisions of the Uniform Construction Code. Additionally, N.J.A.C. 5:23-3.4 would not be impacted, as the provisions of the law and proposed amendment do not change the subcode official responsibilities for performing inspections. Additionally, Appendix G remains as a reference standard for special design plumbing systems.

6. COMMENT: The commenter questions if this law impacts the code requirements of the Interstate Compact on Industrialized/Modular Buildings, N.J.A.C. 5:23-4A.

RESPONSE: As stated at N.J.A.C. 5:23-4A.5(b), buildings, building components, and building systems shall comply with all applicable provisions of the State Uniform Construction Code. This would include the provisions of the Uniform Construction Code amended as a result of the law.

7. COMMENT: The commenter notes that it may be beneficial for the Department to review the New Jersey Department of Environmental Protection's Appliance Standards law guidance

document. The commenter questions if the provisions can be currently enforced by the appropriate subcode because the law became effective on January 18, 2023. The commenter recommends the Department review the Construction Code Communicator, Fall 2024 ‘Clarification on Inspection Requirements and Citations’ article and N.J.A.C. 5:23-3.8A. The commenter explains that the guidance document makes it clear that the law is applicable to new products and questions if replacement, repaired, or refurbished equipment is not subject to the law.

RESPONSE: The provisions of the law became enforceable on January 18, 2023; however, the Department of Environmental Protection’s guidance and changes to the Uniform Construction Code were not yet in place. If the products comply with the statutory provisions of the law, they are permitted for installation. Additionally, the Department thanks the commenter for their recommendations, however, N.J.A.C. 5:23-3.8A does not exist and, as such, cannot be reviewed. If, however, the commenter was referring to the provisions at N.J.A.C. 5:23-3.8(a), the Department intends to amend these provisions in a separate rulemaking, as noted in the Response to Comments 4 and 5. Further, the named Construction Code Communicator article was published regarding a separate law, not P.L. 2021, c. 464.

8. COMMENT: The commenter questions if an existing toilet can be replaced with a 1.6 gallon per flush toilet if it was manufactured prior to January 18, 2023. The commenter also questions if the sale of 1.6 gallons per flush toilets, that were manufactured after January 18, 2023, have been stopped in New Jersey. The commenter recommends the Department further consult with the Department of Environmental Protection (DEP) to determine how the law should be appropriately implemented. Additionally, the commenter notes that in 2010, the Federal

preemption of the national toilet standard was waived, allowing states to set standards; provided they are more stringent than the national standard.

RESPONSE: The provisions of the law provide that appliances and equipment that do not meet the standards of the law cannot be installed for compensation, irrespective of whether the items were manufactured prior to the effective date of the law. Further, the sale of products relating to the provisions of the law is outside the scope of the Department's authority. The Department thanks the commenter for their recommendation and notes that discussions with the Department of Environmental Protection concerning further implementation of the law may take place if the Department deems it necessary.

9. COMMENT: The commenter recommends the Department consider not adopting this proposed amendment and proposing new amendments that accomplish the implementation of this law as intended. The commenter notes that this proposed amendment appears to be a delay in amending the Uniform Construction Code to conform to the law. The commenter states that the Department could do a Construction Code Communicator article or a Bulletin and advise construction code subcode officials to enforce the law. However, the commenter notes that this would create chaos and is not recommended.

Additionally, the commenter recommends considering California laws and requiring the installation of water-conserving plumbing fixtures in all residential and commercial properties built before 1994/1997.

RESPONSE: The Department respectfully disagrees with rescinding the proposed amendments and proposing new amendments. The proposed amendments at N.J.A.C. 5:23-2.18 are the only anticipated changes to the Uniform Construction Code as a result of the law. Further, Bulletin

24-1 has been published by the Department for additional guidance to construction officials, and Construction Code Communicator articles may be published in the future if Department staff deem it necessary. Additionally, the Department respectfully disagrees with the recommendation to consider the laws of other states when proposing amendments to the New Jersey Administrative Code.

10. COMMENT: The commenter questions how much benefit is there to requiring a 1.6 gallon per flush toilet be replaced with a 1.28 gallon per flush toilet. The commenter recommends allowing 1.6 gallons per flush toilets for replacements and requiring 1.28 gallons per flush for new or existing toilets as a compromise until some established date in the future.

RESPONSE: The Department thanks the commenter for their recommendation; however, because the provisions for this proposed amendment are based on statutory requirements of the law, the Department does not have the authority to change the efficiency provisions or the cases in which they apply.

11. COMMENT: The commenter states that with the insight they have provided, and with assistance from the Code Advisory Board, Subcode Committees, and others, the Department will be able to appropriately incorporate the law into the Uniform Construction Code.

RESPONSE: The Department thanks the commenter for their recommendation.

12. COMMENT: The commenter notes that in their initial comments to the proposed amendments, they had expressed that the Department could publish a Construction Code Communicator article or Uniform Construction Code Bulletin relating to P.L. 2021, c. 464. The

commenter states that doing so would create chaos and is not recommended. Additionally, the commenter requests that if the regulations are modified as they suggest, N.J.A.C. 5:23-3.4, Responsibilities, would not be impacted.

RESPONSE: The Department respectfully disagrees, Bulletin 24-1, which provides additional information on the provisions of the law was published in November 2024, and can be found on the Department's website at

https://www.nj.gov/dca/codes/publications/pdf_bulletins/b_24_1.pdf. Further, Department staff may publish a Construction Code Communicator article on the topic, if deemed necessary.

Additionally, the Department does not anticipate amendments to N.J.A.C. 5:23-3.4, Responsibilities, as the provisions of the law do not impact which subcode official is responsible for performing final inspections.

13. COMMENT: The commenter notes that it has been brought to their attention that the Department issued Uniform Construction Code Bulletin No. 24-1, DEP Minimum Efficiency Standards for certain products, and questions what the Department is doing. The commenter recommends that the Department review N.J.A.C. 5:23-3.9(c). The commenter questions if this is the first time the Department has issued a bulletin clarifying non-existing rules or issued a bulletin clarifying proposed rules that have yet to be adopted and asks if the Department's notice of proposal summary was not adequate.

RESPONSE: The Department may issue bulletins to provide advice to code-enforcing agencies, builders, and designers. As the statutory requirements of the law were already in effect, the Department determined it was necessary to provide additional information and advice on the

provisions of the law prior to the adoption of the proposed amendment to the Uniform Construction Code.

14. COMMENT: The commenter questions if the Department consulted with the Code Advisory Board prior to issuance of Bulletin No. 24-1 and if the Code Advisory Board approved it. The commenter notes that the Bulletin appears to be assigning enforcement responsibilities, and, if so, questions the purpose of N.J.A.C. 5:23-3.4.

RESPONSE: The Department consulted and received approval from the Code Advisory Board for Bulletin 24-1 during the December 9, 2022, meeting. Additionally, as stated at N.J.A.C. 5:23-3.9, bulletins provide advice and clarification and, as such, the assigning of enforcement responsibilities remains with the provisions at N.J.A.C. 5:23-3.4.

15. COMMENT: The commenter notes regarding the assignment of responsibilities, how many fast food restaurants in New Jersey have installed commercial gas ovens or commercial gas steam cookers or commercial gas fryers, and who are the appropriate officials assigned enforcement responsibilities for these products. The commenter questions if it is the electrical subcode official.

RESPONSE: The Department does not maintain records regarding the number of commercial gas ovens, steam cookers, or gas fryers installed in the State. Additionally, according to N.J.A.C. 5:23-3.4(a)7, commercial gas appliance inspection responsibilities are assigned to fire protection subcode officials and not electrical subcode officials.

16. COMMENT: The commenter notes that the issued Bulletin advises that in the case of conflict between the products noted in the Bulletin and the DEP FAQ, the DEP FAQ shall prevail. The commenter states that this wording does not appear correct and is unsure of the intent. The commenter believes in the event of any efficiency standards conflicts for any of these appliances or products between the Uniform Construction Code and the DEP guidance document, the more restrictive code or standard provision shall govern. The commenter states that the language should be included at N.J.A.C. 5:23-3.2.

RESPONSE: The Department respectfully disagrees with amending the language at N.J.A.C. 5:23-3.2. Further, regarding the conflicts with the Uniform Construction Code, because the efficiency standards are statutory requirements of the law, they supersede the Uniform Construction Code. Additionally, the intent of the referenced language of the Bulletin is to explain that the law charges the Department of Community Affairs with ensuring that applicable products comply with the law upon final inspection of the installation of any appliance or product subject to the Uniform Construction Code and, as such, conflicts concerning efficiency standards as they apply to the law are outside the scope of the Department and are subject to the authority of the Department of Environmental Protection.

17. COMMENT: The commenter questions which prevails if there is a conflict between the Department of Environmental Protection's FAQs answers and the law.

RESPONSE: As stated on the New Jersey Department of Environmental Protection's website, the list of frequently asked questions is informational only, and does not have any legal effect. With the above noted, the statutory requirements of the law prevail.

18. COMMENT: The commenter questions if it is too difficult for the Department to make amendments to the UCC to remedy conflicts. Additionally, the commenter asks why the Department issued a four-page UCC bulletin that can be summarized in just a few paragraphs and a reference to the DEP guidance documents.

RESPONSE: The Department respectfully disagrees. The Department amends the Uniform Construction Code on a regular basis to update for safety and new practices, correct errors, enact provisions of statutory requirements, and correct conflicts. Further, the Department anticipates additional rulemaking to ensure the Uniform Construction Code accurately reflects provisions of the law, as stated in the Response to Comments 4 and 5. Additionally, the Department drafted the referenced Bulletin in a manner to effectively provide advice to code-enforcing agencies, builders, and designers.

19. COMMENT: The commenter states that they missed the Construction Code Communicator article explaining the Uniform Construction Code bulletin that clarifies non-existing rules on this matter and requests where it is located. The commenter also notes that the issued bulletin appears to be the Department's attempt to issue a guidance document, similar to the Department of Environmental Protection, in lieu of proposing and adopting regulations addressing the law and Uniform Construction Code conflicts.

RESPONSE: The Department has not published a Construction Code Communicator article clarifying Bulletin 24-1. Additionally, the intent of Bulletins issued by the Department is to provide advice to code-enforcing agencies, builders, and designers when it is found that an issue that is in need of clarification is adequately dealt with by existing rules and that rulemaking is not appropriate or necessary.

Comments received from Daniel O’Gorman

20. COMMENT: The commenter states that N.J.A.C. 5:23-2.15 should be amended to reflect verification of installed appliances in accordance with the law. The commenter notes that including the proposed amendment to the construction permit application and plan review regulations will help applicants follow P.L. 2021, c. 464.

RESPONSE: The Department respectfully disagrees. The statutory requirements of the law provide that the verification of installed appliances will take place upon final inspection. Amending N.J.A.C. 5:23-2.15 is outside the scope of the required changes to the Uniform Construction Code as a result of the law.

21. COMMENT: The commenter questions how homeowners, builders/contractors, design professionals, code officials, as well as any other interested parties, will be educated in the requirements at P.L. 2021, c. 464.

RESPONSE: Information and guidance regarding the law can be found on the New Jersey Department of Environmental Protection’s webpage located at:
<https://dep.nj.gov/appliancestandards/>. Additionally, the Department provides further guidance and information on final inspection requirements of the law in Department of Community Affairs Bulletin 24-1, available at:

https://www.nj.gov/dca/codes/publications/pdf_bulletins/b_24_1.pdf.

22. COMMENT: The commenter questions if there will be a six-month grace period for compliance for completed permit applications.

RESPONSE: The language of the law and the proposed changes to rules do not provide for a six-month grace period for the proposed amendments, but the provisions of the law regarding compliance upon final inspection were effective one year following enactment of the law. The law was approved on January 18, 2022, and the provisions regarding final inspection became effective on January 18, 2023. Additionally, the Department's rules are effective upon publication of the notice of adoption in the New Jersey Administrative Code.

Federal Standards Statement

The amendment is not being adopted pursuant to the authority of, or in order to implement, comply with, or participate in, any program established pursuant to Federal law; however, P.L. 2021, c. 464 refers to the Energy Star Program, which is a Federal program that certifies the energy efficiency of appliances. This rulemaking includes efficiency standards which in some cases exceed the Federal minimums for efficiency; however, as these changes are necessitated by the requirements at P.L. 2021, c. 464, the Department does not have the ability to deviate from those standards for purposes of the Federal standards analysis required pursuant to N.J.S.A. 52:24B-1 et seq.

Full text of the adoption follows:

TEXT