

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Notice of Action on Petition for Rulemaking

Uniform Construction Code

Proposed Amendments: N.J.A.C. 5:23-3.21

Petitioner: Gregory D'Antonio

Take notice that on May 16, 2025, the Department of Community Affairs received a petition for rulemaking from Greg D'Antonio seeking an amendment to N.J.A.C. 5:23-3.21.¹ with the intention of increasing public safety and uniformity for all habitable spaces below-grade. The petitioners state that the requested amendment would modify the One- and two-family dwelling subcode of the Uniform Construction Code (UCC), N.J.A.C. 5:23-3.21, to incorporate the following language:

“All below-grade habitable spaces—regardless of current sleeping use—shall include at least one code-compliant emergency escape and rescue opening (egress window or door) to provide a direct means of egress to the exterior of the structure.”

Take further notice that the Commissioner certifies that the petition was duly considered pursuant to law and, upon due deliberation, has determined that the requested amendment of N.J.A.C. 5:23-3.21 is denied. The One- and two-family dwelling subcode of the UCC is adopted pursuant to the requirements set forth in the UCC Act, N.J.S.A. 52:27D-119, et seq. Specifically, N.J.S.A. 52:27D-123(b)(4) authorizes the Commissioner to review the latest edition of a national model code and states, “in the event that the commissioner, after

¹ While the Petition seeks an amendment to N.J.A.C. 5:23-3.14, the referenced model code section, R310, is incorporated by reference into the Uniform Construction Code at N.J.A.C. 5:23-3.21.

consultation with the code advisory board, determines pursuant to this subsection that a provision of a model code or standard currently in effect as a subcode of the State Uniform Construction Code is less consistent with the intent and purpose of P.L.1975, c.217 (C.52:27D-119 et seq.) than was the corresponding provision of a previously adopted edition of the same model code or standard, the commissioner may delete the provision in effect and substitute in its place the corresponding provision of the previously adopted edition of the same model code or standard determined to be more consistent with the intent and purpose of P.L.1975, c.217 (C.52:27D-119 et seq.).” Thus, this provision limits the language that may be adopted within the UCC subcodes to either the latest edition of the national model code, or a version of the text as previously adopted by the Department.

The language provided by the petitioner is neither in the latest edition of the International Residential Code (IRC), as adopted as the One- and two-family dwelling subcode, nor in a previously adopted version of the IRC. Therefore, pursuant to N.J.S.A. 52:27D-123(b)(4), the Department does not have the authority to make the requested amendment.

A copy of this notice has been mailed to the petitioner.